Testimony

of

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Good morning Speaker Johnson, Chairs Levine, Cornegy, and Constantinides, and members of the committees on Health, Housing and Buildings, and Environmental Protection. I am Dr. Oxiris Barbot, Acting Commissioner for the New York City Department of Health and Mental Hygiene. I am joined today by Corinne Schiff, Deputy Commissioner for Environmental Health, Housing Preservation and Development Commissioner Maria Torres-Springer and Deputy Commissioner Ann-Marie Santiago, as well as colleagues from the New York City Housing Authority, Departments of Buildings, Parks and Recreation, Environmental Protection, Education, Design and Construction and the Administration for Children Services. I want to thank the Council and specifically you, Speaker Johnson, who as the former Health Committee Chair understands the importance of this topic. I appreciate the opportunity to testify today on the package of legislation intended to prevent and reduce elevated blood lead levels in children.

This Administration is deeply committed to the safety and well-being of our children. I am a pediatrician by training and as Acting Health Commissioner, I also have the honor of being the City's doctor. At this, my first hearing before you in this role, I want to reiterate my commitment to the health of all New Yorkers and advancing health equity in our communities.

We have long been at the vanguard of efforts nationally to reduce elevated blood lead levels (EBLLs) in children, beginning in 1960 when the New York City Board of Health made us the first jurisdiction in the country to prohibit the use of lead paint in residential settings – 18 years before it was banned by the federal government in 1978.

The City Council has also been a leader in its local laws, especially the Childhood Lead Poisoning Prevention Act, known as Local Law 1 of 2004. Because of the City's multifaceted approach to preventing EBLLs in children, there has been a nearly 90 percent decline since 2005 in the number of children under age six with a blood lead level at or above 5 micrograms per deciliter (mcg/dL). In 2017, there were 33,000 fewer children with EBLLs than in 2005. This decrease is a testament to the Council's passage of a strong local law that helps prevent childhood exposure to lead based paint and the dedicated work of the city agencies represented here today.

Despite this progress, we recognize that it is deeply concerning for any parent to receive news that their child has an EBLL. When I was a practicing pediatrician in Washington, DC, many of my patients had elevated lead levels. So I know, as a doctor, there is no safe level of lead and that we must continue to work relentlessly to further reduce the number of children with EBLLs.

Now is the time to finish the mission, and reduce the cases of kids with EBLLs to zero. The City took an important step on July 1st of this year, when the Mayor announced that the Health Department would conduct home investigations for all children under 18 years of age with blood lead levels of 5 mcg/dL and above. The Speaker's bill would codify this change, and the Health Department plans to bring this update before the Board of Health. The new policy sets a single threshold for Health Department home investigations, and expands by thousands the number of annual home investigations for children with EBLLs.

To go the last mile we will need new strategies. Let me start with our approach to testing children for blood lead levels, which is critical to early intervention in cases of lead exposure.

Currently, 80% of children citywide are tested at least once before age three. That's a rate any other city or state would envy. But it is not good enough.

Our goal is a Vision Zero approach, and so we are implementing new tools to drive the testing rate up. I can announce today that we're launching a $1.5-million citywide public awareness campaign to encourage parents and caregivers to get their children tested before age 3, especially in neighborhoods where we see lower rates of testing and higher rates of EBLLs. We are grateful for Council Member Dromm's leadership on this issue and support his related legislation. We look forward to continuing to discuss opportunities to collaborate on this work with the Council.

We can also announce a new 3-year, $1-millon initiative to reach the 20 percent of kids who haven't been tested by their third birthday. On an ongoing monthly basis, the Health Department will match birth records to its blood lead database to determine which children – up to age 3 – have ***not yet*** gotten their blood tested for lead, as required by law. We'll reach out to these families individually to remind them of the need to get tested and connect them to care. We estimate this effort could boost New York City's testing rate to over 90% over the next few years.

Before discussing the bills under consideration today, I want to put the legislation into context by providing some background about how EBLLs occur, and by describing the City's current multipronged approach to preventing and responding to EBLLs.

Lead paint remains the most common source of lead exposure for New York City children. The mechanism for lead exposure is typically ingestion, so it is very young children – especially those under the age of three – who are most at risk. These children explore the world by putting just about anything into their mouths. Peeling or chipped lead paint and lead dust can easily end up on a crawling toddler's hands and on their toys and then into their mouths. And because young children are at a critical stage of physical development and absorb lead at higher rates than older children and adults, nutritional deficits and developmentally appropriate hand-to-mouth activity can put them at risk.

It is also important to understand how EBLLs are treated in children. Except at very high levels rarely seen in New York City today, the body naturally excretes lead over time on its own. Typically, the only "treatment" is to remove the ongoing source of lead exposure so that the body can do its work.

The City's robust approach to protecting children from EBLLs is two-fold: first, prevent lead exposure and second, when a child has an EBLL, respond quickly and comprehensively. Prevention is the focus of Local Law 1 and what sets the City apart from other jurisdictions. Because paint is the primary source of exposure for children in New York City, Local Law 1 requires owners of buildings built before 1960 to survey their tenants in order to identify apartments with children under 6 years of age, and requires owners to then perform annual paint inspections in these apartments to identify and remediate peeling, chipped or cracked paint. This approach protects all children by removing environmental risks, without reference to any particular child's blood lead level. And because conditions can change over the year, Local Law

1 allows tenants with a child under age six to alert landlords or call 311 if the apartment's paint is not intact, and the paint must be restored to an intact condition. Commissioner Torres-Springer will provide you with more information on these preventative measures in her testimony.

Second, when a child does present with an EBLL, the City responds quickly with a detailed and thoughtful intervention to ensure the safety of that child. The response begins when the Health Department receives notification of a child with an EBLL via a daily electronic download from New York State. Our team immediately contacts the family to set up a home investigation, which includes a detailed interview and inspection. The inspectors – who are highly trained and EPA-certified - are often the first contact the family makes after they learn about their child's EBLL, and they work closely with the family during that first meeting. The investigation begins with a comprehensive interview with the family and the child, in order to better understand the child's risk factors for lead exposure. They then inspect the apartment for lead paint hazards, using a piece of equipment called an X-ray Fluorescence – or XRF – device. If the device detects lead in the paint, the Health Department issues the property owner a Commissioner's Order to Abate, and we will follow up to ensure compliance. The inspectors also take additional environmental samples based on the interview with the family and visit supplemental addresses where the child spends 5 or more hours per week.

Our focus – regardless of whether the child lives in public or private housing – is always on that child and we work with the family and the provider to monitor the child's blood lead level to ensure it declines.

Currently, the Health Department is legally required to conduct a home investigation when the child has a blood lead level of 15 mcg/dL or above. The Department has historically gone beyond this mandate and has conducted these inspections for children under age six with a blood lead level at or above 10mcg/dL, and for those under 16 months of age at a blood lead level of 8mcg/dL or above. Again, with the City's July 1st announcement, all children under the age of 18, with a blood lead level of 5mcg/dL will now receive a home investigation.

We've made great progress, and we are ready and eager to continue to drive down the number of children with EBLLs. The bills under review today propose important updates to Local Law 1 and to the City's overall strategy to protect these children. As we move forward, it is important to use evidence-based strategies that maximize the health benefits to children.

Introduction 865, the centerpiece of the legislative package, would change the blood lead level at which the Health Department is mandated to conduct a home investigation, lowering that threshold from the current 15 mcg/dL to 5 mcg/dL. As I noted earlier, the Administration supports this proposal and as of July 1, this significant change is already underway.

The Administration also supports the proposed action levels for soil and water in Introduction 865, and we want to talk to the Council further about the proposed thresholds for lead-based paint and lead-contaminated dust.

The Administration supports Introduction 881, which addresses outreach and education. The Health Department already conducts the activities required under this bill and we are happy to

have this work codified, while ensuring flexibility to maintain the most evidence-based best practices. The Administration supports the reporting requirements set out in Introduction 918 and other bills, though we do request that these mandates be consolidated into a single report due annually on September 30, which is the Health Department's current reporting deadline for Local Law 1. And the Administration supports Introduction 709, which requires the creation of an online lead service line map.

Introduction 877 requires all agencies that provide services for or relating to children to make reasonable efforts to determine whether a child has had a blood lead test, and, if the child has not been tested, to determine the reason and provide a referral for testing. The Administration supports the intent of this bill and would like to work with Council to identify the best approach for increasing the number of children tested each year.

The City uses a variety of strategies to promote blood lead testing, including a requirement that parents show proof of a blood lead test for entry into child care and school. The Department also sends guidance to over 30,000 health care providers annually reminding them of the testing requirements, conducts outreach and education for families, and collaborates with Medicaid Managed Care programs to identify children due for testing and alert their health care providers about the need for testing. We are eager to work with Council on additional mechanisms to reach providers, parents, and caregivers to further increase blood lead testing.

The Administration also supports the intention of Introduction 874 to strengthen tools to enforce safe work requirements. Construction and renovation work done improperly can create a risk of lead exposure for children, and we look forward to discussing this bill further with the Council. We recognize unsafe work practices as a source of possible lead exposure in the home, and have ongoing media campaigns in neighborhoods where we believe unsafe practices are going underreported—most recently on Staten Island.

Introductions 464A, 864, and 904 address the Health Department's investigations in response to reports of EBLLs both in children under age 18 and in pregnant women. The proposals include requirements to inspect all units with a child under age 6 in buildings where the Health Department has identified a lead paint hazard, to conduct water samples, and to inspect specific locations where the child is likely to spend time. In addition, the proposals would require the testing of bare soil from all areas accessible to children or adults.

The Health Department agrees that a comprehensive investigation is critical to identifying and reducing lead exposure for children and pregnant women with EBLLs. We currently conduct a robust interview and investigation to identify and eliminate all potential sources of lead exposure. There is no one-size-fits-all approach; instead, our investigators take a nuanced approach tailored to the specific family and its circumstances. The Health Department looks forward to working with the Council to set out evidence-based requirements most likely to identify and eliminate lead exposure for children and pregnant women.

Introductions 873, 891 and 919 address abatement of lead paint on turnover of apartments both in multiple dwellings and in private dwellings that are not owner-occupied. The Administration would like to work with the Council to craft requirements that reduce lead exposure risks while

not also creating unintended consequences such as contributing to the housing unaffordability crisis.

Introduction 920 concerns lead paint in child care facilities and in schools. The Administrative Code and the Health Code already prohibit child care centers from having lead hazards. Because it is young children who are most at risk of EBLLs, it is appropriate to focus on these settings. Lead paint does not pose the same risk to older children, because they are less likely to ingest lead-based paint. We would like to work with Council to ensure that the scope of this bill covers the right settings to protect children's health.

This package of legislation also addresses the Council's concerns about lead in soil. Introductions 420A, 422A, 907 and 916 address testing and remediation of soil that is wholly or partially bare and accessible. The requirements would apply in parks, in multiple dwellings, private dwellings, public and non-public schools and in child care programs.

The Health Department's home investigation includes an assessment of soil exposure, as well as environmental sampling and remediation where indicated. However, soil is not a significant source of lead exposure for children in New York City. In an analysis of 219 children who had a blood lead level at or above 15 mcg/dL in 2017, there was only one child identified after our extensive interview and home investigation with an exposure to lead from soil. And it is important to note that this one child also had exposure to a lead based paint hazard as well. We are concerned that the bills encompass activity that is disproportionate to the risk for children, and may detract resources and capacity from evidence-based efforts. We also worry that these proposed mandates may have unintended consequences, such as reducing New Yorkers' access to green spaces. There are important public health and mental health benefits to having access to outdoor space, including backyards with patches of greenery. We look forward to working together to address the low risk posed by lead-contaminated soil.

Next, several bills—Introductions 3A, 91A, 868, 871, 892 and 902—address testing and remediation of drinking water in parks, multiple and private dwellings, public and non-public schools and child care programs.

New York City's water is of the highest quality, and is the best beverage for our health. The Department of Environmental Protection's water quality monitoring program is far more extensive than required by federal law and demonstrates that New York City's drinking water is of the highest quality and meets all state and federal drinking water standards. The City's water already arrives virtually lead-free from upstate reservoirs and is tested more than 600,000 times a year at different places across the City for various contaminants, including lead. It is also treated with corrosion control measures, decreasing the chance of lead leaching from aging building plumbing systems.

Because of these protections in our water system and existing State law and Health Code provisions related to testing of water in schools and child care settings, lead in water does not present a meaningful risk to New Yorkers, and we do not consider water a significant source of exposure for children. In the same analysis of 219 children I just mentioned, only one child lived

in a home where a water sample with detectable lead 15ppb or higher was found. And again, that child also had an exposure to lead-based paint.

There are some circumstances where that risk can be higher; for example, in a particular building, the faucets or other fixtures could have lead content or a building may have a lead service line. A simple solution is to run the water for 30 seconds in the morning to flush out stagnant water. If New Yorkers are concerned about their water, they can request a free testing kit from DEP via 311. The Administration looks forward to working with the Council to address any lead-in-water concerns appropriately so that New Yorkers can continue to have confidence in our water and make it their drink of choice. I cannot stress enough - water remains the best beverage for good health.

The Administration is reviewing the recently included legislation - Introductions 1063 and Intro 1117. Introduction 1063 requires notice when contaminants are found in soil during a city development project. The Administration supports transparency for New Yorkers and wants to make sure that notification of the public is used appropriately to ensure appropriate response. Intro 1117 would require City agencies to provide information to parents about DEP's free home water testing kits. The City supports increasing awareness about the home test kits, and we look forward to working with Council on this bill.

Finally, I have spent my entire career, as a pediatrician and public health practitioner, promoting the health and wellbeing of children. I can assure you that the safety of our children is my top priority. Our strong laws and policies designed to prevent and respond to elevated blood lead levels have made the City a national leader on this issue. I look forward to working with City Council and my colleagues to ensure that we remain at the forefront of efforts to protect our youngest New Yorkers.

Thank you for the opportunity to testify on this package of legislation. I would be happy to address your questions after Commissioner Torres-Springer's testimony.

Testimony of the New York City Department of Housing Preservation and Development to the New York City Council Committees on Health, Housing & Buildings, and Environmental Protection regarding Enforcement of Lead Laws

Thursday, September 27, 2018

Good morning Chairs Levine, Cornegy, and Constantinides, and members of the committees on Health, Housing and Buildings, and Environmental Protection. I am Maria Torres-Springer, Commissioner of the New York City Department of Housing Preservation and Development (HPD). I am joined today by AnnMarie Santiago, Deputy Commissioner of Enforcement and Neighborhood Services for HPD. With more than twenty years of experience in code enforcement at HPD, Deputy Commissioner Santiago leads our agency's work to protect New York City residents, and was intimately involved with the implementation of the Childhood Lead Poisoning Prevention Act (Local Law 1 of 2004), the City's lead-based paint law.

In 2004, this City Council, City agencies and advocates did something profoundly important. Local Law 1 represented a watershed moment in public health and public safety. Since the law's implementation in 2005, our aggressive enforcement coupled with the Health Department's investigations and concerted interventions, have dramatically reduced the number of children with elevated blood lead levels by nearly 90%, which means that in 2017, there were 33,000 fewer children with elevated blood lead levels than in 2005.

HPD's lead paint prevention regime is the gold standard of addressing lead-based paint hazards in the nation and we take our work very seriously. We are on the front lines every day identifying and resolving lead paint risks in housing. Every time an HPD inspector enters an apartment with a young child—it doesn't matter whether the reason is lack of hot water, mold, or pests—we inspect for lead paint risks.

Since 2005, our agency issued approximately 314,000 violations for lead-based paint conditions, and we are working to ensure that landlords are addressing lead-based paint hazards

to keep tenants and their children safe. We've made over $40 million in lead-based repairs ourselves, stepping in when landlords failed to fulfill their responsibilities. When we encounter serious cases of non-compliance, we take landlords to court. We've initiated more than 2,300 cases involving lead paint since 2014, including comprehensive cases, because usually the truly negligent owners aren't just failing to address lead-paint conditions, they are systematically failing to maintain their buildings.

At HPD, it is mission-critical to ensure the quality and safety of our city's housing stock and protect tenants. This is why we are dedicated to a comprehensive, multi-agency approach to prevent elevated blood lead levels in New York City's residents. As the Commissioner responsible for enforcing the City's housing regulations, I want to reiterate my commitment to ensuring NYC's residents live in safe and well-maintained housing.

Let me assure you, we don't rest on our laurels. We are looking at issues of lead exposure with fresh eyes. And we recognize that this is the time to finish the mission. This July, following Mayor de Blasio's announcement of a new Vision Zero approach to lead exposure, I ordered a top to bottom review of every HPD program to make sure we were compliant with the local, state, and federal rules regarding lead paint. And where we've found areas for improvement, we've been transparent with officials and residents. We fix what needs fixing and constantly assess our processes.

I look forward to working with the City Council, our City's health experts, and our sister agencies to advance health-based, targeted strategies to educate tenants, hold owners accountable, keep workers safe, and continually strive to drive lead exposure in our city even lower. We must work together to get to zero.

The Childhood Lead Poisoning Prevention Act (Local Law 1 of 2004)

The standards outlined in Local Law 1 comprise a strong and aggressive prevention regime to address lead-based paint. They are proven to work. They have played a large part in reducing the cases of elevated blood lead levels among children year after year.

Local Law 1 requires landlords to identify and remediate lead-based paint hazards in the apartments of children under six years of age, using trained workers and safe work practices. Because New York City led the nation in banning the sale of lead-based paint in 1960, lead-based paint is presumed to exist in a non-owner occupied multiple dwelling unit and in the common areas of a building if:

1) the building was built before 1960 (or between 1960 and 1978 if the owner knows that there is lead-based paint), and
2) a child under the age of six lives in the apartment.

If these two standards are met, property owners must investigate units where young children reside as well as common areas to find peeling paint, chewable surfaces, deteriorated subsurfaces, and friction and impact surfaces. This must be done on an annual basis, upon turnover of the apartment, or more frequently if a condition is known that may cause a lead hazard, or the occupant complains about such a condition.

Owners must give new tenants a form inquiring if a child under age six will reside in the unit, and send an annual notice asking the same. Owners are also required to provide all new occupants with information about owner and tenant responsibilities under the law and a pamphlet from the Health Department informing occupants about lead hazards and owner responsibilities.

Any work done in apartments to eliminate exposure must adhere to safe work practices that significantly reduce dust dispersion. Work that disturbs lead-based paint or paint of unknown lead content must be done in a way that minimizes the penetration or dispersal of lead contaminants or lead contaminated materials from the work area to other areas of the dwelling unit and building. People performing work must have received specific training to ensure that they know how to undertake the work in a safe manner. The property owner must maintain records about work performed and provide notification to tenants about the risks of lead exposure.

Enforcement of Local Law 1 and Additional City Efforts to Reduce Lead-based Paint Risks

Our goal is always to keep homes safe by addressing lead paint hazards through enforcement of Local Law 1, and by supporting, requiring, or doing the work to remediate lead-based paint hazards. We do far more than react to complaints. We are proactive. We are out in apartments every day and actively look to identify problems, ensure conditions are fixed, and keep children safe. We go above and beyond Local Law 1 to not only ask all tenants who call 311 about maintenance conditions whether or not they have a child under six in the apartment and conduct visual inspections, but also send a Housing Inspector with an XRF machine to those apartments proactively. We go out to the worst buildings through our Special Enforcement Programs to check for maintenance conditions, including lead-based paint hazards. And we engage in education and outreach efforts to inform both tenants and owners about their respective rights and responsibilities, including bringing HPD staff to Council District offices through "HPD in your District" and meeting New Yorkers where they are with our new mobile van.

As a result of this aggressive prevention regime, HPD has issued approximately 314,000 violations for lead-based paint conditions, including nearly 60,000 violations issued within the past five years. These efforts to address the current conditions in apartments have gone a long

way towards keeping New York City's children safe, and we are always looking for new and better tools to do even more.

Since 2004, we have responded to millions of complaints and also issued millions of violations for the entire Housing Maintenance Code, and we always encourage New Yorkers to call 311 with any concerns you might have. Any time a Housing Inspector is in an apartment, the inspector asks if a child under six lives in that apartment, and if one does, or if they see evidence of a child under six, they conduct a room-by-room, surface-by-surface inspection.

All Housing Inspectors have received HPD's lead training and spend some portion of their time conducting lead-based paint inspections. Code enforcement has 167 staff members dedicated to working on Local Law 1 issues, which includes 57 Housing Inspectors and 35 additional staff members dedicated to the lead-based paint unit, among others. In Fiscal Year 2018, HPD completed over 28,000 inspections related to potential lead-based paint hazards.

HPD takes aggressive actions to address hazards that have been identified by the Health Department during its investigation of a child with an elevated blood lead level. We work closely with our colleagues at the Health Department when their investigations reveal lead-based paint hazards in a unit where a child with an elevated blood lead level resides. At that time, they issue a Commissioner's Order to Abate (COTA) and monitor owner compliance, or refer the Orders to HPD to conduct the abatement work if the owner is unable or unwilling to do so.

