TESTIMONY OF THE LEGAL AID SOCIETY IN SUPPORT OF PROPOSED AMENDMENTS TO THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK TO REQUIRE NOTIFICATIONS OF INTENT TO DEMOLISH CERTAIN RENT REGULATED HOUSING ACCOMMODATIONS

New York City Council Committee on Housing and Buildings
Public Hearing

October 10, 2007

On behalf of the Legal Aid Society, I thank this Committee on Housing and Buildings for the opportunity to testify in support of this important proposed legislation.

Founded in 1876, the Legal Aid Society's Civil Practice is the nation's oldest and largest program providing direct legal services to the indigent. Our legal assistance focuses on enhancing family stability and security by resolving a full range of legal problems that include immigration, domestic violence, family law, and employment, in addition to housing, public benefits and health law matters. Through our housing and community development work, we also foster the development of community-based organizations, job creation, and neighborhood revitalization. Annually, the Society's Civil Practice provides free direct legal assistance in some 30,000 individual closed cases through a network of 10 neighborhood offices in all five boroughs and 17 specialized units and projects for under-served client groups. When it is the most efficient and cost-effective way to help our clients, we provide legal representation to groups of clients with common legal problems, including those referred by elected officials.

We come today to strongly support Councilmember Mendez's efforts to protect the rights of rent stabilized tenants. As it stands, the Rent Stabilization Code's provisions regarding demolitions are being applied in a manner contrary to the public interest and its original purposes.

The New York State Legislature enacted the so-called "demolition provision" with an eye towards ensuring safe and decent housing accommodations for all New Yorkers. It allowed owners to demolish old, decrepit and unsafe buildings and replace them with sound, secure housing. Prior to the 2000 Rent Stabilization Code amendments, an owner seeking to demolish a building had to establish, to the satisfaction of DHCR, that he or she sought, in good faith, to recover possession of the housing accommodations for the purpose of demolishing them and constructing a new building. This, and the other adopted measures, ensured that owners would act in a manner consistent with the Code provision's purposes.

It was not intended to nurture questionable practices or facilitate disruption of protected tenancies. During the Pataki administration, the law was amended to allow "an owner seeking to demolish the building" to demolish the building. The good faith requirement was eliminated. The actual physical condition of the building became immaterial. In

addition, the definition of demolition was expanded to include any substantial rehabilitation of the building. And so, entire floors of a building can remain intact while an owner is said to be demolishing a building. Protected tenants, as a result, have become increasingly vulnerable to eviction as emboldened owners now use what originally was a tenant protection as a weapon against them. Disturbingly, this distortion has encouraged owners to engage in various forms of harassment and take advantage where tenants have limited means and legal acumen. Clearly, this all undermines the purpose of the statute. Practices like this one that result in accommodations being removed from New York City's ever dwindling portfolio of affordable housing are matters of serious public concern, and should be carefully examined.

If enacted, Int. No. 340 would ensure that the public receives notice, through their elected representatives, of impending applications to demolish rent-regulated housing. The bill would require that an owner who intends to file an application with DHCR for permission to terminate the tenancy rights of rent stabilized or rent controlled tenants based on the demolition provision must indicate such an intent in writing on the application filed with DOB. Within five business days of approving such an application, DOB would be required to notify in writing the community board and the council member in whose respective districts such housing accommodation in question is located.

After receiving notice of a proposed demolition of rent-regulation housing in their districts, elected officials could take necessary steps to ensure that the proposed demolition conforms to law, and could notify and provide advice, assistance, and/or referrals to affected constituents. This is particularly important at the critical early stages where important rights are often surrendered, be it unwittingly, though fear or both. Elected officials could therefore provide timely and important information to their constituents, and could be in a position to provide effective constituent services. The notice requirements are small and place no additional burden on an owner. An owner who intends to act in conformity with the law should invite such scrutiny.

Conclusion

Thank you for the opportunity to testify before the New York City Council Housing and Buildings Committee.

