

FOR THE RECORD

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**TESTIMONY OF THE NEW YORK CITY DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
TO THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING AND BUILDINGS
ON INTRODUCTIONS NOS. 930, 967, 1210 & 1211
MONDAY, OCTOBER 31, 2016 – 10AM**

Good morning, Chair Williams and members of the Housing and Buildings Committee, my name is Vito Mustaciuolo, and I am the Deputy Commissioner for the Office of Enforcement and Neighborhood Services at the New York City Department of Housing Preservation & Development (“HPD”). Here with me today is Matthew Murphy, Assistant Commissioner for the Division of Strategic Planning; Margaret Brown, Assistant Commissioner for Policy and Operations in the Office of Asset and Property Management; Baaba Halm, Assistant Commissioner for Economic Opportunity and Regulatory Compliance; and Meryl Block Weissman, Assistant Commissioner for Performance, Management and Analytics.

Thank you for the opportunity to testify today on Intros. 1210 and 1211, which seek to address problems associated with investment practices that have been termed “predatory equity”; Intro. 967, which proposes to amend Local Law 44 to create a position at HPD to address construction quality issues; and Intro. 930, which amends the statutory definition of a “distressed” building.

We would first like to discuss the issue of predatory equity.

Predatory equity is a term generally used to refer to the practice of private equity firms buying properties, often at high prices given New York City’s real estate market, assuming that they will be able to achieve high returns from the buildings once the buildings are deregulated as rent stabilized or controlled apartments. The investors sometimes assume high amounts of debt to facilitate the acquisition. Some such investors have engaged in harassing tactics in an effort to push out rent stabilized tenants and bring in higher income renters in order to earn more money from the buildings. Some such landlords purposefully defer maintenance in the buildings in order to discourage current tenants from remaining, which may result in a high number of housing quality violations under the Housing Maintenance Code. Some investors end up delinquent on their outstanding debt and other obligations because they achieve rents less than what they expected.

Whether an investment is predatory, or when it becomes predatory, can be difficult to pin down, and there is no agreed upon way of measuring the existence or extent of predatory equity throughout the City. We join the Council in its concern about the impact of overleveraged real estate transactions and their effects on housing stability and affordability. HPD has been working with the Council on the issue of tenant harassment and code enforcement. The Agency has been aggressively addressing complaints related to tenant harassment, proactively investigating owners we suspect may be trying to deregulate rent-regulated apartments, and working to increase our current code enforcement programs and activities. Over the past few years, we have expanded our work in this area in order to protect tenants in New York’s ever-changing housing market.

As you know, HPD is part of a multi-agency effort to focus available enforcement tools on landlords engaging in patterns of harassment by working with our partner agencies at the local and State levels. This Task Force is a partnership between HPD, the Department of Buildings (“DOB”), the Attorney General’s Office, and the State Division of Housing and Community Renewal (“DHCR”). The Taskforce identifies a portfolio of buildings where harassment may be occurring on a widespread basis, and each agency uses its enforcement and other powers to issue violations and gather information. Following the inspections and information gathering, the Task Force determines the best course of action to address any conditions it has found. Data analytics inform the actions of the Task Force and are an integral part of determining follow-up actions with respect to certain buildings. The Task Force has inspected buildings across the City, and a number of administrative actions and criminal prosecutions already have resulted from the Task Force’s activities.

Beyond those efforts, we also work with local elected officials and community groups on specific neighborhood concerns. An example of this work includes HPD’s continued participation in the North Brooklyn Housing Taskforce. This taskforce brings together HPD, DOB, and DHCR with community-based tenant advocates and legal services providers to target distressed buildings in the Williamsburg and Bushwick areas identified by the taskforce’s community-based partners. This effort has allowed us to coordinate the city’s resources and tools to assist tenants that may need our help.

The administration also employs an array of programs to support tenants experiencing harassment from their landlords. HRA funds a free legal services program for income-eligible tenants. In Fiscal Year 2017, New York City’s overall investment in civil legal services for low-income City residents will exceed \$100 million through Mayoral programs exceeding \$83 million and City Council awards of nearly \$28 million. In January 2016, HRA launched the Anti-Harassment and Tenant Protection (AHTP) legal services program, which provides resources for tenant outreach and pre-litigation services with the goal of preventing eviction and displacement.

HPD has also been working in partnership with Councilmembers and community groups to host Tenant Resource Fairs in communities around the City. Those fairs provide an opportunity for residents to obtain information about their rights, to consult with legal service providers and HPD code enforcement officials about problems they are facing, to report issues with particular buildings and landlords and to submit applications for affordable housing. HPD has used a mobile van in a few communities to make it easier for people to report housing conditions and get help if they fear they are being harassed, evicted, or threatened with service disruptions. This fiscal year, HPD will be acquiring two vans to expand this program full-time in Brooklyn and the Bronx.

Earlier this year, HPD started working with the Council and stakeholders across the City to analyze how best to reform the Certification of No Harassment program to make the system responsive to the current housing market. A working group consisting of HPD, DOB, the Council, tenant advocates and landlord representatives has been engaged for several months trying to find ways to best deter and punish tenant harassment and to determine whether the requirement to obtain a Certification of No Harassment is the most effective solution. The group is divided into subgroups that are exploring how to define harassment and recognize its signs;

analyzing data to see if there are patterns and indicators of harassment that can be used to efficiently target anti-harassment efforts; exploring alternative tools for deterring and punishing harassment; and looking at the challenges of implementing a broader Certification program or other anti-harassment tools. The working group will continue to meet through the end of this year and will make recommendations to the Council as soon as possible.

Thus, HPD is critically concerned about the problem of harassment, and any financial practices such as those described as "predatory equity," that may exacerbate the problem. The term "predatory equity" describes a transaction that counts on a rate of return achievable only if existing tenants leave the building or pay significantly higher rents to remain. But not all owners who enter into overly optimistic or poor investments intend to, or do, disrupt the lives of tenants or engage in bad behavior. And even owners who intend to try to convert rent-regulated units to higher rents may stop short of engaging in harassment, neglect or other displacement tactics. HPD does not have the ability to predict which investments will be accompanied by harassment, neglect of a building, or other bad acts. Trying to make those predictions by tracking financial transactions in which HPD is not a party would be extremely difficult and costly, and would be limited by data constraints, regulatory and jurisdictional complications, and the perils of predicting real estate markets in general.

Intro. 1210 would require HPD to capture, analyze, monitor and maintain a wide array of complex data in order to identify buildings whose owners might engage in harassment or otherwise be bad landlords. Intro 1211 adds the term "debt service coverage ratio" to the definition section of the Housing Maintenance Code and then creates a rebuttable presumption that if a building's debt service coverage ratio dips below 1.05, certain activities were intended to or did cause tenants to vacate their homes or surrender their rights and thus constitute harassment under the Housing Maintenance Code.

Both of these bills require the calculation of the debt service coverage ratio of every building subject to the bills. A debt service coverage ratio serves as an indicator of a building's financial health by raising red flags about whether the rents received are likely to be enough to allow the owner to both pay operating expenses and repay its outstanding debt. A debt service coverage ratio is the building's net operating income divided by its total outstanding debt. The proposed legislation assumes that a ratio above 1 shows that the building has enough cash flow to pay its debts, and that a ratio below 1 would indicate that the building would most likely not be able to sustain making these payments.

Calculating the debt service coverage ratio in order to accurately determine whether a building should be included on the watch list described in Intro 1210 would pose a challenge, because it requires that HPD, in conjunction with the Department of Finance ("DOF"), calculate this ratio for every building in New York City over six units, which could mean that DOF would need to make the calculation for tens of thousands of buildings. In order to properly calculate the net operating income of a building – that is, its total gross revenue minus its necessary operating expenses – it is necessary to have accurate and complete financial information on the building's revenue and expenses, which is not always possible.

It is our understanding that DOF has access to some operating and expense information through its real property income and expense ("RPIE) statements used to value property. The information contained within a real property income and expense (RPIE) statement is considered a tax secret, and DOF may not divulge it except under very limited circumstances. This confidentiality encompasses the amount of the income and expenses and also any other particulars set forth in the RPIE statement. Given DOF's confidentiality restraints around this information, it would be challenging to make the calculation envisioned by these bills.

The debt service coverage ratio calculation also relies on disclosure of the payments required on the debt on a property, which we similarly would have difficulties obtaining. Although mortgages are recorded documents and public record, the terms of repayment generally are not included in the mortgage but rather the note, which is not a recorded document. Currently, property owners do not disclose debt service payments on loans. Further, property owners may also take out loans that are not secured by a mortgage on the property, and therefore not possible to identify easily.

Even if the data were available, calculating the debt service coverage ratio each year for every building in the City over 6 units would require extensive staff time and resources, because we would have to collect, process, and analyze data from a variety of sources for every building. The bill would most likely require the creation of a new unit within HPD, with staff to collect this information and do the complex analysis and quality control audits required to use the data. In addition, HPD would be required to track and address public submissions nominating buildings for inclusion on this watch list. Intro. 1210 also creates additional technological demands on the Agency in order to create an extensive online database. HPD cannot build and maintain such a database without extensive resources. In addition, if the development of such a watch list were feasible, HPD would need increased funding, staff, and time to properly develop this online tool.

And as a metric, we are not sure debt service coverage ratio is the best indicator of predatory equity. First, the debt service coverage ratio alone does not tell you whether an owner is likely to engage in illegal or irresponsible behavior. An owner who pays all cash for a building, and therefore has no debt service at all, for example, may still be willing to engage in harassment or neglect in order to secure higher returns on its investment. Conversely, an owner that finds it overestimated rent potential may take the loss rather than engaging in bad behavior. Further, even in a building that is adequately financed, net operating income can fluctuate widely if there are significant vacancies or an unexpected increase in a building's operating expenses, so a debt service coverage ratio that doesn't look problematic at one point in time may mask a building in trouble. As well, a landlord might buy a building with the goal of doing energy efficiency improvements, which would lower expenses over time. The City should not disincentivize landlords from purchasing buildings with high operating expenses and trying to reduce those operating costs.

Second, several of the watch list criteria are overbroad or impossible to capture without extensive investigation. For example, the criteria related to the initiation of harassment cases requires identifying all harassment cases filed in any court or administrative body against the owner or other individuals associated with the building. Such information would be almost

impossible to obtain. Moreover, that provision requires that such proceedings be considered even if they were dismissed for good cause. The fact that a case was started would put the building on the watch list even if it were meritless, unless the court found it “frivolous.” HPD’s Housing Litigation Division reports that it is very rare for even a case that was dismissed to be labeled “frivolous.”

Third, the watch list would be over-inclusive. The criteria for inclusion on the watch list would capture such a large number of buildings that the list would be an inaccurate predictor of buildings in either physical or financial distress. One violation per dwelling unit is a very low threshold for inclusion on the list, for example, and would capture a significant share of all properties. HPD does not use this level of violations as a threshold for any other HPD special enforcement program; instead, HPD’s Alternative Enforcement program requires buildings to have a much higher threshold of B and C violations and high number of outstanding ERP charges before they are included in the program. By using this level of violations, HPD ensures that it is addressing the needs of the City’s buildings in the most critical condition.

Fourth, the tool is under-inclusive. While paying more for a building, or taking out more debt, than the rent regulated units can support may lead some owners to neglect their building’s physical plant, there are many owners who can pay their debts monthly who still neglect to maintain their buildings. Indeed, owners may fail to take on sufficient debt to help them improve and maintain the building, and instead run the building into a terrible state of repair.

The other bill before us today regarding predatory equity also includes provisions that are unlikely to reduce harassment or other irresponsible or illegal behavior. The harassment provisions of the Housing Maintenance Code allow tenants to file a case in Housing Court. Intro. 1211 adds a provision that if a debt service coverage ratio is below 1.05, the owner is presumed to be engaging in harassment when certain conduct defined elsewhere in the statute occurs. Although there is anecdotal evidence of a connection between predatory equity and harassment, creating such a presumption is not supported by factual data.

This bill seems to create a presumption of legal fault by owners based solely upon their financial transactions. There are many reasons why a building may not have sufficient income to cover its debt.

The bill does not describe what entity or party to this case would calculate the debt service coverage ratio. The concept of debt service coverage ratio is complex, and it is unlikely that many tenants filing harassment cases would know what this term means or have access to the necessary information to calculate the ratio.

HPD is concerned about the continued expansion of the definition of harassment. The Courts have rarely made findings of harassment in cases commenced under the Housing Maintenance Code provisions, in part, because although the provisions already are broad in scope, tenants have been unable to present evidence persuasive to the courts. Expanding the definition to include this new provision would make tenant harassment cases even more difficult to understand and harder for judges to identify. As stated previously, simply calculating the debt service coverage ratio does not serve as a good proxy for ascertaining the existence of harassment as the presumptions requires.

In sum, HPD does not think the bills before us today will be sufficiently helpful in preventing harassment, neglect, and other tools that some landlords use to push rent-regulated tenants out of their apartments to be worth the considerable costs they would impose upon HPD. But we are very committed to continuing to work with the Council through the Certificate of No Harassment Working Group and beyond as we continue to find innovative solutions to ensure safe, affordable and habitable housing to New York City residents.

And in the short term, we appreciate you identifying for us problematic buildings in your communities. While we strive to reach as many buildings as possible, you as Council members know your communities, and are often extremely familiar with what's happening in buildings in your districts. We need your help in identifying the buildings that should receive the most attention. If you will let us know about any owner that you suspect is harassing tenants, neglecting it building, or otherwise not being a good landlord, we will inspect the building, analyze the data we have on the building and owner, and take the appropriate action, either at HPD, or through one of the task forces that we have mentioned today.

We can then assess whether a particular building fits into patterns we are seeing in some of our work. We can also suggest a path forward for stabilizing a building -- whether that means working with our Preservation Finance staff to restructure the building's existing debt in exchange for long term affordability, or working with our Code Enforcement staff so that they can address the building's physical deterioration with additional inspections or through inclusion in one of our special enforcement programs.

We think a good way to move forward together would be to broaden the work that is currently underway with the Anti-Harassment and Certificate of No Harassment working group. The working group could look at whether indicators of over-leveraging are good predictors of harassment. If they are, we would be able to suggest a collaborative programmatic or legislative response.

All of this depends on our increased collaboration, and we welcome working with the Council to achieve our shared goals of helping New York City's residents.

Intro 967

Intro 967 creates a housing development project ombudsperson at HPD. This staff member would be tasked with taking in complaints about construction conditions, as defined in Local Law 44, coordinating the investigation of such complaints, and recommending action to be taken. Further, the bill would require HPD to publish a list of "preferred contractors" on its website. We understand the Council's concerns regarding the oversight of construction issues; however, there are already established procedures and personnel to perform these functions, so the bill would add duplicative and confusing requirements.

The oversight of contractors and construction issues falls within three different departments at HPD. The Office of Development's Building and Land Services Division ("BLDS") monitors for conformance with the project's construction contract documents and construction-related laws; the Labor Monitoring Unit ("LMU") within our Regulatory Compliance Division checks for wage disparities and other labor issues for workers on HPD-financed projects; and the Office of Asset and Property Management tracks complaints of issues after construction completion.

Our BLDS group examines HPD-financed projects during the course of construction to ensure that the quality of the construction meets our requirements. If BLDS identifies any construction issues during its site visits, staff notifies the applicable HPD program staff, the developer, the architect/engineer, and the general contractor, and monitors to ensure corrective action. If the issues are not resolved or the external parties are not responsive, HPD will escalate the issue to one of its sister agencies having jurisdiction over that issue, which may be DOB, the Department of Environmental Protection, or others.

The Labor Monitoring Unit (“LMU”) within the Division of Regulatory Compliance ensures that contractors and subcontractors working on HPD development projects subject to prevailing wage requirements comply with prevailing wage and labor laws during the course of construction. Roughly 10% of development projects within HPD’s portfolio are subject to prevailing wage requirements and thus monitored by LMU. Labor compliance officers investigate possible violations of prevailing wage and labor law standards by: (1) reviewing payroll records; (2) conducting site visits; and (3) interviewing workers.

The Agency instituted a new Enhanced Contractor Review policy (Enhanced Review) in September 2012. The Enhanced Review policy is intended to supplement, not replace, the Agency’s other review processes. Under Enhanced Review, contractors with a record of outstanding labor violations and/or construction quality issues are subject to greater scrutiny prior to closing and proactive contractual and procedural measures during construction. The purpose of Enhanced Review is to identify and correct the behavior of those contractors that have demonstrated an inability to consistently comply with the Agency’s labor and/or construction quality standards.

The Office of Asset and Property Management has technical staff that receives and reviews complaints for post construction conditions. In 2014, HPD hired a new dedicated staff person to serve as a centralized intake point to accept complaints regarding post-construction conditions and assess how HPD should respond. Staff makes best efforts to understand the nature of the complaint and assist the homeowner or building owner in identifying the appropriate remedy. The staff person may advise the owner how to make a claim on a warranty and, as appropriate, may facilitate communication between the owner and the contractor who performed construction. The staff person also tracks the outcome of each complaint and reports any findings of construction defects to the Regulatory Compliance Division. Further, HPD already complies with the requirements of Local Law 44 with respect to the reporting of construction conditions.

This bill would result in HPD duplicating work we believe is better performed by experts in construction codes and practices. The bill would require HPD to assess the validity of complaints, and take further appropriate action based upon that finding. Following the completion of construction, however, it is often extremely difficult to ascertain the true cause of the complained-of condition. As time passes, it’s possible that lack of maintenance, improper use, expected wear and tear, weather events, or other causes are responsible for the condition. Forensic engineers are best trained to attempt to understand the underlying cause of the condition.

Intro. 967 requires that HPD create a list of “preferred contractors” based on the number of substantiated claims in relation to the number of dwellings units at housing development projects that contractor worked on. This metric doesn’t take in account that a project could have one very serious condition that affects the entirety of the building, such as foundation issues, resulting in the contractor’s unwarranted inclusion on the preferential list. Conversely, a project could have many issues that are less serious in nature but would cause the contractor to be excluded from the list simply because of the number of conditions rather than the severity of the issue or cost to remediate. Further, construction issues may be a matter related to the project’s design, manufacturer product defect, or improper maintenance.

More importantly, having a preferred contractor list on the Agency’s website may suggest a tacit endorsement of these businesses. HPD would not want to create an impression that it has a special relationship to certain contractors. Given the City’s affordable housing crisis, we are trying to encourage a wider array of businesses involved in projects that HPD finances, especially MWBEs. Because the list is limited to contractors that have worked on housing development projects within the last five years and have not incurred a certain threshold of substantiated construction complaints or labor law violations against them in recent years, it has the potential to limit the list to more established contractors. Having this list could affect the prospects of new contractors trying to enter the affordable housing development marketplace or from being considered a model company within the industry.

Intro. 930

HPD has been working with Council as part of the Tax Lien Sale Task Force along with our agency partners at the Department of Finance and the Office of Management and Budget and the Department of Environmental Protection. As part of HPD’s analysis and recommendation of how to reform the sale, our Agency has suggested revising the definition of a distressed building to better protect chronically troubled buildings.

As you may know, each year the tax lien sale statute requires properties that meet the statutory “distress” criteria be removed from the sale. The statutory “distress” criteria was included in the tax lien sale legislation with the intent for the City to improve the conditions of these properties but the current definition results in a mismatch between the type of buildings that often fall under this criteria and HPD programs. While many buildings are excluded from the tax lien sale, HPD has observed that many of the same buildings cycle multiple times through the tax lien sale without any positive outcomes that change the building’s physical and financial needs. Based on HPD research, almost 80% of the properties that met the statutory distress criteria in 2016 had previously been pulled from the tax lien sale at least one other time resulting in no change in status for the building or revenue for the City. The Agency believes the definition of “distressed” properties should be recalibrated a more precise definition of distressed, offering them protections from tax lien sales. This would then allow the City the opportunity to examine how to better align some of these chronically troubled properties with current HPD programs to ensure their long term viability where feasible. Additionally HPD already pulls properties from the tax lien sale that might not meet the current the definition of distress but are already in its development pipeline.

HPD would like to continue discussions with the sponsor and work with the Council Tax Lien Taskforce to study this issue further in order to address the issue comprehensively and in a manner consistent with the findings of the Task Force.

We thank you for the opportunity to testify on these bills. We believe that working together we can continue to help New Yorkers across the city live in safe, affordable housing. We would be happy to answer any questions you may have.

**ALEXANDRA FISHER
DEPUTY COMMISSIONER FOR LEGAL AND REGULATORY AFFAIRS
NEW YORK CITY DEPARTMENT OF BUILDINGS**

**HEARING BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING & BUILDINGS**

October 31, 2016

Good morning Chair Williams, members of the Housing & Buildings Committee and other members of the City Council. I am Alexandra Fisher, Deputy Commissioner for Legal and Regulatory Affairs at the New York City Department of Buildings (“Department”). I am joined by Assistant Commissioner for External Affairs Patrick Wehle and the Department’s Buildings Marshal, Salvatore Agostino. We are pleased to be here to offer testimony on Introductory Number 1218, which includes a number of proposals to address certain illegal conversions of residential buildings.

Illegal conversions are violations of the City’s Construction Codes and can lead to potentially deadly consequences, for occupants, first responders and the public at large. With heat season approaching comes an increased risk of overloading electrical outlets, which are commonly associated with illegal conversions. In response, the Department conducts its annual Living Safely campaign, where Department staff partner with the FDNY and the Department of Housing Preservation and Development to distribute multi-lingual flyers to alert tenants and homeowners to the dangers of illegal apartments.

The Department has a number of enforcement strategies in place to address illegal conversions. The Department routinely responds to illegal conversion complaints received from 311 or referrals from our partner agencies. Depending on the conditions observed, violations with

associated penalties can be issued for the illegal conversion, any maintenance issues found, and for performing construction work without a permit. If construction work is in progress a stop work order will be issued. If the conditions observed present an immediate threat to occupants and the public, such as inadequate egress or illegal gas work, the premises will be vacated.

While all of our Enforcement Inspectors respond to illegal conversion complaints, recognizing the unique challenges associated with their enforcement, the Department has a Quality of Life Unit which includes a team of specially trained inspectors who can identify indicia of illegal conversions and where appropriate work with Department attorneys and the Law Department to prepare access warrant requests for a court's approval. The Department also partners with the FDNY to perform after-hours inspections on a weekly basis. With additional resources provided by the Mayor and City Council, the Department has hired ten new inspectors within the Quality of Life Unit as part of more than one hundred new inspectors being hired overall.

The Department has taken the additional step of deploying the resources of the Building Marshal's Office to target locations where we have seen large concentrations of illegal construction in progress resulting in illegal conversions, most recently in Bay Ridge, Brooklyn. Our work in Bay Ridge has resulted in significant increases in violations and stop work orders. Additionally, the Department works with the FDNY and Mayor's Office of Data Analytics to target locations where illegal conversions are likely to exist. Finally, the Department is working with the Department of Finance ("DOF") and Office of Administrative Trials and Hearings ("OATH") to for the first time exercise the limited authority the City has to place liens on 1-3 family homes with unpaid penalties.

Intro. 1218 establishes a new \$15,000 per unit penalty for illegal conversions of three units or more, makes this penalty eligible for a lien sale if unpaid, makes such illegal conversions a basis for a vacate order, and revises the process by which the Department seeks access warrants.

While the Department supports strong penalties for those responsible for illegally converting dwelling units, the Department already has very strong penalties in place, in many cases cumulatively higher than what this bill proposes. An illegal conversion violation of the kind described in this bill would currently be assessed a \$2,400 penalty for the illegal conversion, a \$1,600 penalty for performing work without a permit, an additional work without a permit civil penalty with a minimum of \$500 for 1-2 family homes and \$5,000 for all other occupancies, which could be significantly larger based on the cost to correct the illegal condition, and another \$1,500 civil penalty if the conditions are not corrected in a timely manner. Additionally, changes approved by the Council in our most recent Code revision in 2014 established a \$1,000 per day penalty up to \$45,000 when three or more units are illegally converted. Finally, receiving additional violations within three years will result in a maximum penalty of \$12,000, and a penalty that is defaulted on will result in a maximum penalty of \$25,000.

As you can see, the existing penalties are already quite significant. Furthermore, with the expansion of the \$1,000 daily penalty in the 2014 Code, the Department has unfortunately not seen an increase in compliance. It is likely that a \$15,000 per unit penalty will not result in the correction of illegal conditions or an increase in payment, just an increase in unpaid debt to the City.