If an owner fails to address lead-based paint conditions – in response to a Health Department Commissioner's Order to Abate or to our own violations – HPD steps in to protect children. Since Local Law 1 was implemented, we have spent more than $40 million conducting repairs in privately owned buildings. In Fiscal Year 2018, HPD conducted 658 lead-based paint emergency repairs citywide at a repair cost of $1.1 million (not including City overhead) to keep families safely in their homes.

As we preserve units—more than 75,000 since launching Mayor Bill de Blasio's Housing New York Plan—we ensure owners address lead-based paint hazards and follow the required safe work practices during construction. As required under Local Law 1, we have presumed lead and are working to address lead-based paint hazards in 1,282 apartments where we provided financing for rehabilitation in Fiscal Year 2018.

Although we focus strongly on landlord compliance to keep renters safe, HPD also works to educate tenants about the hazards of deteriorated lead paint, the rights they have, and their own responsibilities, including letting owners have access to units for lead paint inspections. If a tenant has any concerns with peeling paint or potential lead-based paint hazards, they should always call 311, HPD, or the Health Department.

The Future of Lead-based paint in NYC

Making sure New Yorkers have access to safe, healthy homes is our highest priority. We are here today to work with you to finish the mission and eliminate lead exposure in New York City. We have the strongest prevention and response lead regime in the country to build upon, and HPD is committed to rigorously enforcing those laws and regulations to ensure that residents have the protections they need and deserve. We will continue to examine all of our programs in conjunction with the City Council and take swift action to improve, where needed, our efforts to drive lead exposure in our city even lower.

Thank you for your time. I am now available for questions.

HARVEY EPSTEIN
Assemblymember 74th District

THE ASSEMBLY

STATE OF NEW YORK

ALBANY

FOR THE RECORD

Comments on City Council Lead Package
Office of Assemblymember Harvey Epstein
September 27th, 2018

Good morning, my name is Harvey Epstein and I am the Assemblymember representing New York's 74th Assembly District, which includes the neighborhoods of the Lower East Side, East Village, Stuyvesant Town/Peter Cooper Village, Murray Hill, Tudor City and the United Nations. Thank you for the opportunity to testify today.

When it was enacted in 2004, Local Law 1 required that private landlords conduct annual lead inspections in pre-1960 housing where small children live, remove lead paint from surfaces where children are likely to come into contact with lead, and provide pre-notification for large construction jobs. Last fall, Reuters journalists found that in the 12 years of HPD violations they analyzed, not a single landlord had been cited for failing to conduct the required inspections. Similarly, pre-notification is rarely if ever enforced. Why is the city refusing to go after landlords who don't pre-notify and skirt inspection and abatement requirements? The lack of reported HPD violations is entirely discordant with the reality that many tenants face.

As bad actor landlords in neighborhoods with older building stock revamp their properties to net higher rents, they often do so with little or no regard for tenants' health. Haphazard renovations have exposed tenants in my district to the highly toxic residue of gentrification: lead dust. Buildings in the Lower East Side have had dozens of times the legal threshold of lead due lead dust contamination. What can the city do to improve enforcement efforts to combat this form of lead contamination? This is not simply the construction as harassment that we have come to expect from morally bankrupt landlords. This is construction as violence and it is disproportionately affecting low-income New Yorkers and people of color in the city and the across the state.

I believe the bills the Council has put forth today demonstrate a keen awareness that prevention and intervention are the keys to eliminating lead poisoning, with an emphasis on prevention. We want to ensure that the decisions made and resources allocated regarding lead poisoning prevention are based on sound and complete data. To that end, I hope we can count on the city to provide detailed data on the salient causes of lead poisoning. To realize the full potential of new legislation as well as existing law designed to protect New Yorkers from lead hazards, I would urge the Council to use its powers of oversight to hold accountable the agencies responsible for implementing these regulations: the Department of Housing Preservation and Development, Department of Health and Department of Buildings need to be highly proactive with regard to enforcement when it comes to Local Law 1 and any new legislation if we are to succeed in eliminating cases of lead poisoning in the city.

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FOR THE RECORD

RENT STABILIZATION ASSOCIATION • 123 William Street • New York, NY 10038

TESTIMONY IN OPPOSITION TO INTRO. 865, IN RELATION TO LEAD REFERENCE/ACTION LEVELS, AND STANDARDS RELATING TO LEAD-BASED PAINT HAZARDS, AND ALSO INTROS. 873, 874, 868, 916 AND 919

September 27, 2018

The Rent Stabilization Association, comprised of 25,000 members who own and manage approximately one million apartments in the City of New York, submits this testimony in opposition to all of the bills set forth above including, in particular, **Intro. 865**.

The history of the lead paint abatement issue, both nationally and in the City, has been a long and contentious one. To its credit, the City has always outpaced the efforts of other cities, as well as the federal government. For example, the City prohibited the residential use of lead-based paint in 1960; the federal government did not act to do so until 1978. Over the years, the City has repeatedly enacted legislation to amend the Housing Maintenance Code and the Health Code, with regulations promulgated by both HPD and DOHMH to implement those laws. Ultimately, those efforts culminated in the enactment of Local Law 1 of 2004, which contains the current standards, procedures and enforcement measures that owners and tenants have abided by since that time.

The incidence of elevated blood lead levels in children, which had already been declining significantly prior to the adoption of Local Law 1 because of the laws previously enacted, have continued that precipitous decline since 2004. This fact is beyond dispute. The most recent DOHMH annual report, submitted to the Council on August 30th, documents this remarkable decline. For example, in 2005, more than 37,000 children younger than six years of age had elevated blood lead levels at or above the national reference level of 5 micrograms per deciliter, a rate

of 120.4 per 1,000 children tested; in 2017, that number was just over 4,000 children, a rate of 14.7 per 1,000 children tested. This represented a decline of almost **90%**. In 2005, the number of children younger than six years of age with blood lead levels of 10 micrograms or more was approximately 2,700, a rate of 8.6 per 1,000 children tested; in 2017, that number was 683, a rate of 2.3 per 1,000 children tested. This represented a decline of **75%**.

By any measure, these numbers demonstrate that the New York City experience is a public health success story, one which apartment building owners play a central, pro-active role under the existing statutory and regulatory framework. First and foremost, apartment building owners are providing the required lease notices and the annual lead paint notices to ensure that they are apprised of the presence of young children. Each year owners are inspecting apartments when they are aware that children reside in their buildings, making sure that peeling paint and other hazards are addressed. Further, upon apartment turnover, owners are renovating apartments to remove lead hazards on doors, walls, windows and window sills. Owners are also and ensuring that their building exteriors remain water tight, habitable and in good repair by undertaking costly roof and façade work.

Given the complexity of this issue, it is important to appreciate that elevated blood lead levels are a localized phenomenon, occurring predominantly in certain neighborhoods. As the DOHMH report makes clear, the burden of elevated blood lead levels in children remains high for children of color, particularly children living in high-poverty neighborhoods. Presumably, those neighborhoods are the some of the same ones in which New York City Housing Authority developments are located. Although not specified in its annual report, DOHMH knows which neighborhoods- and which NYCHA developments- have the highest incidence of elevated blood lead levels in children. It is those very neighborhoods and those developments which should receive heightened attention from the relevant government agencies. A broad-based, City-wide approach to a problem that requires a targeted approach to particular neighborhoods would be inefficient, if not wasteful, of precious City resources, taking time and attention away from those children most in need. Further, in light of the recent Housing Authority scandals, there is no justification for placing further burdens on private property owners due to the sins of the Housing Authority. This is not the way to implement public health policy on a complicated subject such as this one.

Any legislative approach or remediation strategy for tackling this issue should take that reality into account. The Council has done so previously, both with regard to lead-based paint and other subjects as well. For example, several years ago the City Council enacted legislation which expressly allowed for the Department of Housing Preservation and Development to provide enhanced J-51 tax benefits for the elimination of lead-based paint in neighborhoods with higher incidences of elevated blood lead levels in children. Most recently, the Council created a targeted, neighborhood-specific approach on the subject of certifications of no harassment.

Our most significant concern regarding Intro. 865 is the proposed reduction in the definition of lead-based paint. The proposal would reduce the threshold from 1.0 milligrams of lead per square centimeter or greater, to 0.3 milligrams of lead per square centimeter or greater. The practical consequence of such a standard is to convert the long-established and long-accepted approach of lead-safe housing to a lead-free approach. This approach has long been regarded as impractical, unnecessary, prohibitively expensive and, in light of the remarkable accomplishments under the current framework of City laws and regulations, totally counter-productive.

Given the undeniable accomplishments over the past 20+ years, there is simply no basis for such an approach. The only purported "authority" for such a draconian standard is a mere petition, submitted by the Health Justice Project at the Loyola University Chicago School of Law and the Sargent Shriver National Center on Poverty Law to the federal Department of Housing and Urban Development, in February, 2016. That petition was targeted specifically at federally assisted housing. That petition was never acted upon by HUD. The federal lead-based paint standards were never changed by HUD. The City's lead-based paint standards remain identical to the HUD standards. Lead-safe, rather than lead-free, remains the standard.

In addition to our opposition to Intro. 865, we also oppose **Intro. 919** and **Intro. 873**. Intro. 919 would require a visual inspection by an EPA-certified inspector upon unit turnover. This is simply unnecessary, causing delay in re-renting vacant apartments and wasting monies that should go to maintenance and operation. The long-recognized "lead safe" standard has worked well for many years because, in

large part, owners have every reason to minimize the risk to children in their buildings. A visual inspection by an owner to insure a vacant apartment is "lead safe" achieves the desired goal. This same principal applies to Intro. 873. Requiring every apartment to be lead free on turnover would destroy the City's affordable housing stock and have the unintended consequence of actually creating more lead dust and hazards, thereby endangering more children.

We remain committed to complying with the standards adopted by the various federal agencies with jurisdiction over lead-based paint, namely, the Centers for Disease Control, the Environmental Protection Agency and HUD. If and when those standards change on the federal level, the City's standards can and should be revised accordingly. However, any action by the Council at this time, particularly given the extraordinary and undeniable gains made in the past two decades in which we have witnessed such a dramatic decline in elevated blood lead levels in children, would be both premature and bad public health policy.

FOR THE RECORD

New York City Council Committees on Environmental Protection, Health, and Housing and Buildings
Hearing re: Int. 0420-2018 & Int. 0892-2018, relating to lead testing in public parks
September 27, 2018

New Yorkers for Parks (NY4P) is the independent research-based organization championing quality parks and open spaces for all New Yorkers in all neighborhoods. We believe every New Yorker should have access to safe, clean parks, and we thank the City Council for the opportunity to comment today.

Relating to Int. 0420, we share the concern that parks adjacent to our city's highways and bridges be safe for regular use and access. While it is the case that land proximate to heavily-used roadways receives an undue burden of contaminants, we believe that investing city time and resources into soil testing for lead should also come with a commensurate investment in the funding needed to properly remediate any sites that are found to have elevated levels of lead exposure. We are concerned that the legislation as written does not provide for this, and we would encourage the Council to reconsider the bill's approach before moving forward to adopt such a change. The legislation proposed in Int. 0420-A, relating to the testing of soil in public parkland that is accessible to children, presents similar concerns. The legislation as written compels the City to test an incredibly broad swath of parkland, without any mention of funding to provide for remediation. We believe the language set forth in this legislation fails to provide a clear roadmap for how the City could reasonably implement such testing, and we are particularly concerned that no mitigation funding has been committed.

In communities where we have worked with advocates who steward parkland that is adjacent to major roadways, we chiefly hear concerns about air quality impacting park usership – we feel this is worth noting to the Council as it considers ways to address issues of environmental justice and equity in our parks. We would also suggest that the legislation be reconsidered to provide additional funding support for remediation to any community gardens that fall within 300 feet of a state arterial highway or bridge, as the presence of lead in community garden soil can mean that the fruits, vegetables, and herbs grown and consumed by New Yorkers can become contaminated.

Relating to Int. 0892, we echo concerns shared about Int. 0420. For years, NY4P has studied drinking fountains in parks from a maintenance perspective. In the decade that we conducted maintenance studies via our *Report Card on Parks* series, drinking fountains have routinely received the poorest feature scores. This is largely due to structural conditions of fountains that make them a challenge for park-goers to use. We believe it is worth noting that despite our years of findings that show a relative state of crisis for our City's public drinking fountains, we have yet to see the City allocate the funding needed to provide a broad overhaul of fountains across the NYC Parks system. Further, we have heard anecdotal concerns from New Yorkers and park stewards about the negative impacts on park use that can occur when non-functioning drinking fountains are present in parks.

A park without functioning drinking fountains is a park that is less likely to see utilization by caregivers with children, seniors, and those seeking the ability to safely recreate in our public parks. We express this concern because we feel a very real impact of this law in the short-term could be that large swaths of our park drinking fountain inventory get taken offline for needed repairs that have no capital dollars allocated to them, and we feel that the legislation as written fails to provide for this potentially-needed funding

NY4P shares the belief that our public spaces should be safe for the public to use, free of concerns from contamination. We strongly believe, however, that the legislation being considered today doesn't properly account for the potential remediation and repairs that would be mandated by these laws. For an agency that currently receives a half of a percent of the total City budget, which faces a tremendous back-log of infrastructure repairs and a relatively small staff to support the ongoing maintenance of these investments, we fear that the two pieces of legislation currently constitute a potential unfunded mandate for the agency. We would request that the Council reconsider ways to address these concerns through the legislation, in light of a budget for parks that has failed to substantively grow in recent City funding cycles.

Thank you very much for the opportunity to submit comments on the record today, and we look forward to working with the Council on these important issues moving forward.

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For over 100 years, New Yorkers for Parks (NY4P) has built, protected, and promoted parks and open spaces in New York City. Today, NY4P is the citywide independent organization championing quality parks and open spaces for all New Yorkers in all neighborhoods. www.ny4p.org

FOR THE RECORD

STATEMENT OF THE NATURAL RESOURCES DEFENSE COUNCIL
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEES ON ENVIRONMENTAL PROTECTION, HEALTH, AND HOUSING AND BUILDINGS
REGARDING PROPOSED LEAD LEGISLATION

September 27, 2018

Good morning. My name is Jackie Gallant, and I am here on behalf of the Natural Resources Defense Council ("NRDC"). As you know, the NRDC is a national, non-profit legal and scientific organization that has been active on a wide range of environmental health, natural resource protection, and quality-of-life issues around the world and right here in New York since the organization was founded almost five decades ago. We have been engaged on childhood lead issues in New York City for many years and, among other things, went to court in the 1970s to support a New York City Council law banning lead in gasoline, which was being challenged by the oil companies. This and other NRDC litigation ultimately led to the federal ban on lead in gasoline.

We want to commend you, your council colleagues and Speaker Johnson for your interest in this important issue, as evidenced by the more than 20 bills that are the subjects of today's hearing. NRDC has reviewed the individual proposals and believes that all of them are well-intended. In this statement, prepared with my NRDC colleague Eric A. Goldstein, I will highlight NRDC's priorities from among these bills, focusing on those concepts that we believe we provide the greatest benefits to children's health and safety in the most cost-effective manner.

Background

As is now well-known, lead is a neurotoxin for which there is no safe level of exposure. This toxic metal can slow or stunt children's physical and mental development and cause other learning and behavioral problems. Pregnant women who have been exposed to lead face a higher risk of miscarriage and delivering babies that are premature or underdeveloped; children exposed to lead in the womb may face developmental, learning, and behavioral problems. While children and pregnant women are particularly vulnerable to the dangers of lead exposure, adults too can experience serious negative health consequences from exposure to lead.

At both the state and local level, there are laws currently on the books that address lead-related hazards. New York State law, primarily under Title X of Article 13 of the Public Health Law, requires testing for young children at certain intervals and follow-up procedures for children with a blood lead level that surpasses the action level of ten micrograms per deciliter. The State has also adopted regulations that implement the federal Safe Water Act's Lead and Copper Rule, as well as additional requirements that public schools monitor lead levels in drinking water. New York City laws primarily focus on the hazards that result from lead-based paint. Local Law 1 of 2004 is the city's cornerstone lead statute, which seeks to abate and prevent lead-based paint hazards.

Nevertheless, there are statutory and regulatory gaps in both state and city law that require redress. For example, Local Law 1, which requires annual inspections of dwellings where children under 6 are living, has suffered from a persistent lack of enforcement. As a result, cases of children with elevated blood lead levels associated with leaded paint have continued to surface. At the same time, although there are regulations at the state level that address lead in drinking water in schools, there are no such regulations at the city level; and laws on the books have proved inadequate in dealing with elevated lead levels in New York City school drinking water. And despite a gradual continuing reduction in the number of cases of excessive lead exposure, there remain critical holes in the safety net at every level – from detection to investigation to remediation.

NRDC's Priorities for New Lead Legislation

NRDC's first priority for new lead legislation focuses on detection. We believe that greater efforts are necessary to ensure that all New York City youngsters have their blood tested for lead so as to detect exposure at an early stage. Although there are existing laws that address childhood lead testing, we support legislation that would enhance the prospects for testing of children and pregnant women, given the central role that testing plays in identifying, reducing, and preventing harm.

Specifically, in this context, we urge the Committees to consider advancing some combination of Intro 877 (Cornegy), which would require city agencies to make reasonable efforts to determine from parents seeking city services that their children have received blood lead screenings and Intro 881 (Drumm), which would direct the Department of Health to implement an education and outreach program designed to increase awareness of childhood lead poisoning and encourage lead testing. Also, in the area of detection, we support Intro 919 (Torres), which would require an independent, EPA-certified inspection of multiple dwellings, every five years, to enhance implementation of Local Law 1 of 2004.

A second NRDC priority for new lead legislation seeks to ensure that once a lead problem is detected, it is followed up with a comprehensive investigation to identify the source and eliminate the threat. We would welcome approaches that take an expansive view such follow-up investigations.

Specifically, on this priority, we urge the Committees to move forward with the concepts set forth in Intro 464 (Drumm) (which would require the Health Department to

investigate potential sources of elevated lead levels in children under 18) and Intro 864 (Johnson) (which would require the Health Department to conduct a building-wide inspection for lead in any building where a child with elevated blood lead levels resides or regularly visits). Similarly, we support Intro 904 (Rivera), which would direct the Health Department to investigate potential sources of exposure, where pregnant women have been identified as having elevated blood-lead levels.

NRDC's third priority seeks to step up remediation of lead threats once they have been identified and/or on reasonable timetables. Three bills are intended to finally secure removal of lead in paint in New York City structures. Intro 873 (Chin) would require that pre-1960 multiple-dwelling building owners to certify that living units are free of leaded paint upon vacancy and provides a five-year lead time. Intro 891 (Levin) would require the removal of leaded paint upon sale of non-owner occupied private dwellings. Intro 920 (Treyger) would require owners of preschools and nursery schools – among others – to remediate lead-based paint. And Intro 902 (Richards) would require preschools and nursery schools to reduce lead exposures from water used for cooking or drinking. We believe these bills could be advanced or combined to target sources of lead exposure that have for too long have escaped permanent remediation.

Finally, among other legislative proposals that we believe deserve serious attention are Intro 865 (Johnson), which would set 5 micrograms per deciliter as the blood lead reference level; Intro 871 (Borelli), which would require that water testing protocols include first-draw samples; and Intro 918 (Torres), which would direct the Health Department to submit a comprehensive annual report on all lead poisoning, prevention and control measures.

Lead endangers children and others from multi-faceted sources; as a result, solutions that seek to mitigate these dangers must be comprehensive and multi-dimensional. NRDC supports legislation in each of the four categories outlined above. We stand ready to work with you and your colleagues to put in place a comprehensive and sensible set of safeguards that is needed to ensure that undue lead exposure is eliminated as a threat to New York City youngsters. Thank you in advance for your actions to achieve our mutual public health goals.

Thank you to the Chair and Members for hearing my testimony.

I am very grateful to be living in a city where our local representatives are examining and setting forward the groundwork for such expansive legislation to protect our children from lead.

My name is Fran Agnone and today I am speaking in support of bill Intro 2018-420 regarding testing lead in our soil. I speak today as an employee of the National Wildlife Federation, a national education and outreach organization with 501(c)(3) status that encourages outdoor play and environmental stewardship activities.

As an environmental educator, I had been aware of lead in city soil and the precautions one should take when growing crops. However, as a result of my work in Greenpoint, Brooklyn where preliminary research began to shed light on elevated lead levels in local soil[1], I now know that there are also dangers associated with inadvertent ingestion of soil as a pathway for lead exposure in young children[2].

As awareness of the issue spread in Greenpoint, the need for a public outreach and education campaign aimed at caregivers of young children became clear.

Last year I worked with a coalition of parents from PS110K to determine what type of language and messaging could mitigate fear of lead when playing outdoors, a necessary and crucial part of any child's development[3], without downplaying the potential threat to their children's health. Together we developed a postcard of preventative actions in three languages that parents could reference to keep outdoor play safe.

After reviewing the Bill's language, I believe it can be even stronger if it considers including a similar public outreach and education component that addresses the lack of knowledge around the issue of lead in soil. I have submitted more examples of specific language and framing as part of my testimony.

Additionally, I would say that the actions you take today to remediate soils in New York City will surely set an example far beyond the five boroughs. Thank you for your time.