Respectfully Submitted:

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THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

Manhattan Borough President Scott M. Stringer
Statement before the New York City Council Committee on Housing & Buildings
In Support of Intro 340
October 10, 2007

Good afternoon. Thank you Chairman Dilan, members of the Housing and Buildings Committee, for the opportunity to testify today in support of Intro 340.

As we are all aware, New York City is in the midst of an affordable housing crisis. Rent regulation—long the bulwark of our affordable housing stock—is being rapidly destroyed by vacancy decontrol, phony demolitions, and a number of other mechanisms meant to remove residents in need of affordable housing from their homes and neighborhoods. In 2006 alone, we lost nearly 14,000 units of rent-regulated housing. This must stop. Alerting community boards and elected officials when a landlord states an intention to remove rent-regulated tenants due to demolition, as proposed in Intro 340, will help stem the loss of rent-regulated housing from false claims of demolition, or "phony demolitions."

It is unfortunate that Intro 340 is even necessary. Section 2524.5(a)(2) of the Rent Stabilization Code (RSC) once required that the owner established "to the satisfaction of the DHCR after a hearing that he or she seeks in good faith to recover possession of the housing accommodations for the purpose of demolishing them and constructing a new building." Thanks to the Pataki administration, however, this provision was repealed and consequently, the RSC no longer contains any definition of demolition. This creates a loophole that allows landlords to claim that substantial renovations are demolitions and are thus worthy of evicting rent-regulated tenants, including the elderly and the disabled. While I hope that the new administration at the Division of Housing and Community Renewal (DHCR) will correct this loophole by again defining demolition as the razing of a building in order to construct a new one, we must take action at the city level in the meantime.

In addition to the lack of definition of demolition in the RSC, the New York City Department of Buildings (DOB) often does not inquire about the rent status of a unit before issuing permits for demolitions that may lead to evictions. Rather, DOB has viewed the rent status of a unit as an ancillary issue over which it does not have purview. I strongly disagree with this policy. DOB should not issue work permits which may result in the illegal eviction of rent-regulated tenants whether via phony demolition or any other means. I further believe that all work plans evaluated by DOB that may displace rent-regulated tenants should be reviewed in conjunction with DHCR and New York City's Department of Housing Preservation and Development (HPD).

If Intro 340 is enacted, the landlord will be required to check a box on DOB's demolition application which indicates that the landlord will seek permission from DHCR to remove a rent-

regulated tenant. DOB will then be required to inform the local community board and council member of the applicant's intention.

Currently, the only recourse for tenants facing evictions through phony demolitions—such as the tenants of 131 Duane Street in TriBeCa, 345 and 515 East 5th Street on the Lower East Side, 329 West 22nd Street in Chelsea, and 253 Elizabeth Street in Little Italy—is through activism or long and costly legal battles. Often, tenants have found much needed aid and support from their community boards and elected officials. For example, upon learning from tenants of a demolition application on East 5th Street, Community Board 3, which represents the Lower East Side, immediately put the issue on their agenda and passed a resolution in support of the tenants' fight for their homes.

Community Board 3, however, only learned of the impending evictions because the tenants had the foresight to ask them for assistance. There are undoubtedly numerous cases in which tenants facing illegal evictions do not know where to turn for help, or where community boards may be willing and able to help but are unaware of the issue. Intro 340 will ensure that community boards and elected officials are informed of intended evictions and thus able to advocate on their constituents behalf.

My office works closely with the 600 members of Manhattan's 12 community boards so I am able to say with assurance that in every neighborhood community board members want to protect affordable housing, including rent-regulated housing. Intro 340 is one step in ensuring its preservation and therefore, I urge the City Council to enact Intro 340.

Thank you again for the opportunity to testify.

Council of New York Cooperatives & Condominiums
INFORMATION, EDUCATION AND ADVOCACY

250 West 57 Street • Suite 730 • New York, NY 10107-0700

Memorandum in Support of Intro 526 on the Renewal of the J-51 Program

October 10, 2007

The Council of New York Cooperatives & Condominiums, a membership organization of more than 2300 housing cooperatives and condominiums located throughout the five borough of New York City and beyond, expresses its strong support of Intro 526, which will extend for four more years the 'J-51' program that has helped for decades to maintain and upgrade the housing stock of our City.