The affirmative defenses in the proposed legislation that would relieve a property owner from this proposed penalty are particularly problematic. For example, providing a defense for an

owner who was unaware of the illegal conversion is unprovable and creates a significant loophole. Additionally, a defense for an owner who attempts to correct the illegal condition by initiating eviction proceedings against tenants not only undermines one of the central tenants of the Construction Codes, in that owners have an obligation to maintain their buildings in a Code compliant manner, but also creates the perverse incentive for owners to evict tenants.

Intro. 1218 also makes this proposed new penalty eligible for a lien sale should it go unpaid. While as a general matter the Department supports expanding lien authority as it relates to violations issued by the Department, State legislation is necessary to do so. Currently the Department's authority is essentially limited to unpaid penalties resulting from violations issued to 1-3 family homeowners. As mentioned, the Department is working with the DOF and OATH to for the first time exercise this limited authority.

Intro. 1218 also makes the illegal conversion of three or more units a basis for issuing a vacate order. The Department already has the authority to issue vacate orders for illegal conversions. However, it is important to note that we exercise this authority not based on habitation contrary to the certificate of occupancy, but on whether the conditions observed present an immediate threat to occupants and the public. Should the Department observe an illegal conversion where the number of illegal units was increased by three or more, the Department would not vacate the premises if no immediate threat existed, such as lack of egress or illegal plumbing work. Given the tremendous hardship vacates can have on residents, the Department orders them only when absolutely necessary.

Finally, Intro. 1218 revises the process by which the Department seeks access warrants. The Department is constitutionally prohibited from forcing access into a dwelling to determine if an

illegal conversion exists. The Department makes two separate attempts to gain access. If access cannot be obtained and there is sufficient evidence of an illegal conversion, the Department consults with the Law Department who submits evidence to a court documenting the alleged illegal conversion in an attempt to obtain an access warrant. Obtaining an access warrant increases the likelihood that access will be obtained but it is no guarantee. The Department obtained fewer access warrants in Fiscal Year 2016 as compared to Fiscal Year 2015 due to a loss of staff in our Quality of Life Unit and a judge's determination that multiple doorbells do not present sufficient justification to secure an access warrant. The Department has since increased staffing within the Quality of Life Unit and the court is once again accepting multiple doorbells as sufficient evidence to obtain an access warrant.

Intro. 1218 requires the Department to make a third attempt to obtain access, following the certified mailing of a letter which informs the owner that an inspection is forthcoming. The Department's current practice is to post a notice on the front door of the building and to mail a letter requesting an inspection. This practice is just as effective as what is proposed by this legislation and presents less of a burden to the Department. Additionally, the bill requires the Department to submit an affidavit to the Law Department seeking their assistance in preparing an access warrant should access not be obtained on the third attempt. Should sufficient evidence of an illegal conversion exist, the Department pursues an access warrant. If insufficient evidence exists, there is no need to submit an affidavit to the Law Department, since pursuing an access warrant without evidence is unconstitutional and no court would approve one. Requiring the Department to prepare an affidavit for every complaint where no access is obtained, represents an inefficient use of limited resources without any enforcement value.

In sum, while the Department appreciates the Council's intent to more aggressively enforce against illegal conversions, Intro. 1218 is either preempted by State law, duplicates existing authority, or would prove ineffective.

Thank you for your attention and the opportunity to testify before you today. We welcome any questions you may have.

**STATEMENT
NEW YORK STATE SENATOR TONY AVELLA**

COMMITTEE ON HOUSING AND BUILDINGS

CITY COUNCIL MEETING

ILLEGAL CONVERSIONS BILL

INT. NO. 1218

OCTOBER 31, 2016

Thank you for the opportunity to submit my testimony regarding this legislation.

Councilmember Gentile and his Co-sponsors are proposing a bill which would increase the minimum civil penalty for certain hazardous and illegal conversions, make conversions grounds for an order to vacate, and make unpaid civil penalties eligible for lien sale.

The need for laws to address the issue of illegal and improper conversions stems from the inherent dangers of uncertified and unapproved changes to the foundation and structure of real property.

By increasing the minimum civil penalty for hazardous illegal and improper conversions, and making such conversions a basis for a vacate order, the City will further deter this dangerous and illegal conduct which has caused injury, and even death, to far too many residents and emergency responders of our State.

I fully agree that the City must take an active role in addressing this issue. Property conversion occurs pervasively throughout New York, and remains a threat to residents, business owners, employees, construction workers, and emergency service responders, primarily fire fighters.

In fact, several tragic events in New York City's recent history have been caused by these illegal conversions, including a January 2005 fire in a Bronx apartment which claimed the lives of two firefighters and injured four more. Again, in 2006, a fire in a Bronx discount store, where renovations were poorly and improperly implemented, killed two firefighters and injured over twenty more after the store's floor collapsed.

This bill will ensure greater accountability and a stricter compliance with these important laws, rules, and regulations, all of which will result in less dangerous emergency situations and rescue operations for first responders. Additionally, residents and construction workers will be afforded the security of living and working in a safer environment.

As you know, not all applications and submissions are reviewed by local officials, and private professionals are often empowered and trusted to certify project and development plans. That said, it is necessary that private individuals are held to the highest standard – and the highest accountability – for the consequences of illegally and improperly converting real property. This accountability must extend not only to the property owners, but the engineers, architects, and landlords as well. I believe greater civil penalties, making conversion grounds for a vacate order, broadening inspection powers, and a broader application of conversion laws and sanctions are important steps to addressing this issue.

Additionally, I would like to note that I have introduced legislation, specifically Senate Bill 889-A, which would make an illegal conversion resulting in death or serious bodily harm a felony. I introduced this bill in 2008 as a member of the City Council. I have since worked to get this legislation passed in the New York Senate. In the 2017 Legislative Session, I will amend my bill to include the provisions of 1218, and will look forward to the continuing support of the City Council in putting an end to dangerous and illegal conversions.

In conclusion, this bill would assist in reducing illegal and dangerous conversions of real property in New York City. By deterring property owners from engaging in illegally converting their property, this bill will ensure the safety of future first responders and residents alike.

For these reasons, I strongly support Bill 1218 and urge the City Council to adopt this important measure.

Sincerely,

Tony Avella
State Senator
11th Senatorial District

TA: jjp

Assemblymember Harris Testimony for NYC Council Hearing

I am here today out of grave concern for the dangers imposed on our families and communities by illegally converted homes. This type of home modification poses serious safety risks to residents and to our City's first responders by creating potentially unsafe living conditions and not complying with Building and Fire Codes. Illegal conversions also reduce a neighborhood's quality of life by straining essential services such as over-enrollment in local schools and congestion on public transportation and local roads. I believe that we can come closer to resolving this issue by supporting Councilman Gentile's bill Intro. 1218.

History time and again has revealed how dangerous illegal conversions are to New York City residents. In December 2013, a Brooklyn woman died in a fire in an illegally converted basement.¹ Last year, work on an illegal conversion threatened a restaurant's ceiling and business in Bay Ridge.² And let's not forget the firefighters who jumped to their death out of the windows of an illegally converted home.³ These are stories that are no longer surprising for our city boroughs – their chilling effects, however, emphasize **a critical problem that must be addressed quickly and efficiently.**

One of the causes of illegal conversions is said to be the lack of affordable housing in our city. To be clear, substandard housing is not affordable housing. I would also like to make clear that I am not advocating displacing residents. Many of you are aware that this past summer, FDNY and Department of Buildings' inspectors found that a two-family house at 6705 Seventh Avenue in Brooklyn that had been subdivided into a five-family dwelling.⁴ The residence had a multitude of safety hazards that ranged from lack of egress, or exits, to compromised plumbing, electrical and gas work, to extreme overcrowding. The American Red Cross had to relocate over 30 displaced Dyker Heights residents, which included 18 adults and 13 children, to a nearby Days Inn for up to three days. I believe that we must work together to find solvency on this issue and that is something that I will work on with my colleagues in government.

Illegally converted homes have become a widespread issue, particularly in Dyker Heights and Bay Ridge neighborhoods in my district. In 2014, Dyker Height's PS 176⁵ saw a 71% enrollment and was the most overcrowded of all the District 20's schools - part of this can be attributed to a large amount of illegal conversions and the increase in population it brings to the neighborhood. Illegal conversions are one of the most common complaints that my office has received since I was elected last November. That is why I introduced my bill A9657 on the state level to penalize home owners for unsafe living conditions. We must do all we can to keep our residents safe. I'd like to thank Councilman Gentile and all the sponsors for introducing this legislation and recognizing the significance of illegal conversions in our community.

¹ gothamist.com/2013/12/03/fire_kills_woman_living_in_illegall.php

² brooklyndaily.com/stories/2015/29/br-dangerous-wall-threatens-tanoreen-2015-07-17-bk.html

³ http://www.nytimes.com/2009/02/19/nyregion/19bronx.html?_r=1&pagewanted=2

⁴ <http://brooklynreporter.com/story/more-than-30-dyker-heights-residents-displaced-after-illegal-conversion-raid/>

⁵ http://www.brooklynpaper.com/stories/37/47/br-overcrowded-dyker-schools-2014-11-21-bk_37_47.html

⁵ <http://brooklynreporter.com/story/more-than-30-dyker-heights-residents-displaced-after-illegal-conversion-raid/>

⁵ http://www.brooklynpaper.com/stories/37/47/br-overcrowded-dyker-schools-2014-11-21-bk_37_47.html



OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

**New York City Council
Committee on Housing and Buildings
Testimony of Brooklyn Borough President Eric L. Adams
Monday, October 31, 2016**

Good morning Chair Williams, and members of the New York City Council Committee on Housing and Buildings and our fellow concerned citizens. Thank you for considering Intro. 1218, a bill sponsored primarily by Chair Williams with Council Members Gentile and Grodenchik at my request.

This bill would increase the minimum civil penalty for certain immediately hazardous illegal conversions, make such conversions a basis for a vacate order, and make such civil penalties, when unpaid, eligible for lien sale.

The problem that we are addressing is not new, nor is it confined to any single neighborhood, type of neighborhood, or ethnic group. It is, however, growing and becoming a crisis in communities across New York City. This bill will be an important step towards combating this crisis.

In short, profiteering property owners are taking advantage of our tight housing market and taking advantage of people, often the most vulnerable among us. These property owners are creating unlivable cubicles illegally inside homes, turning dwellings intended for only one to three families into dangerous, cramped flop houses for dozens of people. Often the wiring and plumbing in these structures is inadequate to the task, as the property was never intended to house so many people. Almost always, there is a lack of proper ingress and egress. Walls are frequently made of temporary and flimsy plywood partitions and the like. The building conversions are always done without permits, so there is no way to check on the quality of any of this work before greedy owners start raking in the cash

renting out these dangerous and barely habitable spaces for as much as \$500 a month.

These units are also immediately dangerous to the neighborhood as well. With improper and over-taxed electrical systems, they are prone to fire, creating a dangerous situation not only for those residing in the building, but also for innocent homeowners and occupants in surrounding buildings. When a fire breaks out in one of these homes, there is a significant potential for that fire to spread to adjoining homes, endangering the lives of neighbors.

There is also a highly increased danger to our first responders. We ask our first responders to run into danger, and they are prepared for that. What it is difficult for them to prepare for, is the convoluted and congested floor plan of what from outside appearances should be a typical one-to-three family home but instead has become a maze of cubicles. Having to navigate a myriad of walls and cubicles, often made with substandard construction materials, all while fighting a fire, makes a dangerous task unnecessarily more dangerous.

As I said, this problem is not new. For instance:

- On January 7, 1985, five Haitian immigrants died in a fire on East 57th Street in East Flatbush. Fourteen men, including the five, victims were found to have been squeezed into basement cubicles with no smoke detectors or proper egress. Less than a month before the fire, the New York City Fire Department (FDNY) had reported “an illegal and dangerous” situation in the two family home. The New York City Department of Buildings (DOB) commissioner said at the time that this report did “not ring an alarm bell” that would result in building inspectors responding promptly. In the aftermath, both the FDNY and DOB pointed fingers at the other for failing to act. Despite the public hue and cry, and five unnecessary deaths, no action was taken to clearly delineate which agency had primary jurisdiction, or what power each had to remedy what was obviously a tragically dangerous living environment.
- In 2003, a mother and child were killed living in cubicle apartments in a Queens fire.
- In 2005, three children were killed in an illegally converted home in Elmhurst.
- Also in 2005, two firefighters were killed leaping out of a window and four residents were injured in a building that had been illegally partitioned.

- On November 7, 2009, three people died and four more were critically injured in an illegal conversion that had multiple families living in a basement on 65th Street in Woodside. Almost 20 years earlier, the City had cited this home for an illegal conversion that was marked “resolved” on city records. DOB responded to the same complaint in 2004 but “found no violations.” Obviously, it was not resolved, or at least not in a way that ensured that the property owner would not be able or willing to recreate the illegal and dangerous condition. After the fire, the property owner was cited for the illegal conversion, lack of proper egress, and lack of smoke detectors. In a spurt of concern, DOB discovered eight illegal apartments in the home next door to the fire.
- On April 25, 2011, two adults and a child died when a fire broke out in an illegally converted apartment in Belmont. The building had been cited for the illegal conversion, lack of exits and faulty wiring two years earlier, but apparently nothing had changed. This fire prompted then-Mayor Bloomberg to say “In the end, the real people culpable are landlords who break up apartments in the interest of profits and put people who live there at risk....We should go after the landlords and rest assured the City is going to do that.”
- On November 8, 2011, a 71 year old man died, and two others were injured on Barthholdt Street in the Bronx in a fire in a garage that had been illegally converted into multiple rooms.
- On December 3, 2013, a woman died in a fire in an illegally converted basement in Borough Park. The illegal conversion was first documented in 1990.
- And, as Chair Williams knows all too well, on November 19, 2014, one man died and 15 others were injured in an illegally converted building in Flatbush. Only the heroism of the firefighters and building residents saved the lives of the other 20 people living in the illegally subdivided apartments, including a pregnant mother.

The problem remains pervasive.

Earlier this year, 31 residents, including 13 children were removed from squalid and dangerous conditions in Dyker Heights in Council Member Gentile’s district. Fortunately, this action was taken before anyone had to die.

All of these incidents were in different boroughs, different communities, and in neighborhoods that differed economically and ethnically. And yet, all of them have

one thing in common: people are continuing to make enormous amounts of money and profit off the backs of innocent people who are residing in substandard and dangerous housing conditions.

I am not one that believes that all landlords or property owners are bad people, but clearly we have some who are taking advantage of others to make profit. This legislation attacks this long standing problem by taking the profit out of the crime, by giving DOB the tools to effectively take the property from the hands of the bad actors, disincentivizing them from creating these conditions to begin with.

We need to change the culture that allows these people to think that they can get away with it. When we pass this bill, implement its measures, and finally see properties taken away from ruthless profiteers, we can at least have some hope that we have finally put an end to this scourge.

After 31 years of public awareness, we need more than words. Now is the time to change the law to give City government the tools that are needed to take real action. I urge this body to report Intro 1218 out of committee and for the full Council to pass this legislation so that no one else dies for the sake of turning an illegal profit.

A09657 Summary:

BILL NO A09657A

SAME AS No Same As

SPONSOR Harris

COSPNSR Mosley, Sepulveda, Blake, Hunter

MLTSPNSRAbbate

Add §170-b, Mult Dwell L; amd §702, Lim Lil L; add §28-210.5, NYC Ad Cd

Relates to liability and related penalties for illegal conversion.

A09657 Actions:

BILL NO A09657A

03/24/2016 referred to housing

04/20/2016 amend and recommit to housing

04/20/2016 print number 9657a

A09657 Committee Votes:

A09657 Floor Votes:

There are no votes for this bill in this legislative session.

A09657 Memo:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A9657A

SPONSOR: Harris (MS)

TITLE OF BILL: An act to amend the multiple dwelling law, the limited liability company law and the administrative code of the city of New York, in relation to liability and penalties for illegal conversion

PURPOSE OR GENERAL IDEA OF BILL:

The purpose of this bill is to allow for the Department of State, together with the Department of Taxation and Finance to sanction individual and corporate homeowners that are either already known to have illegally converted their homes, or those that are suspected of same and have refused to allow access to the homes for State and local Authorities to conduct inspections. This bill has a twofold attack, the first of which provides for the forfeiture of State Tax Refunds for those individual or corporate homeowners that: (a) are confirmed to have performed illegal conversions and disobey orders to remedy same, and (b) are suspected of having performed illegal conversions and have refused to allow access to the homes for State and Local Authorities for purposes of conducting inspections. The second prong of this attack provides for the expedited judicial dissolution (via application by the Attorney General to the Supreme Court) of (1) corporate entities owning properties confirmed to be illegally converted and which have disobeyed orders to remedy same; and (2) corporate entities suspected of having performed illegal conversions and which have refused to allow access to the homes for State and Local Authorities for purposes of conducting inspections.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 amends the Multiple Dwelling Law to add a new section 170-b which defines the term "Illegal Conversion"; provides for the compulsory remittance of all tax credits and/or rebates to the department of taxation and finance by persons or entities found to have engaged in illegal conversion; and provides for the Attorney General, in his or her discretion, to apply to the Supreme Court for judicial dissolution of any limited liability corporation that authorizes or undertakes illegal conversion.

Section 2 amends section 702 of the Limited Liability Company Law to provide for the Attorney General, in his or her discretion, to apply to the Supreme Court for judicial dissolution of any limited liability corporation that authorizes or undertakes illegal conversion.

Section 3 amends the Administrative Code of the City of New York to add a new section 28-210.5 which defines the term "Illegal Conversion"; and provides for any contractor or individual found to have performed construction resulting in illegal conversion to be subject to monetary penalties by the Environmental Control Board.

Section 4 of the bill provides that the legislation shall take effect on the ninetieth day after it shall have become a law.

JUSTIFICATION:

This State has seen firsthand the tragedies that come out of illegally converted homes. Our citizens have died as a result of fires tearing through illegally converted homes which have been constructed in a manner which ignore building safety codes and do not provide means for egress in an emergency. Illegal conversions have also threatened our local businesses that operate on the ground floors of mixed use buildings, on some occasions facing ceiling collapse due to structural stress arising out of illegal conversions on higher floors. Together, let's push to address this growing problem.

PRIOR LEGISLATIVE HISTORY:

None.

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

This act shall take effect on the ninety-first day after it shall have become a law.

A09657 Text:

STATE OF NEW YORK

9657--A

IN ASSEMBLY

March 24, 2016

Introduced by M. of A. HARRIS, MOSLEY, SEPULVEDA, BLAKE -- Multi-Sponsored by -- M. of A. ABBATE -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law, the limited liability company law and the administrative code of the city of New York, in relation to liability and penalties for illegal conversion

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The multiple dwelling law is amended by adding a new
2 section 170-b to read as follows:

3 § 170-b. Illegal conversion. 1. For the purposes of this section, an
4 illegal conversion shall mean any change in the structural parts or
5 existing facilities of any building, including, but not limited to, the
6 subdivision of rooms, or erection or demolition of walls, or the moving
7 of any building from one location or position to another, in violation
8 of any state or local law, ordinance, code or rule or regulation relat-
9 ing to real property, buildings or multiple dwellings.

10 2. A person or entity who is found to have violated the provisions of
11 subdivision one of this section shall be compelled to remit to the
12 department of taxation and finance the total of all tax credits and/or
13 rebates received in the calendar year in which such person or entity is
14 found to have committed such violation within thirty days after notice
15 of the violation. In addition, such department shall forward to the
16 internal revenue service the name and address of any person or entity
17 that has been found to have violated the provisions of subdivision one
18 of this section.

19 3. In the case of an illegal conversion authorized or undertaken by a
20 limited liability corporation, the attorney general may, in his or her
21 discretion, apply to the supreme court of the county in which the real
22 property that is subject of such illegal conversion lies, for judicially
23 decreed dissolution pursuant to section seven hundred two of the limited
24 liability company law.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 4. For each day that such payment to the department of taxation and
2 finance is delinquent, interest shall accrue to be paid by such viola-
3 tor. Failure to remit pursuant to subdivision two of this section to the
4 department of taxation and finance on the total amount shall result in a
5 late payment penalty in the amount of one percent per day until the
6 payment is made.

7 § 2. Section 702 of the limited liability company law is amended to
8 read as follows:

9 § 702. Judicial dissolution. 1. On application by or for a member,
10 the supreme court in the judicial district in which the office of the
11 limited liability company is located may decree dissolution of a limited
12 liability company whenever it is not reasonably practicable to carry on
13 the business in conformity with the articles of organization or operat-
14 ing agreement. A certified copy of the order of dissolution shall be
15 filed by the applicant with the department of state within thirty days
16 of its issuance.

17 2. On application by the attorney general, the supreme court in the
18 judicial district in which the office of the limited liability company
19 is located may decree dissolution of a limited liability company whenev-
20 er such company is found to have violated the provisions of section one
21 hundred seventy-b of the multiple dwelling law.

22 § 3. The administrative code of the city of New York is amended by
23 adding a new section 28-210.5 to read as follows:

24 § 28-210.5 Liability for illegal conversion. a. For the purposes of
25 this section, an "illegal conversion" shall mean the creation or modifi-
26 cation of a housing unit or units, for which approval or permits are
27 required by law or regulation, without first obtaining such approval or
28 permits from the department of buildings.

29 b. In the event an illegal conversion has occurred, determined by
30 order or judgment of the environmental control board, the contractor or
31 individual who performed the construction shall be held liable for any
32 monetary penalties as described in subdivision c of this section.

33 c. Any individual or contractor who is found performing an illegal
34 conversion pursuant to subdivision b of this section, shall remit to the
35 department of taxation and finance the total of all tax credits and/or
36 rebates received in the calendar year in which such person is found to
37 have committed such violation within thirty days after notice of the
38 violation. In addition, such department shall forward to the internal
39 revenue service the name and address of any person that has been found
40 to have violated the provisions of subdivision b of this section. For
41 each day that such payment to the department of taxation and finance is
42 delinquent, interest shall accrue to be paid by such violator. Failure
43 to remit pursuant to this subdivision on the total amount shall result
44 in a late payment penalty in the amount of one percent per day until the
45 payment is made.

46 d. It shall be a complete and affirmative defense to any violations
47 issued by the department of buildings for illegal conversions or work
48 done without a permit that:

49 (i) the department of finance records and the department of buildings
50 records conflict as to the description or assessment of the subject
51 property; or

52 (ii) the owner of the building purchased said property in the illegal
53 conversion condition.

54 § 4. This act shall take effect on the ninetieth day after it shall
55 have become a law.

FOR THE RECORD**Memorandum In Opposition
Intro. 1218****FOR THE RECORD**

RSA represents 25,000 members who own or manage more than one million apartments in the City of New York. We appreciate that the Housing and Buildings Committee is focusing on the important issue of illegal conversions. This issue has enormous consequences for both tenants and property owners alike.

The issue of illegal conversions and illegal alterations arises primarily in two different types of housing in the city- one and two-family homes and apartment buildings. In both of the scenarios, history has shown that neither government agencies nor property owners have adequate legal remedies available to them to address these problems. If the Council is serious about addressing illegal occupancies, agencies and owners must be able to access illegally converted or altered spaces in a timely manner and the public must be prepared to acknowledge the consequences of meaningful enforcement- people will lose the roofs over their heads and will need to be relocated.

Illegal conversions of one and two-family homes to multi-family homes and illegal subdivisions of units in these homes are common throughout the City. These widespread conversions have become a major source of housing in the City and oftentimes provide income which is essential to the homeowner so that mortgages, property taxes and other financial obligations can be paid. However, even when undertaken in a safe manner, illegal conversions of these homes can have an impact upon the quality of life in the community. When undertaken in an unsafe manner, there is a serious risk to life, health and safety.

Illegal conversions or alterations also occur in apartment buildings. As we all know, illegal partitions can have fatal consequences for innocent third parties such as firefighters, for the tenants and their neighbors, and for property owners. The legal consequences can end up at the owner's doorstep, even when the illegal partitions are installed by the tenant. Regardless of who is at fault, government agencies and property owners must have the right remedies and procedures in place to obtain access expeditiously, to correct the illegal condition and, if necessary, relocate the tenants.