- That in addition to testing soils and clearly posting test results in accessible locations, I suggest an outreach and education component to properly educate and mitigate fears in

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1 https://blogs.ei.columbia.edu/2017/10/09/many-backyards-in-brooklyn-neighborhood-are-contaminated-with-high-levels-of-lead/

2 https://www.npr.org/sections/health-shots/2013/04/04/176257595/soil-lead-may-be-an-overlooked-threat-to-kids-health

3 https://www.nwf.org/en/Kids-and-Family/Connecting-Kids-and-Nature/Health-Benefits-and-Tips

the caregivers of young children who may be learning about the issues of lead in soils for the first time. Unless soil safety is proven with thorough testing, I would recommend that - when working and playing in urban soil - we should always adopt the Precautionary Principle when it comes to guarding children's health and assume lead levels are elevated.[4]

- Last year we worked in Greenpoint to create a list of best practices[5] for guardians of young children to implement when playing outside, from frequent hand washing to avoiding bare patches of soil. I suggest the Council look at this resource as an example of clear messaging and practical advice needed to communicate preventative behavior and to deepen understanding of the issue.

Fran Agnone
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[4] https://www.publicnewsservice.org/2018-08-24/environment/keeping-kids-play-safe-from-lead-hazards-in-soil/a63791-1

[5] https://www.nwf.org/Home/Latest-News/Press-Releases/2018/07-23-18-Soil-Safety

Testimony of Tatiana Morin, Director of the NYC Urban Soils Institute
before the
New York City Council Committee on Environmental Protection

Public Oversight Hearing on the City's Enforcement of Existing Lead Laws and on Soil Lead Hazards in Parks and Other Publicly Accessible Areas (Intro 420 and Intro 422)

Thank you for the opportunity to submit this letter on Intros. No. 420, a local law to amend the administrative code of the City of New York in relation to testing for lead in the soil of public parks and remediation of lead-contaminated soil, and Intro. No. 422, a local law to amend the administrative code of the City of New York, in relation to the testing of soil for the presence of lead on private property.

The New York City Urban Soils Institute (USI) developed from the original partnership between the New York City Soil & Water Conservation District, US Department of Agriculture - Natural Resources Conservation Service and the Gaia Institute. Our mission is to advance scientific understandings and promote conservation and sustainable use of urban soils, achieved through: 1) soils testing and technical services, 2) education and outreach, 3) data depository/clearing house and 4) research.

In the three years since USI's establishment, we have provided soil testing, data interpretation, field assistance, and educational workshops to numerous community organizations, school groups, government agencies, urban agriculturalists and thousands of homeowners. We have also hosted three international urban soil symposia; two here in New York, the other in Moscow, attended by internationally recognized soil scientists and researchers, community organizations, gardeners, government representatives and natural resources managers. Information exchange remains the best central practice in urban soil science, integrating theoretical and practical knowledge, research and field experience and the questions we all have on what soil is, and how it works.

We appreciate the Committee's work here, bringing attention to lead in urban soils. All stakeholders, all citizens, share a sensitivity to this potential neurotoxin. With more than a hundred years of focus on lead poisoning, only relatively recently has a potential role of soils in the process come into view. Just two decades ago, attention turned to soils of Central Park. While one of USI's founders worked with Liz Christy in the 1980s to mitigate lead contamination in urban gardens on the Lower East Side, few, at that time, were aware of the significance of this problem. The rapidly increasing growth and interest in urban agriculture, however, make lead in soils an integral issue for future land use in the City.

Lead is universally present in the parent material of all soils. Background concentrations are low, however, compared to New York City's industrial and transportation landscapes, which can show lead concentrations that are multiples of background levels. As if this problem was not complex enough already, soil development itself impacts lead availability and toxicity.

We deeply appreciate the attention given to lead in soil, but we are well aware that other contaminants also pose health risks, and while the presence of lead is often correlated with other contaminants - relicts of industrial land use - it is not a focused predictor of contaminants such as cadmium, mercury, or hydrocarbons, or their concentrations. Would New York City be served by documenting the full suite of soil contaminants, or would property owners or prospective buyers count such knowledge as yet another liability? We believe that the City Council is in a unique position to change the way legacy contaminants in NYC soils are addressed. When testing is coupled with the option for cost-effective mitigation with the PURESoil bank, the City would be on a unique path to protecting its citizens by enhancing the landscapes and properties here. *New York would be the first city anywhere on the planet to implement such a program.*

We would like to recommend, in place of mandatory testing and remediation, establishment of a technical commission, for a period of one year, to:

1) Assess current knowledge of contaminants in soil (lead and other contaminants);
2) Identify the gap in knowledge and develop a research agenda including remediation of contaminated soils; and
3) Develop policy recommendations;
4) Evaluate costs, benefits, and actual timeline required to incorporate PURESoil in an ongoing mitigation operation for contaminated landscapes.

Such a technical commission should have the following agencies and organizations as members:

- The Office of Environmental Remediation
- NYC Department of Health & Mental Hygiene
- NYC Department of Environmental Protection
- NYC Department of Parks & Recreation
- NYC Department of Transportation
- Academic institutions (we recommend both Brooklyn and Queens Colleges)
- Urban Agriculturalists
- Community Based Organizations
- Community Gardens
- Botanical Gardens

We would offer the Urban Soils Institute (USI) as a partner in such an endeavor. The USI is well positioned to bring the appropriate constituents to the table to advance our understanding of contaminated soils and make recommendations. We would also be happy to host special sessions on this topic at our upcoming symposium in December.

Intro 422: Lead in the soil in non-parkland

We believe disseminating information on how to reduce lead exposure risks is very important. However, from our experience, the information is best conveyed in a workshop format that takes

participants from actually testing soil samples (for a variety of metrics including lead) to understanding what the numbers really mean.

We are concerned about tenants or property owners obtaining lead concentrations in the soil from their property without appropriately coupling quality control and education efforts, even if such results are accompanied by information on reducing exposure risks. The proliferation of water filters, such as Brita, for drinking water gives us an idea as to how some residents may react to elevated levels of lead in soils: they may invest unnecessary resources in trying to remediate the soil rather than follow a simple, no- or low-cost protocol to reduce exposure (e.g., removing shoes, washing hands, limiting direct contact with soil, etc.).

We believe that public outreach and education regarding contaminants in soils are as important as measuring the contaminant levels in soils themselves and making the data publicly available. We support efforts to collect more data and to make agencies collecting data more transparent by sharing this data. Soil variability, however, is enormous, offering many pitfalls for simple attempts to legislate the contaminants soils contain for the protection of public health. The complexities of the topic warrant a careful approach that does not lead to unnecessary panic or unwise investment of resources in remediation. Thus, for this intro, we also recommend the establishment of a technical commission.

Thank you again for the opportunity to submit this testimony. We hope the USI can work with the Committee to develop policies that will lead to a better understanding of urban soils by New Yorkers and to policies that are protective of public health. Please feel free to reach out to us with any questions.

Tatiana Morin
Director

FOR THE RECORD

9/25/18

Hello, my name is Hannah Cinelli and I am a mother of 2 children living in Greenpoint, Brooklyn. My son is 7 and in third grade at PS 110. My daughter is 3 and attends a local co-op school. My husband and I have lived in Greenpoint for 7 years and are deeply committed to our neighborhood and community.

I want to thank the Council for addressing the ongoing issue of lead in our local environment and for acknowledging the significant threat it poses to the health of our children.

I would like to submit testimony in regards to bill Intro 2018-420, regarding testing for lead in soil in public and private spaces throughout the city. I support this bill and thank you for taking up the issue.

As I'm sure the council is aware, Greenpoint, Brooklyn has a long and challenging environmental history. We live in a neighborhood where lead contamination has been found at elevated levels in the soil[1], directly affecting how my family and our community spends time outside in our local parks and neighborhood backyards.

Our school community has been working diligently over the past two years to educate ourselves about lead in our soil. We have created soil collection receptacles for our neighborhood and had tests done for our backyards and parks. Over the course of our project we have encountered a few challenges that we think the Council should address in this legislation.

After reviewing the bill's language, I ask for the Council to consider the following two points:

- First, understanding the implications of specific levels of lead in soil is challenging. I have personally collected soil samples from our neighborhood parks and various backyards and tested them for lead using the services of the Urban Soil Institute. I have found the test results difficult to understand. I am unclear what level of lead is acceptable for my children to come in contact with. Much of the literature on the subject says there is no safe level of exposure when it comes to lead and children. And on the other hand the EPA sets the levels at 400 parts per million on bare soil where children play[2]. Test results of neighborhood yards, parks and playgrounds in Greenpoint have ranged from 90 ppm to a whopping 1300 ppm in my neighbor's backyard. We hope the Council will spell out what level of lead is acceptable and from there address what safety measures or remediation measures are necessary depending on those levels.
- Second, once the testing has been completed I ask that the soil test results be accessible to those in the neighborhoods where testing was completed. I hope that they will be posted online and are clear and easy to understand. Also, that people who live near the testing areas are notified by signage and letters in the mail. I ask that results shared online are not just posted with numbers, but with clear interpretations of actions parents can take to protect their children who play on soil with different lead levels.

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1 https://blogs.ei.columbia.edu/2017/10/09/many-backyards-in-brooklyn-neighborhood-are-contaminated-with-high-levels-of-lead/

2 https://www.gpo.gov/fdsys/pkg/FR-2001-01-05/pdf/01-84.pdf

Our school, PS 110, sits across from McGolrick Park in Greenpoint. We are so fortunate to have this park across from our school and often utilize it for school events and activities. However, after testing the soil last year it was determined that the lead levels present made the planned curriculum for gardening activities too dangerous for our children.

Lastly, we know that this is a major issue not just in Greenpoint but throughout the city. I am very hopeful that the proposed bill may make outdoor play more safe and that New Yorkers can use their outdoor spaces with peace of mind.

Hannah Cinelli
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Statement to City Council on Soil Lead Testing
Thursday, September 27, 2018

Dear Members of the City Council and fellow residents of the City of New York,

Thank you taking the time to address lead hazards in our community. My name is Franziska Landes, and I'm an environmental geochemist and a PhD candidate at Columbia University. For the last year and a half I've tested soils for lead throughout our city, especially in northern Brooklyn. As we've heard today, lead harms the development of children even at low levels[3], and children can be exposed to lead by accidentally ingesting contaminated soil or dust[2,4].

My research advisors and I have three main points to make today: (1) testing is important, as is sharing this information, (2) free soil testing for backyards should be implemented, similar to New York City's (NYC) free water testing program, and (3) NYC should continue to implement and expand programs like the Pure Soil program to bring in clean soil for public and private properties.

(1) Testing is crucial because soil lead levels can be highly variable. For example it can be hard to tell where new soil has been brought in or where old soil remains, carrying with it the legacy of past lead pollution. We applaud the bills such as 2018-420, 422, 916, 907, that are pushing for testing of all public spaces and schools. We would like to emphasize, however, that this information should also be made available to the public so parents can make informed decisions to protect their children's health.

Over the past year, we collected soil samples in over 60 homes in northern Brooklyn, and found that over 81% samples were above the NY Soil Cleanup Objective (SCO) of 400 mg/kg for Restricted Residential Soils, which is also the EPA soil hazard standard for bare soil where children play. Nearly 50% of the samples were above the NY SCO for commercial soils of 1000 mg/kg. In comparison, of the samples collected in public areas, in parks and treepits, only 16% of soils exceeded the residential standard and only 2% exceeded the commerial standard. This highlights the need for testing anywhere a child is likely to play.

(2) NYC should offer free residential soil lead tests. The city already offers this important service for lead testing in drinking water - although perhaps not enough residents know this. Testing soil for lead with an X-ray fluorescence instrument is cheaper than testing water for lead, and residents could send in their sample similar to what they currently do for water. When over 75% of homes we tested have at least one sample above the NY SCO for industrial soils of 1000 mg/kg (ppm), we know there is enough cause for concern to test these backyards.

Of course our work focused on one area - we don't know what lead levels look like across the city. But we do know there is the potential for high lead levels in backyards. That's exactly why we need to start a citywide, free soil-testing program for residents. We know this is possible because NYC already offers testing of drinking water.

(3) Independently of the testing, we believe NYC should subsidize the efforts to remove or cover soil contaminated with lead, also in private yards. One way to do this would be to expand the Pure Soil

program created through the Mayor's Office of Environmental Remediation. This program seeks to move clean soil excavated from large construction projects to parks, schools, and residences.

Let's make it easy to protect children's health by providing the funding to (1) test soil in public parks and schools and make this information public, to (2) provide free residential soil testing, and (3) and move, store, and distribute clean soil. Together, we believe these three steps can improve public health by reducing soil lead hazards.

Thank you for your time and your continued effort to protect children's health.

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For more information, see the Earth Institute Blog Post: https://tinyurl.com/2017LeadStudy and:

1) Cheng et al. (2015) Soil Science. Trace Metal Contamination in New York City Garden Soils : Soil Science. *Soil Sci.* **2015**, *180* (4/5), 167–174.
2) Laidlaw, M.A.S., et al., 2005. Seasonality and Children's Blood Lead Levels: Developing a Predictive Model Using Climatic Variables and Blood Lead Data from Indianapolis, Indiana, Syracuse, New York, and New Orleans, Louisiana (USA). Environ. Health Perspect. 113, 793–800.
3) Lanphear, B.P. *et al.* 2005. Low-level environmental lead exposure and children's intellectual function: an international pooled analysis. Environ. Health Perspect. 113, 894–899.
4) Zahran, S., et al., 2013. Linking Source and Effect: Resuspended Soil Lead, Air Lead, and Children's Blood Lead Levels in Detroit, Michigan. Environ. Sci. Technol. 47, 2839–2845. https://doi.org/10.1021/es303854c

Summary of soil samples:

Of 63 homes sampled, with approximatley 5 samples collected per home:
81% of 314 samples were above 400 mg/kg Pb; and 94% of homes had at least one sample above this level
49% of 314 samples were above 1000 mg/kg Pb; and 76% of homes had at least one sample above this level
36% of 314 samples were above 1200 mg/kg Pb; and 62% of homes had at least one sample above this level

Of 571 samples collected in public accessible spaces such as parks and tree pits:
16% of 571 samples were above 400 mg/kg Pb
2% of 571 samples were above 1000 mg/kg Pb
1% of 571 samples were above 1200 mg/kg Pb

UNIVERSITY AT ALBANY
State University of New York

Institute for Health and the Environment
WHO Collaborating Center in Environmental Health

TESTIMONY OF DAVID O. CARPENTER, MD
NEW YORK CITY COUNCIL
COMMITTEE ON ENVIRONMENTAL PROTECTION AND
COMMITTEE ON HOUSING AND BUILDINGS
27 September 2018

I am a public health physician who previously served as the Director of the Wadsworth Center for Laboratories and Research of the New York State Department of Health and as the Dean of the School of Public Health at the University at Albany. My current position is Director of the Institute for Health and the Environment at the University at Albany and Professor of Environmental Health Sciences within the School of Public Health. My research focus is the study of human disease resulting from environmental exposures.

Exposure to lead is extremely dangerous to humans and especially to children. Lead has major effects on many different organ systems. However the greatest concern resulting from exposure to very small concentrations are the effects on the brain, resulting in loss of IQ and alterations in behavior. These effects of lead have been known since the studies of Needleman et al. in 1979. He and his colleagues analyzed lead levels of baby teeth of children in Boston. Since lead is similar to calcium it deposits in teeth and bone and therefore levels in baby teeth will give an integrated measure of exposure from birth. They found that the higher the lead concentrations the lower the IQ. This was accompanied by a shortened attention span, a greater level of antisocial behavior and a lower ability to deal with frustration in relation to elevations in lead levels. These observations have been replicated in many different studies from around the world. It is now clear that there is no concentration of lead that does not have adverse effects on the nervous system. In addition there is clear evidence that increments of lead exposure at very low concentrations are more detrimental that similar increases at higher concentrations.

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There are a number of different routes of exposure to lead. These include children chewing on old paint chips dating from the time that lead was added to white paint, lead in drinking water coming from lead pipes, lead from pottery glaze and leaded crystal, lead in air in the vicinity of lead smelters and lead coming from soil. All are serious sources of exposure and need to be addressed. I would like to focus specifically on the dangers coming from lead in soils, as this source has, in my judgment, not received sufficient attention and because one of my recent studies has shown this to be major sources of exposure in one community.

Our study was done in China where we determined lead concentration in children ages 3 to 7 living in a city near a lead mine as compared to children in a different city without such exposure. Blood samples were taken from the children, and drinking water, food, household dust and outdoor soil samples from public areas and playgrounds were analyzed for lead concentrations. The average blood lead concentration was 8.2 μg/dl, and was higher in the younger than older children. The average soil concentration was 735 ppm, which is higher than the EPA standard for lead (4 ppm) in bare soil in residential soil and play areas. For comparison to NYC, some lead concentrations in outdoor soil at the Alfred E. Smith Houses at 17 St. James Place in Manhattan exceed 800 ppm, comparable to the levels in this Chinese city. Household dust levels in the Chinese homes were 1190 ppm, near to the EPA levels for immediate remedial action of 1200 ppm. Levels in food and water were not elevated. We applied the Integrated Exposure Uptake Bio-Kinetic Model to these data and concluded that 86% of the exposure to these children came from soil and dust, while exposure from food and water played only a minor role. Lead-based paint was not involved at these sites.

While the situation in a Chinese town near a lead mine is quite different from that we have in New York City, the concentrations of lead in older residential areas, soils and parks are not so different. Outdoor lead in older residential neighborhood is in great part due to use of lead-based paint that feel off of buildings in the past and remains in the surrounding soil. Lead contamination in soil near to highways

is to a great extent due to the former use of tetraethyl leaded gasoline in cars and trucks in the past. When combusted tetraethyl lead spewed inorganic lead out of the tailpipe, which then deposited on local soil, where it remains. There has been considerable attention paid to lead paint and lead in drinking water, but not much attention to lead in soils and dust. This is an important route of exposure, and indeed may be the major route of exposure to children who do not live in a home with old leaded paint nor one with lead drinking water pipes.

In 2017 there were still 5,317 children in private housing and 5,157 children in public housing with serum blood concentrations above 5 μg/dl, the CDC action level. While some of this is clearly due to indoor lead paint, the role of lead in outside soil, leading to exposure to children playing outside and then tracking lead-contaminated soil into living space, has not received the attention it deserves. This is a special issue around day-care centers, schools and playgrounds. Contaminated soils must be removed or covered with clean soil if we are to reduce the exposure of our children to lead and its effects on intelligence and behavior.

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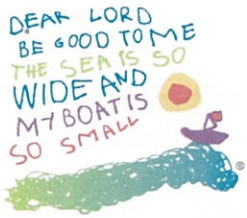

children's defense fund new york

Testimony before the New York City Council Committees on Health, Housing and Buildings, and Environmental Protection
Oversight Hearing on the City's Enforcement of Existing Lead Laws and Multiple Proposed Bills
September 27, 2018

Good afternoon. My name is Ben Anderson and I am the Director of Poverty and Health Policy at the Children's Defense Fund – New York (CDF-NY). CDF-NY is a multi-issue children's policy and advocacy organization. We take a unique approach to improving conditions for children by providing reading, mentoring, and scholarship programs; policy research; public education; and community organizing and advocacy activities.

We would like to thank the Health Committee Chair Mark Levine, Housing and Buildings Committee Chair Robert Cornegy, Environmental Protection Committee Chair Costa Constantinides, and members of the respective committees for holding today's hearing on the City's enforcement of existing lead laws and the various proposals introduced related to lead poisoning prevention. We would also like to thank all of the city council members who have introduced legislation related to lead poisoning prevention.

Our testimony will focus on gaps in NYC lead poisoning prevention, and explore innovative policy approaches that have developed over the past decade. We approach these issues through a health lens, primarily focusing on health policies, and make recommendations based on the health impact of lead exposure. Our testimony will not focus on consumer products, environmental protection, public housing, lead in schools or child care settings, or water regulation. However, some of these topics may be addressed to the extent that there is a health policy lever or newly identified health impact that should be considered.

Lead poisoning inhibits brain development and costs New Yorkers.

Lead poisoning is a completely preventable, but irreversible condition that impacts children for a lifetime. Even children with the lowest detectable blood lead levels may develop permanent neurological damage and lifelong behavioral disorders. There is no safe blood lead level for children.

Lead poisoning impacts a child's ability to pay attention, process information, remember things, and control impulses. Lead poisoning is associated with lower reading and writing test scores, and lower IQ. Accordingly, "lead-poisoned children are more likely to struggle in school, drop out, get into trouble with the law, underperform in the workplace, and earn less throughout their lives."[1] This comes at tremendous

cost to New Yorkers who will pay more for health care, special education, and juvenile and criminal justice systems, and experience reduced workplace productivity and income.[2]

NYC leads and lags on lead.