This tax incentive program requires owners of property to make necessary improvements and then permits them to recover some of the cost of the work through tax abatements and exemptions. The cost to the city is repaid many times over by the improvements to the buildings and, soon, by extension, to the communities where they are located.

Acknowledging that when buildings are converted to cooperative or condominium status, they have often been neglected or badly repaired in their prior state. Accordingly, any building converting to cooperative or condominium status may apply for J-51 benefits on work done during the first three years after closing. Thereafter, cooperatives and condominiums continue to qualify only if their assessed value averages less than $40,000 per dwelling unit, a cut-off point which has been in place since 1992.

While CNYC agrees with the concept that cooperatives and condominiums whose owners are well to do should not receive J-51 benefits, we respectfully suggest that the $40,000 test needs to be examined and increased to appropriately include cooperatives and condominiums that are the homes of moderate income families. Mayor Bloomberg made this point earlier this year in his statements in support of Intros 203 and 204, where he noted that many Mitchell-Lama cooperatives now have assessed valuations of more than $40,000 per unit. We urge a realistic upward revision of this dated figure, which currently presents a barrier to implementing needed capital improvements to the homes of many deserving New Yorkers.

We thank you for this opportunity to support Intro 526.

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Testimony of John Raskin before the New York City Council on behalf of Housing Conservation Coordinators and the Community Development Project of the Urban Justice Center: October 10, 2007.

Thank you for allowing me the opportunity to address you today. My name is John Raskin, and I am the Director of Organizing at Housing Conservation Coordinators, Inc. (HCC). I am here on behalf of my agency and the Community Development Project of the Urban Justice Center, a partner in the Legal Services for the Working Poor coalition.

HCC is a not-for-profit organization based in Hell's Kitchen/Clinton that seeks to preserve and defend safe, decent and affordable housing. The services that our agencies provide include legal representation in housing court, organizing tenants to improve living conditions, and organizing around broader issues like this one that affect the entire community.

The Urban Justice Center serves New York City's most vulnerable residents through a combination of direct legal service, systemic advocacy, community education and political organizing. The Community Development Project (CDP) of the Urban Justice Center formed to provide legal, technical, research and policy assistance to grassroots community groups engaged in a wide range of community development efforts throughout New York City. Our work is informed by the belief that real and lasting change in low-income, urban neighborhoods is often rooted in the empowerment of grassroots, community institutions.

I am here today to urge you to support Council Member Mendez's proposed legislation, Intro 340, which would require building owners to notify the Department of Buildings if they intend to file with the Division of Housing and Community Renewal to demolish rent-regulated housing. The Department of Buildings would then be obligated to inform the local community board and council member about the proposed demolition.

This is a straightforward bill that will protect tenants in rent-regulated housing by guaranteeing that the tenants, their elected officials and the local community have the information they need to certify that proposed demolitions are legal and legitimate, rather than the sort of renovations that have recently been illegally classified as "demolitions" by certain unscrupulous building owners.

Our organizations are working to defend tenants whose owners are undertaking these phony demolitions, and the legal challenges we face are stark as we try to protect the intended rights of rent-regulated tenants. As neighborhoods gentrify, some building owners are trying to take advantage of the increased popularity of their communities by evicting long-term rent-regulated tenants and attempting to bring in newer, wealthier tenants at increased rents. One of the methods that some landlords have utilized is to notify DHCR that they intend to demolish the building, though in reality they have not filed the appropriate permits and have no intention to do so.

This is a battle we are fighting on multiple fronts, at the City and State level. Though much of the responsibility for reforming DHCR rests with the State, the City can do its part by guaranteeing that tenants, elected officials and community organizations have the information they need to protect tenants in rent-regulated housing. **This bill would provide those parties with exactly that information, and we urge you to pass it into law.**

Senator Martin Connor
25th District

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Testimony of State Senator Martin Connor
Before the New York City Council Committee on Housing and Buildings
Regarding Int. No. 340 Requiring Notification of Intent to Demolish Certain Rent Regulated Housing Accommodations.