The issue of illegal partitions in apartments becomes even more complicated because of the relationship between owners and tenants. Property owners are confronted with the following dynamic. They rent an apartment to a tenant. After the rental begins, what occurs behind the closed doors of a tenant's apartment is unknown to the owner. While tenants, generally, are prohibited from making alterations to an apartment without the owner's consent, as a practical matter it is often impossible for an owner to know whether this has occurred. While the lease may allow an owner to obtain access to an apartment, actually obtaining access can be much more difficult. In the case of illegal partitions, it is even more unlikely that the tenant will ever allow the owner into their apartment. This is also true for situations where tenants unlawfully rent out padlocked bedrooms in their apartments, which is yet another form of illegal conversion. Ironically, when owners have attempted to address this problem by replacing keys with electronic keycards to better control access to their buildings, they have often been criticized by tenants and elected officials.

Generally, owners have two choices: either ignore the situation or bring a case in Housing Court to obtain access. Ignoring the situation exposes the building's tenants and firefighters to harm and the owner to potential liability if a tragedy occurs. However, assuming they are aware of the situation, owners can retain counsel to bring an access case in Housing Court. Assuming the Court orders the tenant to provide access, the tenant may disobey the court order, and the owner will need to send his attorney back to Housing Court to seek the tenant's eviction; experience tells us that Housing Court judges are unlikely to do so.

In other situations, the partitions are installed with the knowledge and consent of the owner. The installation may fully comply with all of the code requirements relating to light and air, room size, electric outlets and switches, smoke and carbon monoxide detectors, and sprinklers but without a DOB permit. We suggest that DOB quickly formulate procedures so that those owners who seek to legalize their apartments can easily do so on an expedited basis.

In section 2 of the bill under the list of exceptions to the civil penalties the bill cites that if an "owner reasonably did not know of such illegal conversion" he/she can use this as a defense. We strongly object to the word "reasonably" in this section. This list of potential interpretations of the word reasonably is endless and therefore puts owners in an untenable position. "Reasonably" should be deleted.

Applicable laws and procedures should be reviewed with an eye towards developing a meaningful plan of action which makes fundamental changes. We do not believe that Intro. 1218, which increases fines for a violation up to \$45,000.00 and makes this a tax lien is a good precedent.

Property owners, as well as government agencies such as HPD, Fire, Buildings and Health, need to have the necessary legal weapons available to them. The courts, too, must be willing partners in addressing this problem by prioritizing access cases, granting access orders and, where necessary, issuing orders of eviction. Ultimately, if the impediments of the court system obstruct the ability of agency personnel and property owners to address illegal conversions aggressively, then no legislation will have the desired effect.

Thank you for the opportunity to testify at this important hearing of the Committee.

Testimony of Kerri White

Director, Organizing and Policy, Urban Homesteading Assistance Board

10/31/2016

Introduction

I am the Director of Organizing and Policy at UHAB. We work with tenants citywide to preserve affordable housing. I am testifying to support Intro 1210, Intro 1211 and Intro 930. For a decade, the focus of UHAB's work has been organizing with tenants whose affordable housing is at risk due to a Predatory Equity, a phenomenon that has devastated our communities, causing tenant displacement, building deterioration and led to a massive multifamily foreclosure crisis all in the name of profit. UHAB is a member of both the Stabilizing NYC coalition and the Stand for Tenant Safety Coalition which has worked to get these pieces of legislation introduced and heard so we can hold the practitioners of Predatory Equity accountable for the problems they have wrought in our communities.

Predatory Equity: Naming the Problem of Speculation and Overleveraging

Over the last decade, the real estate market has gone through a massive surge resulting in a fallout that plunged the city in a foreclosure crisis, and more recently a second escalation which threatens to overtake the first. These ups and downs have a real cost to New Yorkers, unfortunately that cost is often paid by low and moderate income tenants. In times of perceived high markets as we are in now, developers speculate on buildings they believe to be "undervalued." The buildings most at risk of this speculation are rent stabilized and other types of affordable buildings where new developers hope to bank on trends of gentrification by finding ways to raise rents. Predatory Equity landlords often rely on harassment, neglect and other illicit activities to push out long term tenants in order to raise rents for new tenants who move in. Unfortunately, this has become such a prominent business practice, that speculators have to compete to buy these properties leading to acquisition prices backed up by unsustainable debt from investor and bank financing. As a result, many of these buildings have overleveraged mortgages which cannot be paid off without dramatic rent increases.

The consequences of predatory equity and overleveraging have been the focus of several hearings and bills that have been presented to the New York City Council. I believe many Councilmembers and officials within the administration and various City and State housing agencies would agree that this business practice is a major threat to affordable housing in our City. However, we have focused most of our energy strengthening legislation to punish the bad behavior that is a result of Predatory Equity, and have yet to find a way to stop this activity from happening in the first place. Unfortunately for tenants, these predatory landlords have proven to be inventive and exhausting in developing creative ways to harass tenants out of their homes. While the current City Council has been proactive and aggressive in passing legislation to protect tenants, every time we crack down on one form of harassment, these landlords seem to develop a new tactic.

The potential profits outweigh the current punishment for activities related to predatory equity. And even when we do succeed in organizing, fighting and gathering enough evidence to hold a landlord accountable, it comes at the expense of years of tenant suffering. It also does not guarantee the buildings won't be sold to another Predatory Equity landlord who will perpetuate the same flawed logic seeking to squeeze money from our buildings. If we are to have any chance of protecting the affordable

housing that currently exists in this City, we have to stop this problem at the source, rather than try to cure the ailments of the disease.

The first step to stopping Predatory Equity is naming it. Which is what Intro 1210 aims to do. This piece of legislation enables the Department of Housing Preservation and Development (HPD) to create a list of Predatory Equity landlords by utilizing information the City already has from HPD and the Department of Finance (DOF) to determine which landlords are at risk of exhibiting Predatory Equity behavior. This information can help us target our efforts as well as really demonstrate the extent of the problem. With this information we can work on developing legislation or policies aimed at quelling this practice by discouraging this behavior in the first place. Below is an analysis UHAB worked on that was included in "Banking on Gentrification" a report from the Stabilizing NYC Coalition. This is an analysis of two buildings owned by Steve Croman using financial information collected by DOF. Both of these buildings were refinanced in the last year, the data used was what was reported to DOF the year of the refinancing.

FEASIBILITY ANALYSIS		
Property address	309 East 8th	
Bank	Capital One	
Residential units:	17	
Gross annual income reported to DOF		\$304,660
Residential vacancy loss:	3%	\$9,140
Effective gross income:		\$295,520
Annual operating expenses reported to DOF:	\$100,474	
Operating expenses per unit per month:	\$493	
Annual property taxes:	\$94,639	
Total property operating expenses:		<u>\$195,113</u>
Net operating income:		\$100,407
Required lender debt service coverage:	100%	
Net available for debt service:	\$100,407	
Assumed loan terms:	<u>Term (years)</u>	<u>Rate</u>
	30	4.5%
Maximum feasible loan amount:		\$1,651,373
Current debt on the building:		\$4,250,000

FEASIBILITY ANALYSIS		
Property address	529 E. 6th St	
Bank	NYCB	
Residential units:	14	
Gross annual income reported to DOF		\$257,658
Residential vacancy loss:	3%	\$7,730
Effective gross income:		\$249,928
Annual operating expenses reported to DOF:	\$108,216	
Operating expenses per unit per month:	\$644	
Annual property taxes:	\$73,811	
Total property operating expenses:		<u>\$182,027</u>
Net operating income:		\$67,901
Required lender debt service coverage:	100%	
Net available for debt service:	\$67,901	
Assumed loan terms:	<u>Term (years)</u>	<u>Rate</u>
	30	4.5%
Maximum feasible loan amount:		\$1,116,756
Current debt on the building:		\$3,325,000

Using the information Croman provided to DOF, these buildings appear to be significantly overleveraged with debt. This is not surprising considering Croman is under investigation by the Attorney General for many charges including mortgage fraud. The City could do similar analyses using the data that is at their fingertips to help us find which buildings are overleveraged. This legislation would require the City to use this financial data combined with the landlords violation count and harassment history to determine if a landlord is likely engaging in Predatory Equity activity.

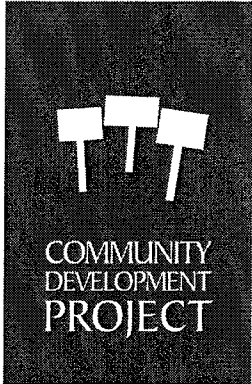
Intro 1211 complements Intro 1210 by tying the behavior of overleveraging a building directly to harassment. Tenants, advocates and allies know that harassment in NYC is being fueled by Predatory Equity and tied to the unstable financing of these properties. Creating a rebuttable presumption of

harassment gives strength to tenants who are daily fighting harassment from their landlords. If we don't take steps towards creating and passing legislation that proactively attracts the practice of Predatory Equity such as Intros 1210 and 1211, we will continue to fight in this seemingly unending cycle of overleveraging, harassment, displacement and divestment.

I also want to touch on Intro 930 which while not directly related to the other two pieces of legislation is also an important tool needed to fight Predatory Equity activity. One of the more recent tactics tenants and organizers have seen landlords use to harass tenants is through unsafe and disruptive construction in buildings. Construction is a part of daily life in New York City, and it is impossible and unnecessary to stop construction completely. However, as a City we have to ensure that this construction is done in a manner that is safe for everyone: the workers, the public and the residents who live in these buildings. Landlords who intentionally flaunt the laws and regulations that exist to protect residents during construction in pursuit of profit are not only dangerous to these tenants, but to the integrity of our affordable housing stock and our city as a whole. Unfortunately, the current fine structure makes it easy for developers and contractors to intentionally break the rules around safe construction without feeling like they will face any consequences for their actions. We must do everything we can to provide the mechanisms necessary to DOB and other agencies to hold these landlords accountable. Intro 930 will empower DOB by enabling these fines to become liens that could be foreclosed on which is actually a consequence these landlords will fear. Rent stabilized buildings are more than dollars to be made, they are homes to families and a vital resource to our communities. If the current regulations and penalties are not enough to make greedy developers understand that, we must improve on these mechanism, and affect predatory landlords in the only place they care about, their pocketbooks. I thank Councilmember Ben Kallos for sponsoring this legislation as well as all of the NYC Council who have supported the Stand for Tenant Safety Coalition.

I applaud Councilmembers Ritchie Torres, Jumaane Williams and Daniel Garodnick for sponsoring and supporting Intros 1210 and 1211. These bills are truly an unprecedented step to fight Predatory Equity in NYC. We have been in this fight for long enough to know that it will not be simple or easy. Just like this problem is unique and unprecedented to our history, our response to these issues must be equally creative and innovative. We must be willing to take strong and in some cases possibly uncomfortable steps to develop new tools that will give tenants, advocates and the City the ability to fight back against the overwhelming wave of speculation that is threatening to drown our communities.

URBAN JUSTICE CENTER



Good morning. My name is Keriann Pauls and I am a Tenants' Right Attorney working with the Community Development Project (CDP) at the Urban Justice Center.

The Urban Justice Center is a legal services provider, partnering with the base-building and policy advocacy members of Stabilizing NYC (SNYC) and Stand For Tenant Safety (STS). Together with these coalitions we work city-wide to fight against predatory equity practices, construction as harassment and other tactics used by landlords to drive rent stabilized tenants out of their homes and communities.

We respectfully urge the City Council to pass **Intros 1210, 1211 and 930** to strengthen the foundation from which tenants, advocates and officials stand in their fight to preserve affordable housing.

Intro 1210 – Owner Watch List

As a city-wide legal services provider, we witness the various shapes and forms predatory equity takes and the tactics used to frustrate and harass rent regulated tenants out of their homes.

Intro 1210 is designed to bring awareness to the greater community, when landlords purchase and own residential buildings with debt service coverage ratios that are insufficient to cover the operating expenses of the building. This leads to landlords engaging in whatever means they find necessary to raise the rents, causing an uptick in the harassment and mistreatment of tenants.

In some instances predatory equity looks like the neglect of property, leading to dangerous warranty of habitability issues and the rise in housing and building code violations. In other cases, owners add on unlawful rent increases and fees, working to push each rent stabilized unit out of regulation. And then there are the aggressive tactics used by owners, like Steven Croman, who employ agents to intimidate tenants into buyouts. The list of types of tenant harassment goes on, with illegal construction, frivolous lawsuits, turnoffs of essential services, and more.

In just the past year and in partnership with the base-building groups, UJC has seen numerous displays of predatory equity's impact on tenants' lives. We've filed lawsuits:

- In the Bronx on behalf of tenants living in buildings with over 500 HPD and DOB violations;
- In Queens to challenge unlawful MCI rent increases;
- In Brooklyn to stop tenant harassment through frivolous lawsuits; and
- In Manhattan to halt tenant harassment through intimidation, unlawful construction and aggressive buy-out tactics.

The City administration, the City council, government agencies, advocates, and most importantly the tenants deserve transparency regarding owners who engage in predatory equity practices. This is why publicizing a watchlist of these landlords is necessary.

Intro 1211 – Conspiracy to Harass

Tenants also need greater protection in the Courts against the mechanisms of predatory equity that constantly disrupts their lives. Passing Intro 1211 would give the tenants living overleveraged buildings a way to hold these predatory equity landlords accountable in harassment cases, and as a means to defend against eviction proceedings.

The behavior of predatory equity owners is strategic and therefore we must be strategic too, in order to keep our communities intact. Passing intros 1210 and 1211 is an important step in preserving affordable housing and protecting tenants and their families.

Intro 930 – Distressed Buildings Subject to Foreclosure in Rem

As a member of the Stand for Tenant Safety (STS) Coalition, the Urban Justice Center also strongly supports the passage of **Int. 930**. This bill targets landlords who show callous disregard for the safety of their tenants and flout the Department of Building's attempts to bring their building into compliance with the law. **Int. 930** would expand HPD's Third Party Transfer program, which allows the City to foreclose and sell distressed residential buildings to pre-qualified third parties to include buildings whose owners have incurred large amounts of unsatisfied DOB fines.

Landlords currently face very little repercussions when they fail to pay DOB fines and thus have little incentive to pay the fines in a timely matter. Landlords cannot be allowed to continue to amass a large amount of unpaid fines and must be disincentivized from continuing their illegal practices. Only by making their building subject to foreclosure will landlords understand that they cannot continue their usual business practice of neglecting tenant health and safety.

Given the rising sale prices of multi-family investment properties, this legislation only targets landlords who are the "worst of the worst." In order for a building to be subject to foreclosure, it has to have incurred Environmental Control Board (ECB) judgments equal to 30% of the building's value, or 15% or more if multiple hazardous conditions exist on the premises.

One example of a building that would have benefitted from **Int. 930** is 2097 Webster Avenue in the Bronx. The tenants in this building had to deal with a myriad of housing violations, including mold, damaged walls and ceilings, vermin, exposed wiring, and lack of hot water. At the time that the Urban Justice Center became involved with the tenant association, there were 134 HPD violations in an eight unit building, including 27 class "C" violations. DOB had also issued over \$120,000 worth of fines on the building, which the landlord failed to pay.

The Urban Justice Center represented the tenants in an HP case in Housing Court to compel the landlord to make repairs and an Article 7A Proceeding to request the appointment of an administrator to run the building. The owner subsequently lost the building as part of foreclosure and bankruptcy proceedings.

The passage of this bill would protect tenants like those at 2097 Webster Avenue where it was very apparent that the landlord had no desire to make repairs and/or pay the assessed DOB penalties. Instead of putting the burden on tenants to organize, find attorneys, and use judicial resources to enforce their rights, this law would establish a systemic mechanism to punish these slumlords. Further, by allowing the City to foreclose on these properties, it would increase the likelihood that these properties are rehabilitated and preserved as affordable housing. Ultimately, the law would either deter landlords' bad behavior or replace bad landlords, resulting in an increase in tenant safety.

Thank you all for your attention to these pressing matters and we ask you to vote in favor of preservation and pass these bills.

For Immediate Release: Monday, October 31, 2016

Contact: Kenneth Londono, 646-335-0420, kenneth.londono@berlinrosen.com

Hundreds of NYC Tenants Demand NYC Council to Pass Bills Condemning Predatory Equity Landlords

Groups Urge Council to Pass Three Bills Critical to Protecting Tenants from Landlord Harassment and Intimidation

New York, NY – Over 200 New Yorkers along with the Stabilizing NYC Coalition (SNYC), Stand for Tenant Safety Coalition (STS), and City Council members converged on Monday in front of City Hall to demand the City Council pass crucial legislation that would offer protections against abusive landlord practices and broaden access to affordable housing.

Countless New Yorkers have been victimized by predatory equity landlords who use dubious tactics to try and force tenants out of their homes. New York City's affordable housing market has dwindled in recent years, and through actions like deferred building maintenance, violating construction safety regulations, or adding on illegal fees to rents, predatory landlords harass tenants as way to force them out so they can put their apartments on the market at market value.

"Right now, landlords who routinely violate regulations that affect the health, life and safety of tenants are allowed to rack up the fines with little accountability. As a 34 year resident on the Lower East Side, if I break the law, I pay the price! Landlords are not above the law. The threat of foreclosure is an excellent way to force these scofflaws to pay up. I strongly support the passage of Int 0930!" said **Robert Pinter, tenant and activist from the Lower East Side.**

Tenants testified in the Committee on Housing and Buildings hearing in support of three bills that would help abate tenant harassment by predatory landlords and rental companies through the creation of a watch list, giving tenant claims more credibility, and increasing penalties on predatory landlords:

Intro 1210-2016 requires the Department of Housing Preservation and Development (HPD) to create, maintain, and publish a watch list for multiple dwelling owners who have engaged in practices associated with predatory equity. It also requires the Department of Finance to help HPD in ascertaining financial information about the multiple dwelling buildings.

Intro 1211-2016 creates a rebuttable presumption regarding tenant harassment in multiple dwelling buildings that has a debt service ratio of less than 1.05 (putting them on the watch list). Tenant allegations of harassing acts or omissions committed by the owner that caused or were intended to cause tenants to vacate the dwelling will be believed to be true unless the landlord can prove otherwise.

Intro 0930-2015 would expand the Department of Housing Preservation and Development's Third Party Transfer program, which allows the City to foreclose and sell distressed residential buildings to pre-qualified third parties, to include buildings whose owners have incurred large amounts of unsatisfied building violations.

Intro 1210-2016 and 1211-2016 were both introduced by City Council Members Ritchie Torres, Daniel Garodnick, and Williams, while Intro 930-2015 was introduced by City Council Member Ben Kallos.

"Predatory equity is the dark secret destroying affordable housing in New York City. We must do whatever we can to shine a light on the practice and protect unsuspecting tenants from its impacts," said **City Council Member Daniel Garodnick**. "This legislation is a step in the right direction and will help us root out those who harm tenants, communities, and our city."

"Tenants are more than ever fearful of gentrification, rising rents and displacement, and actions by predatory landlords and lenders are aiding these fears. The legislative package to tackle predatory equity is the first-of-its-kind to confront this issue and would give us more information about the tactics used to push out tenants. We hope it will move quickly through the legislative process and brought to the full Council for a vote," said **City Council Member Ritchie Torres**, prime sponsor of Intros. 1210 and 1211.

"The threat of foreclosure against the worst landlords will finally mean buildings will get the long-ignored repairs residents have been waiting for," said **City Council Member Ben Kallos**, prime sponsor of Intro 0930. "For too long some landlords and building owners neither fixed recurring problems on their properties nor paid the ECB fines that go along with those violations. The legislation being championed by the STS coalition will both improve quality of life in New York City as well as force building owners to engage in real problems in this city."

"The abusive behavior of predatory equity landlords is destroying the homes of our New Yorkers." said **Public Advocate Letitia James**. "Tenants should never have to see themselves forced out of their home, nor should they ever have to endure poor living conditions or any form of harassment by their landlord. Unfortunately, too many hardworking tenants are victims of this toxic behavior because landlords care about nothing more than bottom line. These three new bills will help us put a stop to the many injustices that tenants face by holding these landlords accountable for their actions."

The passage of these three bills would be a tremendous step in the fight against tenant harassment and for the preservation of affordable housing options for New Yorkers.

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About the Stabilizing NYC Coalition

Stabilizing NYC is a coalition comprised of fifteen grassroots neighborhood-based organizations, a citywide legal service provider and a citywide housing advocacy organization who have come together to combat tenant harassment and preserve affordable housing for the New Yorkers who need it most. This project combines legal, advocacy and organizing resources into a citywide network to help tenants

take their predatory equity landlords to task for patchwork repairs, bogus eviction cases, and affirmative harassment.

About the Stand for Tenant Safety Coalition

Stand for Tenant Safety (STS) is a citywide coalition of community organizations who are fighting to protect the lives and homes of New York City tenants where landlords are using construction as harassment. Through this community driven effort, we demand the systemic reform of the Department of Buildings.



LABORERS INTERNATIONAL UNION OF NORTH AMERICA

Testimony Patrick Purcell, Executive Director, Labor and Management Fund for Mason Tenders District Council, LIUNA
Topic Committee on Housing and Buildings Hearing on Intro 967
Date Monday, October 31, 2016

Good morning, my name is Patrick Purcell and I am here on behalf of the 13,000 members of The Mason Tenders District Council of New York City and its 1500 signatory contractors. Let me begin by thanking the New York City Council Committee on Housing and Buildings and Chairperson Williams for allowing me to address the committee on the pressing need to reform the New York City Housing Preservation and Development (HPD) agency. I want especially thank Council Member Rosenthal for all of the hard work and dedication she has brought to this process.

I would like to also thank HPD Commissioner Vickie Been. I have met with Commissioner Been several times and I know she shares the same goals we all do in bringing reform to HPD. Her job is clearly one of the most difficult in the City yet she has remained accessible and open minded to our thoughts and suggestions.

I cannot help but mention how ironic it is that we are having a hearing for one of the City's most horrific and scariest procurement systems on Halloween.

Level playing field. Tax payer accountability. Public Confidence. Highest Standards.

For years, these key principles have been missing from the HPD procurement process.

Instead, HPD has operated a maze- like procurement process that has led to criminal corruption of agency officials, worker exploitation, closed door contracting, systematic quality issues, and rampant wage theft.

The noble goal of maximizing affordable housing should not be reached with disregard for the public's trust. Tax payers should not have to pay such a high price for affordable housing.

Intro 967 is a well-intentioned bill but needs to be altered to avoid unintended consequences. The current bill does not meet its intended purpose of sufficiently providing the agency with the proper tools necessary to improve oversight and hold recipients of city subsidies accountable.

We must be careful not to legitimize HPD's broken procurement and contracting system in our attempts to correct it. HPD has had years to muddy the procurement process and reduce transparency. We must take our time and properly clean up this toxic system or we risk further poisoning of the public's confidence.

Nicole Vecchione from the Mason Tenders District Council Research and Policy Department will be testifying as to specific changes to Intro 967. I assure you she is far more qualified and smarter than me when it comes to the specific changes necessary to fix HPD.

What HPD does and how it does it matters. Affordable housing programs are indispensable. Responsible contracting will protect workers, tenants, and our tax dollars. Responsible contractors who play by the books and provide their workforce middle-class wages deserve an even playing field in the affordable housing industry.

New York City tax payers deserve demand better from HPD and our elected officials. We cannot accomplish any policy goal if we do so at the expense of the public's trust. HPD must commit to higher standards and greater accountability. The public demands and expects NYC to create affordable housing without sacrificing our moral compass and progressive principles.



**L E G A L
S E R V I C E S**

INCORPORATED

FOR THE RECORD

**TESTIMONY
IN SUPPORT OF**

FOR THE RECORD

**INTRO NO. 930, IN RELATION TO DISTRESSED BUILDINGS
SUBJECT TO FORECLOSURE BY ACTION IN REM**

PRESENTED BEFORE:

**THE NEW YORK CITY COUNCIL'S
COMMITTEE ON HOUSING AND BUILDINGS**

PRESENTED BY:

**MARTI WEITHMAN
SUPERVISING ATTORNEY
MFY LEGAL SERVICES, INC.**

OCTOBER 31, 2016

**MFY LEGAL SERVICES, INC., 299 Broadway, New York, NY 10007
212-417-3700 www.mfy.org**

Introduction

MFY Legal Services (“MFY”) envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. We do this through providing the highest quality direct civil legal assistance, community education, partnerships, policy advocacy and impact litigation. We assist more than 20,000 New Yorkers each year. The mission of MFY’s Housing Project is to prevent homelessness and preserve affordable housing in New York City. In furtherance of that mission, MFY provides advice and full legal representation to tenants citywide and litigates in Housing Court, New York State Supreme Court and before administrative agencies on behalf of tenants in all types of housing, including rent-regulated apartments, New York City Housing Authority apartments, single room occupancy hotel rooms (SROs), and Three-Quarter Houses.