While NYC has made tremendous progress in reducing the number of children with very high blood lead levels,[3] significant work remains to eliminate lead hazards and end lead poisoning for all NYC children. Lead paint, lead pipes, and other lead plumbing parts still exist throughout the city. Even where lead painted surfaces have been safely encapsulated, water damage or remodeling projects can reintroduce previously contained hazards. NYC has long positioned itself at the forefront in the fight against lead poisoning. However, the NYC administrative code provisions that govern lead poisoning prevention were enacted 15 years ago, and research on the health impacts of lead poisoning have advanced well beyond what was known in 2003. Other gaps and challenges to prevent lead poisoning in NYC include:

- True impact of lead exposure is obscured by aggregated data reporting
- Low blood testing rates
- Underutilization of existing data
- Siloed response efforts

What does the data tell us?

Tens of thousands of children under the age of 18 in NYC likely suffer the health impacts of lead exposure.[4] However, the true impact is obscured by the way lead exposure is publicly reported in NYC. The NYC Department of Health and Mental Hygiene (DOHMH) only publicly reports the current number of children under age six with blood lead levels at or above 5 mcg/dL. DOHMH does not report on the number of newly identified children with blood lead levels at or above 5 mcg/dL, or the number of any children with detectable blood lead levels below 5 mcg/dL. The number of children are reported as a single age range below age six, not by each age below age six. We have summarized the data available in the table below.

[LEFT BLANK INTENTIONALLY]

Measure	Publicly Reported		Measure	Publicly Reported		Measure	Publicly Reported	
	Yes	No		Yes	No		Yes	No
Number of children under age 6 with BLLs below 5mcg/dL		✓	Number of ***newly identified*** children under age 6 with BLLs below 5mcg/dL		✓	Number of ***newly identified*** children *at each age* ***(disaggregated)*** under 6 with BLLs at or above 5mcg/dL		✓
Number of children under age 6 with BLLs at or above 5mcg/dL	✓		Number of ***newly identified*** children under age 6 with BLLs at or above 5mcg/dL		✓	Number of ***newly identified*** children *at each age* ***(disaggregated)*** under 6 with BLLs at or above 5mcg/dL		✓
Number of children under age 6 with BLLs at or above 10mcg/dL	✓		Number of ***newly identified*** children under age 6 with BLLs at or above 10mcg/dL	✓		Number of ***newly identified*** children *at each age* ***(disaggregated)*** under 6 with BLLs at or above 10mcg/dL		✓
Number of children under age 6 with BLLs at or above 15mcg/dL	✓		Number of ***newly identified*** children under age 6 with BLLs at or above 15mcg/dL	✓		Number of ***newly identified*** children *at each age* ***(disaggregated)*** under 6 with BLLs at or above 15mcg/dL		✓

In 2017, the number of children below age six with blood lead levels at or above 5 mcg/dL was 4,293.[5] Again, this number is a "current value" for 2017. This means it only includes children who had blood tests indicating elevated blood lead levels in 2017. The number does not reflect how many children had elevated blood lead levels in prior years, and still suffered from the impact in 2017. While DOHMH does not report the number of newly identified children with blood lead levels at or above 5 mcg/dL, it does report on the number of newly identified children with blood lead levels at or above 10 mcg/dL and 15 mcg/dL. In 2016, DOHMH reported that 85% of children below age six with blood lead levels at or above 10 mcg/dL and 78% of children with blood lead levels at or above 15 mcg/dL were newly identified.

NYC Council should incorporate the policies described below into any legislation adopted by the Council.

1. Use existing data and research to proactively inspect, remediate, and notify families regarding lead hazards.

Effective lead poisoning prevention requires identifying and eliminating sources of lead contamination *before* they harm children. Prevention is particularly important given the irreversible nature of lead poisoning. NYC has already codified an enforcement system related to lead that has the potential to yield strong results in preventing lead poisoning, if properly implemented. Accordingly, this section will focus on additional prevention strategies that could supplement existing prevention and enforcement systems. These strategies include:

- Identify birth certificate applicants who live in buildings built before 1978, and proactively request entry to their dwelling units to test for lead hazards, if warranted based on the dwelling's testing history
- Develop a predictive modeling pilot project to facilitate proactive inspections
- Map and publicly report lead service line locations
- Improve lead notice requirements for tenants and property purchasers

Use birth certificate applications to proactively request entry to conduct lead inspections.

For many parents in NYC, their first encounter with DOHMH occurs in the first days of their newborn's life when they apply for a birth certificate. The application already seeks a variety of information, including the address of the mother and newborn's place of usual residence. DOHMH could cross-reference that address with lead inspection data to determine if a lead inspection is warranted based on the inspection history and findings for the dwelling unit. For example, if an inspection had never occurred in the applicant's dwelling unit, DOHMH could use this information and send a notice to the mother to request entry to the dwelling to conduct an inspection. Similarly, if building records indicate that remodeling has occurred in the dwelling, DOHMH could request entry to conduct an inspection.

Develop predictive models to proactively inspect and remediate lead hazards.

Predictive modeling offers another opportunity for NYC to enhance its prevention strategy. Predictive models have been developed in cities plagued by lead contamination, like Chicago[6] and Flint.[7] In Chicago, researchers teamed up with the Chicago Department of Public Health to pilot use of a predictive model to identify "children who are at risk of lead poisoning and homes that are likely to contain lead hazards." The model relies on BLL tests, housing inspection and remediation records, other housing data, and census data. The Chicago Department of Public Health plans to use the information generated by the model to target public education and outreach efforts, and negotiate inspection, maintenance, and renovation plans with landlords.[8]

NYC should take a similar approach, and develop predictive models to establish risk rankings for zip codes. The ranking would indicate the level of risk on lead poisoning compared to other zip codes in NYC. DOHMH could use the risk rankings to communicate with OB-GYNs regarding which zip codes present a high risk of lead poisoning. Armed with this information, OB-GYNs could then counsel patients living in high-risk zip codes regarding lead hazards and the risks of lead poisoning. In turn, DOHMH could offer inspections to any pregnant woman requesting an inspection of her home, if it was built before 1978.

Inform property owners and tenants of the location of lead service lines.

Lead service lines are water lines made of lead that bring water from city water mains into buildings. The lines supply water for drinking and other purposes. As these lines corrode, lead enters the drinking water supply, presenting another possible source of lead poisoning in children.[9] NYC has been proactive in attempting to prevent lead poisoning from lead service lines by adjusting the pH of water and adding phosphoric acid to create a protective coating on lead pipes. Some of these activities are mandated by the U.S. Environmental Protection Agency (EPA).[10] While these efforts have been shown to be successful in reducing lead in drinking water supplies, they are not completely preventative. Due to the lack of consistency and effectiveness of corrosion control in preventing childhood lead poisoning, the National

Drinking Water Advisory Council has recommended that municipalities begin replacing lead service lines.[11]

To facilitate efficient replacement of lead service lines and empower tenants and property purchasers, municipalities have begun to map lead service lines and publish the maps online. Boston,[12] Pittsburgh,[13] and Washington, D.C.[14] are just a few of the municipalities that make lead service line maps publicly available on the Internet. The maps allow users to quickly identify the location of lead service lines and use the information to determine whether to lease or purchase a property, or conduct water tests. NYC should publish lead service line maps online, while undertaking a larger lead service line replacement effort. This will allow families to consider potential lead service line hazards when evaluating housing options, and will encourage building owners to work with the City to replace lead service lines.

Improve requirements for notices to prospective tenants and property buyers.

In December 2016 and January 2017, the Health Impact Project conducted 16 focus groups that consisted of homeowners, tenants, and landlords in a variety of cities across the United States. Some of the individuals in the focus groups were also parents of children who suffered from lead poisoning. The parents in the focus group stated that they needed more information about lead hazards in the home, and that disclosure forms failed to communicate sufficient information about the dangers of lead.[15]

NYC requires landlords to issue multiple notices to tenants regarding lead poisoning. However, none of the notices explicitly states the potential severity of the dangers lead poisoning may cause. Accordingly, NYC should consider requiring more explicit notice to tenants and property buyers. For example, the following notice would provide more explicit notice to tenants and prospective buyers:

> "Buildings built before 1978 may contain lead. Lead exposure may result in permanent neurological damage and lifelong behavioral disorders. There is no known safe level of lead for children."

2. Ensure all one and two-year-old children in NYC have access to blood lead testing.

For almost 25 years, New York state law has required physicians to provide BLL testing to children "at or around one and two years of age."[16] However, only 50% of New York City children are tested at ages one and two.[17] NYC DOHMH's 2018 annual report on childhood lead poisoning notes that 80% of New York City children are tested at least once before the age of three, with 24% of children obtaining only one test at age one, and 6% of children obtaining one test at age two.[18] Policy makers should avoid finding comfort in these rates, as childhood BLLs typically peak around age two.[19] This means some of the children with BLLs below 5 mcg/dL at age one may have peak rates above 5 mcg/dL by age two, but remain unidentified by their health care providers and DOHMH.

To combat low testing rates, NYC Council should require NYC DOHMH to develop and publicly release a plan to improve BLL testing in NYC. The plan should include efforts to educate families and health care providers on the importance of testing, the availability of testing, and, when it comes to health care providers, the legal requirements to test one and two-year-olds. The plan should be tailored to effectively target impacted communities, and communications should reach families in the language they understand best. DOHMH should have one year to develop, release, and begin implementation of the plan. Thereafter, the plan should be evaluated and updated annually.

NYC Council should also explore leveraging NYC Health + Hospital (H+H) resources to improve testing rates. The NYC Council should require H+H to report on the number of one and two-year-olds served, and the number of children who receive two BLL tests before the age of three. While some children may not treat with H+H for two years in a row prior to age 3, data on the children who are seen at ages one and two by H+H will provide a clear picture on H+H compliance with BLL testing requirements, and whether additional action is needed.

3. Base action thresholds on health impacts and available technology.

In 2012, the CDC and its Advisory Committee on Childhood Lead Poisoning Prevention (ACCLPP) issued findings regarding new research and technological advances related to lead poisoning prevention.[20] The ACCLPP issued a report in the same year, recommending:

- Discontinuation of the term "level of concern" because there is no known safe level of lead for children
- Reconsideration of the CDC reference level of 5 mcg/dL as new data revealed the 97.5 percentile may have shifted to 3.5 mcg/dL

The ACCLPP based its recommendation on the growing body of research indicating cognitive impairment caused by lead exposure in children with the lowest detectable BLLs (even below 3.5 mcg/dL). In response, the CDC lowered the reference level to 5 mcg/dL, noting that laboratory testing technology was insufficient at that time to support a reference level of 3.5 mcg/dL.

Given the growing and overwhelming body of scientific research regarding the impact of lead exposure on children with relatively low BLLs, NYC should revise its threshold action level to 5 mcg/dL, and continue to monitor the CDC's evaluation of laboratory technology.

4. Break down silos—ensure a warm handoff for early intervention services, head start, universal pre-K and home visiting services.

The NYC Council should require DOHMH to make referrals and warm handoffs to existing programs designed to address developmental delays and promote healthy brain development. Children who suffer from lead poisoning experience developmental deficits that evidence-based early learning programs are designed to address. These programs include early intervention services, head start, universal pre-K and home visiting. DOHMH is likely in the best position to facilitate referrals and warm handoffs to these programs. Once DOHMH obtains a report of any detectable blood lead level, it should identify programs available to the child and her family, counsel the family on the benefits of the programs, make appropriate referrals, and then follow-up with the family and provider to encourage uptake of the referral.

5. Identify, track, and report all detectable blood lead levels.

The NYC Council should require DOHMH to report additional disaggregated data. The true impact of lead poisoning and exposure in NYC is obscured by DOHMH reporting. As detailed above, DOHMH only reports the number of children with elevated blood lead levels in the age range below the age of six, and fails to identify the total number of newly identified children each year. National experts now advise that blood lead levels lower than 5 mcg/dL could be reported along with the method of laboratory analysis. NYC should report this data along with information regarding race, ethnicity, language, and zip code and census tract locations.

Improved data collection and reporting efforts will allow the City Council, the Mayor, DOHMH, health care providers, community-based organizations, private philanthropy, and researchers to better understand and identify community needs, target response efforts, and develop innovative solutions. The lack of publicly available data inhibits efforts to end lead exposure and improve treatment of lead poisoning.

Conclusion

CDF-NY thanks the committees for the opportunity to testify regarding lead poisoning prevention efforts in NYC. We look forward to working with the City Council to finalize legislation that will end lead poisoning in NYC.

Thank you.

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[19] Advisory Committee on Childhood Lead Poisoning Prevention. (2012). Low level lead exposure harms children: a renewed call for primary prevention. Available at: https://www.cdc.gov/nceh/lead/ACCLPP/Final_Document_030712.pdf.
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FOR THE RECORD

Testimony of Denise Richardson, Executive Director
The General Contractors Association of New York, Inc.
Committee on Environmental Protection together with the Committee on Health and the Committee on Housing and Buildings

September 27, 2018
10:00am

Thank you for the opportunity to submit comments today on the package of 24 bills addressing lead contamination. I am Denise Richardson, Executive Director of the General Contractors Association of New York. The GCA represents the heavy construction industry in New York City whose members build New York's roads, bridges, transit and water systems, parks, schools and building foundations.

At the outset I want to note that we support the Council's efforts to protect the environment and all New Yorkers from lead poisoning. Our comments today address very narrow issues related to the bills. We look forward to explaining our concerns in greater detail and to working with the Council in addressing these concerns.

To address concerns about any contamination in soil that is disturbed as part of a public works project or disputes over contamination discovered in areas adjacent to or near a public works projects, we recommend that public owners be required to test a representative sample of the soil to be excavated as part of any public works project, prior to a solicitation for construction bid. The specifications for the public works project must then include direction on the proper disposal or reuse of the material. Reuse of material that is not hazardous should be encouraged.

In addition, to avoid any disputes about the cause of any soil contamination at parks, schools, day care facilities or residences adjacent to any public works project, the public owner should be required to sample and test the soil prior to soliciting for construction bids. A sampling procedure established prior to bidding will determine the conditions that the City and the contractor should anticipate and will avoid later disputes and litigation, as well as project delays.

Intro 1063 is much broader than the other bills in today's package and raises different concerns. Rather than addressing only lead, the bill broadly defines "contaminants" and any "triggering amount of contaminant" and requires notice to many different parties about the existence of the material. Such notice may end up providing misleading information about the risk to the public and create an unnecessary panic.

The New York State Department of Environmental Conservation recently updated its rules on the disposal of materials generated in New York City. Those rules set strict standards for the testing, transport, disposal and reuse of material. Indeed, the goal of the rules is to encourage the beneficial reuse of material as much as possible.

Intro 1063 should use the standards established by the DEC rules. Rather than focusing on "contaminants", the bill should instead focus on hazardous waste, a term defined by the DEC. Recycling of contaminated material that is not hazardous should be encouraged to be reused in the area where it was excavated. This is often the case with DDC Street reconstruction projects. Hazardous material, in contrast must be tracked and disposed of in facilities authorized to accept such materials.

We welcome the opportunity to discuss the bills in greater with the members of the Council.

Hello, my name is Ed Rudyk and I'm a member of Lead Dust Free NYC. I'm here in support of the new proposed lead laws, and I'm also concerned that many components of NYC's Local Law 1 of 2004 have not been enforced, since lead is the most studied neurotoxin, and any exposure to lead particles can alter a child's developmental trajectory throughout their life.

These are the practices that landlords must follow when in adherence to the 2004 law:

- Hire firms certified by the U.S EPA when disturbing more than 100 square feet of lead paint, replacing windows, or fixing violations issued by the New York City HPD
- Use lead safe work practices and trained workers when fixing lead paint hazards and when doing general repair work that disturbs lead paint;
- Seal floors, doors, and other openings with plastic waterproof tape in the work area;
- Clean the work area with wet mops and HEPA vacuums every day and after the work is done;
- Post warning signs around the work area;
- Have a professional check lead dust levels after the clean-up is completed;

In too many cases the aforementioned is not being done. Is it because the dysfunction of city agencies in their failure to ensure that the 2004 law is adhered to? Or the failure of previous and our present administration to ensure that our children are protected by this law, or both?

A mother in Flint Michigan was voicing concern about her child's elevated lead blood levels and a nurse employed by a state

agency told her : "It's not the end of the world your child will only lose a few I.Q. Points"

The injuries suffered by our children is the end of the world that they are entitled to live in.

We are all morally obligated to protect all children!

Thank you.

Statement of Adriana Espinoza
New York City Program Director
New York League of Conservation Voters
City Council Hearing on Lead
September 27th, 2018

Good morning. My name is Adriana Espinoza, and I'm the Director of the New York City Program at the New York League of Conservation Voters (NYLCV). NYLCV represents over 30,000 members in New York City and we are committed to advancing a sustainability agenda that will make our people, our neighborhoods, and our economy healthier and more resilient. I would like thank Chairs Constantinides, Cornegy, and Levine for the opportunity to testify before the Committees on Environmental Protection, Health, and Housing & Buildings.

While the number of children with very high blood lead levels has dropped significantly since 2004, the City remains far from its goal of eliminating childhood lead poisoning. Earlier this week NYLCV, along with advocates from NYLPI, NMIC, and Cooper Square Committee, released a report highlighting how lax enforcement of Local Law 1 of 2004 (LL1) has prevented the most ambitious lead poisoning prevention law in the country from eliminating this public health issue by the City's then-stated goal of 2010.

LL1 was designed to hold landlords accountable for proactively finding and abating lead paint hazards *before* children became poisoned, and to eventually remove all lead paint hazards from rental apartments throughout the City. Yet data from the Department of Health and Mental Hygiene (DHMH) and the Department of Housing Preservation and Development (HPD) show that the City is not enforcing the primary prevention measures of LL1.

Specifically, landlords are not being held accountable for failing to (i) regularly inspect apartments where children reside, (ii) abate lead paint hazards before a new tenant moves into an apartment, and (iii) use safe work practices. In fact, HPD enforcement data indicates that New York City has never taken any enforcement action against a landlord for failing to conduct the mandated annual inspections since the law went into effect. As a result, rather than the proactive regime envisioned by LL1, the City's response remains complaint driven--too late for many families.

Our report, which I have included with my submitted testimony, outlines actions both agencies and the City Council can take to strengthen LL1. Although some of the bills heard today can move the needle and better protect children from exposure to lead, components of Intros 864 and 865 for example, far better to make sure the existing law on the books is being maximized. If landlords are not penalized for failing to inspect and abate lead, simply put, we will continue to have lead poisoned children in New York City.

Proposed bills regarding lead in soil

Lead paint and dust on the interior surfaces of children's homes, and other buildings where they spend significant amount of time, remain the primary causes of childhood lead poisoning. This is an entirely preventable public health issue, and in order to tackle it we should be focusing our energy and resources on this primary exposure pathway. While NYLCV recognizes the need to ensure healthy soil quality in spaces like community gardens, broad requirements on city agencies to test all bare soil areas both in parks and private dwellings brings up questions of feasibility and prioritization of City resources. More analysis is needed on this issue.

Intro 91-A

NYLCV supports a requirement for child care facilities to annually test water used for drinking or cooking and provide the results to the parent or guardian of each child that attends such facility. However, instead of leaving it to DHMH to set the action level, standards should be baked into the legislation, and match that of requirements for NYC Schools.

Intro 881

This bill is, especially with the cultural competence measures baked in, a welcomed expansion of existing outreach efforts. A stronger education and outreach program to increase awareness of childhood lead poisoning prevention can elevate the importance of this issue with parents and families, particularly in immigrant communities.

Intro 904

In addition to children, lead is harmful to pregnant women and can lead to negative reproductive outcomes including miscarriages and premature births. NYLCV supports efforts to expand protections from lead exposure to include pregnant women. However, in addition to inspection requirements, City Council should consider abatement as well.

We cannot keep functioning on a complaint driven system, and must instead be proactive.
What is clear to everyone here is that action is needed on lead, and the bills being heard today represent ambitious strategies. We look forward to working with all stakeholders to refine the details and clarify feasibility so that these proposals become successful laws that other cities around the country can model. I'd like to thank the Chairs of each committee present today and Speaker Johnson for their leadership on this issue, and look forward to working with you all closely moving forward.

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Testimony of Daniel Huber
Environmental Analyst, New York City Independent Budget Office
To the New York City Council Committees on
Environmental Protection, Health, and Housing and Buildings
Regarding Lead in Water in New York City Residences

September 27, 2018

Good afternoon Chairmen Constantinides; Cornegy, Jr; and Levine and members of the Committees. Thank you for the opportunity to appear before you today. I am Daniel Huber, IBO's environmental analyst. Recent news reports about the city's public housing developments have brought lead—specifically the hazards of lead paint—to the attention of New Yorkers. While lead paint is the predominant source of lead in city residences, tap water can also be a source. It is notable that among the Intros being discussed in today's hearing, several concern lead in city water.

Earlier this week, IBO published a report on the prevalence of lead in drinking water. New York City water is virtually lead-free when it flows out of the city's distribution systems. However, numerous privately owned older, smaller residential buildings in New York have plumbing that contains a much higher level of lead than is currently allowed in new construction. This lead can leach into water flowing out of city taps.