October 10, 2007

Thank you, Chair Dilan, for hearing testimony on a very real and pressing issue in New York City: Phony Demolitions. The Division of Community and Housing Renewal is currently making an effort to reform some policies that have, through manipulative interpretations, allowed for the de-regulation of many rent-controlled and rent-stabilized units to be converted to market rate housing. The City of New York has experienced a mass exodus of rent-regulated apartments since these loopholes have been discovered. It is time to put a stop to these practices, and I thank Council Member Mendez and her Council co-sponsors for the introduction of this legislation.

The original intention of the demolition provision of the DHCR was to allow for owners to receive official permission to remove tenants in the event of unstable living conditions to the point of danger. If a building is officially deemed unsafe, owners are able to file a demolition application with the DHCR to essentially evict tenants while they demolish the unsafe building to make way for a new one. In the 25th Senate district and across the City, landlords have evicted tenants for the purpose of demolition, then turned around and rehabilitated the building, combined its now-deregulated units into half the original units, and then rented the new units for market rate rent. In other words, no demolition took place, the allegations of an "unsafe or unstable" building were fabricated, and rent-regulated tenants were either harassed into accepting a buyout or wrongfully evicted.

This practice is reprehensible, and must stop. Council Member Mendez' legislation will provide for the notification of the community board and local City Council Members as landlords apply for the demolition of their building. This legislation will provide greater notice and transparency to the demolition process, so that landlords are held more accountable to their tenants, and unable to evict them under false pretenses.

I join, and applaud, Governor Spitzer and the new DHCR Commissioner Deborah VanAmerongen for taking steps in the right direction to reform the DHCR, and I feel encouraged by the DHCR's interest in supporting this bill.

I support this legislation and urge the City Council to do the same.

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

DEBORAH J. GLICK
Assemblymember 66TH District
New York County

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Higher Education Committee

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Testimony of Assemblymember Deborah J. Glick
Before the New York City Counil Committee on Housing and Buildings
Regarding Int. No. 340 Requiring Notification of Demolition Applications
October 10, 2007

First, I wish to thank Chair Dilan for holding a hearing on this very important matter, and Councilmember Mendez for introducing this bill and being a leader on the phony demolition issue. As the sponsor of Assembly legislation aimed to end this abuse, I firmly believe that phony demolitions represent one of the most dangerous threats to our rent regulated housing stock that we have ever seen. In fact, my office spearheaded correspondence to the Division of Housing and Community Renewal (DHCR) about this threat, and 37 of my colleagues in the State Legislature signed on to express their concern about phony demolitions and other threats to the rent stabilization system, demonstrating the pervasiveness of this issue.

The demolition provision of the rent regulation law was intended to permit owners to remove tenants only to demolish old, dilapidated buildings and replace them with new, safe housing. Instead, an increasing number of ill-intentioned landlords file "phony demolition" applications for structurally safe buildings in excellent condition. Their aim is to simply renovate the building, turning rent-regulated units into luxury housing, an extended stay hotel, or other higher-grossing ventures.

Over the past few years, I have seen an increasing number of phony demolitions in my district and have heard about many others in my colleagues' districts. Tenants are understandably very scared and confused when they suddenly receive a notice from DHCR informing them that their lease will not be renewed because the owner of their building plans to demolish it. They may not know that the owner may have filed for a phony demolition and, by the time they become suspicious or learn that they can challenge the application, it may be too late. This measure is an important step to immediately link tenants with their community board and City Councilmember, each of whom may reach out to assist them in investigating whether the owner has filed a phony demolition application.

Many rent-regulated tenants are highly vulnerable because of age, health condition, limited income or a combination of these factors, while many building owners have substantial resources and access to legal assistance. This bill would help to level the playing field between building owners and tenants. I urge the City Council to pass this important measure into law.

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FOR THE RECORD WWW.TOMDUANE.COM

News from...