MFY supports the passage of Intro 930, which would provide the City with a means to enforce the collection of fines issued by the Environmental Control Board (“ECB”) and hold accountable landlords who routinely endanger tenants’ lives with hazardous conditions. Intro 930 is crucial to addressing the harassment that tenants face when landlords use deteriorated building conditions and construction as harassment to drive tenants out of affordable and regulated housing. As a member of the Stand for Tenant Safety Coalition, MFY also strongly supports the package of related bills introduced (Intros 918, 924, 926, 930, 931, 934, 936, 938, 939, 940, 944 and 960), which together constitute an essential step towards ensuring housing is constructed, maintained and preserved in a safe manner that prevents the displacement of tenants from their homes.

Landlords Should Be Held Accountable For Penalties Imposed For Permitting A Building To Exist In An Unsafe And Hazardous Condition

MFY serves hundreds of tenants every year who live in buildings in which landlords countenance deteriorating conditions or engage in construction – either permitted or unpermitted – that is unsafe for tenants. Currently, ECB fines do not even rise to the level of the cost of doing business because landlords are not held accountable for actually paying those fines. Landlords are immune to the accumulation of fines issued as a result of violations placed on a building because there is no enforcement for the collection of those fines. The city thus empowers landlords to ignore the penalties and allow them accrue on their properties. If, however, landlords risked the loss of their buildings for repeated failure to correct violations or to pay assessed fines, the bottom line cost benefit analysis would impel them to make business choices that enhance the safety and well-being

of their tenants. Intro 930 will provide the much needed deterrent that landlords obviously need to stop endangering tenants' lives.

MFY works with many tenants who are subjected to deteriorating conditions – despite the placement of repeated violations – and construction as harassment. In fact, both scenarios are all too common in our work and the lives of the tenants we represent. One notable example is Steve Croman, a notorious landlord who was recently indicted by New York State Attorney General Eric Schneiderman for threatening rent regulated tenants in an attempt to force them out. Included in the charges is an allegation that Croman frequently created and exposed tenants to dangerous conditions in targeted buildings and ignored orders to cease working.¹ By the end of 2015, Croman had amassed more than \$1M in unpaid building and construction fines. This is just one example of one landlord among many who allow fines to go unpaid. If Intro 930 becomes law, it has the potential to provide a collection mechanism for billions of dollars of unpaid ECB fines and generate enormous resources for the City without the need to raise taxes or cut funding from other areas, including education and social services.

Conclusion

MFY Legal Services supports Intro 930, which would effectively hold landlords accountable for permitting buildings to fall into and exist in disrepair, creating hazardous conditions for tenants across the City. This bill would send a strong message and operate as a disincentive for landlords to permit hazardous conditions in their buildings endanger tenants' lives and often result in displacement. Intro 930 provides a logical mechanism for the city to enforce the violations and fines it assesses for hazardous conditions. It is also necessary in order to hold landlords accountable to the law and their tenants. MFY strongly supports passage of Intro 930 as well as the entire package of related bills introduced to address construction as harassment. Collectively, these bills are essential to preserving housing in this City in a manner that prevents the harassment and displacement of tenants from their homes.

¹ The New York Daily News, *Manhattan landlord Steve Croman hit with indictment charging he threatened, sued rent-protected tenants to force them out*, May 10, 2016, Available at: <http://www.nydailynews.com/new-york/manhattan/nyc-landlord-steve-croman-arrested-threatening-tenants-article-1.2629980>.



ASSOCIATION FOR
NEIGHBORHOOD &
HOUSING
DEVELOPMENT, INC.

50 Broad Street, Suite 1402
New York, NY 10004
Tel: 212-747-1117
Fax: 212-747-1114
www.anhd.org

FOR THE RECORD

**TESTIMONY OF BENJAMIN DULCHIN, BEFORE THE
NEW YORK CITY COUNCIL COMMITTEE ON HOUSING AND BUILDINGS
REGARDING PREDATORY EQUITY WATCHLIST
PROPOSED INTROS 1210 AND 1211**

October 31st, 2016

Good Morning. Thank you Chair Williams and to the members of the Committee on Housing and Buildings for the opportunity to testify.

My name is Benjamin Dulchin and I am the Executive Director for the Association for Neighborhood and Housing Development (ANHD). ANHD is a membership organization of NYC- neighborhood based housing and economic development groups- CDCs, affordable housing developers, supportive housing providers, community organizers, and economic development service providers. Our mission is to ensure flourishing neighborhoods and decent, affordable housing for all New Yorkers. We have over 100 members throughout the five boroughs who have developed over 100,000 units of affordable housing in the past 25 years alone and directly operate over 30,000 units.

I am testifying today in support of the proposed Intros 1210 and 1211 because I believe that the problem of what is known as "Predatory Equity" is an urgent and growing threat to affordable housing in our city. While there are technical issues to be explored, I believe that the concept of a "Predatory Equity Watchlist" and a rebuttable presumption of harassment in the Tenant Projection Act, each triggered when there is concern that the Debt Service Coverage Ratio suggests that the underwriting of a building is predicated on a financial model that requires pushing-out the low-rent paying tenants, can be an important new tool to protect vulnerable tenants and preserve affordable housing.

New York is a city of renters – nearly two-thirds of New Yorkers rent their homes and the majority live in multifamily apartment buildings. Private rent-regulated housing remains one of the most important sources of private, more affordable housing in the City where median rents are considerably lower than market-rate units and tenant protections much stronger.

Lending markets are the lifeblood of a healthy private housing market, and it is essential that bank lending and loan underwriting standards are responsible and appropriate. Multifamily lenders must understand the rent-regulation system and how to appropriately underwrite these loans so that owners of these buildings are encouraged to preserve affordability and penalized when they are found to be harassing or evicting lower-rent paying tenants in order to drive up the rents. Responsibly underwritten multifamily loans are:

- Based on actual rental income, and not speculative rents that would only be possible if lower-rent paying tenants were moved out and replaced with higher rent paying tenants. If tenants

have preferential rents, banks should underwrite to this current rent, and not to the higher registered rent.

- Based on realistic and sustainable management and operating expense budgets.
- Made with a Debt Service Coverage Ratio (DSCR) of at least 1.2, based on real rental income and maintenance expenses. The DSCR is the calculation used to determine if a building owner brings in enough income in rents to meet expenses. A low DSCR likely means the loan was made speculatively and based on false projections of higher rents or lower maintenance costs, indicating that the only way to pay off the loan would be to push out lower rent paying tenants and charge higher rents, or else reduce maintenance costs, leading to poor conditions.
- Made to responsible landlords who are committed to maintaining the buildings in good condition and respecting the rights of the tenants.

The concept of vigilance of the issue of overleveraging by a government agency, using the Debt service Coverage Ratio in particular, has become increasingly accepted.

In 2014, the New York State Department of Financial Services released new guidelines that raised the bar in enforcing community reinvestment by specifically establishing that multifamily loans that undermine safe, affordable rental housing conditions will not be eligible for CRA credit. To preserve affordable housing, the new regulations specifically say:

“Where a concern around overleveraged or distressed lending is raised on a multifamily loan submitted for CRA credit, DFS will look at the following factors to determine whether the loan has a primary purpose of affordable housing:

- Whether the loan adds to or reduces the number of units affordable to families with incomes of less than 80% AMI;
- The quality of the housing provided; and
- Whether the loan was underwritten in a sound manner.”

Key provisions of the new guidelines include:

- Loans that undermine affordable housing or neighborhood conditions, facilitate substandard living conditions, or are underwritten in an unsound manner will not be eligible for CRA credit. For example, loans to borrowers with a high number of housing code violations or loans that are too highly leveraged (too much debt financing) will not receive CRA credit.
- Allow for multiple ways to track violations, including media reports of housing code violations, tenant complaints and complaints by consumer groups or government agencies.
- Ensuring that lenders require that the individuals reviewing appraisals are independent of the transaction itself to prevent conflicts of interest.
- Encouraging lenders to create written community outreach strategies to build or enhance relationships within communities served by the banks.

The Department of Financial Services guidelines are responding to growing concern about the problem of overleveraging and speculative investment. Loans that do not meet these criteria open the door to a type of discrimination known as “predatory equity.” Unlike the practice of redlining that locked people of color out of the housing market, predatory equity investors make loans in communities of color, but base those loans on highly speculative underwriting, typically with DSCRs below 1.2. Such loans have led to the widespread harassment and eviction of lower-income tenants. In fact, between 2003 and 2007, ANHD research found that private equity-backed developers purchased an estimated 100,000 units of affordable rent-regulated housing – nearly 10% of that housing stock¹. These loans were made speculatively, using a business model that depended upon high rates of turnover to quickly raise rents; between 2007 and 2009, incidents of harassment and eviction were rampant. This put pressure on all lenders, including long-standing bank lenders like New York Community Bank, to follow suit in order to compete for business.

In 2008, in the wake of the economic crisis, the underwriting model became financially unsustainable as the real estate market cooled and tenants were educated about their rights by community groups, which also fought to strengthen anti-harassment laws. This situation soon led to a crisis as overleveraged buildings faced financial default, which not only increased displacement pressure on tenants but also often led to severely distressed physical conditions. Landlords then faced pressure to choose between making mortgage payments and neglecting basic building maintenance, and many owners frequently opted to disregard needed repairs. The City is still suffering the consequences of bad loans made prior to the financial crisis where some large portfolios are in or near foreclosure, leaving tenants vulnerable to cutbacks in maintenance and repairs, harassment and eviction.

With 55% of all New Yorkers rent-burdened – paying more than 30% of their income on rent – and nearly half of those paying 50% or more of their income on rent, it is imperative that we preserve rent-regulated units – the most important stock of private, unsubsidized affordable housing.

Landlords are limited in how much they can raise the rents in regulated units for existing tenants, bound by the rent guidelines board’s vote each year. For leases that begin in October 2015, the board voted on an unprecedented rent freeze for a one-year lease. However, when a tenant vacates, landlords can still raise the rent by 20%, and more if they do certain renovations. Further, through “vacancy decontrol,” they can take the unit out of regulation entirely if the rent reaches \$2,700 upon vacancy. Especially now with the 1% increase in 2014 and the rent freeze in 2015, the system gives landlords an incentive to try to push out lower-rent paying tenants to more quickly reach that \$2,700 mark.

Some tactics are very aggressive, as evidenced by Steve Croman who is currently under investigation by the New York State Attorney General’s office. “... Schneiderman slapped a “cease and desist” order on one of his employees, ex-NYPD cop Anthony Falconite, a private investigator tenants say has engaged in a campaign of harassment and intimidation to force them out. Numerous tenants say

¹ ANHD (2009), “*Predatory Equity: Evolution of a Crisis*”

Croman regularly files frivolous lawsuits, blows off repairs and uses every trick in the book to get them out so he can rent units at much higher rates”.²

Overleveraging as a purposeful business strategy seemed to have slowed down in the years following the 2008 crisis, but there are signs that the practice is returning, particularly as rents rise and competition increases among banks and non-bank lenders. According to an article from Commercial Mortgage Observer in March 2014, “Competition to lend for prime properties has only grown, as multifamily has become more challenging to build in Manhattan, given rising land and construction prices ... And the new players still have to compete with insurance companies, investment banks and retail banks. Fewer projects mean that in order to capture market share, commercial and savings banks have become very creative in providing exceptional terms and conditions for financing.”³ Both rents and sales prices have been steadily increasing since 2010, with the price per unit at an all-time high. In the Bronx alone, the average annual price per unit for residential multifamily buildings was at about \$78,000 in 2012 and rose to \$90,000 in 2013, which is very close to prices just before the crash⁴. Rents continue to rise as well. According to the Furman Center, between 2005 and 2013, the median rent increased by nearly 12 percent, while the median income of renter households increased by only 2.3 percent⁵. A July 2015 Samuel Miller report found that for the first time, the median rent in Queens surpassed that of Brooklyn, reaching \$3,016 in July 2015. Tenants are particularly vulnerable in rapidly gentrifying neighborhoods, such as Crown Heights, Bushwick and Bedford-Stuyvesant in Brooklyn. All lenders – particularly banks that focus on rent-regulated housing – must ensure that the loans are made responsibly so tenant rights are respected and rents remain affordable.

ANHD recently released some new data pointing to where and how affordable housing is lost in our city. ANHD’s new data and mapping tool, the Displacement Alert Project, or “DAP Map”, is a building-by-building, web-based interactive map designed to show where residential tenants may be facing significant displacement pressures and where affordable apartments are most threatened across New York City.

Some interesting aggregate data from the DAP Map:

- New York City has lost over 156,000 rent-regulated units from 2007 to 2014.
 - Brooklyn has lost over 41,500 rent-regulated units from 2007 to 2014.
 - Bronx has lost over 17,300 rent-regulated units from 2007 to 2014.
 - Manhattan has lost over 74,900 rent-regulated units from 2007 to 2014.
 - Queens has lost over 21,500 rent-regulated units from 2007 to 2014.
 - Staten Island has lost over 1,300 rent-regulated units from 2007 to 2014.

² Smith, G., “EXCLUSIVE: Multimillionaire Manhattan landlord probed for possibly using illegal tactics to force out rent-stabilized tenants”, *NY Daily News*, July 26, 2014

³ Stoler, M. “Multifamily Lenders Scramble for Business”, *Commercial Observer*, March 28, 2014

⁴ UNHP (2014), presentation from “Multifamily Assistance Center and Building Indicator Project Lender Meeting”

⁵ Capperis, S.; De la Roca, J; Ellen, I.E., et alia (2015), State of New York City’s Housing and Neighborhoods 2014” published by The Furman Center for Real Estate and Urban Policy at New York University



- Just 25 zip codes account for over half of the NYC building that lost 25% or more of the building's rent regulated units between 2007 and 2014.
 - Just 10 zip codes account for nearly one quarter of the NYC building that lost 25% or more of the building's rent regulated units between 2007 and 2014.

- In the 30 zip codes that had the highest rate of loss of rent regulated units, we found 2 different corresponding high number of Building Permits in the zip code and/or an above average property sales price per residential unit compared to the surrounding neighborhood.
 - In 12 of these zip codes the **high loss of rent regulated units is paired with high rates of property sales**, these 12 areas all had 2015 residential property sales that were, on average, 150% or more above the 2010 property sale price per unit in the surrounding area.
 - Example neighborhoods - Upper West Side, East Village, Greenpoint, West Village, LES, Upper East Side, Boerum Hill, LIC
 - Zipcodes - 11222, 10025, 10009, 10023, 11216, 10002, 10014, 10029, 10016, 11217, 10031, & 11106
 - In 16 of these zip codes the high loss of rent regulated units is paired with high numbers of residential building permits. These 16 areas all had above average DOB permits suggesting substantial building renovations to full scale demolitions with often result in the displacement of preexisting tenants.
 - Example neighborhoods - Bushwick, Park Slope, Ridgewood, Sunset Park, Williamsburg, MeatPacking, Downtown Brooklyn, East Harlem, Astoria, UES, UWS, & E Village,
 - Zipcodes - 11237, 11215, 11385, 11221, 10028, 10025, 10009, 10023, 11220, 11211, 11206, 10014, 10029, 11201, 11217, & 11106
 - Of the 30 zip codes in the city (out of a total of 150 zip codes) that have the highest rate of loss of rent regulated units according to our DAP Map data. Just 25 zip codes account for ½ of all the NYC buildings that lost 25% or more of their rent regulated units between 2007 and 2014, and 10 zip codes alone account for ¼ of all the buildings in NYC that lost a high % of rent regulated units.
 - In those same zip codes, there is a correspondingly high number of Department of Buildings permits, with 16 of these zip codes showing exceptionally high DOB permit activity.
 - In those same zip codes, there is a correspondingly high number of exceptionally high per-unit property sale prices. In 12 of those zip codes, the average per-unit sale price was 150% above the average price in the surrounding area, according to the DAP speculation alert index.
 - This shows there is a relationship between the trend of the loss of rent regulated units, and the trends of high Department of Buildings Permits and high (potentially



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25 Broad Street, Suite 1402
New York, NY 10004
Tel: 212-279-1111
Fax: 212-727-1114
www.anhd.org

speculative) building sale prices.

Thank you for this opportunity to testify.



QUEENS CIVIC CONGRESS, INC.

P. O. Box 670706, Flushing, NY 11367 • Tel.: 718-374-1359
www.queensciviccongress.com (Archive) • www.nycqcc.org

October 31, 2016

The Queens Civic Congress is an umbrella organization consisting of about 100 civic and homeowners associations in Queens. We represent members from Whitestone to the Rockaways and play an active part in supporting causes that our members feel are important.

We are very excited about Intro 1218 introduced by Brooklyn Councilman, Vincent Gentile, that is supported by several Queens Council members. We see the law as being a good start to enable the Department of Buildings to remedy illegal housing and to correct code violations that threaten the lives of tenants, owners, and neighbors alike and contribute to the reduction in our quality of life.

Illegal housing is the foundation of several problems that threaten the health and safety of residents and tenants alike. Tenants are forced to live in substandard living quarters, without the safety of code protection, and without tenant rights or any means of recourse. Unscrupulous landlords continue to profit and avoid taxes for rent payment and are rarely caught or prosecuted for these illegal conditions. We often hear news stories about tenant injury or loss of life due to illegal hotplates and overloading of electrical lines. Further investigation usually reveals that the Buildings Department was denied entry on several occasions and warrants were never sought to inspect. As a result of this inaction, the violations were allowed to continue until tragedy struck. We continually see these stories, say it was a shame that something wasn't done, and we move on until the next one occurs. The cycle continues.

Any one of us in Queens can point to a multitude of illegal housing units in our respective communities. Most of us have reported hundreds of suspected violations based on "circumstantial evidence" such as too many cable TV antennas or doorbells, excess trash, delivery of wallboard and building materials for subdividing rooms, occupied garages, and the coming and going of numerous visitors with suitcases, just to mention a few. The policy of the Buildings Department is to close the case after 2 unsuccessful visits. Many homes have a track record of years of closed cases for the same circumstances.

This inaction has to stop. Corrective action is long overdue.

We, the Queens Civic Congress, applaud this first step to grant the Buildings Department the power to obtain an access warrant. We hope that the Buildings Department will take this more aggressive approach to code enforcement and will use this new power to get warrants to inspect

for violations and demand that any and all violations found be remediated before the case can be closed.

We, as residents and taxpayers of the City of New York, deserve to live in a community where we are protected from those who live outside the law. We deserve protection from threats to our basic community services such as fire, water, sanitation and schools, and our quality of life and from illegal and unsafe conditions in housing stock that threaten our neighborhoods.

We urge all Council members to join all those who support Intro 1218.

Sincerely,

Tyler Cassell, Chair ad hoc Buildings Committee

TESTIMONY of Nicole Vecchione, Laborers Eastern Region Organizing Fund

I believe the intention of Intro 967 is to create transparency and accountability in HPD development pipeline. Considering the history of low-income worker exploitation and corruption within the agency, this type of thinking is necessary. However, I do not believe that this legislation will actually address the problems at hand, but will make the problem worse unless significantly amended.

The current bill provides no new oversight mechanism and, in fact, will functionally legitimize HPD's broken affordable housing procurement and contracting system.

Enrollment as a preferred contractor should not be simply triggered by successfully bidding for work in the past. This system is the equivalent of drawing from a poisoned well. HPD suffers from an insular contracting pool, many of whom have histories of corruption, fraud, and shoddy work. Automatic preference will exclude contractors who avoided working with HPD in the past due to the unlevel playing field corruption and unenforced regulations created.

Instead, I believe it is more responsible to have contractors apply for preferred status AND certify the accuracy of their application.

Moreover, you must broaden the criteria of consideration for becoming a preferred contractor. As it stand, the bill only considers prevailing wage violations. This is a good start, but worker exploitation is not confined to the 10% of HPD's worker where prevailing wage violations are applicable.

I believe if you want truly level playing field you must ensure that those firm that violate any labor regulation cannot be enrolled as a preferred contractor. These violations could be failing to pay overtime, violating workers' compensation requirements, or even have a finding by HPD's own Labor Management Unit.

A level playing field will also give advantage to those firms that not only avoid breaking the law, but take steps to heighten labor standards for their workers. For example, contractors that participate in a state-certified apprentice program should be favored.

Finally, we must establish in this holistic project accountability for general contractors. Too often GC's area allowed to pass the buck on labor law violation finding against their subcontractors. If a subcontractor hired by a GC to do work on an HPD development project steal wages or endangers workers, that should be considering in whether or not a GC is allowed preferred status.

This is the only way to incentivize GCs to do the type of project management and subcontracting that avoids these types of violations. It also helps level the playing field for GC that do appropriate due diligence when hiring a subcontractor.

OVERVIEW

Intro. 967 is a well intentioned policy, but flawed to the point of causing harm to low-income workers and tenants. The current bill provides no new oversight mechanism and, in fact, will functionally legitimize HPD's broken affordable housing procurement and contracting system.

At a bare minimum to effect any positive change and ensure no negative, unintended consequences, Intro 967 must be changed to:

1. Create an independent and empowered ombudsperson with the authority to proactively investigate labor and housing quality issues,
2. Eliminate the de facto system of awarding preferred contractor status and replace it with a process that ensures serious due diligence by HPD,
3. Protect the integrity of the preferred contractor system by requiring contractors certify the accuracy of data provided to HPD and regulating civil and criminal penalties for providing false, inaccurate or incomplete information,
4. Broaden the criteria of consideration for preferred contractor status to include indicators of labor violations on all types of jobsites, not just prevailing wage projects,
5. Make all materials considered when awarding preferred contractor status available to the public on HPD's website.

OMBUDSPERSON

To maintain the credibility of an oversight position, the housing ombudsperson position must function independently from HPD. Because HPD largely positions itself as a partner of developers in building affordable housing the agency intentionally or inadvertently value these relationships over advocating for the workers and tenants. The Department of Investigation is a reasonable alternative for appointing, managing, and reviewing the findings of the ombudsperson.

Expanding the ombudsperson's purview to include worker issues will increase the effectiveness of Intro. 967 at protecting both communities historically exploited in the affordable housing industry: low-income workers and low-income tenants. The ombudsperson should be granted rights and responsibilities to investigate, educate and report on the circumstances on HPD development projects effecting workers and residents, including:

- Educating new and existing HPD development residents on their rights and the role of ombudsperson in advocating for them.
- Empowered to access any HPD development during construction, speak with any construction worker or staff person on the jobsite or in a neutral setting, and request and review documentation required to be maintained by HPD, the developer, or contractor.

PREFERRED CONTRACTOR LIST

The process as outlined in Intro 967 to create a preferred contractor list inadvertently creates a means to legitimize contractors with a history of poor behavior without inducing change or accountability. It neither holds general contractors responsible for all the labor practices on their projects, proposes a reasonable depth of consideration to cover the majority of HPD's development work, nor creates any real means of accountability.