The city's Department of Environmental Protection (DEP) monitors lead levels in a sample of homes known to have lead in their pipes to measure the efficacy of corrosion control and for federal Environmental Protection Agency (EPA) compliance purposes. At their water treatment facilities, DEP uses sodium hydroxide to increase the water's pH and adds phosphoric acid to create a protective film on pipes that inhibits the release of metals, including lead, from service lines and plumbing. It also offers free lead testing kits to any city resident who requests it. IBO examined the records of water samples taken since 1993 to understand the potential scale of lead contamination in New York City residential water taps.

Among the findings from our study:

- Overall, IBO found that the city is in compliance with federal and state regulations for at-the-tap monitoring in residences and has been since 2010. According to these regulations, the city is in compliance if no more than 10 percent of samples collected from its compliance pool have lead levels above 15 parts per billion (ppb)—what is considered the EPA action level. While the EPA has determined there is no safe level of exposure to lead, it has set its action threshold at 15 ppb due to other considerations such as cost, public health benefit, and the ability of public water systems to reduce contaminant levels through corrosion control.

- Since 1993, residential tap water samples have had on average lower levels of lead and fewer tests that exceeded the EPA threshold for lead. Although most recent test results find no traces of lead, lead above the threshold continues to be detected in a small percentage of buildings.
- Smaller, older buildings that may have lead service lines, especially those built in the 1920s and 1930s, generally have higher rates of lead tests above the federal threshold.
- Based on test data from 2006 through 2016, the highest rates of tap water test levels exceeding the federal threshold were in community districts that included neighborhoods such as Ridgewood and Maspeth in Queens, Bedford Stuyvesant in Brooklyn, Co-Op City and Riverdale in the Bronx, and South Beach in Staten Island.

While the city meets federal and state regulations regarding lead in water, it is important to note that federal rules permit 10 percent of residential buildings in DEP's annual compliance testing pool to exceed the 15 parts per billion threshold for lead. There is no water lead standard for individual private residential buildings meaning that no regulatory action is triggered for an individual building—no matter how far above the standard. In a city the size of New York, this means a substantial number of homes and families may be exposed to lead from their faucets, but the scale of the problem is unclear as the best data source for identifying buildings with leaching pipes are the voluntary tests requested by the public.

The city currently has no means to compel landlords or homeowners to remove lead leaching service lines or fixtures. Landlords are not required to provide lead-free water and if running the tap for several minutes before drinking is insufficient to lower lead levels, tenants could face a choice between buying water, using lead filters, moving or ignoring the problem. For homeowners, there are no programs to assist with the cost of replacing lead leaching pipes.

Landlords are also not currently required to notify tenants or prospective tenants if a building has been found to have elevated levels of lead in the water or if renovation work may cause lead levels to temporarily rise. The only notification requirement for the existence of lead pipes applies only to homebuyers and is required under state law.

Several of the introductions being discussed today would help close some of these gaps by increasing information about the presence of lead in residential drinking water and by requiring landlords to reduce water lead contamination. Intro 865 adopts a city water lead reference level of 15 parts per billion for taps in individual homes. Intro 868 requires landlords to test water lead levels annually, notify tenants of those results, and provide water filtration to tenants in residences where water tested above the reference level. Intro 709 would require DEP to track all lead service lines and publish their locations in an interactive map.

New York City has spent substantial sums of money on drinking water filtration and on preserving the quality of the water at the source upstate. However, not every city resident has equal access to this water, as lead continues to leach into the water in a small share of buildings before it gets to the tap.

Thank you and I am glad to answer any questions you may have.

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TESTIMONY OF MATTHEW J. CHACHERE
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BEFORE THE NEW YORK CITY COUNCIL
SEPTEMBER 27, 2018

Thank you for offering me the opportunity to testify at today's hearing.

INTRODUCTION

By way of background, I am a staff attorney at Northern Manhattan Improvement Corporation, a non-profit community based legal services provided in Washington Heights. For over 25 years, I have worked in the field of childhood lead poisoning prevention. As counsel to the New York City Coalition to End Lead Poisoning ("NYCCELP"), I have been involved in key cases that have defined the parameters of governmental and real estate responsibilities to prevent lead poisoning, including NYCCELP v. Giuliani and German v. Federal Home Loan Mortgage Corp. I was also plaintiffs' counsel in NYCCELP v. Vallone, which resulted in the 2003 decision from the New York Court of Appeals striking down the weakened New York City lead paint law (Local Law 38 of 1999), and reinstating the prior more stringent law (Local Law 1 of 1982), and counsel for numerous organizations who intervened to successfully defend New York City's new lead paint law in 2004 against challenges from the real estate lobby (Community Preservation Corp. v. Miller). I was also counsel in a successful environmental challenge to the unsafe removal of lead paint from New York City's bridges Williamsburg Around the Bridge Block Ass'n v. Giuliani. I was counsel for various friends of the court briefs several of the major lead poisoning cases heard by the New York Court of Appeals: Juarez v. Wavecrest Management Corp. (which held that landlords of multiple dwellings in New York City were, by operation of

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New York City's local laws, on notice of lead hazards in buildings where young children reside), Chapman v. Silber (which declared that owners of properties not covered by New York City's lead laws may none-the-less be charged with constructive notice of lead hazards in older dwellings rented to families with young children), and Palaez v. Seide (concerning proper response of local health departments to childhood lead poisoning). In 2009, in NYCCELP v. Environmental Protection Agency, I obtained a settlement in which the federal EPA committed to revising its regulations concerning lead paint to make them more protective of children.

I was closely involved in the drafting of New York's current lead poisoning prevention law, Local Law 1 of 2004. Since 2009, I also have served on the New York State Advisory Council on Lead Poisoning Prevention.

I. THE PROPOSALS BEFORE THE COUNCIL

I and a number of my fellow advocates have already submitted extensive detailed comments on this package of legislative proposals to the Council staff, and I will not repeat them here, given the time constraints.

In general, however, while many of these bills appear well intentioned, they do not appear to address the more serious structural problems that have resulted in tens of thousands of children becoming lead poisoned in this City long after the problem was supposed to have ended. Unfortunately, there does not yet appear to be sufficient analysis and data before the Council at this juncture to warrant a number of measures these bills would mandate, and I would urge that much more work be done to both investigate the failures of code enforcement by the City administration and the lack of compliance by negligent landlords.

For example, a number of these bills add mandates pertaining to lead in soil. While there is certainly no doubt that children can ingest lead from contaminated soil, there does not appear

to be any epidemiological data (or at least any that we've seen in City DHMH reporting) that soil lead has been a significant factor among cases of New York City children diagnosed in New York City. While that data may be there, or may be developed at some point, at present it remains true that DHMH considers lead from paint, and particularly from the hazardous dust that is generated by deteriorating paint, from abrading lead-painted surfaces, or unsafe work practices, to be the prime driver of lead poisoning. Rather than divert City– and landlord – resources to a problem that perhaps make only the most minimal contribution to lead poisoning, I would urge that the Council focus its attention of the known sources – particularly lead-based paint.

As another example, the bills also tighten certain standards, such as clearance levels for lead dust. This is certainly something worth considering in light of current science. However, as I'll discuss further in my testimony, there is overwhelming evidence that work disturbing lead paint is routinely performed landlords and their contractors without the required lead dust clearance tests being taken and provided to the tenants. Until we understand why the current system of enforcement is failing, tightening the numerical standards will do little to improve the public health outcomes.[1]

II. HOW THE CITY FAILS TO END LEAD POISONING

"Childhood lead poisoning ... is a totally preventable disease – remove the lead from the child's environment and the disease will disappear."[2]

New York City has long been a leader in enacting progressive measures intended to respond to, and end, childhood lead poisoning. Nearly 60 years ago, the Board of Health

[1] There are also a number of technical flaws in some of the bills, and conflicts among them and with other laws. For example, a number of the bills call for water fixtures to be tested by persons who are "certified renovators" pursuant to 40 CFR 745.88, even though that entire subpart of the federal regulations is completely inapplicable to water testing. We have pointed these out in our specific comments previously provided to Council staff.

amended the Health Code to impose a total ban on the sale and use of lead-based paint on the interior surfaces of dwellings, day care centers, and schools in New York in 1960 – 10 years ahead of the rest of New York State and 18 years before the federal ban. [3] And 35 years ago, the City Council established perhaps the first lead poisoning primary prevention law in the nation by enacting Local Law 1 of 1982, chiefly sponsored by then Councilmembers Stanley Michels and Tom Manton, which mandated that in child-occupied rental dwellings lead abatement take place before children become irreparable injured from lead-based paint hazards.[4]

Notwithstanding this, however, attaining the goal of an end to childhood lead poisoning – perhaps the most preventable widespread environmental diseases – has unfortunately continued to prove elusive. Nearly 60 years after the enactment of New York City's ban on lead paint, there remain at any given moment hundreds of thousands of private rental dwellings in New York City with young children in residence and lead-based paint on at least some surfaces, and thus posing a risk of permanent, irreparable neuro- cognitive and other injuries.

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[2] Childhood Lead Poisoning - United States: Report to the Congress by the Agency of Toxic Substances and Disease Registry, 260 Journal of the American Medical Association 1533 (9/16/88)

[3] Unfortunately, the Board of Education continued to use lead-based paint in school facilities – in violation of the City's own Health Code – until nearly 1980, according to a report issued by the School Chancellor's Task Force on Lead Hazard Reduction (August 4, 1993), Report on Lead-Based Paint Policy Recommendations, and for this reason, the NYC Board of Education (now Department of Education) generally assumed that all schools constructed before 1980 potentially have some lead-based paint. Id. at 1

[4] While the Health Department has long had the obligation (currently codified under the Health Code at § 173.13) to respond to a report of childhood lead poisoning, such responses are known as "secondary prevention" since they take place after the fact. Given that the damage to young children from lead ingestion is generally irreparable, it has long been accepted in the public health field that "Primary prevention" – i.e., environmental intervention measures taken before a child is exposed to lead hazards – is essential:

> "The data do not indicate that lead-induced cognitive defects are reversible. Primary prevention and preventing additional increases in blood lead levels among children whose blood lead levels are high remain the only effective means of dealing with lead poisoning."

Liu, Dietrich, Radcliff, Regan, Rhoads, Rogan, Do Children with Falling Blood Lead Levels Have Improved Cognition? 110 Pediatrics (4) 787-791, at 791 (Oct. 2002)

As someone who was deeply involved in the litigation over the lack of enforcement and compliance with former Local Law 1 of 1982, and with the formulation and drafting of the legislation that became Local Law 1 of 2004, I want to share a bit of that history, because I think it may help inform the analysis of what is—and isn't – being done by the City and the real estate industry, and the investigations that need to take place in order to remedy this in any new legislation.

Former Local Law 1 of 1982 was interpreted early on by the courts to require that all lead-based paint in child-occupied dwelling – in any condition – be permanently abated, and that the City must inspect and enforce this provision.[5] In addition, the courts also declared that LL1/1982's mandates applied regardless of whether a landlord was cited for a lead violation — the very existence of lead paint hazards was a violation that landlords had a duty to inspect for and safely abate, whether or not cited by a City agency.[6]

After many years of litigation and controversy concerning these issues arising from Local Law 1 of 1982 (and its temporary successor, Local Law 38 of 1999, which was subsequently struck down in 2003 by the New York Court of Appeals in NYCCELP v. Vallone, 100 N.Y.2d 337) , the City Council passed a major reform package, the New York City Childhood Lead

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[5] Specifically, in NYCCELP v. Koch, N.Y.L.J., July 21, 1989, at 18 (Sup. Ct. N.Y. Co.), aff'd, 170 A.D.2d 419 (1st Dep't 1991), the court found the City's interpretation of LL1/1982's statutory presumption — as limiting its inspection and enforcement duties regarding lead paint solely to peeling painted surfaces and solely to pre-1960 buildings — contrary to the law's plain meaning. Instead, the court declared that LL1/1982 required the abatement (i.e., the removal or covering) of lead paint regardless of whether the paint is peeling or intact.

[6] Juarez v. Wavecrest Mgt., 212 A.D.2d 34, 47(1st Dep't 1995). As the First Department subsequently noted,

> The plain effect of [§27-2013(h)] ... and the entire remedial scheme would be meaningless if a landlord could suffer a lead condition in its building until given "notice" of the condition as the result of a test performed by others.

Valdez v. Sherman Estates, Inc., 224 A.D.2d 240, 241 (1st Dep't 1996). See also Lane v. Ruiz, N.Y.L.J., May 29, 1996, p. 29 col. 3 (Sup. Ct. Queens Co.) ("A landlord is required to take action to remedy a lead condition prior to receiving any 'notice' of the condition as a result of a confirmed test performed by others.")

Poisoning Prevention Act, which was enacted over then-Mayor Bloomberg's veto as Local Law 1 of 2004 ("LL1/04").

LL1/04 represented a major compromise between the "absolutist" view incorporated in the 1982 law and the "minimalist" view of the 1999 law. In part, the 2004 law accepted the real estate industry's argument that it wasn't necessary to abate all lead paint in the City – that responsible landlord's could manage it in place. But in order to protect children from the potential life-time irreparable injury from exposure to this neurotoxic substance, landlords affirmative obligation to inspect their dwellings and control it – already enunciated by the courts – would be codified into the law, and the City would be given the mandate to enforce it. In addition, the most risky surfaces would be targeted for permanent abatement at vacancy. Lastly, the mandate that safe work practices be utilized whenever lead –based paint – or paint of unknown lead content – is being disturbed, which was specifically mandated by the courts in the NYCCELP v. Koch/ Giuliani litigation, was also codified into the law with particularity.

This philosophy is clearly stated both in the "Statement of Findings and Purposes" at the beginning of LL1/04 and in the actual structure of the substantive provisions of this law. In enacting LL1/04, the City Council decreed that lead poisoning was both "a preventable childhood diseases and a public health crisis" and "established as its goal the elimination of childhood lead poisoning by the year 2010." Admin. Code § 27-2056.1.[7] The Act declared that in order to accomplish this goal, the "City government must focus on primary prevention as the essential tool...." Id. Key to this effort was the need to assure that owners take preventative action:

[7] Unfortunately, as we know, this goad was not achieved. City health data indicates that between 2010 and 2016 some 52,692 children were newly identified with blood lead levels of 5 micrograms per deciliter or greater, the current level of concern. Moreover, nearly all of these children resided in private rental dwellings, which was the key focus of LL1/04.

> [T]he council by enacting this article makes it the responsibility of every owner of a multiple dwelling to investigate dwelling units for lead-based paint hazards and to address such hazards on a case-by-case basis as the conditions may warrant, taking such actions as are necessary to prevent a child from becoming lead poisoned.

Id.

This approach was entirely sensible. While the law mandated that "that resources must be directed to primary prevention," id., it was well understood that in no conceivable manner could the City undertake the vast task of regularly inspecting all of the hundreds of thousands of pre-1960 dwelling units where vulnerable children reside to make certain there were no lead hazards. Therefore, LL1/04 imposed specific primary prevention mandates on landlords of rental housing. Key among these were the following three:

Owner Self-Inspections

First, LL1/04 imposed on owners the fundamental responsibility to prevent and promptly remediate lead-based paint hazards, including underlying defects (such as water leaks or loose plaster) that can cause those hazards, using specified safe work practices. Admin Code § 27-2056.3. In so doing, the Council defined lead hazards very broadly – to include "any condition .... that causes exposure to lead from lead-contaminated surface dust, from lead-based paint that is peeling, or from lead-based paint that is present on chewable surfaces, deteriorated subsurfaces, friction surfaces, or impact surfaces that would result in adverse human health impacts."

In order to effectuate this responsibility, the law set forth in § 27-2056.4 specific mandates that owners, among other thing, must:

- affirmatively ascertain whether young children are present in the dwelling

- inspect such child-occupied dwellings at least annually, and more often as needed, for lead-based paint hazards
- document in writing the results of each such inspection, and provide the written results to the tenant (and retain that report for 10 years, to be made available to the Department of Housing Preservation and Development (" HPD") on request and to succeeding owners).

These provisions made noncompliance a misdemeanor, punishable by up to 6 months imprisonment and fines.

Unfortunately, all data thus far indicates that at no time has New York City taken any enforcement action against a single landlord in the past 14 years since the law went into effect. As reported last November by Reuters, a review of "the past 12 years of HPD violation records and found the agency hasn't cited a single landlord for failure to conduct the annual inspections."[8] Obviously, without enforcement, negligent landlords will continue to violate this essential primary prevention obligation with complete impunity, resulting in the continued exposure of vulnerable children to lead-based paint hazards.

Lead Abatement at Vacancy

Second, the 2004 law required that measures be taken to permanently remove what was -- and still is -- considered to be the one of the most significant mechanisms for exposure to, and poisoning from, lead from lead-based paint: the generation of lead-contaminated dust from the abrasion of lead-based paint on door and window frames (i.e., "friction surfaces"). Although earlier drafts of that law (as Intro 101) would have required those measures to be undertaken by

no later than July 1, 2007, in all child-occupied housing, the final version of the law as enacted required this work to be done a "turnover" (i.e., vacancy). The thinking behind this was that such work could be done most easily and safely when apartments were unoccupied, and that over time the turnover of housing units would result in the elimination of these high-risk hazards.

The law made non-compliance with this mandate an immediately hazardous "C" violation, and HPD's implementing regulations mandate that documentation concerning this work, including a certification of compliance, be provided to the incoming tenant. The law also required that such work be performed using specified safe work practices, including lead dust clearance tests at the end of the job to assure that the apartment had been properly cleaned.

Unfortunately, it appears again that HPD has performed essentially no enforcement of this provision: The Reuters report last November indicated that over the past 12 years only one violation was issued for this; our own review of HPD data indicates that as of the summer of 2017, while HPD issued 307,218 peeling lead paint violations under LL1/2004 from the beginning of 2005 through the summer of 2017, it placed just 2 violations for the failure comply with the turnover lead abatements.

Safe Work Practices

Third, the 2004 law mandated the use of specified safe work practices under all circumstances where lead-based paint – or paint of unknown lead content – was being disturbed in dwellings with young children. These mandates had originated in the context of a class action against the City, NYCCELP v. Koch, and were specifically codified in at Admin. Code § 27-2056.11. In particular, the law required that the work be done by properly trained and

[8] Lead poisoning lurks in scores of New York neighborhoods, (11/14/17), available at

credentialed individuals and firms, with specific measures to control the dispersal of lead dust during the work so as to protect the tenants and their possessions from contamination, particularized cleaning procedures, and in virtually all circumstances the use of lead dust clearance tests with the results reported in writing to the tenants. (As mentioned earlier, it is well understood that uncontrolled lead dust is one of the most effective mechanisms for causing the poisoning of young children.)

It is critical to understand that these mandates apply whatever the intent of the work is. While they certainly apply to work being done to abate or remediate lead-based paint, they also apply when the work is being done for entirely different reasons - such as a renovation or an ordinary repair. From the perspective of a child's health, lead-contaminated dust from unsafe work is just as effective at causing irreparable harm no matter whether the work is deliberately being performed to remove lead hazards or is simply incidental to other construction.

In order to effectuate enforcement of these measures in circumstances where the City agencies were not already on notice that such work was to be done (i.e., where the City had not already ordered lead remediation work in response to a violation) – such as ordinary repairs or renovations – the law required that owners must pre-notify the Department of Health and Mental Hygiene ("DHMH") if any planned work will involve disturbing more than 100 square feet of lead-based paint or paint of unknown lead content (or removing two or more windows). This would enable DHMH to conduct spot checks for compliance.

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www.reuters.com/investigates/special-report/usa-lead-newyork/

Unfortunately, it appears that virtually no notifications are filed with DHMH (perhaps under 100 per year), and there are indications that non-compliance with the safe work practice regulations is rampant, resulting in increased exposure to toxic lead dust.

Without effective enforcement of these key provisions, and other aspects of existing law, it should not be surprising that LL1/04 has not achieved its goal of ending lead poisoning by 2010. And without a careful analysis and understanding of why City agencies are not enforcing these provisions, and why landlords are not complying with them, I am concerned that the recent package of legislative proposals currently pending before the City Council will do little to ameliorate these failures. Thus, for example, proposed legislation that would make lead dust clearance level standards more stringent will do nothing to decrease childhood lead poisoning if negligent owners continue the widespread practice of doing this work in child-occupied dwellings without taking lead dust clearance tests whatsoever.

I'd like to briefly discuss the situations of just a few of the many families my office has worked with, to illustrate the consequences of the City's lack of enforcement.