SENATOR THOMAS K. DUANE

29th SENATORIAL DISTRICT · NEW YORK STATE SENATE

TESTIMONY OF STATE SENATOR THOMAS K. DUANE
BEFORE THE NEW YORK CITY COUNCIL
HOUSING AND BUILDING
HEARING ON INT. 340
October 10, 2007

My name is Thomas K. Duane and I represent New York State's 29th Senate District, which includes the Upper West Side, Hell's Kitchen, Greenwich Village, Chelsea, the East Side, Stuyvesant Town, Peter Cooper Village and Waterside Plaza. I am here today to testify in support of Introduction No. 340, proposed by Council Member Mendez, that would amend the administrative code of the city of New York, in relation to notification of intent to demolish certain rent regulated housing accommodations.

Introduction No. 340 is especially critical because in recent years, there has been a rising number of building owners falsely claiming to be demolishing their buildings so that they may evict rent-stabilized tenants. The Rent Stabilization Law allows an owner who "intends in good faith to demolish the building" to evict rent-stabilized tenants, but many owners who have filed demolition applications are operating in bad faith. The landlords are passing off renovations of existing units as demolitions and exploiting the law so they can evict longtime tenants and low-income individuals and convert their properties into luxury housing or other high-profit ventures.

Unfortunately, many of the tenants who fall victim to "phony demolitions" are unaware of their legal rights and opt to accept buyouts from their landlords. Introduction No. 340 will give these tenants the information they deserve by requiring landlords to check a box if they plan to file with the New York State Department of Housing and Community Renewal (DHCR) to evict a rent-regulated tenant when applying for an Alteration 1 permit or a demolition permit with the Department of Buildings (DOB). The DOB would then inform the tenants' community boards and elected officials who can reach out to them and inform them of their legal rights.

I strongly support Introduction No. 340, and I urge the City Council to pass this important piece of legislation. I applaud Council Member Mendez for introducing it and so many of her colleagues in the Council for supporting it. By providing tenants better access to the full range of tools that are legally available to them, this bill will make it harder for landlords to abuse the law and unlawfully evict rent-regulated tenants. It is also my hope that DHCR will revisit and strengthen its building demolition policy to the extent that it is possible, and that where it is statutorily prohibited, the State Legislature will act. We must continue to defend the rights of tenants throughout our great city of New York.

City Council Hearing – Intro 340
October 10, 2007

Good afternoon Chair Dilan and other members of the Housing and Buildings Committee. My name is Stephen Kramer, and I am the Senior Counsel to the Commissioner of the New York City Department of Buildings. I want to thank you for the opportunity to comment on Intro 340, relating to notification of intent to alter or demolish rent-regulated housing accommodations in the City.

Obviously we are all concerned with the extremely-limited availability of affordable housing in the City. The demolition or deregulation of rent-regulated units is certainly a factor that requires attention. The recent events concerning Stuyvesant Town and other Mitchell-Lama projects; news stories of a proposed sale of Starrett City that could lead to deregulation of rental units; and the enormous burden deregulation can present to tenants who could face enormous rent increases or eviction all raise significant issues. Prior notification of planned or impending deregulation we are sure, could be a useful tool to allow some breathing room into what can be a time sensitive issue for tenants involved.

Currently sections 27- 142(b) and 27- 168(b) of the Building Code require that an owner of occupied rent-controlled units notify the "city rent agency" (whose functions are now performed by the NYS Department of Housing and Community Renewal) of the intention to apply for an alteration or demolition permit, and that all requirements imposed by that agency have been met as a precondition for the application.

The bill before you would essentially extend that requirement to all rent regulated housing, not just rent controlled housing. We would support such a requirement. Indeed, it is included in our new Construction Codes, Title 28 of the Administrative Code. That law contains the following language:

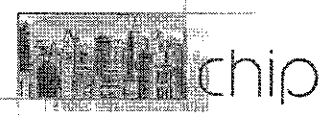
> §28-104.8.1 Applicant statements. The application shall contain the following signed and sealed statements by the applicant:
>
> . . . . .
>
> 2. A statement certifying (i) that the site of the building to be altered or demolished, or the site of the new building to be constructed, contains no occupied housing accommodations subject to rent control or rent stabilization under chapters 3 and 4 of title 26 of the administrative code, or (ii) that the owner has notified the New York state division of housing and community renewal of the owner's intention to file such plans and has complied with all requirements imposed by the regulations of such agency as preconditions for such filing; or (iii) that the owner has not notified

such agency of the owner's intention to file because the nature and scope of the work proposed, pursuant to such regulations, does not require notification.