1. **Enrollment as a preferred contractor should not be simply triggered by successfully bidding for work in the past.** HPD suffers from an insular contracting pool, many of whom have histories of corruption, fraud, and shoddy work. By automatically pulling from this pool, Intro 967 excludes contractors who avoided working with HPD in the past due to the unlevel playing field created by past corruption and unenforced labor regulations.
2. **Contractors seeking preferred status should apply for it.** A scoring system should be established to weigh the appropriateness of awarding preferred status to applicants. Selection criteria should be expanded, as identified in part below, to include labor conditions on all projects are tied to the general contractor on that project.
3. **To establish accountability, all preferred contractors or contractors seeking this status should be required to annually certify the correctness and completeness of the information HPD uses to award this distinction.** Intro. 967 should establish civil and criminal penalties for providing false or incomplete information.
4. **To be relevant and effective the breadth of information considered by HPD must be expanded with oversight from the City Council and not left to the agency's discretion.** We must guard against HPD designing criteria that favor their preferred partners, rather than protecting workers and residents. Moreover, past occurrences of corruption within HPD are often linked to abuse of discretionary powers.
5. **Prevailing wage violations must be considered when awarding preferred contractor status; however, this should be one of many indicators used to determine if a contractor engages in dangerous or exploitive practices.** Prevailing wage laws are applicable on as few as 10% of HPD's development work. Labor issues that are applicable on all construction projects should be considered in the awarded preferred status include:
 - Violations of Workers' Compensation Requirements
 - Open investigations, findings, or settlements regarding overtime pay requirements
 - Ongoing, settled or findings in civil Fair Labor Standards Act law suits
 - Violations of the Copeland Anti-Kickback Act
 - Open investigations, findings, or settlements with HPD's Labor Management Unit
 - Any administrative decision or findings by a government body

- Violations of the Equal Employment Opportunities Act
 - Findings by the Occupational Health and Safety Administration
 - Investigations, open cases, and findings by the National Labor Relations Board
6. **Expanding criteria into other labor law compliance creates greater fairness in enforcement between mixed income and supportive housing contractors.** Relying on prevailing wages violations as the only indicator of compliance gives a free pass to contractors who develop only non-prevailing wage projects and disproportionately burdens the contractors willing to take on prevailing wage work. This is important because non-prevailing wage projects generally have less affordable housing and higher returns to developers, while prevailing wage projects are usually supportive housing for the most vulnerable New Yorkers.
7. **Any labor law violation that occurs on a project overseen by a preferred general contractor, regardless of the direct employer of the worker, should be considered in the preferred contractor process.** Intro 967 unintentionally insulates general contractors from almost all responsibility for labor law violations on their projects because general contractors have very small payrolls compared to subcontractors. This provision will both help guarantee preferred contractors are:
- Adequately monitoring the labor conditions on their projects,
 - Incentivized to hire subcontractors that comply with labor laws over those who underbid contracts and then exploit workers to make up the difference.
8. **All contractor information as certified by preferred contractors should be accessible to the public on HPD's website.**
9. **To help distinguish not only what contractors do poorly, HPD should consider administrative data and request the disclosure of additional information including:**
- Participation in a State cert-apprenticeship
 - Any administrative decision or findings by a government body
 - OSHA accident logs maintained by all contractors
 - WCB experience rating
 - The average starting wage and average wage of hourly construction employees
 - If the contractor is in compliance with Section 3 reporting requirements to HPD
 - If the contractor is in compliance with Local Law 44 reporting requirements
 - Any criminal felony findings against owners and executives

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William D. Hohlfeld, *Coordinator*

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"The Injury of One is the Concern of All"

~~MIKE SALGO~~
~~MIKE SMITH~~
KEVIN O'BRIEN

Monday, October 31st 2016

Good morning honorable members of council,

My name is John Skinner and I am the President and Political Director for Local 46 Metallic Lathers and Reinforcing Ironworkers here in New York City. I am here today to express my concerns about HPD, and to ask that you either revise Intro 967 so that it carries actual protections for the people it was meant to protect, or scrap it and start over. In April of 2015 there were oversight hearings where we heard horrific tales of workers being abused, stolen from, degraded, and forced to work in dangerous conditions for contractors receiving our tax dollars to build affordable housing. We all agreed it was appalling. Councilman Williams commented that these are not mistakes, but planned criminal behavior. And yet, nothing about the contracting practices has changed at HPD in the year and a half since. Contractors continue to receive lucrative projects regardless of criminal behavior, and homeowners and tenants continue to ask for an honest review of their home's quality. We know of well over \$20 Million dollars in wage theft have occurred on our city's affordable housing projects in the past 10 years, and yet nothing has changed in the contracting. I want to thank Councilmember Rosenthal for taking the initiative in at least admitting there is a problem and drafting a solution, but I urge that recommendations which we, and other labor unions, have submitted be immediately incorporated into this bill. For example - any ombudsman must have far greater powers and work under an independent agency, with right to interview workers, tenants, and homeowners. A preferred contractor enrollment should have an established scoring system, and contractors should be required to apply for, and certify all information submitted, on an annual basis. Any labor law violation should be considered in the preferred contractor process. All information, as certified by preferred contractors should be made readily available to the public on HPD's website. These are public projects, with public dollars, and so we have the opportunity, and the obligation, to protect the public good.

NYC Council Hearing on Intro. 1218
Aggravated Illegal Conversion
October 31, 2016
Testimony of Robert V. Cassara
President - Brooklyn Housing Preservation Alliance

Good morning Mr. Chairman, Council Members, ladies, and gentlemen. I am Bob Cassara, Founder and President of the Brooklyn Housing Preservation Alliance.

In early 2014, directly across the street from my home, a house was sold, a dumpster appeared outside, and construction quickly commenced. It was a complete gut renovation under a Type 2 permit.

Like most citizens at the time, I did not recognize the early signs of what was happening to this house and ultimately to many of the recently sold houses in our community. I visited Community Board 10's District Manager, Josephine Beckmann, and she believed they were constructing an SRO, or a Single Room Occupancy residence. Most likely, when completed, it would contain multiple bedrooms, bathrooms, and a shared kitchen -- potentially housing 30 to 40 residents over time.

Our community is Zoned primarily for one and two family residences with higher density apartment buildings along corridors like 4th Avenue and Shore Road. The house across the street from me elicited over 30 complaints; including some for excavation without a permit, for which they received a Full Stop Work order. Construction workers continued to work in violation of this 1st Stop Work Order, and so a 2nd Stop Work Order was issued. Finally, work stopped. There are still outstanding issues and unpaid fines on this property. Despite this people are now living in the house.

From what we have learned, the process of illegally converting a house is fairly simple. The new owners/investors, some of whom are out of towners, buy a building, usually paying much more than the true market value. Much of the money is either cash or short term bank mortgages. The sellers are easily swayed with high cash offers. What is currently happening is reminiscent of block busting that this city witnessed back in the 60s and 70s.

The buildings that are presently being purchased are predominantly 1 and 2-family brick buildings that are easy for these investors to chop up and make them appear legal on the plans that they present to the DOB. Most of the permits issued are self-certified by the architects and contractors. This process is ripe for abuse and the results are evident. An examination of the DOB records, showed that some of the architects and contractors who were doing the work are frequently the same bad actors. This list has been taken over and expanded by Josephine Beckmann and volunteers at CB10.

As a result of our activism and community outreach efforts, which have resulted in over 4,000 signed paper and online petitions against the illegal conversions and record keeping, we have been able to get the attention of the various city agencies, such as the DOB, HPD, FDNY and our elected officials. With the help of our local elected officials, we formed an Agency Task Force in order to get a better handle on the problem and coordinate ways to effectively combat the problem. This has worked with stepping up inspections and enforcement in recent months. Certainly more needs to be done and this bill will help.

These illegal conversions present unsafe conditions to the occupants residing in the converted homes, to their neighbors and to our first responders. In early August 2016, the special task force comprised of the DOB Marshall's office and the FDNY got access to a home on 7th Avenue and 69 street. They found 31 people living in the home, seven of which three were children lived in the garage. An eviction notice was issued for immediate hazardous conditions.

On the housing affordability issue, we are witnessing the rise of rents and cost of housing. We had affordable housing in our community and with the illegal conversions of our housing stock, for those who wish to live and stay in a community with traditional housing, it is becoming nearly impossible. Recently, on October 22, Governor Cuomo signed into law, legislation prohibiting the short term rentals for less than 30 days, with the justification that this type of rental will or does eliminate affordable housing. If this is true, keep in mind that there are about 33,000 Airbnb listings for the New York City area, whereas there are in excess of over 1 million illegal conversions in the city. Wouldn't it make sense to also focus on these illegal conversions which represent a much larger number of units and probably have a far greater impact on the affordable housing crisis?

The proposed legislation, Intro. 1218, is a step in the right direction. This problem has existed for over 30 years. So will the bill solve the problem now? Not necessarily, but it will make those who willfully attempt to skirt the rules give a second thought to their actions if they know that they will be held responsible. This is not a simple issue and other speakers will provide additional information.

Thank you again for giving us this opportunity to speak and thank you to Borough President Eric Adams, Councilmen Vincent Gentile, Jumaane Williams, Barry Grodenchik and the many others who have heard our call for help, recognized our problem and are willing to help deal with it. We need to do much more but this is a very important first step and we look forward to working with the City to solve the problem for all.

Testimony of Anthony F. Ceretti Jr.
Director, Brooklyn Housing Preservation Alliance
October 31st, 2016

Good morning and thank you for your time as I provide my testimony in support of Intro. 1218. My name is Anthony Ceretti and I have been a resident of CB 10 for over 40 years. My statement on illegal home conversions is from the perspective of a middle class homeowner.

About three years ago I noticed many 2 and 3 family homes were up for sale. Where there were four bedrooms in a two family home, now there were ten bedrooms. I felt I had to engage. In February, 2014 a town hall meeting on the subject was held by the Brooklyn Housing Preservation Alliance. Over 400 hundred people came out that evening despite it being 13 degrees. I had never went to a single subject community forum (and I have been to a few) where so many people showed up, never mind on a cold wintry night.

I became involved with the Alliance and with the assistance of Josephine Beckman of Community Board 10 created a City agency task force with a crucial DOB interface.

So where are we today? Here are some observations:

- There have now been hundreds of illegal home conversion stop work orders within CB10. Neighbors are now pitted against each other, a lack of trust has severely eroded the fabric of the community.
- Our public schools are double or more of legal capaCity. I cannot send my children to public school because of a lack of resources from an overburdened system.
- Families are moving out. Once a home is sold and illegally converted people refuse to live next to a home with triple the legal occupancy.
- New families cannot buy a home because they cannot compete in a price bidding war against a cash investor illegally converting. This artificial market has deeply inflated the cost of homes, property taxes are also rising further eliminating the opportunity of home ownership.
- Parking has become a serious issue due to an increase in density. Lack of parking has spurred the increase tearing out of front yards replacing them with parking spaces.
- As a measure to increase security many of the illegally converted homes have installed security cameras and iron bars on all first floor windows, it is like living in an armed camp. A once beautiful aesthetic is disappearing.
- A block very close to mine has had an unprecedented eight homes sold in the last two years. Four of the homes were issued stop work orders during renovations.
- On my block a new owner/investor was renovating a two family attached home. As is par for the course the owner illegally excavated the cellar. A stop work order has been in effect for over four months. The investor now seeks the permission of the attached homeowner to underpin the foundation on both sides of the party wall.

Poor people are being charged much more on a per square foot basis to rent a single room than with a legal apartment and often in unsafe and unsanitary conditions. Recently the DOB evacuated a two family home. This house had 31 people living in it, including 13 children and a family living in the garage where a toilet was installed.

I ask is this a new norm, are we going back to the time of dangerous tenements of the early 20th century?

Taxes and fees are rising, services are stretched and due to an artificial real estate market I could not afford to buy my current home purchased less than 10 years ago.

The City, you and I are being ripped off by these unscrupulous investors on both the services and expense side of the ledger. More people use more services but Investors are only taxed on a two family rather than a 4 or 5 family home. Rents are paid in cash further contributing to an underground and un-taxed economy.

I think Intro. 1218. is a step in the right direction. Instead of unpaid and written off fines, we will now have an enforceable tax lien. I ask for your assistance to help save the fabric of our community and others throughout the City.

If this issue continues to progress I ask the following: Will the City of New York one day become a City in which only two kinds of people live? A City of the only very rich and the very poor?

I want to take this opportunity to thank Councilmembers Gentile, Williams and Grodenchik for sponsoring this legislation and Brooklyn Borough President Adams for his support.

BROADWAY-FLUSHING HOMEOWNERS' ASSN., INC.
P.O. BOX 580031, FLUSHING, NY 11358-0031

October 28, 2016

New York City Council Member Jumaane D. Williams
Chair - Committee on Housing and Buildings
District Office
250 Broadway, Suite 1754
New York, New York 10007

Re: Intro 1218-2016

Dear Council Member Williams,

On behalf of the members of the Broadway-Flushing Homeowners' Association, we are pleased to submit this Statement regarding the Illegal Conversions Bill.

The neighborhood of Broadway-Flushing, located in the northeast corner of Queens County, New York, comprises more than 1,300 homes. We currently have many homes that have been illegally converted into illegal multiple dwellings. This bill is critical to help to empower the DOB inspectors to request an access warrant.

The potential ability by the city to stop this type of illegal development would be a great deterrent to others who are currently renting illegally created units or considering such rental activity. The ability of the Department of Buildings to more readily obtain a warrant is also something that Broadway Flushing has been advocating for many years.

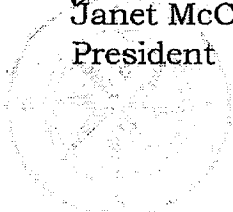
The only people who benefit from illegal subdivisions are the landlords. They do so with a total disregard for the zoning regulations of NYC as well as for the safety of the innocent tenants. The result is a hazardous living situation and a decline in property values.

The members of the Broadway-Flushing Homeowners' Association consider this an important and necessary step in protecting our community. Therefore, we submit our formal support for this bill to protect our neighborhoods.

Sincerely,



Janet McCreesh
President



Testimony of Fran Vella-Marrone
President of the Dyker Heights Civic Association
before the NYC Council Committee on Housing and Buildings
October 31, 2016

On behalf of the members of the Dyker Heights Civic Association, I am expressing our support for Intro. 1218 which will codify the term "Aggravated Illegal Conversion".

The proliferation of illegal home conversions has caused great harm to the Dyker Heights Community as well as many communities throughout NYC. Illegal home conversions create an unsafe environment for those residing in these residences, the surrounding neighbors and the community as a whole.

One and two family private homes are being converted to house many times what they were intended. The increase in density cannot be supported and has caused a strain on our infrastructure and essential services such as sanitation, police, fire, water, sewer, roads and mass transit. Our local schools are overcrowded with no relief in sight.

These conversions present an immediate danger for their inhabitants as they are overcrowded, have no proper means of egress, and contain non-code compliant electrical, plumbing and structural conditions. In addition, the unscrupulous owners/developers of these properties are preying on the misfortune of others and providing substandard housing at the expense of good affordable housing. These conversions have taken traditional housing units off the market, which increases rents and artificially inflates property values. This makes it unaffordable to purchase, own or rent in our community.

I believe that Intro 1218 will have a great effect on battling illegal home conversions. It will provide the tools necessary to combat this problem more effectively, such as increased penalties, making such penalties eligible for a tax lien, making conversions a basis for a vacate order and requiring the Department of Buildings to appeal to the Law Department for appropriate access to a suspected aggravated illegal conversion if access has been denied multiple times.

I want to take this opportunity to thank Council Members Gentile, Williams and Grodenchik for sponsoring this legislation as well as Brooklyn Borough President Adams for his support.

I ask the members of the Committee to carefully consider this matter and support our efforts to combat the scourge of illegal home conversions so as to prevent the tearing of the fabric of all of our communities and as such ensure that all residents of NYC can enjoy the benefits of safe affordable housing.

Thank you.

FOR THE RECORD

Katie Goldstein, Executive Director
New York State Tenants & Neighbors

Testimony as Prepared

October 31, 2016

New York City Council Committee on Housing and Buildings

Re: Intro 930, Intro 967, Intro 1210, Intro 1211, and Intro 1218

Good morning. Thank you to Chair Williams and to the Housing and Buildings Committee members for the opportunity to testify today.

My name is Katie Goldstein and I am the Executive Director for New York State Tenants & Neighbors Information Service and New York State Tenants & Neighbors Coalition, two affiliate organizations that share a common mission: to build a powerful and unified statewide organization that empowers and educates tenants; preserves affordable housing, livable neighborhoods, and diverse communities; and strengthen tenant protections. The Information Service organizes tenants in at-risk rent regulated and subsidized buildings, helping them preserve their homes as affordable housing, and organizes administrative reform campaigns. The Coalition is a 501c4 membership organization that does legislative organizing to address the underlying causes of loss of affordability. Our membership organization has over 3,000 dues-paying members.

Tenants & Neighbors organizes in rent-regulated, Mitchell-Lama, and project-based Section 8 developments citywide. In the buildings where we organize, the story is the same. Low and moderate income tenants in New York City are regularly experiencing the pressures of displacement. Rents are climbing and tenants are concerned that they will not be able to afford to stay in their homes and communities.

Tenants & Neighbors is testifying today in support of Intro 930, a local law to amend the administrative code of the city of New York, in relation to distressed buildings subject to foreclosure by action in rem; Intro 967, a local law to amend the New York City Charter and the administrative code of the city of New York, in relation to construction conditions in housing development projects; Intro 1210, a local law to amend the administrative code of the city of New York in relation to the creation of a predatory equity owner watch list; and Intro 1211, a local law to amend the administrative code of the city of New York, in relation to creating a rebuttable presumption regarding harassment. We believe that the city can and must use all of the tools that are available to the agencies to dissuade bad behavior and the practices of bad actors, as we see the effects of gentrification and displacement pressures only increase across New York City. We support giving HPD stronger powers to collect delinquent Environmental Control Board fines and we strongly support the expansion of categories of distressed buildings that can enter the Third Party Transfer program so increased properties can be on a pathway to preservation. Construction is often used as a harassment tactic in developments, and we believe there must be greater oversight for construction conditions in housing development projects. An owner watch list would aid access to information to tenant organizers and tenants about the bad actors operating and putting tenants at risk across New York City neighborhoods, and hopefully will play a part in the City's approval process for

building development and purchases by landlords tenant harassment histories. Tenant Harassment is a severe problem, and increasing the tools in which tenants are able to challenge harassment is beneficial for low and moderate income tenants, especially rent-stabilized tenants who are under risk of harassment for the landlords' financial benefit through the loophole in the state rent laws, the eviction bonus. We stand here in solidarity with the broad New York City tenant movement who daily organizes and campaigns for tenants to stay in their homes and communities through the preservation of affordable housing for the neediest New Yorkers.

We look forward to working continuing our work with the Council to find real solutions to the affordable housing crisis and to restrict those actors who are contributing to the crisis with increased oversight.

Thank you very much for the opportunity to testify today.

October 31, 2016

Thank you City Council Members for addressing the issues that Rent Stabilized tenants are facing under the current climate of harassment by landlords and the inability of the DOB to effectively control abuses committed in NYC multiple dwelling rental apartment buildings.

I am here today to encourage the City Council to vote in favor of the 12 Bills proposed which will bring comprehensive reform to the DOB and add protection to tenants living in rent stabilized apartments.

Although there are many sponsors of these 12 bills I want to acknowledge in particular our own NYC Council Member, Daniel Garodnick, as well as our elected State Officials, Assemblyman Richard Gottfried and State Senator Liz Kruger who, along with their staffs have provided enormous support to the tenants concerning the problems we are encountering in our building.

My name is Anita Rubin and I am a tenant, for over 40 years, living at 15 West 55th Street. It is under the rent stabilization laws that I and my husband were able to raise our children and continue to live in Midtown Manhattan. Over this time period four different landlords have owned our building.

Since July of 1977, the vacant apartments in our building were warehoused. By November 2013, when the current landlord acquired the building, only seven apartments in a building of 41 apartments, (2 of which were designated as professional apartments) were occupied. At that time all of those apartments were occupied by rent stabilized tenants.

Under the current ownership, of the last three years, I and the other tenants, have suffered many of the abuses mentioned in the twelve proposals being reviewed today. Complaints were made and some of them were adjudicated by the Environmental Control Board and fines were imposed.

I have listed 12 fines issued by the ECB (Agency- DOB) with the dates of service from September 2014 to October 2015 and 3 fines issued by the ECB (Agency - Fire Department of the City of NY) dated May 3, 2016. The total of the 15 unpaid fines is \$34,768.42 and there may be other fines of which I am not aware. Without enforcement the landlord has no reason to pay these fines. It is therefore imperative that the City of NY impose an enforced means of collection with the ultimate consequence of putting a lien on the property. The consequences of avoiding payment need to be clear to landlords so that the abuses are taken seriously.

Many of the issues in our building were not addressed by the DOB therefore the construction which overhauled our building is now a 'fait accompli'.

On its permit application, the landlord 'misrepresented' the status of the building saying that the building was unoccupied. This of course was not true

The landlord indicated that the construction work was merely cosmetic and in other times worked beyond the scope of the building permits.

On August 25, 2015 - the landlord attempted to move gas lines in our building without a permit or contacting Con Edison. A tenant notified Con Edison who wisely shut down the gas lines until the landlord was able to meet the Con Ed inspections. This saga lasted for seven months and was finally resolved on March 24, 2016. The Tenant's impromptu call to Con Ed may have saved the building from a tragic explosion or fire. I don't believe that the landlord was fined or penalized in any way for attempting to do this work without obtaining a permit and no compensation was given to the tenants for the loss of service.

The public space of the lobby was demolished and the space incorporated into a two story retail store leaving the tenants with a hallway leading to our elevator.

In order to further expand the new two story retail space - four rent stabilized apartments on the 2nd floor and two professional apartments on the 1st floor lobby were illegally demolished and are now part of the retail enterprise known as the DV Club. This commercial tenant is now seeking a liquor license for a club/cabaret. We are working with Community Board 5 and until now the application for various forms of a liquor license have been denied. The 'Club' has circumvented the law by hiring a caterer with a liquor license to conduct their events, which have been beyond boisterous and have lasted until 1:00 AM in the morning.

To accommodate the expansion of the DV Club, construction of two story enclosures were completed over two courtyards of the building and multiple air conditioner compressors were placed on the roofs of this construction. The construction compromised the privacy of some of the 3rd floor apartments and the air conditioner compressors make excessive noise and disturb the tenants.

An outdoor terrace was constructed directly underneath the apartment windows of the third floor which when outdoor events are held by the commercial tenant noise interferes with the peace and quiet of our building

The apartments in the A & B line on floors 3 through 9 were converted from two bedroom to three bedrooms and are now advertised as such.

There have been numerous recurring issues of renting the apartments in the building for less than a 30 day period.

Additionally aside from the disruption in our gas previously mentioned, the tenants have suffered repeated and extended disruptions of essential services. Between July of 2014 and August of 2015 the Verizon and AT&T telephone lines as well as Time Warner Cable lines were deliberately cut several times depriving the tenants of essential 21Century services. Complaints were made to the Public Service Commission however, as far as I know the landlord did not receive any fine for this abuse of severing public communication lines.

In short throughout this three year period, I believe, many of the construction projects in our building have been illegally completed. Once construction is completed it is unlikely that it will be changed back and we, the tenants, are stuck with it. In most cases the landlord has circumvented the law and is not held responsible for their actions and tenants are not compensated for their losses.

The Department of buildings has been derelict in its oversight.

It needs to enforce its regulations stringently.

New laws must be enacted to ensure that landlords are held responsible for their actions.