- The Yearwood family. In August of 2010, the Department of Homeless Services ("DHS") placed a family with 5 young children (including a 1 year old and twin 3 year olds), who had been staying in a City-run shelter, into a private rental dwelling in Washington Heights. As part of the lease, the landlord affirmed that it had complied with the turnover requirements of LL1/04 (Admin Code 27-2056.8). At the same time, the landlord certified, pertaining to the federal law requiring disclosure of all records of lead paint hazards (40 CFR Part 745), that it had no records whatsoever . Obviously, there was an inherent conflict between these two

statements, since if the landlord had done the turnover work it would have had to have generated records, including lead dust clearance tests. Within a few weeks of moving in, the children's mother made a complaint to HPD concerning the bad conditions in the apartment. An HPD inspection found 16 violations for peeling lead-based paint, including on door frames – which obviously should have been abated prior to the family moving in under the turnover requirements. Shortly thereafter, the Administration for Children's Services ("ACS") warned the mother that they would remove the children from her custody because of the hazardous conditions they were living in. At the same time, DHS refused to relocate the family, leaving them in an impossible situation. Only through our intervention did we obtain temporary shelter at Montefiore Medical Center's Lead Safe House, while we successfully litigated in Housing Court to secure remediation of the hazards.[9]

- The Rollins family. In September, 2015, the Rollins family, which included two young children (one a few months old, the other 2 years old), was placed with assistance of HRA into a private rental dwelling in Coney Island – a building that later earned 14th place on the Public Advocate's annual "100 Worst Landlord in New York City". Just like in the Yearwood family's case, HRA approved the lease and shelter payments even though the landlord never certified that it complied with the turnover requirements of LL1/04, nor disclose any records concerning lead-based paint. The family repeatedly filed complaints with HPD about the poor conditions, and HPD repeatedly inspected the apartment, but it was not until July of 2017 that

[9] Some news articles concerning this family are attached at the end of this testimony

HPD first performed a lead inspection, and at that point found peeling lead paint in numerous locations, including window and door frames. Unfortunately, by that point, one of the children had been diagnosed with lead poisoning, and the family relocated to temporary shelter at Montefiore Medical Center's Lead Safe House.[10] HPD took no action to place violations for the failure to do the turnover work and annual inspections.

- The Ali family. The Ali family, with 2 young children (including a 2 year old) moved into an apartment in the Fordham heights neighborhood of the Bronx in early 2016, and shortly thereafter a third child was born. The landlord certified with the initial lease that it had complied with the turnover requirements, but at the same time certified that it had no records concerning lead-based paint. Two years later, in March of 2018 the youngest child was diagnosed as highly lead poisoned. City inspectors arrived and found lead-based paint on at least 15 different locations on door and window frames. HPD took no action to place violations for the failure to do the turnover work and annual inspections. After NMIC's commenced litigation, the family was temporarily relocated.

[10] News coverage of this family's dilemma is at http://www.nydailynews.com/new-york/brooklyn/mom-suing-nyc-agencies-exposing-kids-lead-brooklyn-home-article-1.3686867 and /www.reuters.com/article/us-usa-lead-suit/nyc-mother-seeks-millions-from-city-after-childs-lead-poisoning-idUSKBN1E2219

III. HOW WE COULD MAKE THE LAWS WORK TO END LEAD POISONING

One of the principles set out in LL1/2004 was that it made clear "the responsibility of every owner of a multiple dwelling to investigate dwelling units for lead-based paint hazards and to address such hazards on a case-by-case basis" (§27-2056.1) and gave the City the responsibility to enforce all aspects of this law. Specifically, LL1/2004 gives HPD the power to audit owners for compliance with these provisions. Additionally, §27-2056.10(c) gives HPD general enforcement authority (and, I would argue, a mandate to do so):

> The department shall promulgate rules for the implementation and enforcement of this article and to effect compliance with all applicable provisions of this article, rules promulgated thereunder, and all applicable city, state or federal laws, rules or regulations.

While it appears that some aspects of LL1/2004 have been significantly complied with, in other areas there are glaring deficiencies, and it appears that the City has failed to implement any ongoing systems to assure that owners are satisfying their legal obligations. Instead, the City continues to rely largely on a complaint-driven system of enforcement, rather than being pro-active. This is, of course, contrary to the intent of LL1/2004.

There are areas in which it appears that no enforcement is being conducted. There are also indications that the City does not necessary timely enforce other aspects of the law, and provide sufficient date to verify this. Lastly, there are also areas where the City ought to integrate newer federal regulations and programs into the City's enforcement program and coordinate with the federal Department of Environmental Protection ("EPA") Region II, in order to more effectively advance these goals.

Below are some suggestions as to how existing law could be more effectively enforced to reach LL1/04's goal of eliminating lead poisoning, and some suggestions for amendments to reach some of the more egregious holes in enforcement.

AREAS IN WHICH CITY DOES NOT CONDUCT ENFORCEMENT

A. Enforcement of Landlord's Annual Inquiry and Inspection Obligations

Issue: Under §27-2056.4, the landlord is required to provide tenants with an annual child inquiry notice; provide a pamphlet informing occupants about lead paint hazards; include lease provisions detailing the landlord's obligations; conduct annual inspections; provide written reports of those inspections to tenants and maintain records for 10 years. The City does not take any meaningful action to enforce this provision, such as audits to confirm compliance with these obligations, issuance of fines, or prosecutions. Data indicates that since the enactment of LL1/04, the City has never placed a single violation for non-compliance or taken any other enforcement action.

What the HPD could do:

1. Follow Up After Violation: § 27-2056.6 provides that where there is a violation for lead based paint, HPD can request records of the most recent annual inspection.
    a If such records are not produced, HPD should place a violation under §27-2056.4(g), and
    b Conduct an audit similar to that required by§27-2056.7

2. Random Audits: § 27-2056.4(h) gives HPD the power to do "sample audits" to determine compliance. HPD could develop a sampling protocol, such as:

   a Conducting sample audits in 5% of buildings where HPD has inspected and cited violations of any nature, or where HPD has cited lead violations;

   b Increasing that amount of audits if excessive violations are found. For example, in the event that, in a given year, HPD finds non-compliance in excess of 25% of the buildings audited, HPD shall increase the auditing to 10%, until such time as non-compliance drops below 25%.

What the Council could do:

1. Amend Administrative Code § 27-2056.4 to require that HPD audit a minimum of 100 buildings annually to determine compliance with that section.

2. Amend Administrative Code § 27-2056.9 to require that HPD, upon identifying any lead-based paint in a dwelling unit with an XRF machine, request all records be provided within 45 pertaining to compliance with 27-2056.4, and upon finding non-compliance, take enforcement action to seek the penalties provided under 27-2056.4(g).

3. Amend the Administrative Code § 27-2056.12 to require that HPD report the number of investigations conduction and violations or other enforcement actions taken for violation of § 27-2056.4.

4. Amend Administrative Code § 27-2098 so that multiple dwelling registrations also require that if the building is subject to § 27-2056.4, for each dwelling unit in such dwelling (i) the name of the persons who performed the investigations and any remediation since the most recent registration date and (ii) whether the department has granted an exemption from the presumption established by § 27-2056.5 for such unit.

B. **Enforcement of Turnover Requirements (i.e., work at vacancy to permanently eliminate certain lead hazards)**

Issue: The City has no mechanism of plan for enforcement or audits, only complaint driven. Data indicates that since the enactment of LL1/04, the City has placed just two violations for non-compliance.

What the City could do:

1. Follow Up After Citation or Violation: HPD could follow-up whenever it finds lead-based paint violations under § 27-2056.6 on a surface that should have been abated at turnover.

    a As a matter of course, when issuing a violation, HPD could inquire of the tenant how long they have resided there. If tenancy began after August 2, 2004, there is a prima facie violation of the turnover provisions.

b *Liase with DHCR.* HPD could also attempt to work out a data sharing agreement with NYS DHCR (which keeps records of annual registrations of rent regulated apartments which include changes of tenancy) to identify apartments that have had a vacancy since LL1/04 went into effect.

c A violation could automatically trigger an audit of the landlord, including a request for records of all turnovers in the building since August 1, 2004, and verification of whether landlord complied:

(1) §2056.17 requires records to be kept for 10 years, if no records are available, this is a violation

(2) Results of the records review could trigger inspections of other apartments with children in the building

2. Random Audits: HPD could also conduct random audits in violation-prone buildings (such as buildings in AEP):

a *Sampling*: Audits could be required for a certain percentage of apartments in violation prone buildings with children under age 6 where there has been turnover in the past 10 years. A building would be considered "violation prone" if a specified number of violations were issued or complaints were made within a specified time period.

b *Prior Notification*: HPD could require prior notification by landlords of apartments being vacated in violation prone buildings

so that HPD could inspect and record the condition both immediately before and immediately after the remediation is performed.

c *Presumption of LBP*: One cost effective and logical approach would be to presume that intact lead paint on friction and impact surfaces, in a post turnover apartment, violates the turnover requirements if there is no evidence that either the window or doorframe have been replaced in the interim. This is a rational presumption that HPD could make in its rulemaking and would not need additional statutory authority.

3. Explore the use of the interface between the federal lead disclosure law (42 USC 4852d) and the turnover abatement law (§ 27-2056.8).

a Federal law requires sellers and landlords to disclose all records of lead-based paint and lead-based hazards (including dust tests). LL1/04 requires landlords to document in writing to the incoming tenant that they did the required turnover work, including dust tests. Often, we see initial leases where landlord sign one form "Certifying" that they did the required abatement work at turnover, but then sign another form certifying under federal law that they have no records. Obviously, one of these statements is false.

b We see Section 8 leases approved by NYCHA, and leases approved by DHS, where the landlords behaved just as above. The City should not permit this kind of "siloing" to continue.

c The City Could also work with federal HUD and/or EPA on enforcement of these disclosure rules.

What the Council <u>could</u> do:

1. Amend the Administrative Code § 27-2056.12 to require that HPD report the number of investigations conduction and violations or other enforcement actions taken for violation of § 27-2056.8.

2. Amend Administrative Code § 27-2056.9

   a. to require that HPD, when investigating any violation of LL1/04, request from the occupant the date of turnover (and, if subsequent to the August 2, 2004, effective date of LL1/04, inspect for compliance with 27-2056.8).

   b. to require that HPD, upon identifying any lead-based paint in a dwelling unit with an XRF machine, request all records be provided within 45 days pertaining to compliance with 27-2056.8, and upon finding non-compliance,

      i. issue a violation, and

      ii. require that all the work that should have been performed at turnover be performed within 45 days.

3. Amend Administrative Code § 27-2056.8 to require that HPD audit a minimum of 100 buildings annually to determine compliance with that section.

4. Amend Administrative Code § 27-2098 so that multiple dwelling registrations also require that if the building is subject to § 27-2056.8, for each dwelling unit in such dwelling (i) whether such unit turned over during the period covered by such registration, (ii) the name of the persons who performed the investigations and any remediation since the most recent registration date and (iii) whether the department has granted an exemption from the presumption established by section 27-2056.5 for such unit.

C. **Safe Work Practices ("SWP")**

Issue: City has no meaningful enforcement scheme, and it remains only complaint driven

What the City could do:

1. Follow Up After Violation: For work done pursuant to § 27-2056.11(a)(1), after a lead paint violation has been issued, HPD could audit a percentage of lead Notice of Violations ("NOV ") corrections to ascertain compliance with law, including whether tenants are being provided with dust test results, per § 27-2056.11(d).

2. Random Audits:

a For work done pursuant to §27-2056.11(a)(2)(i), where no lead paint violation was involved, or where the size of the job was small, HPD could:

(1) audit a percentage of NOV corrections for other Housing Maintenance Code ("HMC") violations or Department of Buildings ("DOB") jobs that did not involve lead violations but did fall under the SWP requirements (i.e., disturbing more than de minimis areas of painted surfaces, such as opening a wall to install new plumbing or wiring, or a collapsed wall) to see whether SWP and dust testing were followed (landlord should have records of where children reside); and

(2) develop a system for spot checking these types of projects.

b For work done pursuant to §27-2056.11(a)(2)(ii), where no lead paint violation was involved, but where the size of the job was larger (i.e., > 100 ft. in a room or removal of 2 windows), prefiling is required with DHMH per § 27-2056.11(a)(2)(ii) . My information is that less than 100 of these are filed each year -- which, obviously would indicate massive non-compliance. HPD and/or DHMH could:

(1) Develop a protocol to coordinate with DoB:

(a) Large renovations that are being permitted by DoB should trigger a pre-filing notice; and

(b) Require that DoB job applications include a box to check off regarding whether the work involves activities that would trigger the requirement for pre-filing with DHMH.[11]

(2) Perform a statistical analysis of DHMH filings to cross-index with DoB filings.

(3) Coordinate with EPA Region II to boost compliance between NYC laws on pre-filing and pre-renovation warning requirements of 40 CFR § 745.84.

c For compliance with the prohibition in § 17-181 on dry scraping /dry sanding; HPD could:

(1) utilize some of the same mechanisms as above.

(2) do spot checking of contractors in coordination with Department of Consumer Affairs ("DCA") and EPA region II (Repair Renovation and Painting ("RRP") program).

d For compliance with posting of warning signs in stores (HC § 173.13(a)(2)& (3), HPD could:

[11] The building permit application form ("PW1") could be amended to include a section regarding Lead Paint Abatement and Safe Work Practices Compliance, and building permits not be issued unless compliance is certified. Such a provision would be similar to § 22 of the PW1 form regarding Asbestos Abatement Compliance which requires DEP sign off.

(1) Devise a plan w/ DCA to inspect set percentage of hardware and paint stores each year for signage.

(2) Coordinate with EPA Region II's RRP program for contractor compliance monitoring

e For Day Care center compliance with annual survey and reporting requirements (§ 17-913 and Health Code § 47.63(e)), HPD should:

(1) Conduct yearly audits to confirm receipt of annual surveys

(2) If survey is not submitted, issue violation.

What the Council <u>could</u> do:

1. Amend the Administrative Code to require that DHMH report the number of investigations conduction and violations or other enforcement actions taken for violation of § 27-2056.11.

2. Amend the Administrative Code § 27-2056.14 to require that DHMH,

a. when investigating a report of a child with an elevated blood lead level, inspect the all newly completed or ongoing construction work in the rest of the building of the child's residence (or, as needed, adjoining buildings) for compliance with the SWP requirements of § 27-2056.11 and 40 CFR Part 745 Subpart E (the federal renovation, repair, and painting rules).

b. If DHMH finds a violation of SWP in a common area of the building, notify all residents

3. Amend the Administrative Code to break down silos between DoB, DHMH, and HPD:

   a. Amend § 27-2056.13 to require that notice of HPD lead violations be sent to DoB.

   b. Amend § 24-223 to require that where DoB is informed of lead-based paint hazards or any orders relating to lead-based paint issued by HPD or DHMH, take appropriate action, including deny after hours work permits and notify occupants.

   c. Amend § 28-207.2 to give DoB the power to issue stop work orders for violations of the SWP.

   d. Amend § 28-207.2.3.1 to allow the recission of stop work orders where lead hazards are at issue only upon both DoB and DHMH determining that the unsafe work practices have been cured, and require that the owners of occupied buildings in those circumstances notify by mail all occupants the stop work orders including the reasons why the orders were issued, the lead dust test results, and require that a lead mitigation plan be prepared.

   e. Amend § 28-104.8.1 to require that building permit applications require the owner certify that either (1) it has notified DHMH pursuant to 27-2056.11(a)(2) of the work, or (2) the scope of the work does not require the notification to DHMH. Require DoB to transmit such

permit applications to DHMH where the owner avers it had notified DHMH.

f. Amend § 28-104.8.4 to require that building permit applications require the owner certify compliance with the pre-notifications to DHMH pursuant to 27-2056.11(a)(2)

AREAS WHERE THE CITY MAY NEED TO IMPROVE ENFORCEMENT

There appear to be significant indications that the enforcement timeframes provided in the law may not be being met.

D. The HPD annual reports, required by § *27*-2056.12, really do not provide much detail (every fiscal year HPD is required to report to the City Council on its implementation of the law containing a statistical profile of multiple dwellings where violations have been placed). The Council could request that a far more detailed report be provided, such as:

1. Report data regarding HPD's compliance with timeframes for:

   a initial inspections within 10 days of complaints;

   b issuance of NOVs within 10 days of inspection;

   c reinspections with 14 days of due date for correction; and

   d correction by HPD within 45 days after reinspection finds non-compliance.

2. With respect to the City's responses to children with elevated blood levels ("EBL"), data could be provided to confirm the timeliness of:

   a DHMH inspections;

b referrals to HPD for correction upon owner non-compliance, and

c correction by ERP.

3. § 27-2056.7 requires that the City audit and inspect other apartments in a building once a child with an EBL has been identified. Data could be provided as to:

a how many audits requested;

b the percentage of owners that complied with requests for documents;

c the criteria which HPD uses to find responses adequate;

d the percentage of cases where HPD found owner responses to be inadequate; and

e the percentage of those cases where HPD did its own inspections as a result.

DAILY NEWS

New 'home' for ma, 5 kids is a lead-paint nightmare

Pamela Yearwood and her 18-month-old son, Avery, in violation-plagued upper Manhattan apartment where she and her family were placed by city. Photo by Howard Simmins/Daily News

THIS WAS SUPPOSED to be the year that Pamela Yearwood finally got her family out of a homeless shelter and into a new apartment.

Instead, she's trapped in a maze of the city's making – put in an unsafe apartment by one city agency, threatened with having her children taken away by another.

And she still doesn't know if the apartment she shares with her five children is really free of peeling lead paint.

"Somebody wasn't doing their job to move me in with all these violations," Yearwood said.

Housing advocates say Yearwood's case is increasingly common as the city puts more families facing homelessness in apartments under a program called Advantage.

In fiscal 2010, the number reached a record 7,600, about a 76% jump from the 4,334 of two years earlier.

That spike in placements, advocates say, means more families facing alarming conditions like lead paint, rats and busted boilers.

Patrick Markee of the Coalition for the Homeless called the situation "unconscionable."

EXCLUSIVE

BY TINA MOORE
DAILY NEWS STAFF WRITER

"Mayor Bloomberg and administration officials need to totally revamp the broken Advantage program and stop jeopardizing the health of vulnerable children and parents," he said.

Yearwood, 26, began her arduous battle with the city in early August, when she and her kids were moved from a Bronx shelter to an apartment in upper Manhattan.

The city Homeless Services Department inspected the apartment and found it livable, records show. The agency says the videotaped inspection shows no sign of peeling paint.

The department says it found no evidence of open lead-paint violations, illegal conversions or suits against the landlord.

Two weeks after moving in, Yearwood called 311 about a clogged tub and sink.

City Housing Preservation and Development Department inspectors showed up and found 16 violations – including three for peeling paint that tested positive for lead.

"The city is supposed to make sure landlords abate lead paint," said lawyer Matthew Chachère of the Northern Manhattan Improvement Corp. "They [had] said, 'Everything's hunky-dory.' "

A recent visit showed paint flaking off the doorway outside the children's bedroom and nails jutting from the rough wooden floor.

Housing Court ordered the city to remove the lead paint immediately and make landlords Robin Ignico and Gateway Ventures LLC fix the other violations.

The city wasn't done with Yearwood, though. In August, the Administration for Children's Services learned of the lead and threatened to take Yearwood's children away if she didn't move, she said.

"They knew I didn't have anywhere else and that I would have to go back to [a] shelter," Yearwood said. ACS declined to comment.

Chachère persuaded ACS to back off its threat and got Yearwood temporary housing for three weeks, during which management was supposed to get the lead out. In October, the Homeless Services Department said it was okay to move back in.

As soon as she arrived, Yearwood found peeling paint on doors and windows.

"Everything was exactly the same," she said.

Housing Preservation and Development inspectors issued five more lead-paint violations. The city ordered the landlord to fix all lead violations by next Monday; a court ordered the fixes done by yesterday.

Ignico, the building's registered agent, told the Daily News repairs had been made and that the city had signed off on them. Housing Preservation and Development denied that.

Last month, Chachère got Yearwood clearance for yet another apartment – but she's at her wit's end.

"Now I have to find another apartment," she said, breaking into tears. "We gotta move again, we have to change schools again."

tmoore@nydailynews.com

Wednesday, November 17, 2010

DAILY NEWS

Could be jail if landlord can't clean up act

EXCLUSIVE

BY TINA MOORE
DAILY NEWS STAFF WRITER

THE LAWYER FOR a woman placed in a dangerous apartment by the city asked a judge yesterday to force her landlord to get the lead out – or face jail time.

Last month, a Manhattan Housing Court judge told the owners at the Ellwood St. apartment to prove they had fixed up dangerous conditions, including peeling lead paint, by Monday.

The deadline passed with no action, so Northern Manhattan Improvement Corp. lawyer Matthew Chachere – calling the failure "willful and deliberate" – asked that the landlord to be held in contempt of court.

If the order is granted, owners Gateway Properties and Robin Ignico could face fines or jail. Ignico did not return calls seeking comment.

In August, the city Department of Homeless Services moved Pamela Yearwood, 26, from a Bronx shelter to the upper Manhattan apartment after an inspector deemed it livable, records show.

The mother of five said she found peeling paint, faulty plumbing, a busted fire escape and dangerous floors. City Housing Preservation and Development Department inspectors found 16 violations.

Three of the violations were for peeling paint that tested positive for lead, records show. Lead paint can cause brain and nerve damage in young children.

HPD returned and found five more lead paint hazards last month. Those violations still haven't been repaired, Chachere said.

"I want them to stop running away from their responsibility," Yearwood said. "If you had rectified the problem in the first place, we wouldn't be here."

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Thank you to the Chair and Members for hearing my testimony.

I am very grateful to be living in a city where our local representatives are examining and setting forward the groundwork for such expansive legislation to protect our children from lead.

My name is Fran Agnone and today I am speaking in support of bill Intro 2018-420 regarding testing lead in our soil. I speak today as an employee of the National Wildlife Federation, a national education and outreach organization with 501(c)(3) status that encourages outdoor play and environmental stewardship activities.