The Department enforces the existing notification requirement when the applicant applies for an alteration or demolition permit. We do this by requiring the applicant to certify that notice has been given to the rent agency. There is no policy reason to differentiate between the two types of housing. This provision will go into effect on July 1, 2008.

Additionally, Intro 340 as currently drafted would require that the Department notify the appropriate community board and council member of the filing of the alteration or demolition application. Applicants should bear the costs and administrative burdens imposed by a proposed development, not the Department.

I would be glad to answer any questions that you have with regard to this testimony.



FOR THE RECORD

COMMUNITY HOUSING IMPROVEMENT PROGRAM, INC.

TESTIMONY BEFORE THE
NEW YORK CITY COUNCIL HOUSING AND BUILDINGS COMMITTEE
OCT. 10, 2007

PATRICK SICONOLFI
EXECUTIVE DIRECTOR
COMMUNITY HOUSING IMPROVEMENT PROGRAM (CHIP)

I am Patrick Siconolfi, CHIP's Executive Director. CHIP represents owners of small and medium sized multifamily properties in NYC which are subject to rent stabilization and rent control. I submit this testimony in opposition to Int. No. 340, which proposes to amend the administrative code of the city of New York, in relation to notification of intent to demolish certain rent regulated housing accommodations. The proposed law would require owners to state, on an application for an alteration or demolition permit with the Department of Buildings (DOB), its intent to file an application with the state Division of Housing and Community Renewal (DHCR) for permission to terminate the tenancy rights of rent-stabilized or rent-controlled tenants due to demolition. It then requires the DOB to notify the community board and the council member in the applicable district when it grants the permit to the owner.

CHIP opposes this proposed law, as it represents an improper attempt by the City to preempt state law and rules governing the eviction of rent-stabilized and rent-controlled tenants based on an owner's good faith intent to demolish the building. This is direct violation of the Urstadt law, which was amended in 2003 (Chapter 82, Laws of 2003) to bar the City from amending "local laws or ordinances with respect to the regulation and control of residential rents and eviction, including but not limited to provision for the...regulation of evictions, and enforcement of such local laws or ordinances...except to the extent that such city for the purpose of reviewing the continued need for the existing regulation and control of residential rents or to remove a classification of housing accommodation from such regulation and control adopts or amends local laws or ordinances...." By imposing an additional requirement on the ability of owners to evict tenants based on demolition, the city is amending a law regarding rent regulation, in violation of the Urstadt law.

The DHCR is the agency authorized to handle process applications to evict rent-stabilized and rent-controlled tenants based on the owner's good faith intent to demolish the building. It has a detailed and extensive procedure owners must follow to get a certification of eviction based on demolition. This includes getting an approved permit from the DOB for the work the owner plans to do, filing an application on a DHCR form, providing enough copies of the

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application so that the DHCR can send copies of the owner's application to the tenants, and submitting proof of the owner's financial ability to complete the demolition. The DHCR also has rules providing for highly generous stipends and other relocation provisions to tenants. The DHCR sends tenants copies of the owner's application, along with an Operational Bulletin advising tenants of their rights, and gives tenants a chance to respond to the owner's application. Presumably, the tenants themselves could contact their local community board of council member if they so desired. Given the extensive procedures already in place by the state agency authorized to handle these applications, it is unnecessary and unduly burdensome for the City to place an additional requirement on building owners regarding these applications.

In addition, this added requirement makes the development process more difficult. A building demolition already involves many levels of review. Many agencies are involved and tenants themselves are notified through the DHCR procedure. There's no need to further encumber this process.

Finally, the proposed change in law institutionalizes a procedure whereby an ongoing administrative determination (here regarding the demolition application) is subject to legislative notification and review. This is an improper intrusion by the legislative branch on administrative decision-making.

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