Thank you,

Sincerely,



Ahita Rubin

15 West 55th Street
New York, NY 10019

NYC BUILDINGS - ECB VILATIONS

RESPONDENT INFORMATION: 15 WEST 55TH STREET PROPERTY LL -410 PARK AVENEUE, NYNY 10022

ECB VIOLATION NUMBER: 35040391K	SEVERITY:CLASS 2	SERVED 09/09/2014	PENALTY BALLANCE DUE \$113.42
ECB VIOLATION NUMBER: 35134886J	SEVERITY:CLASS 21	SERVED 10/07/2015	PENALTY BALLANCE DUE \$800.00
ECB VIOLATION NUMBER: 38235502N	SEVERITY:CLASS 2	SERVED 04/07/2015	PENALTY BALLANCE DUE \$250.00
ECB VIOLATION NUMBER: 36023588X	SEVERITY:CLASS 2	SERVED 01/029/2016	PENALTY BALLANCE DUE \$2,000.00
ECB VIOLATION NUMBER: 35185428M	SEVERITY:CLASS 2	SERVED 05/29/2016	PENALTY BALLANCE DUE \$400.00
ECB VIOLATION NUMBER: 35185429Y	SEVERITY:CLASS 2	SERVED 05/29/2016	PENALTY BALLANCE DUE \$400.00
ECB VIOLATION NUMBER: 35185430L	SEVERITY:CLASS 2	SERVED 05/29/2016	PENALTY BALLANCE DUE \$400.00
ECB VIOLATION NUMBER:35169887L	SEVERITY:CLASS 2	SERVED 06/01/2016	PENALTY BALLANCE DUE \$6,000.00
ECB VIOLATION NUMBER:35169888N	SEVERITY:CLASS 1	SERVED 06/01/2016	PENALTY BALLANCE DUE \$1,230.00
ECB VIOLATION NUMBER: 35169889P	SEVERITY:CLASS 1	SERVED 06/01/2016	PENALTY BALLANCE DUE \$1,600.00
ECB VIOLATION NUMBER: 35172852Z	SEVERITY:CLASS 1	SERVED 06/06/2016	PENALTY BALLANCE DUE \$1,200.00
ECB VIOLATION NUMBER: 35174395L	SEVERITY:CLASS 2	SERVED 06/06/2016	PENALTY BALLANCE DUE \$500.00

\$25,693.42

FIRE DEPARTMENT OF NYC - ECB VILATIONS

RESPONDENT NAME - ASSA PROPERTY -

VILATION LOCATION 13 WEST 55TH ST. NEW YORK, NY 10019

RESPONDENT ADDRESS: 410 PARK AVE, NEW YORK, NY 10022

TICKET NUMBER: 011488109M	VIOLATION DATE: 05/03/2016	BALANCE DUE \$3,600.00
TICKET NUMBER: 011488111L	VIOLATION DATE: 05/03/2016	BALANCE DUE \$2,625.00
TICKET NUMBER: 011488115Z	VIOLATION DATE: 05/03/2016	BALANCE DUE \$2,850.00

\$9,075.00

TOTAL \$34,768.42



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**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE
ON HOUSING AND BUILDING
October 31, 2016**

Thank you Chairperson Williams, and members of the Committee on Housing and Buildings, for the opportunity to provide testimony today.

This testimony is submitted on behalf of The Legal Aid Society. The Society is the oldest and largest program in the nation providing direct legal services to low-income families and individuals. The mission of the Society's Civil Practice is to improve the lives of low-income New Yorkers by providing legal representation to vulnerable families and individuals to assist them in obtaining and maintaining the basic necessities of life — housing, health care, food and subsistence-level income or self-sufficiency. The Society's legal assistance focuses on enhancing individual, family and community stability by resolving a full range of legal problems in the areas of housing and public benefits, foreclosure prevention, immigration, domestic violence and family law, employment, elder law, tax law, community economic development, health law and consumer law.

Introduction

New York City is the midst of an ever deepening affordable housing crisis. One result of this crisis is that with a low vacancy rate, tenants have no place to go if they lose their apartments. In other cities with high vacancy rates, when landlords fail to repair

apartments, tenants leave. The market works as landlords who fail to provide a safe and decent place to live cannot charge high rents unless they repair conditions in the apartments. However, in New York City, if a tenant leaves as a result of a landlord breaching the warranty of habitability, there are many New Yorkers who will line up to take that tenant's place as the threat of homelessness is every present and very real. Additionally because of loopholes in the rent laws, landlords receive a windfall every time that an apartment becomes vacant. The incentive to harass tenants out of their homes has only increased over the last decade. Furthermore, often it is up to tenants to enforce their rights and the law. New York City must create more tools to protect tenants and to provide tenants with the information necessary to protect themselves. Thus, the Legal Aid Society strongly supports Intro's 930-2015, 967-2015, 1210-2016, and 1211-2016, sponsored by Councilmembers Kallos, Rosenthal and Torres respectively.

Introduction 930-2015

Intro 930-2015 would expand the Department of Housing Preservation and Development's (HPD) Third Party Transfer (TPT) program to buildings with liens due to building code violations. We support giving HPD stronger powers to collect delinquent Environmental Control Board fines. In addition, we strongly support the expansion of categories of distressed buildings that can enter the Third Party Transfer program. The Legal Aid Society has extensive experience with HPD's TPT program. From the inception of the TPT program, Legal Aid attorneys have helped countless tenants and tenant organizations preserve and expand the stock of affordable housing throughout New York City. Legal Aid attorneys represent tenant associations in the Third Party Transfer program and provide technical and legal assistance to help them successfully convert their buildings to affordable housing cooperatives. We recognize that the affordable housing cooperative model of housing empowers community members and brings dignity and stability to formerly distressed communities. Thus we strongly support expanding the TPT program to provide opportunities for tenants in a different class of distressed buildings.

Introduction 967-2015

All across New York City, over the last few years, landlords have been increasingly using construction abuse as a way to harass long term tenants out of their affordable homes. While long term tenants' live in inhabitable conditions, landlords renovate vacant

apartments to increase rents and deregulate affordable apartments. We represent the last two tenants in a building in Crown Heights. When they chose to stay in their apartments and refuse buyout offers, the landlord removed the building's boiler last winter. Our clients, like many New Yorkers, had nowhere to go and suffered through a very cold winter. This summer, the landlord continued his harassment and hired contractors to remove the internal staircase in this building. When HPD learned about this, they issued a vacate order and our clients are currently in shelter, hoping to return to their homes. It is essential that the Council act to address this tactic of unscrupulous landlords and contractors.

While there has been some attention brought to this serious issue, most of the solutions to this problem have focused on the building owners. Clearly, the contractors also bear responsibility for creating the abusive situations. Intro 967-2015 would create a new position in HPD to address construction abuse. Additionally, HPD would be required to create a list of preferred contractors which would recognize the vast majority of contractors who complete their jobs while assuring the safety and health of in place tenants. Further, the new construction abuse ombudsman would be required to submit a public report which would discuss complaints made on construction abuse, investigations of such complaints and actions taken by the department on substantiated complaints. We support the added attention that Intro 967-2015 would bring to this serious issue.

Introductions 1210 and 1211 of 2016

For the last decade, New Yorkers have been faced with a new threat to affordable housing. A different type landlords have entered the New York City market and acquired tens of thousands of rent stabilized units across the City. These over-zealous speculators pay inflated prices to acquire multifamily housing with the investment goal of clearing out the tenants, taking apartments out of rent stabilization and then flipping the buildings for immense profit. This practice which fueled by irresponsible lending and investment practices has placed hundreds of thousands of tenants in New York City at risk because their homes are now substantially over-leveraged.

Tenants living in overleveraged buildings are at risk. These inflated sales prices force owners to extract greater revenue from the residents – often not a legal or economic possibility when the buildings are rent regulated. Predatory equity developers' business

plans seem to be either to deregulate the building or to flip the property to another developer at a higher price. Under such stewardship, residents' welfare is the last priority and in fact considered a nuisance. Forced to pay hefty returns to their investors, developers often neglect building maintenance and pressure low income residents to vacate so as to open the way for higher income residents.

Intro 1210-2016 requires the Department of Housing Preservation & Development (HPD) to create and maintain a public watch list for owners of buildings who engage in this predatory equity practice. The watch list will have two categories: (1) High Risk, and (2) Moderate Risk. The list will track building with debt service cover ratios of less than 1.05% (Moderate Risk) and 0.85% (High Risk). In addition, in order to be placed on the list, HPD would consider other factors such as housing code violations, HP actions, harassment complaints and a history, within the past five years of multiple transfers of ownership. Intro 1211-2016 creates a rebuttable presumption of harassment in any building with a debt service coverage ratio of less than 1.05%. This bill recognizes that an essential aspect of predatory equity investing is harassment that the owners' success relies on removing tenants who have a right to remain in their homes. Both bills would provide tenants with essential tools to fight back against predatory equity owners. We strongly support these essential bills.

Introduction 1218-2016

We support the City expanding its tools to enforce the laws against illegal conversion of residential units. We, however, have some concerns about how this bill would treat those tenants of the illegally converted units. We look forward to working with this committee and the Council to ensure that tenants' rights are protected.

Conclusion

Thank you for the opportunity to testify before this committee on these important issues. We strongly support supports Intro's 930-2015, 967-2015, 1210-2016, and 1211-2016 and look forward to working on them with you and your committee.

Respectfully submitted,

Ellen Davidson, Esq.
The Legal Aid Society
Law Reform Unit
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Community Leader Charges

Death Of 5 In Blaze Linked To 'City Incompetence'

For details see page 2

East Flatbush Cheered While Fidler Played

... but on January 29, it was time to say thanks, and good-bye to Lewis Fidler, outgoing chairman of Community Board 17. Scores of friends and leaders from the civic, business, political and educational sectors came to add their praise for the dedicated community activist. In this photo, Brooklyn Borough President Howard Golden (second from right) stopped by at the celebration to present Fidler with a special proclamation for his devoted service. Proudly watching are fellow Community Board 17 member Valerie Varrati and Community Board 17 District Manager Rochelle Tenner.

Story and extensive photo coverage begins on page 3.



The Future Is Now At The Junction

or at least an artist's rendering of what the Flatbush Junction area could be transformed into. Toby Sanchez, executive director of the Junction College Development Corporation, is pictured here with Mary Fountaine, the new commercial revitalization director of JCDC. The area, known as "the crossroads of Brooklyn" can look forward to some exciting changes over the coming years under the guidance and aegis of such groups as JCDC.

Story and photos on page 2.

Still no clues
in murder of
16-year-old girl

page 2

Flatbush residents:
Here's a chance to
save \$ on energy

page 5

Tilden Blue Devils
charge ahead with
win vs. New Utrecht

page 6

Still no leads in murder of 16-year-old girl

By PETER EMBER

Few clues have been found thus far in the ongoing investigation into the alleged homicide of a woman in East Flatbush, detectives of the 67th Precinct announced last week.

Sharene Lane, a 16-year-old who lived on Eastern Parkway, was "found stabbed and wrapped in a red bedspread" in front of an apartment building at 233 E. 89th St., according to Lieutenant William Gardella of the

67th Precinct detective unit. It is believed that the young woman's body, which was discovered on Dec. 16, had been laying there for two days, he added.

Lane's wrapped and bound body must have blended in with the trash that was piled in front of the building, according to the detective, who explained that the young woman had not been home in a little less than a week. "We do not have any suspects at

this time," he said.

"Robbery is not believed to be the motive," Gardella commented, noting that Det. Al Yatchenia and Sergeant Kathleen Sammon are working on the case. The detectives say they have no idea how or why Lane's body was left in front of the East Flatbush building. However, Gardella pointed out that she had been observed in the area recently. Lane did not frequent the neighborhood between Church Avenue

and Linden Boulevard, on a longtime basis he added.

The detectives were last week awaiting a complete medical report, and said they were checking into the possibility that Lane had been raped.

The police are asking that anyone with any information concerning the death of Lane to call either Det. Yatchenia or Sgt. Sammon at 287-3225 or 287-3226. All calls will be treated in the strictest confidence.

New director is named for commercial improvement

The Junction-College Development (JCDC) Corporation hardly waited for 1985 to grow out of its diapers before it hired a director to head its new commercial revitalization program.

Mary Fountaine started her new position on Jan. 2 with the fervor of a January blizzard. Far from feeling cold to the challenging task that lies before her, Fountaine challenged herself to the area's merchants at a recent breakfast meeting. Fountaine, who outlined some of the plans for the new program with JCDC director Toby Sanchez, said she intends to meet personally with each of the area's merchants in order to win their confidence.

Fountaine, who credits the Flatbush-Development Corporation and her experience as an employee of its commercial revitalization program for teaching her the rudiments of the job, noted that the Junction program will begin by concentrating on the improvement of local store facades. As she pointed out the importance of the "visual impact" of a commercial strip, Fountaine repeated an old saying to suit the Junction's new purpose: "A picture is worth 1,000 words."

Sanchez noted that there is a "good deal of interest so far in improving store appearances," Fountaine and Sanchez announced that the JCDC will be using a facade renovation grant, using funds from the federal government through the Public Development Corporation. The grant is a matching fund, according to Sanchez who explained that \$1 will be allocated for every \$2 of private investment. Each merchant is eligible to receive funds

(Continued on Page 14)

JCDC elects leadership for 1985

By PETER EMBER

January is commonly regarded as a time to begin new projects and repeat the often frustrating task of keeping New Year's resolutions. The Junction-College Development Corporation (JCDC) kept a resolution last week by electing a new leadership and began a new project by introducing its new commercial revitalization director. As the organization's members welcomed new leaders, they said goodbye to an old friend.

Close to 25 people ambled in from the cold night air on Jan. 16 to attend the JCDC's first meeting of the year. The first order of business in the office at 1569 Flatbush Ave. was bittersweet because as the group's members elected its officers for 1985, they also bade farewell to Barbara Sheeran, the JCDC's fourth president.

Sheeran, who served as the JCDC's president for the last three years, commented that she viewed her last meeting at the helm with "mixed emotions." After noting that she felt both a sense of "relief" and "sadness," Sheeran recalled how the JCDC pioneers "worked out of a file cabinet in Dean Jacobson's office." Leslie Jacobson, an administration official at Brooklyn College, helped found the organization close to five years ago. She still serves on the JCDC's board of directors.

During Sheeran's tenure, several positive steps were taken to both preserve and revitalize one of Brooklyn's busiest neighborhoods. Referred to by City Councilwoman Susan Alter (D-Flatbush) as the "crossroads of Brooklyn," the junction of Flatbush and Nostrand Avenues is a transportation and shopping center comparable in some ways to Manhattan's Times Square. One thing, however, that distinguishes the area from Times Square is the extensive number of private homes and apartment buildings which dot the periphery of the two commercial strips and the Brooklyn College



Barbara Sheeran (left) poses with most of the JCDC's new leaders (left to right) Brigid DeRosa, Ted Estus, James Davitt, Dennis McAuliffe, and Ernest Skinner.

Photo by Peter Ember

campus. Some of the things accomplished during Sheeran's three years as president were the establishment of a community ambulance service, a plan to rebuild the Clarendon Library, and a continuing effort to rid the area of drug pushers. As she noted that "filth and crime" continue to plague the area, Sheeran pointed out that there is still much to do in the community campaign to clean up the area's sanitation act and to prevent crime.

Sheeran will, of course, remain a member of the JCDC and will continue her role as a neighborhood leader as a member of Community Board 14 and as vice president of the Flatbush-Nostrand Chambers of Commerce. Sheeran mentioned the help she received from the group's first two

directors, Robert Rose and Toby Sanchez. Calling the Junction-College community the place "where things happen," she commented that it is amazing how you can live across the street from the greatest people in the world and not know it until you become involved in community groups.

The JCDC's new officers are: James J. Davitt, president, Ted Estus, first vice president, Dennis McAuliffe, second vice president, Brigid DeRosa, secretary, and Ernest Skinner, treasurer. Davitt, an attorney, has been a resident of Flatbush for 32 years. After working 18 years for the government, Davitt entered private practice chiefly in the area of real estate, he explained. Also a member of the St. Vincent Ferrer parish, Davitt was involved in

(Continued on Page 14)

CB 17 says that 'poor city performance' led to fires

By JEFF LIPTON

Community Board 17 has asked the mayor's office to investigate the "poor performance" record of the Department of Buildings in enforcing the city's housing laws—in the aftermath of the Jan. 7 fire that raced through an allegedly illegal single-room occupancy basement apartment in East Flatbush and claimed the lives of five Haitian men.

CB officials also have established a sub-committee to probe the circumstances surrounding the fire and the widespread problem of housing Code Enforcement throughout the East Flatbush section of Brooklyn, according to Lew Fidler, chairman of CB 17.

Fidler last week accused the Department of Buildings of "sheer incompetence" when it comes to cracking down on housing violations.

"The department just does not respond to these (housing) problems in East Flatbush," said Fidler. "It is the worst agency in the city when it comes to enforcement. Time and time again they have failed."

He charged that the lives of the five fire victims would have been spared if the department had responded to a Fire Department report Dec. 12 of an "illegal and dangerous" situation in the two-family building at 128 East 57 St., off Church Avenue. He said he was told by one firefighter that the building had no smoke detectors and that 14 men were squeezed tightly into eight small apartment cubicles in the basement of the building.

Department of Buildings Commissioner Charles Smith denied vigorously Fidler's accounts of the Fire Department report, and pointed out that fire inspectors could not even gain entrance to the building on Dec. 12. Smith contends the report labeled the building as an "illegal occupancy, possible SRO," and not a life-threatening situation.

"The way the report was written on the form was not one that would ring an alarm to send (building) inspectors down to respond to it very promptly,"

(Continued on Page 14)

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JCDC names board

Continued from Page 2.
JCDC from the very beginning. He was the attorney who drew up the organization's incorporation papers and even helped arrange the group's first lease.

Estus teaches public school in Williamsburg and has been an active supporter of the Clarendon Library and the Neighborhood Housing Service. He was the person who came up with the idea for the candlelight march against illegal drugs in the neighborhood. "I try to do whatever I can for the community," he said.

McAuliffe is a member of the parish staff of St. Vincent Ferrer and has been a neighborhood resident for a year and a half. DeRosa is an active supporter of the Neighborhood Housing Service and is a member of Friends of the Clarendon Library.

Skinner is something of a legend in the annals of the JCDC. Also involved from the beginning of the organization, Skinner, who is an officer for Citibank, has handled the JCDC's finances since the group had finances to handle. Judging from members' comments at last week's meeting, they would elect Skinner to a perpetual term as treasurer if they could.

The JCDC's board of directors for 1985 are: Edward Armon, Martin Bennett, Annette Cohen, James Davitt, Brigid DeRosa, Alan Dubrow, Ted Estus, Dan Friedberg, Rudy Gargiulo, Leslie Jacobson, Timothy King, Dr. Mark Lew, Dennis McAuliffe, William Mulig, Rev. Royal Olson, Shirley Pfeffer, Miriam Ross, Sidney Thornhill, Valerie H. Varrati, and Rabbi Jacob Weitzman.

Commercial strip

Continued from Page 2.
up to a maximum grant of \$2,000.

One woman at the meeting complained about the cumbersome street displays on Flatbush Avenue. The street displays, which block the sidewalk and offer a bonanza for pickpockets, are illegal, according to Fountaine. Although "it is a livelihood" for some of the merchants, a permit is necessary for a sidewalk trade, she explained.

Sanchez and Fountaine also projected into the future some of the ways shopping can be stimulated in the Junction. While Fountaine is thinking about sponsoring a sanitation contest for youth, she is also planning ahead for the next Junction Function street fair. Fountaine feels that a multi-ethnic festival would be an excellent way to present a positive picture of the Junction-College neighborhood. The slogan, she said, could be "The Crossroads of Brooklyn, the Crossroads of the World."

-Peter Ember

Fidler decries the city's study of local SROs

Continued from Page 2.
said Smith. "If it was a life-threatening situation, the Fire Department has the complete power to vacate the building."

Assistant Fire Commissioner John Mulligan backed Smith's statements, saying that fire officials were in the midst of conducting routine building inspections along East Flatbush, but could not get into the house at 128 East 57th St.

"We didn't find any violations, because we couldn't get in," said Mulligan, "so we filed it as a suspected SRO."

Smith maintained that not all SRO's are illegal and that some overcrowded housing conditions are classified as "quality of life" problems. He added that the problem of no smoke alarms was discovered after the fire and that he was not aware of any other violations in the building.

"Where we know of overcrowded conditions and peril to life, we wouldn't allow conditions to stand," he said.

Fidler, a lawyer, said that the same building first was found to be unlawfully occupied by 16 people in 1977, but the Department of Buildings failed to enforce the law.

"CB 17 has a large Caribbean population and a number of these problems exist throughout East Flatbush," said Fidler. "The department doesn't follow up these violations as a matter of course unless we press them. If they (the victims) were not illegal aliens, they (the Dept. of Buildings) would not tolerate people living in these conditions."

Although he had not seen the actual Dec. 12 report, Fidler said he was told by one firefighter who observed the basement of the cramped living conditions of the Haitian man, and blasted the department for allowing the conditions to exist.

"Even if the possibility of the condition existed, when would they get around to it? Is this any way to run a city," he said.

Smith said his office is willing to work in cooperation with the community board to maintain the minimum housing code standards.

"If they give me a list where they suspect these conditions to exist, we'll take a look at it," said Smith. He said his office tries to respond to housing complaints as soon as possible.

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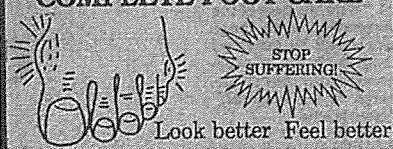
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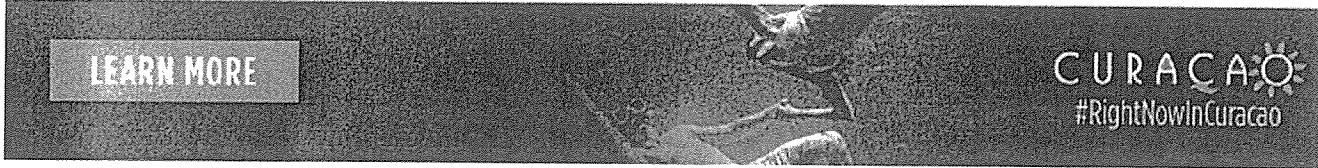
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New York NEWS

3 dead, 4 injured in Woodside fire; homeowner cited for illegal conversion

Updated November 7, 2009 4:18 PM

By DANIEL EDWARD ROSEN. Special to Newsday

Reprints [A+](#) [A-](#)



Three people were killed and four others were seriously injured in a house fire on 65th Street in Woodside, Queens early Saturday morning. (Nov. 7, 2009) Photo Credit: Lou Minutoli

An early morning fire
Saturday in a
Woodside basement



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apartment killed

three people and critically injured four others, authorities said.

City officials immediately cited the homeowner for, among other things, an illegal conversion.

New York City firefighters responded to the blaze at 42-40 65th St. in Woodside at 2:50 a.m., according to fire department spokesman Jim Long.

He said two people in the basement apartment were declared dead at the scene. A third person was declared dead at Elmhurst Hospital Center after being found in cardiac arrest, authorities said. The identities of the deceased were not released by authorities Saturday afternoon.

Four tenants from other units in the building were seriously injured while trying to rescue those in the basement apartment, Long said. One, woman, was treated at the scene.

The others are being treated at a burn center in New York-Presbyterian Hospital. Long said the most critically injured is a man in his 50s with second and third degree burns to his face and upper extremities. The other two are men in their 30s with burns to their arms hands and faces. They in serious condition, Long said. The cause of the fire still is under investigation.

Shortly after the fire was under control Saturday morning

inspectors from the Department of Buildings issued citations to homeowner Subit-Bana for illegal conversion from a two to five family house, work without a permit, illegal occupancy, and no secondary means of exit, according to a buildings department spokesman.

The basement of the home had been converted into living quarters and "there was construction that probably blocked means of egress," said Long.

Also, there were no smoke detectors in the basement. The detectors on the first and second floors had no batteries, Long said.

Records show the city objected to a previous homeowner's illegal conversion in 1990, but that complaint was resolved.

Twelve fire units and 60 fire personnel responded to the blaze. There was a small delay, Long said, after the address was first broadcast as 42-40 62nd St.

The error was quickly corrected, and responders reached the scene by 2:50 a.m., 4 minutes and 55 seconds after the first emergency call, Long said. The average response time for a structure in Queens is 4 minutes and 13 seconds, according to Long.