As an environmental educator, I had been aware of lead in city soil and the precautions one should take when growing crops. However, as a result of my work in Greenpoint, Brooklyn where preliminary research began to shed light on elevated lead levels in local soil[1], I now know that there are also dangers associated with inadvertent ingestion of soil as a pathway for lead exposure in young children[2].

As awareness of the issue spread in Greenpoint, the need for a public outreach and education campaign aimed at caregivers of young children became clear.

Last year I worked with a coalition of parents from PS110K to determine what type of language and messaging could mitigate fear of lead when playing outdoors, a necessary and crucial part of any child's development[3], without downplaying the potential threat to their children's health. Together we developed a postcard of preventative actions in three languages that parents could reference to keep outdoor play safe.

After reviewing the Bill's language, I believe it can be even stronger if it considers including a similar public outreach and education component that addresses the lack of knowledge around the issue of lead in soil. I have submitted more examples of specific language and framing as part of my testimony.

Additionally, I would say that the actions you take today to remediate soils in New York City will surely set an example far beyond the five boroughs. Thank you for your time.

- That in addition to testing soils and clearly posting test results in accessible locations, I suggest an outreach and education component to properly educate and mitigate fears in

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1 https://blogs.ei.columbia.edu/2017/10/09/many-backyards-in-brooklyn-neighborhood-are-contaminated-with-high-levels-of-lead/

2 https://www.npr.org/sections/health-shots/2013/04/04/176257595/soil-lead-may-be-an-overlooked-threat-to-kids-health

3 https://www.nwf.org/en/Kids-and-Family/Connecting-Kids-and-Nature/Health-Benefits-and-Tips

the caregivers of young children who may be learning about the issues of lead in soils for the first time. Unless soil safety is proven with thorough testing, I would recommend that - when working and playing in urban soil - we should always adopt the Precautionary Principle when it comes to guarding children's health and assume lead levels are elevated.[4]

- Last year we worked in Greenpoint to create a list of best practices[5] for guardians of young children to implement when playing outside, from frequent hand washing to avoiding bare patches of soil. I suggest the Council look at this resource as an example of clear messaging and practical advice needed to communicate preventative behavior and to deepen understanding of the issue.

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[4] https://www.publicnewsservice.org/2018-08-24/environment/keeping-kids-play-safe-from-lead-hazards-in-soil/a63791-1

[5] https://www.nwf.org/Home/Latest-News/Press-Releases/2018/07-23-18-Soil-Safety

My name is James Markowich. I am a rent-stabilized tenant in Manhattan, associated with Tenants Taking Control (aka TTC) and the Cooper Square Committee. As a tenant, I have experienced lead dust-related problems, and so I am an active participant in LDFNYC, working toward a Lead Dust Free New York City. In that regard, I'd like to address an existing practice in New York City that actively promotes the release of lead dust. It's known as Predatory Equity.

Banks and developers have created a speculative environment in which buildings that include rent-regulated tenants are targeted and overvalued, based on the assumption that those tenants can be induced into leaving. Madison Realty Capital (my corporate landlord) values the 15 buildings in its "portfolio" at almost 4x the value placed on them by the NYC Department of Finance. This disparity creates tremendous pressure on affected tenants.

One of the methods by which unethical landlords try to remove such tenants is known as "construction as harassment." Emptied apartments are taken down to the lathing in slipshod, haphazard manner, endangering the welfare of tenants and workers. When this happened in my building in March of 2016, it resulted in lead dust levels 16x the EPA safe level limit. Two toddlers lived in the building then. That family has since fled.

The city is currently lacking in oversight of demolition practices like this, which, in the current climate of hypergentrification overwhelming us now, are threatening to make it impossible for middle and lower income people to live here. We need immediate, increased awareness on the part of the city wherever predatory equity practitioners are renovating existing housing stock, and immediate enforcement of Local Law 1 in every case.

With regard to the upcoming bills, I am generally in support of them all. Bill #874, requiring the Department of Buildings and the Department of Health to work together, would be especially helpful. Thank you for thinking along these lines, as tenants need legal protection to counterbalance the money and undue influence of organizations such as the Real Estate Board of New York. Thank you.

New York City Council Committee on Environmental Protection
From: Murray McBride, Hannah Shayler, Yolanda Gonzalez, and Sam Anderson
Date: September 27, 2018

Subject: Comments regarding Proposed Int. No. 420-A, relating to soil lead contamination in public areas

The *Healthy Soils, Healthy Communities* partnership (http://blogs.cornell.edu/healthysoils/) -- led by Cornell University, the New York State Department of Health, Brooklyn College, and other partners -- brings together diverse urban gardening, community engagement, and public health interests including scientists (biogeochemical, soil, environmental health and behavioral), Extension educators, community partners, gardeners, and an advisory committee incorporating insights from government agencies and community engagement, public health, urban gardening and agriculture, environmental and education perspectives. *Healthy Soils* aims to better understand and address health risks related to soil contamination, and to develop and promote scientifically sound healthy gardening practices throughout New York State and beyond. The *Healthy Soils* team now works closely with the Legacy Lead Coalition to proactively and equitably address the history of lead contamination in NYC.

As members of the *Healthy Soils* partnership, Cornell Cooperative Extension Harvest New York, and Legacy Lead Coalition, we want to thank New York City Council Members Constantinides, Holden and Cumbo for attending to the legacy of lead in the city and for holding this meeting. We strongly support Proposed Int. No. 420-A, which addresses testing for and remediating lead in the soil of public parks, community gardens, and privately owned public spaces accessible to children. However, as outlined in this testimony, we ask that the Committee consider the need for additional discussion regarding funding for testing and remediation, testing protocols and frequency, record keeping, and remediation best practices. We are glad that the council recognizes the profound risks associated with exposure to lead in soil. We have provided a summary of research-based findings and have attached this to this testimony for additional information and reference.

We appreciate and applaud the Committee's efforts to address the need for soil testing and remediation to minimize Pb exposure in community spaces, and to support communities in gathering information about soil Pb levels and taking appropriate action steps. To most effectively reach these goals, we recommend the following changes:

1. We urge you to consider the need for funding for testing and remediation to ensure that sufficient resources (including remediation materials such as clean soil, compost, wood chips, etc.) are available to reduce community exposures in areas where elevated Pb concentrations are identified. Adequate funding will support improvements to soil quality while maintaining the many benefits currently offered by community green spaces, and help provide assurances that gardens, parks, or other areas will not be unnecessarily shut down because of test results or the perceived stigma of contamination. Without such funding, this bill could lead to the indefinite closure of key community spaces.
2. Include clear protocols for testing, record-keeping, and interpretation of results that will inform the remediation process and maximize benefits to the NYC community. We strongly urge the City Council to work with not only the Department of Health and Mental Hygiene in establishing a system for determining lead levels and remediating lead hazards of covered soil areas, but also seek the expertise of soil scientists and geochemists, including those with *Healthy Soils* and Legacy Lead.

3. Clarify when the mandates of this law are in effect and how they can be met. Examples of language that would benefit from additional specificity include:
    a. *"For the purposes of this section, the term "covered soil area" means an area that is (i) partially or wholly covered in bare soil and (ii) accessible to children."*
        i. How much bare soil will initiate the testing process?
        ii. Does this include grassy patches?
    b. *"In each park, playground and other facility under the jurisdiction of the commissioner, the department, in conjunction with the department of health and mental hygiene, shall (i) at least once in each year cause a lead test to be conducted, in a manner established by rule of the department of health and mental hygiene, on a sample of soil from each covered area on the premises of such facility and (ii) make publicly available online a copy of the results of such test."*
        i. How many samples will be collected? What analytical methods will be used? What about schools, daycare centers, or gardens?
    c. *"The department of health and mental hygiene may reduce the frequency of sampling required under subdivision c of this section from once in each year to once in every three years upon submission of an application, in a form established by such department, showing that for each of the immediately preceding three years, the results of sampling in accordance with such paragraph have indicated that lead levels in such samples were below the soil lead reference levels established under subdivision b of this section."*
        i. Will reduced testing frequency make more resources available for remediation?
4. Robust, comprehensive, science-based remediation practices are essential to maximize public health benefits. The proposed remediation plan to "*Cover, replace or otherwise remediate such soil area in a manner established by rule of such department*" will require thorough consideration of available resources, site use and conditions, community needs, and demonstrated effectiveness of proposed action strategies. The law should require that the agencies consult with soil scientists, Extension educators, community members and others with relevant expertise on the specifics of proposed strategies for specific sites that need remediation.

We appreciate your time and consideration of this important topic, and look forward to seeing the issue of lead in NYC's community spaces addressed proactively and comprehensively through this proposed legislation and associated activities.

Respectfully,

Dr. Murray McBride, Professor of Soil and Crop Sciences, Cornell University

Dr. Jonathan Russell-Anelli, Senior Extension Associate and Senior Lecturer, Cornell University

Hannah Shayler, Extension Associate, Cornell University
Healthy Soils, Healthy Communities Project Coordinator

Sam Anderson and Yolanda Gonzalez, Urban Agriculture Specialists, Cornell University
Cornell Cooperative Extension, Harvest NY

Research-based findings on risks of soil lead exposure:

The need for affordable, locally-produced food and urban greenspaces continues to fuel interest in urban gardening, urban agriculture, and safe community spaces, and underpins our support for the proposed Int. No. 420-A. Urban production helps provide food security, economic savings, opportunities for recreation and community building, reductions in environmental impacts of long-distance food transport and diverse benefits for public health [1,2,3]. However, gardens and farms are often located on vacant lots and abandoned properties with a history of contamination, and can contain a number of soil chemicals that may contaminate fruits and vegetables and pose risks to human health [4]. Other public spaces such as parks and playgrounds are similarly impacted by lead and other contaminants, resulting in exposures as people work or play. *Healthy Soils* and Legacy Lead continue to hear the NYC community requesting support for soil testing and practical, cost-effective strategies to address soil contamination and ensure the safety of locally-grown foods and public spaces. Lead (Pb) is of particular concern:

- *Health risk from lead exposure.* Any exposure to Pb is potentially harmful to human health since no threshold for adverse effects has been identified [5]. Elevated blood Pb levels are associated with intellectual impairment in children, decreased performance of the nervous system, and increased blood pressure, anemia, and reproductive effects [6-9].
- *Soil Pb is a determinant of Blood Lead Levels (BLLs).* Soil acts as a reservoir for historically released Pb. Exposure can occur through direct contact as well as suspension and subsequent hand-to-mouth contact (e.g., with soil-containing dust) – a major pathway of childhood exposure [10]. As direct exposure to Pb in gasoline emissions and paint has decreased, a growing body of literature is reporting that soil lead exposure is the most important determinant of children's BLLs and the cause of their seasonal fluctuations [11-25].
- *Gardens and other areas increase exposure to soil.* Gardens provide a direct point of contact with soil Pb and opportunity for food-related exposures. Bare soil areas in gardens, parks, and other community spaces may also act as a neighborhood Pb source through suspension and subsequent deposition, and tracking into homes. Direct ingestion of garden soil is a concern. Studies, including our own, have shown garden-raised produce can contain elevated Pb [26-31].
- *Soil Pb levels in many NYC gardens are high.* The NYC metropolitan area was ranked #2 of 90 urban areas in the US in historical Pb emissions [32]. Our previous work has shown that Pb is of the greatest concern in NYC community and home garden soils, with levels reaching several thousand ppm, while other metals, such as arsenic and cadmium, rarely exceed health-based guidelines [4, 33-34]. Among 74 community gardens that we have systematically sampled, 96% had one or more soil samples with Pb levels >100 ppm and 43% had one or more samples exceeding the Federal residential Pb hazard standard of 400 ppm [4, 34-35]. About 45% of 1236 home gardens we tested in NYC were also found to have one or more samples exceeding 400 ppm [36].
- *This health burden is on vulnerable communities.* Surveys suggest that 59-68% of gardeners consider themselves black or Hispanic, and 91% of the 482 mapped NYC community gardens [37] are in "potential environmental justice (EJ) areas" designated by New York State based on household income and percent minority [38]. Many EJ communities have higher levels of pollution, as well as higher rates of diabetes, cardiovascular disease, asthma, and childhood Pb poisoning [39-40].

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TESTIMONY OF COREY M. STERN
September 27, 2018

Committee on Environmental Protection
Committee on Health
Committee on Housing and Buildings

Committee Members:

My name is Corey Stern. I have dedicated my legal career to representing lead poisoned children across the Unites States. I'm grateful that you invited me to testify today.

In Flint, Michigan, I represent 2,500 lead poisoned kids, individually, and I was appointed "Lead Counsel" for all individuals who were injured as a result of the Flint Water Crisis.

In New York City, I represent more than 150 kids, individually, who have tested with elevated lead levels while living in NYCHA housing. I also represent over 100 children that were lead poisoned in private homes, or residences that are part of the Section 8 program.

I am responsible for the class action lawsuit that was filed in the Southern District of New York against NYCHA, Shola Olatoye, and Mayor deBlasio, amongst others, on behalf of all residents, not just children, for violations of the Fair Housing Act ("FHA") and the Residential Lead-Based Paint Hazard Reduction Act ("RLPHRA").

I represent hundreds of children in New Jersey, Philadelphia, Chicago, Cleveland, St. Louis, Detroit, Toledo, Oakland, Pittsburgh, Baltimore, and Washington, D.C., to name some of the larger cities that, like New York, are dealing with severe and large-scale lead hazards.

My wife and I live with our two boys in Brooklyn. My sons attend public elementary school in District 15.

I know that the work that you do is often thankless, and people like me – who have never run for office or stepped into that particular arena – have an easier time being critical of you than

we do understanding the sacrifices you continue to make to serve our communities. I want to thank you publicly for the work you do. My kids are as happy with their lives as nine and ten year old boys can be. And whether it is because of the school community you've helped build, or the streets you've made a bit safer, or the projects you've supported in our parks, piers, or on our block, somewhere in their smiles every day, as they bop around the streets of Brooklyn with flat rim hats, wearing whatever makes them happy, in a place they are judged less than anywhere else, there is a piece of your labor.

I. UNDERSTANDING THE DANGERS OF LEAD

So what is lead? Lead is a naturally occurring element found in the earth's crust. It is eternal, meaning it cannot be altered or diluted. Like all elements, lead will exist forever, in the same quantity that it exists today and has existed since the beginning of time. Lead is a neurotoxin, so when certain quantities are absorbed by people, specifically young kids, lead causes brain damage.

Lead poisoning really is brain poisoning.

The fact that lead is poisonous has been known for thousands of years. Over the last hundred years, lead was most commonly known for its use in gasoline. Lead began being added to gasoline in the 1920s to reduce knocking or pinging within internal combustion engines. Due to the harmful effects of leaded gasoline on people's health, as well as its negative environmental impact, leaded gasoline was phased out through various legislative efforts, and unleaded gasoline was introduced to the mainstream in 1974.

Today, the most widespread place where lead is found is in old paint. Buildings constructed before 1978 typically contain paint that was lead-based. Lead in paint served as filler and as a whitening agent. But the use of lead-based paint was banned nationally almost

four decades ago, in 1978, and back even further in New York City, in 1960. Anyone who has ever owned or rented a home, let alone a sophisticated landlord, knows that lead-based paint is not permitted. An individual cannot rent or close on a property without executing a disclosure associated with lead-based paint, as mandated by state and federal law.

Lead-based paint becomes dangerous to young children when it chips, flakes or is contained on friction surfaces, like window sills, where dust can be created. Children, particularly very young children, are most susceptible to ingesting lead paint because of how their mobility evolves – from rolling around on the ground, to learning to crawl, to learning to prop oneself up, to being able to stand, to walking. Children are of course more prone to placing things in their mouth. So the dust that might accumulate on a friction surface can easily find its way to a child's hand and mouth sooner than it would an adult. To compound matters, lead-based paint chips have a sweet taste, so if a child puts one in his mouth, he will likely enjoy the taste and be prone to do it repeatedly.

Unlike polio, chickenpox, and the flu, there is no vaccine for lead poisoning. There is also no cure. Once a child ingests a certain amount of lead he will be lead poisoned. And even if the lead is flushed from his body, the poisoning that occurs is irreversible.

How do we know if a child is lead poisoned? A simple blood test will indicate if a child has been lead poisoned. Such a test will reveal a "lead level." Lead is measured in micrograms per deciliter of blood. Since the early 1970s, first the Surgeon General and then the Centers for Disease Control ("CDC") defined childhood lead poisoning as "X" number of micrograms per deciliter of blood. In 1971, the Surgeon General stated that a lead level of 40 micrograms per deciliter of blood constituted lead poisoning. In 1975, the CDC lowered the level to 30

micrograms per deciliter. In 1985, the CDC lowered the level to 25 micrograms per deciliter. In 1991, the CDC lowered the level to 10 micrograms per deciliter.

Most recently, in 2012, the CDC changed its view on blood lead levels because of "a growing body of studies concluding that blood lead levels lower than 10 micrograms per deciliter harm children" with "irreversible" effects, and "since no safe blood lead level in children has been identified, a blood lead 'level of concern' cannot be used to define individuals in need of intervention." At that time, the CDC changed its definition of "lead poisoning" to 5 micrograms per deciliter.

So when we talk about micrograms and deciliters, what are we really talking about? How much lead is really required to poison a child? It is appropriate to use a few real world examples to give a real world sense of how much lead and how much blood equates to poisoning. With that in mind, consider this: one single grain of sand has been compared to 25 micrograms. Because five micrograms of lead per deciliter of blood constitutes lead poisoning, 20%, or one fifth of a grain of sand worth of lead, per deciliter of blood, is lead poisoning.

So what is a deciliter? One deciliter equals 3.33 fluid ounces. A shot glass contains 1.5 fluid ounces. Thus, for a child to be lead-poisoned, if you filled two shot glasses with his blood, there would need to be only one fifth of a grain of sand worth of lead in his blood for him to be lead poisoned.

It isn't much.

Lead poisoning is a "dose/response" disease, meaning the severity of the poisoning is dependent on the amount of lead ingested and the length of time during which a child is exposed. Simply put, when lead is in a child's body, damage is being done to his brain, and the longer the lead is present in his environment and he is being poisoned, the more damage is being done. The

extent of damage is also a function of the age of the child because the smaller the child, the less developed his brain and the more susceptible he is to lead poisoning.

There are two prevailing myths about lead-based paint and lead poisoning that are without any merit and have repeatedly proven to be false: First, some people believe that by simply painting over lead-based paint, they can prevent lead poisoning in children. This is not true. Painting over paint creates layers of paint, but when a piece of paint chips, it contains paint from each of the layers that were ever on a surface. So a child that eats a paint chip off a wall that was freshly coated, is still consuming lead-based paint, unless an owner or painter had completely stripped the surface of all coats of paint prior to repainting. A fresh layer of paint only prevents lead poisoning if the most recent paint job remains intact. If there is a leak, or other disturbance creating paint chipping or dust, that is enough to cause a condition that will lead to lead poisoning, because it releases into the environment all of the paint from the previous paint jobs.

Second, some people believe that by continuously cleaning a residence, a child cannot be lead poisoned. This too is untrue. Because of friction surfaces, like a door well or door frame, wherein a door opens and closes repeatedly, rubbing against a solid material that has been painted, no amount of cleaning can rid that environment of dust containing lead, unless those friction surfaces are completely unused after cleaning.

While lead-poisoning doesn't discriminate based on race or gender, low-income children seem to be the most affected. And that makes sense because in very big cities, like New York City, that have high populations but limited square footage, demand for space is at a premium, and renovations/reconstruction are rare. Also, most big cities have the oldest buildings, and of those buildings, the great majority is part of public housing. Public housing in most cities also

comprises apartments that are the least likely to be properly remediated. So the children that are most likely to be lead poisoned are those that live in public housing in big cities.

II. NYCHA – CRISIS & CONDUCT

When it comes to NYCHA and what I would certainly call a "crisis," it helps to use Flint as a comparison in understanding the scope of those potentially affected. At the height of the Flint Water Crisis, there were 100,000 residents in Flint. Roughly 21 percent of those were under the age of eighteen, with about 7,000 under the age of seven. There are, and for some time have been, roughly 400,000 NYCHA residents, with about 30,000 of them being children under the age of seven. So the number of children exposed to lead hazards in NYCHA dwellings at this point in time is four times greater than those exposed in Flint during the height of the Flint Water Crisis. But that comparison is a bit deceiving, because in Flint, the crisis had a definitive start date of April 21, 2014, and some people argue it has ended. We know for a fact that the issues with lead inspections in NYCHA housing go back to at least 2012, and most agree pre-date the deBlasio administration.

Specifically, we know a few things that, when juxtaposed, should scare you:

(1) At any point in time there are roughly 30,000 kids under the age of 7 exposed to potential lead hazards in their NYCHA apartment **buildings**. It's not enough to say "in their apartments." I've been to many of my clients' homes, and kids live in the **entire building**. They go up and down the stairs. They visit neighbors. Parents of different kids take turns helping with the other's kids while mom and/or dad work. They use the elevator. So when we talk about NYCHA housing and lead hazards, we must get out of the habit of

confining the discussion to the unit. A building that has a lead hazard in one apartment necessarily has lead hazards throughout the building.