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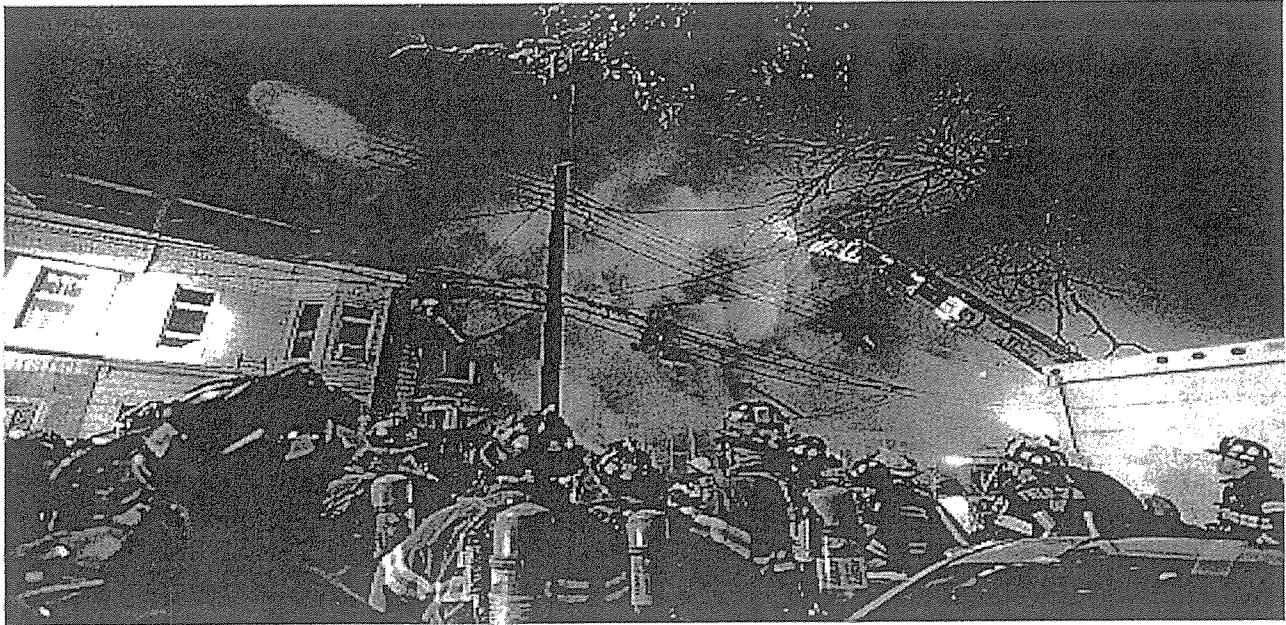
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FDNY, buildings hand out flyers in hopes of avoiding more tragedy in illegal conversion battle



The Fire and Buildings departments plan to hand out more than 50,000 flyers to increase awareness of why illegally subdivided homes can become deathtraps in a fire. (TAGGART FOR NEWS)

BY

JOE KEMP

DAILY NEWS STAFF WRITER
Monday, November 30,
2009, 4:23 PM

The city is making a new push to curb the number of illegally converted apartments after a series of deadly fires.

In the first few days of the three-week initiative launched Nov. 16, about 28,000 pamphlets were handed out at transit hubs and houses of worship in the Bronx and Queens to warn people of why illegally subdivided homes can become deathtraps in a fire, officials said.

"Education is the key to preventing another tragedy from occurring," said Buildings Department spokesman Tony Sclafani. "By distributing these flyers, we're hoping people understand the dangers of an illegal conversion and how to stay safe."

The Fire and Buildings departments plan to hand out more than 50,000 flyers in total.

Agency officials said they're hoping to raise awareness among people who may not know they are living in danger.

"And, if possible, to have people assist the FDNY and the Buildings Department identify these illegal subdivides," said FDNY spokesman Jim Long.

Advocates for immigrants applauded the effort, but some said more should be done.

"It's a good move in the sense that the city is alerting people of what's going on," said Javier Valdes, deputy director of Make the Road New York. "But the flyer does not provide any alternative."

Creating more affordable housing would make it easier for tenants to leave hazardous living conditions, Valdes added.

Locating illegal conversions has become more difficult in recent years, officials said.

Building inspectors need a warrant to enter a building, and judges require evidence, such as multiple mailboxes and doorbells, which many landlords have learned to hide, Sclafani said.

Since 2002, the city has obtained 107 warrants - only about 13 a year.

Last year, the Buildings Department issued 1,086 vacate orders for illegal apartments, up from 823 in 2007, Sclafani said.

City officials said they hope the new effort will not only increase the number of illegal conversions found, but also reduce the number of deaths caused by fires.

"We're happy to embrace this effort," said Queens Borough President Helen Marshall. "It is certainly timely in the wake of the recent fatal fires we have seen."

Not long before the initiative began, a blaze in an illegal conversion in Woodside took the lives of three immigrant men. The two-story house had been turned into a five-family residence, with another seven single rooms, authorities said.

In February, tenants Caridad Coste and Rafael Castillo were acquitted of manslaughter and negligent homicide in what became known as the Black Sunday fire, which took the lives of two Bronx firefighters.

Lt. Curtis Meyran, 46, and Firefighter John Bellew, 37, leaped to their deaths during the 2005 blaze after being trapped in the illegally converted apartment in Tremont.

jkemp@nydailynews.com

Site Of Fatal Bronx Fire Had Numerous Illegal Conversion Complaints

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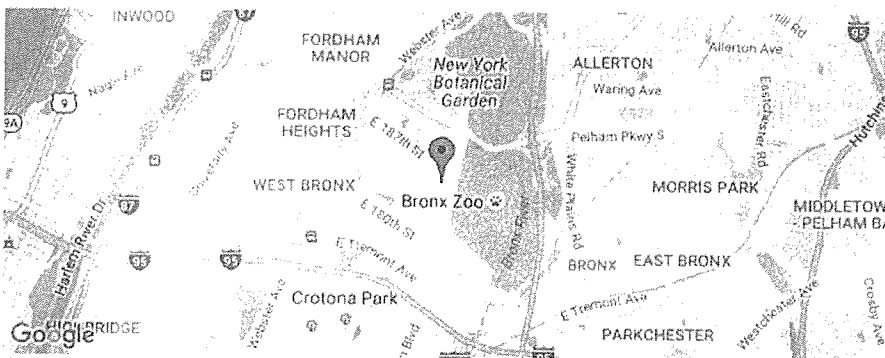
by [Ishva Saxena](#) in [News](#) on Apr 26, 2011 3:12 pm



Photograph of the damaged Bronx building (AP)

Yesterday, two adults and one child died when a [fire broke out in their apartment](#) in Belmont, and though investigators don't suspect any criminality, the Department of Buildings says the building received numerous complaints for things like illegal conversion, lack of exits and faulty wiring [starting in 2009](#). The fire has [prompted Mayor Bloomberg](#) to go after landlords who illegally subdivide apartment buildings. He said, "In the end, the real people culpable are landlords who break up apartments in the interest of profits and put people that live there at risk...We should go after the landlords and rest assured the city is going to do that."

One source [told the Post](#) that investigators had been denied access to the building on multiple occasions, but that, "Everyone living in that building was a squatter. The building should have been empty." Bloomberg said the city has a hard time getting warrants to enter buildings that are the subject of such complaints; [Christine Quinn says](#) courts deny two-thirds of access warrant requests. She said the city council will be holding hearings on the issue in June.



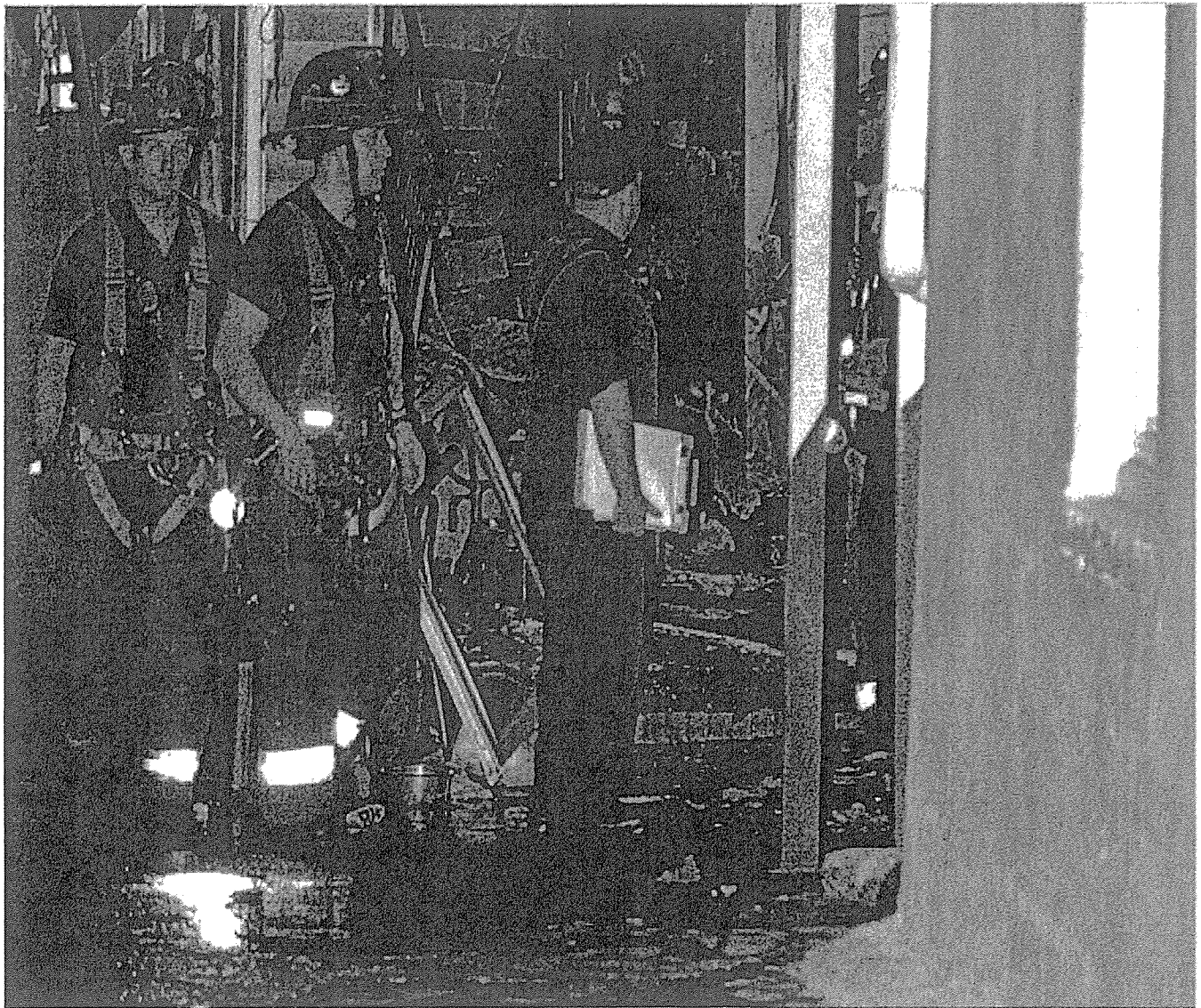
Map data ©2016 Google

Contact the [author](#) of this article or email tips@gothamist.com with further questions, comments or tips.

Deadly Bronx fire rips through building, kills 71-year-old man and injures 2

BY CHRISTINA BOYLE

NEW YORK DAILY NEWS Tuesday, November 8, 2011, 9:24 AM



Firefighters inspect fire area at the scene of a fatal fire on Bronxwood Avenue in the Bronx (VIC NICASTRO FOR NEW YORK DAILY NEWS)

A deadly blaze engulfed a Bronx building Tuesday morning, killing one man and leaving two other residents injured. The fire tore through 3303 Bronxwood Ave. shortly after midnight and emergency services were called to the scene. The building appeared to be a rundown converted garage set back approximately 300 feet from the street, a witness said. The building was accessible by a long driveway and located behind a row of houses.



Firefighters inspect fire area at the scene of a fatal fire on Bronxwood Avenue in the Bronx (VIC NICASTRO FOR NEW YORK DAILY NEWS)

One male victim, 54, was taken to Jacobi Medical Center for burns to his arms and back.

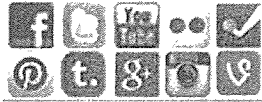
A second female victim, 51, was taken to Montefiore Hospital in a stable condition. A third male victim, 71, was also transported and died, officials said.

NEW YORK CITY FIRE DEPARTMENT



One Killed and Two Injured by Fire in an Illegally Converted Residence

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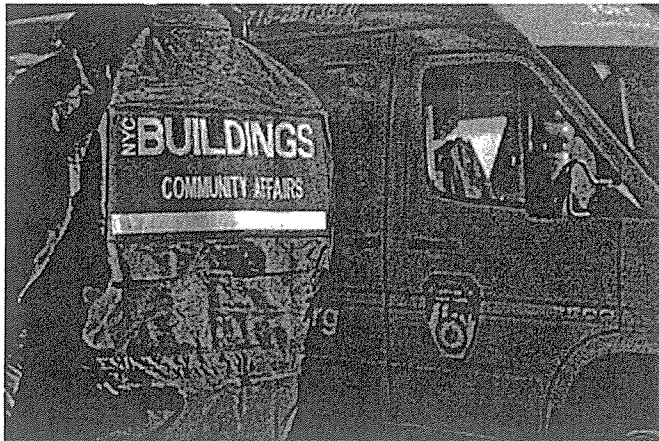
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The FDNY works with the Department of Buildings to teach New Yorkers about the dangers of illegal conversions. Photo courtesy of the Department of Buildings

A man was killed and a man and woman were seriously injured by a fire that quickly spread through a garage that was illegally converted into residences in the Bronx on Nov. 8, highlighting the dangers of illegal conversions.

Firefighters responded to a fire on Bronxwood Avenue and Bartholdi Street in the Bronx in the early morning hours. The fire was in a detached garage behind a private dwelling.

The garage had been illegally converted into a private dwelling with multiple bedrooms, a kitchen and dining room.

A man in his 40s was killed in the fire. A man and woman in their 50s were seriously injured.

Fire marshals are investigating the fire, which they say began in the kitchen.

The FDNY warns of the dangers of illegally converted homes throughout the area. These residences do not have the proper means of escape in case of fire and can easily trap residents.

[Learn more](#) about ways to identify an illegally converted residence. Or, for more information, visit the [Department of Buildings](#) website.

Fire Kills Woman Living In Illegally Converted Brooklyn Basement

by [John Del Signore](#) in [News](#) on Dec 3, 2013 11:49 am



(909 57th Street in Brooklyn, via Google Maps)

An unidentified woman was killed yesterday when fire tore through an illegally converted basement under a Borough Park home. It took 45 minutes for 60 firefighters to extinguish the blaze at 909 57th Street, bringing it under control at 2:10 p.m. "Our units arrived within three minutes and [found] the condition to be a fire in the basement," Deputy Chief William Tanzosh [told the Post](#). "In that bedroom we did find one female who was passed away due to the fire."

The owner of the three-story brick townhouse, Chi Chun Lo, was served with a partial vacate order in December of this year, [according to city Department of Buildings records](#). Lo was cited for an illegal conversion; inspectors found the "residence altered, work without a permit," and, fatefully, "failure to provide an unobstructed exit." The illegal conversion [was first documented in 1990](#).

The fatal fire underscores the potential dangers of illegal conversions; firefighters were [reportedly](#) "hampered by window bars on the basement and first floors." In 2011, two men residing in an illegal single-room occupancy apartment in Brooklyn were killed in a fire started by a hot plate. [One neighbor remarked](#), "The walls weren't fixed. There was no fire escape. I've been in there and it was nasty. There was no facility to wash. There was nowhere to cook."

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Man dies after blaze tears through Brooklyn building

BY BARRY PADDOCK RYAN SIT TINA MOORE

NEW YORK DAILY NEWS Updated: Thursday, November 20, 2014, 9:30 AM



1 | 3

FDNY and EMS respond to the Flatbush Ave. fire on Wednesday.

(DANNY IUDICI FOR NEW YORK DAILY NEWS)

A Brooklyn dad died Wednesday and 15 others were injured — six critically — when a raging fire sent tenants fleeing in the darkness from an illegally subdivided building, authorities said.

The lone fatality was pronounced dead at a nearby hospital after neighbors saw the badly burned man lying on the sidewalk outside the smoldering three-story residence at 1434 Flatbush Ave.

Six people were hospitalized in critical condition, including a teenage boy, a 50-year-old woman and a 70-year-old man, police sources said.

Other residents escaped in dramatic fashion from the building that was cited in September by city officials for the dangerous conversion of the upstairs apartments.

Edward Cange, 19, carried his four-month pregnant girlfriend to safety through the shooting flames and choking smoke.

“I just grabbed a scarf and put it over her face and carried her out,” he said. “I ran to the fire station (Engine Co. 255) across the street and got them.”

He tried to re-enter the building to find his brother and mom, but the flames were coming through the shattered front windows. Firefighters pulled the stranded pair from the inferno, he said.

“Everything I have in there is destroyed,” he said.



1 | 2

The two-arm fire hit at least three in critical condition.

(WNBC)

Witnesses recounted the flames shooting from windows on the third-floor windows where the doomed man lived. “When I woke up I heard, ‘Fire! Fire! Fire!’ I woke up and got out of there,” said Samuel Favard, 46, who lived on the second floor. “I saw one guy dead, laying on the ground. He wasn’t breathing. He was burned black.”

The fire marshal was investigating the cause of blaze Wednesday morning.

The city department of Housing Preservation and Development hit the building with three September violations for dangerously subdividing the basement, second and third floors.

Landlord Luckner Lucient, hours after the fatal blaze, blamed the open violations on his two tenants renting out space without his permission.

Lucient, who also serves as pastor of the building’s ground floor church, said renters on the second and third floors routinely let multiple people move into rooms upstairs.

One of the two tenants had 21 people living in her subdivided apartment.



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1111 Brooklyn Box 2446 at 1400 Flatbush Ave total of 7 fire
Victims removed by EMS 6 of them in serious condition
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9 5

“Who rents to 21 people?” I asked. “The lady! The big problem is the people make the apartment into rooms — big business!”

Lucient, 76, said he had two tenants in the building and one hadn’t paid rent in 17 months.

But far more people were that were stranded on the frigid street after the 12:30 a.m. blaze.

One man, helplessly clinging to a woman’s thin sweater for warmth, said firefighters rescued him from blinding smoke.

“I was sleeping and my girl just started screaming, ‘Fire! Fire! Get out! Get out!’” said the second floor resident. “And I just got up and started running, but there was nowhere to go.”

"The Fire Department came to take me out. I was trying to walk, but it was so dark. Finally I hear someone yelling, 'Where are you? Where are you?'"

Anita Williams, who was asleep in the adjacent building, said she ran into the street after frantic screams from the burning building woke her up.

"Everybody was screaming, 'Fire! Fire!'" said the 25-year-old woman. "Then I saw the flames and I thought it was in our building."

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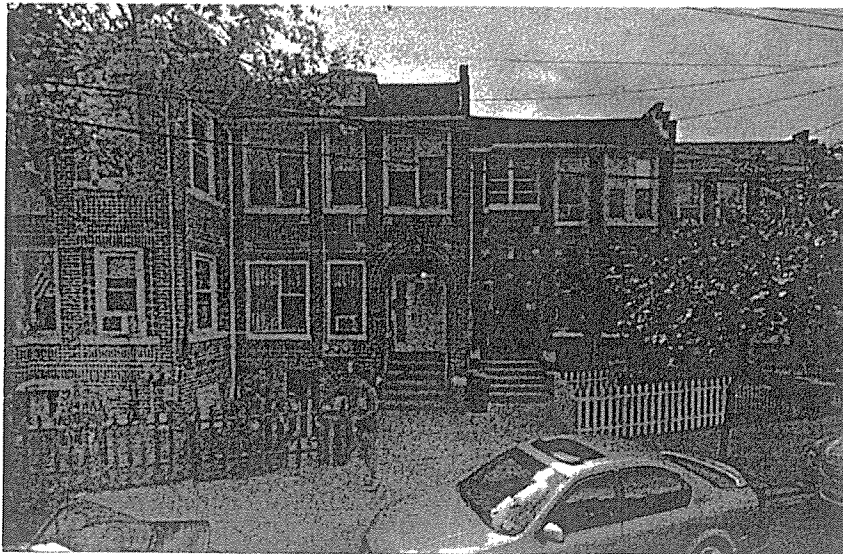


31 Residents — Including 13 Children — Removed From 'Heartbreaking' Conditions In Illegally Converted Dyker Heights Home

24

BY RACHEL SILBERSTEIN ON AUGUST 8, 2016

REAL ESTATE



This two-family at 6705 7th Avenue, was forcibly vacated after it was discovered that 31 people were living at the location. (Source: Google Maps)

An illegally converted two-family home in Dyker Heights was vacated last week, after it became apparent that 31 people — including 13 children — were living in hazardous conditions at the location.

A Community Board 10 (CB 10) task force, comprised of Fire Department and Department of Buildings (DOB) officials who investigate illegal conversion complaints, enforced an immediate vacate order at 6705 7th Avenue on Thursday, August 4, and found extreme overcrowding, lack of egress, fire safety concerns, as well as compromised plumbing, electrical and gas work at the site, according to DOB records and elected officials with knowledge of the situation.

CB 10 District Leader Josephine Beckmann, who visited the location Friday morning as the five families were packing up, said she witnessed poor ventilation and other hazards, particularly in a rear garage where a poorly constructed kitchen had been installed four adults and three children were housed.

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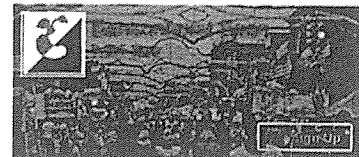
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"It was very, very heartbreaking," said Beckmann. "If you can imagine, the garage door was sealed, and bars were installed on the windows. One of the windows in the back had been converted into a door, so you can imagine what would happen if there was ever a fire."

All five families were temporarily relocated by the American Red Cross at a nearby Days Inn for three days, after which social service agencies were tasked with finding them more permanent housing, according to Beckmann.

DOB records indicate that at least four complaints were made about the home, dating back to 2010, when a neighbor reported suspicious construction, plus excessive dust and noise at the site. Last month, neighbors reported seeing a least 25 people living in the two-family home.

Permits for the 2010 construction were filed by Zeyn B. Uzman, of the Sunset Park's Airitan Management, which has since closed. When we called the cellphone number listed on DOB records, a man who answered the phone told us we had "the wrong number." Hou Yu Zhou is listed as the current landlord.

There have been growing calls in Dyker Heights for the city to crack down on hazardously converted homes, which — aside for posing serious fire and health concerns for inhabitants — put a strain on local resources like schools, sanitation, and plumbing. Housing preservationist groups, like the Brooklyn Housing Preservation Alliance — headed by Bob Cassara — have charged the DOB with being largely unresponsive to the more than 100,000 housing-related complaints — more than 26,000 of them related to illegal home conversions — that were registered with the agency in 2014.

While the DOB sometimes fines landlords up to \$600 per tenant for unlawful construction, the agency has struggled with enforcement. As of October, the city was owed more than \$600 million in outstanding building-related fines.

A City Council bill recently proposed by Councilman Vincent Gentile, Intro 1218, targets landlords of homes classified as "aggravated illegal conversions." If passed, the landlord would be fined \$15,000 per each unit beyond the certificate of occupancy. If unpaid, the fine would be subject to a lien sale on the property among additional penalties.

"We know that this case is likely one of many in my district and citywide," said Gentile. "Time is of the essence for this viral developer scheme to be put to an end. My patience is running short as residents, many of who are immigrants, continue to be put in grave danger unbeknownst to them. From there, a negative domino effect ensues, degrading the quality of life for the neighborhood as schools become overcrowded and city services become overwhelmed."

Some immigrant advocates in southern Brooklyn have criticized the legislation, saying that it fails to adequately account for the displacement of residents of these illegally converted homes, particularly the elderly or undocumented laborers, who may choose to live under these conditions for below-market rents.

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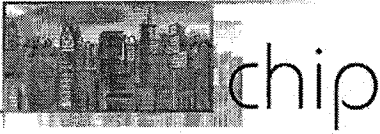
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Testimony of Community Housing Improvement Program

In Opposition to Ints. 1210-2016 and 1211-2016

Community Housing Improvement Program (CHIP) is a trade association representing more than 3,500 residential building owners in New York City. CHIP has been a key player in City and State housing policy for over 50 years. We thank the Council for this opportunity to provide testimony on the above bills.

Intro. 1210-2016

CHIP respectfully opposes this bill, which gives the Department of Buildings (DOB), in cooperation with the Department of Finance (DOF), the arbitrary and unchecked power to blacklist owners of affordable housing in New York City as “predatory equity owners” and, under the companion bill Int. 1211-2016, for each owner listed a presumption of civil or criminal intent to harass is created. But before raising concerns about what this bill would do, and how it would do it, we first ask whether the predatory equity issue is one that needs solving at all: is it so widespread where there is need for a significant change, and arguably mistargeted, change in the law?

Our additional concerns are listed below and more fully described later in our testimony:

- The City, by allowing costs to rise but keeping rents frozen, is implementing a policy to drive down the NOI of rent stabilized multifamily buildings and will cause many more properties to fall into the definition of predatory equity;
- Affordable housing projects, which by design are intended to have very low income-to-expense ratios, will be targeted as predatory equity projects under this bill;
- There is an inherent risk of arbitrariness in the determinations to be made, and there is even further risk that the data on which these determinations will be made is inaccurate or incomplete.

1.

We ask this Committee to consider how there can be a plague of sub-1.05 debt service ratio (DSR) buildings in New York City, when the New York City Rent Guidelines Board (RGB)'s latest Mortgage Survey Report, dated April 14, 2016, shows the average DSR for new loans to be 1.21, with 1.15 accepted by a few banks, but 1.05 virtually unheard of. If the City's own research has failed to document a single instance of sub-1.05 DSR mortgage lending, then where is the evidence to justify a new mandate to publicly expose sub-1.05 DSR mortgagors, i.e., property owners?

If the real aim of the "predatory equity owner watch list" is to target properties financed by non-bank lenders, then the City Council should commission a survey of non-bank financing of New York City residential property, on a par with the RGB's annual Mortgage Survey Report. Only with this data in hand, documenting the existence of sub-1.05 DSR lending in New York City, will the City Council be equipped to craft a solution to the "problem" (if any) posed by sub-1.05 DSR lending—whether through "watch lists" or a more substantive and practical means. The entirely novel, immensely costly and laborious, and ultimately subjective enterprise of calculating the net-operating-income-to-debt-service ratio (DSR) of 2.1 million residential buildings¹, and then publishing and regularly updating a "watch list" consisting of the address, name of the owner (including principals, officers, directors or managers), name of the lender, and other "applicable" information concerning those buildings with a DSR of less than 1.05, is an irrationally overbroad solution to a much more narrow problem.

2.

The clear mandate of the City's current administration is to drive down the NOI of multifamily properties, and one only needs to look to the Rent Guidelines Board reports which show an increase in government-controlled expenses (e.g., property taxes) but a freeze in rents over the past two years. It is conflicting, at best, for this Council to be drafting bills on the basis that NOI is too low, while at the same time the RGB is claiming that NOI is too high. If Int. 1210-2016 is enacted, New York City housing policy will reach a peak level of chaos, as one city agency (RGB) issues mandates that intentionally depress the NOI's of residential buildings, even as another city agency (DOB) publicly defames as "predatory" the owners of buildings whose DSR's have dropped as a direct result of depressed NOI's.

3.

We ask that this Committee consider the reduction in New York City's affordable housing supply that will inevitably result from Int. 1210-2016. As a class, no buildings in the City of New York have a lower DSR than buildings developed and/or maintained under City and State "affordable housing" programs—defined by

¹ U.S. Census Bureau, "2014 New York City Housing and Vacancy Survey - Series IA: Renter Occupied Housing Units by Rent Regulation Status: Table 17: Number of Units in Building".

http://www.census.gov/housing/nyc/hvs/data/2014/2014_Series_IA/Series%20IA-Table%2017.xls

the RGB, in deference to the U.S. Department of Housing and Urban Development, as “any housing accommodation for which a tenant household pays 30% or less of its income for shelter.”

Affordable housing that is funded (through tax breaks, subsidies, or other means) typically has a very low, zero, or negative NOI, for the obvious reason that the rents collected are artificially low in comparison to the rents collected on market-rate housing. As a direct result of this depressed NOI numerator, the DSR quotient tends to be much lower than that of market-rate housing. To substantiate this discrepancy, one need look no further than the State of New York Mortgage Agency (“SONYMA”) Mortgage Insurance Fund’s mortgage loan underwriting criteria <http://www.nyshcr.org/Topics/Lenders/Lenders/MultifamilyTermSheet.htm>. Under those criteria, the minimum income-to-expense ratio (substantially equivalent to DSR as defined by this bill) for a residential mortgagor is “1.05 to 1.00.” In other words, the recipients of SONYMA financing are by definition “Predatory Equity Owners” under Int. 1210-2016.

4.

The proposed bill is inherently arbitrary and capricious, and therefore violative of owners’ state and federal due process rights. According to the bill, “the [DOB] commissioner, in consultation with the commissioner of finance, shall determine the debt service coverage ratio of each multiple dwelling in the city [of New York] that has six or more dwelling units. Such determination may be based on any information in the possession of the department [DOB] or the department of finance [DOF].” (Id. at §27-2109.55). In other words, the DOB and DOF commissioners enjoy absolute, subjective discretion under this bill to set any building’s DSR, based upon any information, public or private, in their possession—and also ignoring any information in their possession, as they see fit. The DOB Commissioner is then mandated to place all the owners with a “debt service coverage ratio of less than 1.05,” §27-2109.57(2)(b) et seq., “expressed as a decimal carried to the hundredths place without rounding,” §27-2109.51, on the “Predatory Equity Owner Watch List,” which will be immediately published on the internet, §27-2109.53. **Note:** In stark contrast to the proposed bill, the RGB defines “distressed buildings” as “buildings that have operating and maintenance expenses greater than gross income”—a genuinely dire situation http://www.nycrgb.org/html/glossary_defs.html.

5.

The data sources upon which the City can rely to determine DSR do not provide a complete or accurate portrayal of income, expenses, or debt service. Since the bill says absolutely nothing about which “information” the DOB and DOF commissioners will use to determine “debt service coverage ratio of each multiple dwelling in the city,” we are left to speculate that building owners’ annual Real Property Income and Expense (RPIE) filings will be employed for this purpose. But the obvious problem here is that RPIE filings definitively state neither the annual net operating income of a given residential building, nor its annual debt service—the two figures necessary in order to calculate the debt service coverage ratio, §27-2109.51.

In addition, the DOF routinely alters the income and expenses reported by owners on the RPIE, substituting “imputed” figures for actual, reported figures that the DOF deems to be outside the normal range for buildings with the characteristics of the subject property.

Before the City Council mandates the creation of the proposed watch list, the question about the validity of data used must be answered in a manner that guarantees only owners legitimately deserving of the scarlet label “Predatory Equity Owners”—and the devastating business consequences and public opprobrium that will accompany this label—are named in the watch list.

In sum, Int. 1210-2016 should be rejected by the City Council because it is arbitrary and impractical in the execution; at cross-purposes with the policy and actions of the Rent Guidelines Board; would infringe the procedural due-process rights of owners; and, worst of all, would exacerbate the affordable housing crisis in New York City that our government’s chaotic housing policy has created and perpetuated.

In Opposition to Int. 1211-2016

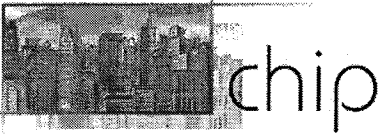
CHIP would like to raise two significant concerns with this bill, aside from the concerns raised with its companion bill, Int. 1210-2016. First, from a policy perspective, we again raise the concern about the city’s housing policy and how it dovetails with this bill. The city’s policy to lower NOI of multifamily properties (by allowing costs to increase but keeping rents level), is in effect a policy to lower their DSR, and as a reward for complying with this policy owners are now being targeted as predatory equity operators. Clearly, the concerns surrounding the creation of the predatory equity list become exemplified once legal rights of those placed on the list are impacted. The arbitrary and obscure methodology by which a given building’s debt service ratio (DSR) will be determined under Int. 1210 should be sufficient on their own to deter the Council from attaching any legal effect to the list. And in furtherance of that concern, the second issue with creating a rebuttable presumption of malicious intent is that it is built on nothing but the DSR and therefore inimical to property owners’ procedural due-process rights under the New York City Charter (Chap. 45, §1046(c)(1)), the New York State Constitution (Art. I, §6), and the United States Constitution (14th Amendment).

By using the entirely subjective DSR figure to presume the mens rea of the civil and criminal offense of tenant harassment, this bill would therefore convert providing affordable housing into a strict liability crime for tenant harassment, presumptively completed as soon as any owner commits what would otherwise be an independently justifiable act, such as temporarily disrupting a service to conduct repairs.

Rebuttable presumptions are an exception to the rule of criminal procedure that the government bears the burden of proving each and every element of the charged crime beyond a reasonable doubt, N.Y. Criminal Procedure Law §70.20. Rebuttable presumptions do not offend the due-process rights of the accused, so long as

there is “a rational connection between the facts which are proved and the one which is to be inferred with the aid of the presumption,” People v. Leyva, 38 N.Y.2d 160, 165, 379 N.Y.S.2d 30, 341 N.E.2d 546 (1975), citing Tot v. United States, 319 U.S. 463, 469, 63 S. Ct. 1241, 87 L. Ed. 1519 (1943); see also People v. Pacienza, 91 A.D.3d 672, 672, 935 N.Y.S.2d 896, 2012 NY Slip Op 227 (2d Dept. 2012) (“the rebuttable presumption set forth in Penal Law § 250.45(3)(b) [mens rea of unlawful surveillance] is not a violation of due process rights, as there is a rational connection between the facts proved and the fact presumed”). In the case of Int. 1211-2016, since there is no rational connection whatsoever between a building’s DSR (even assuming, for the sake of argument, that the DSR was accurately and objectively calculated) and the owner of that building’s intent in engaging in any of the conduct described in NYCAC §27-2004(a)(48)(a)-(g)—the rebuttable presumption created by Int. 1211-2016 fails the due process test pronounced by the U.S. Supreme Court in Turner v. United States, Leary v. United States, and Tot v. United States, *supra*. Necessarily, then, the rebuttable presumption established by Int. 1211-2016 fails the **more stringent** New York State constitutional test pronounced by our state’s highest court in People v. Leyva, People v. Kirkpatrick, and People v. McCaleb, *supra*, since there is obviously not “a reasonably high degree of probability” that, merely because a given building has “a debt service coverage ratio of less than 1.05,” when that building’s owner or her agent engages in any of the conduct described in NYCAC §27-2004(a)(48)(a)-(g), she is doing so with the criminal intent to harass the tenant into waiving his rights of tenancy.

Based on Int. 1211-2016’s failure to mesh with existing city housing policy, as well as the grievous constitutional infirmities as described above, the City Council should reject this bill out of hand, before a single owner is civilly penalized or criminally prosecuted under it, in flagrant violation of such owner’s due-process rights under the New York City Charter (Chap. 45, §1046(c)(1)), the New York State Constitution (Art. I, §6), and the United States Constitution (14th Amendment).



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October 31, 2016

Testimony of Community Housing Improvement Program in Opposition to Int. 0930-2015

Community Housing Improvement Program (CHIP) is a trade association representing more than 3,500 residential building owners in New York City. CHIP has been a key player in City and State housing policy for over 50 years. We appreciate this opportunity to testify.

The New York City Department of Housing Preservation and Development (HPD)'s Third Party Transfer (TPT) Program was created 20 years ago, with the stated goal of ameliorating urban blight by transferring ownership of Class 1 or Class 2 buildings from owners that HPD deems "irresponsible" to owners that HPD deems "qualified". CHIP opposes the amendment to TPT under consideration today, Int. 0930-2015, on the grounds that this bill would retard rather than advance this laudable goal.

Int. 0930-2015 would expand that definition, to encompass any Class 1 or Class 2 building with tax lien-to-value ratio of 30% or more, where such tax lien(s) result from one or more Environmental Control Board (ECB) judgments arising from one or more building code violations.

The problem is that, in contrast to the federal, state, and municipal tax tribunals that determine the legitimacy of tax arrears, the ECB, according to Justice Carmen R. Velasquez of the New York State Supreme Court, is severely deficient in the procedural due process that it affords to alleged violators of the City's multifarious building, construction, sanitation, fire safety, and numerous other codes. Thus, many "qualified" owners may be deemed "irresponsible" by HPD because of ECB judgments that were reached improperly. In Matter of

Beroukhim v. N.Y. City Environmental Control Board, No. 13691/15, NYLJ 1202770237666, at *1 (Supreme Court, Queens County, Sept. 30, 2016), although Justice Velasquez was constrained, based on the 90-day statute of limitations, to dismiss the building owner's petition for a new hearing before the ECB to contest violations, the court made the following findings of fact:

[T]he court is obligated to express its concerns over the practices of the respondent [Environmental Control Board] in scheduling its hearings in these types of matters. A review of this case demonstrates that the [Environmental Control Board] fails to provide the public with a clear list or calendar of the cases that are scheduled before it on a particular day.

...

The [Environmental Control Board] has a responsibility to make the public aware of all of the cases that are scheduled on a certain date. [The Environmental Control Board] failed to adhere to this responsibility. It seems unjust to this court that the petitioner was deprived of a right to a hearing on these two violations even though he was present and filled out a Notice of Appearance ticket.

...

[T]he court is not satisfied that petitioner [building owner] had a full and fair opportunity to challenge the two violations that are the subject of this proceeding....

Id. at *4-5. CHIP respectfully submits, based upon the facts recounted above concerning ECB's routine denial of alleged violators' right to a full and fair opportunity to be heard, a right guaranteed by the due process clause of the New York City Administrative Procedure Act (New York City Charter, Chap. 45, §1046(c)(1)), that the City Council should refrain from expanding HPD's TPT Program to permit foreclosure on buildings with an arbitrary level of outstanding ECB violations in judgment, until such time as the ECB "modif[ies] its procedures regarding its hearings in the interest of justice," in accordance with Justice Velasquez's admonition.

If the ECB does not promptly reform itself, then the City Council should use its legislative authority to impose due process reforms on that agency. Only then will ECB judgments, and the tax liens resulting from them, be a reasonably fair and accurate gauge of the solvency and responsibility of the owners of buildings encumbered by such liens.

MEMORANDUM OF OPPOSITION

BILL: Intro No 1210, Intro No. 1211
SUBJECT: Requiring the HPD to create and publish a watch list of multiple dwelling owners who are alleged to engage in practices of predatory equity and establishing a rebuttable presumption regarding harassment that assumes a landlord intends to vacate lawful tenants of a multifamily unit (of more than 5 units) if a debt service coverage ratio falls below 1.05.
DATE: October 26, 2016
SPONSORS: Ritchie J. Torres, Daniel R. Garodnick, Jumaane D. Williams, Rosie Mendez, The Public Advocate (Ms. Letitia James)

The Real Estate Board of New York (“REBNY”), representing over 17,000 owners, developers, managers and brokers of real property in New York City commends the City Council’s efforts to protect tenants from harassment. However, while well-intentioned, these bills are overbroad, create a presumption of tenant harassment based upon arbitrary numerical markers, and publicize confidential information.

Intro No 1210 sets forth criteria and authorizes the Department Housing Preservation and Development (HPD), in consultation with the Department of Finance (DoF), to determine a multiple dwelling owner’s debt service coverage ratio and based upon such ratio, to identify “high risk” and “moderate” risk multiple dwelling owners who are presumed to engage in predatory practices to remove lawful tenants.

Intro No 1211 gives rise to a rebuttable presumption regarding tenant harassment where the debt service coverage ratio of a multiple dwelling owner of six more units is less than 1.05. The ratio is the quotient of the owner’s annual net operating income divided by the owner’s annual debt service.

It is unclear as to what databases or other information sources will be used determine the debt service coverage ratio. Data concerning the income of certain multiple dwelling owners could be obtained by DoF through the annual filings of Real Property Income and Expenses (RPIE) of certain, qualified multiple dwelling owners. However, these are confidential filings submitted to DoF for the limited purpose of estimating property market value. Sources of the owner’s annual debt service are even less clear. While debt might be revealed in mortgage recording filings, debt could also be derived from private equity sources that are unrecorded in any public domain. In order to accurately calculate every multiple dwelling owner’s debt service coverage ratio, as this bill requires, sources of information beyond the domain of DoF, specifically private sources that not have any obligation – outside of a subpoena - to reveal such information, will need to be consulted.

Even if every multiple dwelling owner’s debt service coverage could be determined, what is the justification to establish 1.05 as the ratio to give rise for the presumption of tenant harassment? It begs the question of whether a multiple dwelling owner just over the 1.05 threshold is really less prone to harassment. The monetary difference between a debt ratio of 1.06 and 1.04 can be as low as a few



Legislative Memo
CONTACT: Carl Hum
Senior Vice President of Management Services & Gov. Affairs
(212) 616-5233
Chum@rebny.com
www.REBNY.com

thousand dollars. Moreover, such an arbitrary marker might also discourage multiple dwelling owners to take on addition debt for property improvements or other property investments.

REBNY understands that tenant harassment has been, unfortunately, a rising trend but these bills are not effective means to address that problem. Rather, it will reveal private information, discourage investment and set unnecessary precedent in using arbitrary markers to indicate certain behaviors.

For the foregoing reasons, we voice our opposition to Introduction No 1210 and 1211.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)
Name: FRANK RICCI

Address: _____

I represent: Rent Stabilization Assoc.

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)
Name: Nicole Vecchione

Address: _____

I represent: Laborers Eastern Region

Address: 520 8th Ave

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)
Name: JOHN SKINNER

Address: 1322 3RD AVE

I represent: METAL LATHERS LOCAL 46

Address: IRON WORKERS

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Tyher Cassell

Address: 30-23 143 ST, Flushing, NY

I represent: Queens Civic Congress

Address: Queens, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: 10/31

(PLEASE PRINT)

Name: Anthony Ceretti

Address: 962 78th ST Bklyn 11228

I represent: Brooklyn Housing Preservation Alliance

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: Matthew Cassara

Address: 1026 Bay Ridge Parkway Brooklyn, NY 11228

I represent: Dyker Heights Civic Association

Address: Brooklyn NY, 11228

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**THE COUNCIL
THE CITY OF NEW YORK**

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Josephine Beckmann

Address: Community Bd 10 819 Ave

I represent: CB10 Brooklyn

Address: 819 5 Ave

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0430 Res. No. _____

in favor in opposition

Date: Oct 31,

(PLEASE PRINT)

Name: NIKKI LEGER

Address: 30 SICKLER

I represent: self and Cooper Sq.

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: BENJAMIN JOLCHIN

Address: 447 LAVERLY AVE

I represent: _____

Address: _____

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 930, 1210, 1211 Res. No. _____

in favor in opposition

Date: _____

Name: Phoenix Russell (PLEASE PRINT)

Address: 36 Linden St.

I represent: SNYC, STS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____

in favor in opposition

Date: _____

Name: Vilente Sinbana (PLEASE PRINT)

Address: _____

I represent: Laboiers Local 79

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____

in favor in opposition

Date: 10/31/16

Name: Pat Purcell (PLEASE PRINT)

Address: _____

I represent: GNV Celet

Address: _____

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Lew Fidler

Address: 26 Court St Sn 1104 Bklyn

I represent: self

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Andrew Gounardes for Brooklyn

Address: Boro President Eric Adams

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1210, 1211, 930 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Nicole DeNuccio

Address: 36 Linden St, Brooklyn

I represent: SNYC, STJ

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: Vito Mustachio

Address: 100 GAD

I represent: HPD

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: BETTY ENG

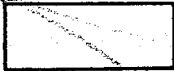
Address: 90 ELIZABETH ST

I represent: STS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 930 Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: ANTHONY RUBIN

Address: 15 W 51 ST

I represent: LABORERS LOCAL 79

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: Oct 31, 2016

(PLEASE PRINT)

Name: Madeline Mendez

Address: 1185 Grand Concourse

I represent: CASA

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: Andrea Shapiro

Address: 1382 E 14th St Brooklyn

I represent: Met Council on housing

Address: 168 Canal St. NY NY

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: Matthew Murphy

Address: _____

I represent: HPD

Address: 100 Gold Street SB

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Arlene Katz

Address: 332 E 9 St #12

I represent: Toledano Tenant Coalition

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Heri White

Address: 120 Wall St

I represent: UHA B / Stabilizing NYC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jacob Guttman

Address: 120 Broadway

I represent: New York Capital Group

Address: 120 Broadway

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Martina Brown

Address: 525 PERALTA AVENUE APT 2A

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Holly Clayton

Address: 514 E 12th St #20

I represent: Self

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Trissy Callan

Address: 325 E 12th St NYC

I represent: self

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: Patrick Wehle

Address: A.C. D013

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Sami Chertok (PLEASE PRINT)

Address: 61 E. 41 St

I represent: CSC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1210, 1211, 930 Res. No. _____

in favor in opposition

Date: 10-31-2016

(PLEASE PRINT)

Name: Keriana Pauls

Address: 123 William St 16th Fl NY, NY 10038

I represent: The Community Development Project at the Urban Justice Center

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0930-2015 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Cynthia Chaffee

Address: 346 EAST 18th St. Apt. 3-B

I represent: THE STOP & REMAIN COALITION

Address: 100 WY 10003

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: Alex Fisher

Address: D.C. DOB

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: Salvatore Agostino

Address: Building Manager DOB

I represent: _____

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: 10/31/2016

(PLEASE PRINT)

Name: Tonya Ores

Address: 2806 Church Avenue

I represent: NHS of Brooklyn CDC, Inc.

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Assembly member Pamela Harris

Address: 2904 Neptune Ave

I represent: NYS Assembly

Address: 2823 W. 12th Street

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: John Frenco

Address: 8208 14th Ave Brooklyn 11228

I represent: Brooklyn Housing Preservation Alliance

Address: _____

Please complete this card and return to the Sergeant-at-Arms

14th
Floor

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31/21

(PLEASE PRINT)

Name: NEELY PAUL

Address: 538 E 21 Brooklyn NY 11226

I represent: FAT BUSH TENANT COALITION

Address: 1616 Newkirk Ave Bklyn NY 11226

14th
Floor

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 14 Res. No. _____

in favor in opposition
** Illegal Corporations*

Date: 10/31/21

(PLEASE PRINT)

Name: MARIA ROGA

Address: 521 41st St 11232

I represent: BH Alliance + Friends of Sunset Park

Address: _____

14th
Floor

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31/21

(PLEASE PRINT)

Name: Diane Powell

Address: 621 DeGraves St Bklyn

I represent: Fifth Avenue Com. / Neighbors Helping Neighbors

Address: _____

11/41
Floor

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31

Name: Albert Hernandez (PLEASE PRINT)

Address: 45-25 116th St Fl 2nd

I represent: WOODSIDE ON THE MOVE

Address: 59th St, QUEEN, N.Y.

11/41
Floor

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31

Name: Carmen Rodriguez (PLEASE PRINT)

Address: 162-20 89 Ave Apt 1B Jamaica NY 11432

I represent: SELF

Address: _____

11/41
Floor

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

[]

I intend to appear and speak on Int. No. 1011-1210 + 930 Res. No. _____

in favor in opposition

Date: 10/31

Name: Jadzia Del valle (PLEASE PRINT)

Address: 123 Williams St. # 16th floor NY NY 10038

I represent: Urban Justice Center

Address: same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: Kada Catazi (consulting)

Address: 310 Central

I represent: SNY Select

Address: 677 4 Ave New York NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31

(PLEASE PRINT)

Name: Angelica Chavez

Address: 40-94 Denman St 5L Elmhurst NY 11373

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31

(PLEASE PRINT)

Name: Kenny Mei

Address: 22 Spring St

I represent: _____

Address: 22 Spring St

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

[Empty box]

I intend to appear and speak on Int. No. 1212/1211 Res. No. _____
 in favor in opposition

(translator)

Date: 10/13

(PLEASE PRINT)

Name: Henry Bergold

Address: 35 ~~Mar~~ Pl 388 Myrtle Avenue

I represent: CASA

Address: 1512 Townsend Avenue

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

[Empty box]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Gordon Lee

Address: 1 St. Pauls Ct Kings County NY

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

[Empty box]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: DeAnna Thomas

Address: 750 GC BX NYC

I represent: Tenants of 750 GC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/31/16

(PLEASE PRINT)

Name: ROBERT V. CASSARA

Address: 973 - BAY RIDGE PKWY

I represent: BROOKLYN HOUSING PRESERVATION ALLIANCE

Address: PO BOX 280 0345, BRKLYN 11228

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

930/9607

I intend to appear and speak on Int. No. 930-9607 Res. No. _____

in favor in opposition

Date: 10/31/2016

(PLEASE PRINT)

Name: MEYEL BLOCK WEISSMAN

Address: ~~100 Gold St~~ 100 Gold St #591 NY NY 10038

I represent: NYC HPD

Address: 100 Gold St NY NY 10038

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1218 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Wai Lun Chan

Address: 1918 68th Street Bklyn, NY 11204

I represent: ACGS

Address: 1884 86th Street Bklyn, NY 11214

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____

in favor in opposition

Date: 10.31.2016

(PLEASE PRINT)

Name: Margaret Brown

Address: 100 Gold St Rm 7N3

I represent: HPD

Address: 100 Gold St, New York, NY 10031

Please complete this card and return to the Sergeant-at-Arms