(2) NYCHA, which is the landlord for those 400,000 residents, is and has been required to do annual lead inspections pursuant to a multitude of laws and regulations, and also to receive certain funding from HUD.

(3) Lead inspections in NYCHA buildings, to the extent they have been conducted at all, have most commonly been performed by unqualified inspectors.

(4) Inspections of NYCHA residences that occurred before 2018, and most that occurred even since, did not include an inspection of common areas.

(5) There are a variety of ways in which the Department of Health ("DOH") will come out to a resident's apartment to inspect for lead hazards, the most common of which is after a child tests with an elevated lead level. If/when the DOH finds lead hazards it notifies the landlord and issues a notice requiring the hazard be dealt with. Every landlord in New York City, including NYCHA, has the right to contest the DOH's findings. NYCHA, as a landlord, routinely disputes the DOH's findings, and the DOH, routinely accepts NYCHA's position and withdraws the notice.

(6) If an apartment has been "inspected," NYCHA is able to procure a waiver for each inspected unit such that the unit need not be inspected for lead.

When you pull all of that together, we have a landlord, NYCHA, which since 2000 housed up to 570,000 children under the age of seven. NYCHA claims it does not need to inspect those apartments for which it has received a waiver, despite the fact that it admits the

inspection upon which waivers have been based were performed by people not qualified or licensed to inspect. NYCHA has thereby reduced the number of inspections it is required to perform on a false premise – that apartments have been properly inspected and deemed safe. NYCHA admits that even when unqualified workers performed inspections, common areas were not inspected. And finally, NYCHA challenges the City's own Department of Health virtually every time a child with an elevated lead level has his home inspected, despite it not properly inspecting in the first place.

Now add this to the mix: In New York, when an individual wants to bring a legal claim against the City or against NYCHA for injuries, even a child, he is required to provide a Notice of Claim within 90 days of when the injury occurred, pursuant to General Municipal Law § 50-E. So if God forbid a child is struck by a City bus, the law requires the parents of that child (or the child himself) to provide "notice" to the City within ninety days of being hit by the bus. If someone falls through the floor of her apartment in a NYCHA building and breaks her neck, she is required to provide "notice" to NYCHA within ninety days of the occurrence.

For kids that are injured, if the ninety days pass without notice being provided, a motion can be made whereby the child, or his parent, or a lawyer for the child can request from the court the right to file a late notice of claim. Obviously, there are literally hundreds of thousands of children that may have been exposed to lead hazards in NYCHA housing, and they certainly would not know it based on a NYCHA inspection, because we all know the inspections were not occurring or at least not occurring properly. Yet, in EVERY SINGLE SITUATION where we have filed a motion with a court to be permitted to file a late notice of claim, NYCHA has challenged the motion, and the City has, in most cases, as well. Thus far, NYCHA and the City have been unsuccessful, but they spend time, resources, and money, to force children and their

parents into court to explain why they should be permitted to file a late notice of claim, without regard for their own conduct in this crisis.

In the end, we have kids that have been poisoned, due in no small part to the conduct of their landlord, and when a poisoned child tries to take legal action, NYCHA and the City attempt to persuade courts that the child should have done something sooner. They have essentially argued that the child living in the home that was not inspected properly or at all should have let NYCHA and the City know he was poisoned or in harm's way, rather than the other way around, which is absurd.

Candidly, kids in private housing, including those that have Section 8 assistance, are also in danger from lead hazards, and the proposals being deliberated at this hearing affect them as well. But no private landlord I have ever dealt with in a case involving a lead poisoned child has ever acted as reprehensively as NYCHA has. And the City has never supported the landlord of a lead poisoned child the way it has NYCHA since this crisis was exposed.

I have reviewed each of the proposals that are on the agenda. There are a number that address lead in water and in soil. Each of these is important, and I support them whole heartedly. We all want our schools and playgrounds to be safe, as well as the water we drink in our homes to be free from lead.

But the most common and overwhelmingly significant source of lead poisoning for children in the United States comes from lead-based paint. In my 15 years of practice, the only lead poisoning cases I have ever prosecuted, outside of Flint, are those that were caused by exposure to lead-based paint and lead-based paint hazards. While improvements to the way we test, collect and evaluate water and soil are absolutely necessary, how we treat lead-based paint hazards in New York City is the most profound issue facing our children's health and welfare.

There are eight proposals that I believe, collectively, are a giant step in the right direction:

- Int. 0464-2018
- Int. 0864-2018
- Int. 0865-2018
- Int. 0873-2018
- Int. 0891-2018
- Int. 0904-2018
- Int. 0919-2018
- Int. 0920-2018

These proposals are incredible in terms of recognizing the need to inspect not just units, but buildings, common areas, and the spaces occupied by our children where they not only sleep at night, but also where they play and visit.

However, these proposals can and must go further.

Each of the eight proposals, in some form or fashion, is centered on when **exactly** either DOH or HPD initiates an inspection. Speaker Johnson proposes that the trigger ought to be in line with what the Centers for Disease Control now considers lead poisoning, which is when a child tests with a lead level of five micrograms per deciliter, and I commend him for recognizing that we are behind the times in terms of when we ought to be required to take action.

But we are all here today in some small part because NYCHA and the City have been reactive to this crisis rather than proactive in protecting our children from lead hazards. And I can guarantee you that the CDC is going to lower the standard for lead poisoning from five micrograms to three, or to two, or to one microgram per deciliter. The CDC has already stated

publicly that there is no safe level of lead. So I urge you to think more proactively and to seriously consider changing the trigger for lead inspections to a child with ANY lead level, so when the CDC does what it always does, which is reduce the level of what it defines as lead poisoning, we as a community can stand proudly and know that our City did right by our kids.

I also urge you to insist that when a child tests with an elevated lead level, which he or his parents allege occurred in a NYCHA building, that NYCHA and the City waive their rights to be provided with a "notice of claim" within ninety days, as it is inherently unfair for a landlord to poison a child, for City politicians to deny it occurred, and then to tell a child or his parents that he is out of time in making a claim because he failed to tell the people that hurt him or lied about it soon enough. As a community and as a government it is time that we collectively step-up for the children we are raising and supposedly protecting.

Thank you.

Corey M. Stern

New York City Environmental Justice Alliance
166A 22nd Street, Brooklyn, NY 11232 | www.NYC-EJA.org

On the ground - and at the table

New York City Environmental Justice Alliance testimony to the NYC Council Committee on Environmental Protection, Committee on Health, & Committee on Housing and Buildings on the City's Enforcement of Existing Lead Laws

September 27, 2018

My name is Jalisa Gilmore and I am here to testify on the City's enforcement of existing lead laws on behalf of the New York City Environmental Justice Alliance (NYC-EJA). Founded in 1991, NYC-EJA is a non-profit citywide membership network linking grassroots organizations from low-income neighborhoods and communities of color in their struggle for environmental justice. NYC-EJA empowers its member organizations to advocate for improved environmental conditions and against inequitable environmental burdens. Through our efforts, member organizations coalesce around specific common issues that threaten the ability of low-income and communities of color to thrive, and coordinate campaigns designed to affect City and State policies – including toxic exposures.

New York City has failed to adequately enforce lead laws to ensure the health and well-being of all New Yorkers. Lead has long been an important public health issue in environmental justice communities. This is more recently demonstrated by the exposure of hundreds of children and adults to high levels of lead in their drinking water in Flint, Michigan – a low income community of color. Children from low-income neighborhoods and communities of color bear the highest burden of lead poisoning in NYC. In children lead can have serious consequences on brain development; resulting in decreased intelligence, behavioral difficulties, and learning problems. At higher levels lead can attack the brain and central nervous system and can even result in death.

Given the serious health effects of lead exposure in children it is troubling how many NYC public schools were found to have high levels of lead from faucets and the initial attempt of the NYC Department of Education to skew the results by performing pre-stagnation flushing. Even more disconcerting is the failure of the New York City Housing Authority to perform lead inspections at their properties and falsely reporting that the inspections were completed.

We would also like to highlight the importance of the NYC Department of Parks and Recreation and the NYC Department of Health and Mental Hygiene to conduct soil testing in parks and community gardens given that studies have found lead in produce and soil from community gardens. Furthermore, as we highlighted in our NYC Climate Justice Agenda, we recommend the City prioritize the remediation of lead-contaminated soil in parks and community gardens.

NYC has failed to adequately uphold existing lead protections, NYC-EJA supports the City Council's introduction of these new proposed lead laws. We encourage the City to ensure that these laws are adequately enforced so that the most vulnerable populations in NYC are protected from dangerous levels of lead exposure and the accompanying adverse health effects. NYC-EJA would like to thank the New York City Council for holding this oversight hearing on the City's enforcement of existing lead laws, these proposed rule changes and for the opportunity to testify.

Testimony of Arthur Klock
on behalf of Plumber's Local Union No. 1
before the New York City Council
Committee on Environmental Protection, Committee on Housing and Buildings,
and Committee on Health, regarding the City's Enforcement of Lead Laws
September 27, 2018

Thank you Chairs Constantinides, Cornegy, and Levine for holding this hearing today. Plumber's Local Union No. 1 welcomes this opportunity to testify before the City Council's Committees on Environmental Protection, Health, and Housing and Buildings.

Lead is a common metal sometimes found in living areas in SOLID form such as in lead-based paint, soil, or household dust. If ingested, lead builds up in the body over many years. It is particularly dangerous to children. Ingestion is the critical point here. Lead-bearing paint chips or dust from contaminated soil might end up being ingested if they are present.

Drinking water, on the other hand, will definitely be ingested. Lead can be hidden in LIQUID form as a dissolved contaminant in Drinking Water. Lead contaminates drinking water primarily because of lead-bearing materials which are part of a building's water piping. Many older buildings own a lead service line and/or have piping throughout with lead-bearing solder. These are the most likely sources.

When there is lead in your Drinking Water, it is a well-hidden and ever-present danger. **Lead contaminated Drinking Water does not smell, taste or look contaminated.** The ingestion is an everyday occurrence, and the lead builds up in the body quietly over time.

Buildings that were constructed prior to 1986 are most likely to contain lead-bearing solders and piping. To get some idea of how widespread this problem is throughout all buildings in New York City, we can look to our schools. A recent NY State law required testing of Drinking Water outlets in Public School buildings. Testing here in New York City found that the staggering number of 1,165 Drinking Water outlets in NYC Public School buildings were discharging water with lead contamination readings above 15 parts per billion, the level requiring a shutdown.

Removal of the hazardous piping components is the only permanent solution to stop the lead exposure. Filter systems are not a reliable way to permanently stop the LEAD POISONING. Filter systems are at best a temporary fix, and the maintenance requirements of these systems means they will likely malfunction over time and will ultimately be ineffective as a legitimate and permanent solution.

Local 1 has identified multiple measures the City Council could enact to improve water safety across the city.

First, we recommend that all sampling be done by a licensed master plumber, following prescribed and valid sampling procedures. This will guarantee that the sampling is conducted by a professional with the expertise and training required to follow a prescribed valid sampling procedure, and to act responsibly in pursuing this critical safety work.

CONTINUED ON BACK

Second, we recommend that mandated testing should cover all schools, colleges, universities, stadiums and arenas, large apartment buildings, office buildings, restaurants, and medical facilities such as hospitals, urgent care centers, nursing homes, assisted care living centers.

Third, we recommend that the Council expand required testing to include legionella bacteria. Just this month, multiple cases of Legionnaires' disease were confirmed in NYCHA locations in the city.[1] The bacteria is not found only in cooling towers as many people seem to think. More infections from legionella come from the water piping inside buildings than from cooling towers. Legionella can colonize building plumbing. The bacteria can be found in slimy coatings known as "biofilm" on pipe interiors, where it is protected from residual amounts of chlorine introduced by the DEP when water leaves treatment locations. People can get Legionnaires' disease if they breathe in mist or vapor containing the bacteria. If it is present in your building's water piping, a shower is an excellent way to vaporize the water and breathe it in. Legionella thrive in the temperature range of 77 to 130 degrees, a range that includes hot water systems and shower heads. Expanding testing requirements to include legionella bacteria would help counteract this threat.

Fourth, we highly recommend annual testing using detailed sampling procedures which specify locations and times including testing at the backflow preventer and other critical locations as determined by a building water management plan.

Once again, Plumber's Local 1 would like to thank Chairs Constantinides, Cornegy, and Levine for holding this hearing today. We would also like to thank those Council Members who attended this hearing. We strongly support the city's efforts to keep the water in our buildings safe and hope to continue working with the city in this regard.

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[1] *Legionnaires' Disease Hits Three NYCHA Residents in Harlem*, SPECTRUM NY1 (Sept. 2, 2018), http://www.ny1.com/nyc/all-boroughs/news/2018/09/02/legionnaires-disease-three-nycha-residents-harlem; *2 Legionnaires' Cases Reported at NYCHA Complex*, NEWS 12 BRONX (Sept. 2, 2018), http://bronx.news12.com/story/39009958/2legionnaires-casesreportedat-nychacomplex.

Testimony of Sara Perl Egendorf on behalf of
The Urban Soils Lab at Brooklyn College
before the New York City Council Committee on Environmental Protection
September 27, 2018

Public Oversight Hearing on the City's Enforcement of Existing Lead Laws and on Soil Lead Hazards in Parks and Other Publicly Accessible Areas (Intro 420 and Intro 422)

Thank you for providing me with the opportunity to comment on Intro 420 and Intro 422. My name is Sara Perl Egendorf, and I am a PhD Student at the City University of New York's Graduate Center, Advanced Science Research Center and Brooklyn College. Today I am speaking on behalf of the Urban Soils Lab at Brooklyn College, led by Dr. Joshua Cheng, professor of environmental geochemistry and urban soils. Our lab has conducted extensive research on soil lead for over ten years, and has published one dozen peer reviewed research articles, mainly on the topic of soil lead contamination in New York City.

First of all, we would like to applaud the initiative by the Council members to introduce legislation on soil lead. This is a historical and positive first step in addressing many serious hazards associated with lead in soils. This is a nationwide and global issue, and collective, concerted efforts are urgently needed to address the dangers of soil lead that put all urban residents at risk.

Based on findings from our research as well as the research of others, soil lead contamination in NYC is pervasive. Remediating every contaminated space will be a daunting task. It is therefore critical to define priorities for remediation, and set appropriate thresholds for different land uses. Clear standards for testing and remediation should be developed clearly and carefully to set these regulations.

It is also imperative to fund the Department of Parks and Recreation (DPR) and the Department of Health and Mental Hygiene (DOHMH) for testing and publishing of testing results. Publication of testing results should be done in ways that are accessible beyond the internet (e,g. reporting to community gardeners, to community boards, to the Council Members, etc.)

Of utmost concern is the potential for closing public parks or community gardens if contaminants are found and resources are not available to remediate them. These spaces provide invaluable health, social, cultural, community, and environmental benefits even in the midst of legacy contaminants. We implore the city to allocate resources for soil testing or screening, publishing results, and remediation.

We want to bring to your attention another important complexity. Soil lead contamination is known to be extremely variable, even within the same garden. The concentration of lead can vary by one magnitude or more for samples collected a few feet apart. Therefore, one or two samples taken to the lab for testing will not be representative of the contamination status of a whole garden, and are therefore not useful for assessing the extent of contamination present.

While testing in certified labs has been the standard requirement, soil screening with more affordable and accessible tools should be permitted and encouraged. It is advantageous to be able to map the area of interest and find "hotspots" – which enables remediation efforts to be more targeted and effective. The precision and accuracy of existing tools such as portable XRF are sufficient for soil lead screening. At the minimum, such screening can serve as a complementary tool to standard lab testing.

In addition, testing every year is excessive and unnecessary. It is more important, however, to maintain records of testing, remediation interventions, and historical land use. It is advisable to perform new testing or screening when sites change, and when new materials are brought in.

Brooklyn College and its Urban Soils Lab will continue serving our City with our research, soil testing and screening services, and outreach. We have a number of publications that are publically available.

Finally, we want to bring your attention to the Legacy Lead Town Hall meeting on October 19th at Brooklyn College. This is being organized by the Legacy Lead Coalition, a group of concerned residents, city employees, scientists, advocates, and greening organizations collaborating to assist fellow New Yorkers in reducing the potential harm

we face from lead in soil. One of the most prominent soil lead researchers in the country, Dr. Howard Mielke, will share his knowledge, perspectives and experiences on these challenges, and potential remedies. We will also hear engage in conversations around strategizing solutions with many experts and stakeholders in NYC on this issue.

I would be more than happy to follow-up after this hearing and make myself available to Council members to ensure that the bill fulfills its urgently needed potential.

Thank you,

Sara Perl Egendorf

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PhD Student, CUNY Graduate Center, Earth and Environmental Sciences

Researcher, CUNY Advanced Science Research Center and Brooklyn College

Soil lead Publications from Brooklyn College Urban Soils Lab

(Full text Available upon request)

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12. Zhongqi Cheng, Richard Shaw and Paul Mankiewicz. Removal of heavy metals and metalloids in an industrial stormwater treatment system: SIMS metalManagement, Bronx, NY, USA. In:Urbanization: Challenge and Opportunity for Soil Functions and Ecosystem Services - Proceedings of the 9th SUITMA Congress. Viacheslav Vasenev, Elvira Dovletyarova, Zhongqi Cheng, Tatiana V. Prokof'eva, Jean Louis Morel, Nadezhda Ananyeva, Editors. Springer Geography, in press.

FOR THE RECORD

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

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

Testimony to the New York City Council Committees on Environmental Protection, Health, and Housing
September 27, 2018

Good morning chairpersons Cornegy, Levine, and Constantinides.

My name is Mary Ann Rothman and I am executive director of the Council of New York Cooperatives & Condominiums (CNYC), a membership organization comprised of housing cooperatives and condominiums located throughout the five boroughs of New York City and beyond. More than 170,000 New York families make their homes in our member buildings, which span the full economic spectrum from very modest, income-restricted housing to solid middle class apartment complexes to some very upscale dwellings.

CNYC and its members commend the Council for holding a hearing on this important topic; we further commend the City, and, in particular the Department of Health, for the very significant strides made in this century to abate lead contamination and to identify locations where more concentrated efforts are still needed. Steady and dramatic reductions are reflected in the detailed reports on the DoH website. Therefore, CNYC respectfully suggests that incentives and resources be made available focused on those areas already identified by the Department of Health as needing more help with lead control rather than imposing additional citywide requirements on a system that is clearly working very well already.

Cooperatives and condominiums are subject to a wide range of laws designed to protect the health and safety of New Yorkers. The additional inspections and abatements that would be required by the proposed bill package appear to us to be redundant and unnecessary, and, of course, they would also add to the financial burden of the home owners in our member cooperatives and condominiums.

Previous lead paint laws passed by the Council have acknowledged the relationship between boards, who are responsible for the public parts of these buildings and the shareholders or unit owners, who are responsible for the interior of their units. We respectfully request that any new legislation include acknowledgment of this reasonable division of responsibilities.

CNYC appreciates the importance of the subject of today's hearing, and would welcome an oppotunity for further discussion.

Thank you for the opportunity to comment.

Phone 212 496-7400 • Fax 212 580-7801 • e-mail info@CNYC.coop • Website: www.CNYC.coop

My name is Nikki Leger. I am a member of Cooper Square Committee and Lead Dust Free NYC. I have a background in mathematics and statistics.

Steve Keen, the Australian economist, recently observed that a federal regulatory agency, if not permitted to enforce the law, becomes a handmaiden of industry. Similarly, when the city's lead laws are violated right and left, especially safe work practices, this makes the city the handmaiden of the lead-polluting, life-threatening landlords. Lead Law 1 of 2004 might have sufficed, but due to lagging enforcement and lack of oversight, many new, much needed, pieces of legislation have been introduced by our City Council members. We applaud the introduction of 864, 873, and 874 which address lead dust contamination via interagency cooperation, stop work orders, and the owner's responsibility to completely remediate lead upon vacancy.

The real estate bullies of New York will work to weaken the proposed legislation. Don't let this happen! The City's decisions and actions must be based on a complete consideration of all of the data, with the interests of citizens in the fore, and squarely targeting the causes of lead poisoning. Don't be intimidated by the power of the real estate lobby.

City Council Hearing on September 27th

I am a member of the Lead Dust Free NYC campaign and happy to be here to testify. I'll focus my comments on how the City currently conducts enforcement around lead dust contamination and on the new pending legislation regarding lead safety.

To begin I'll briefly describe the situation that me and my neighbors are currently dealing with.

Our tiny, very old East Village building has eight tiny apartments. Because it was built before 1960, there is a presumed presence of lead paint – much of peeling, inside and out. Since the building was sold three years ago, the new owners have not sent us, the tenants, "The Annual Notice to tenant or Occupant in Building over three or more apartments: Protect Your Child from Window Falls and Lead Poisoning". Since they took over, a great deal of demolition/gut renovation has occurred, but not one construction permit has been posted. Although my neighbors and I have called 311, no stop-work orders have been issued and safe work practices and local lead laws have not been enforced.

Each renovation has caused huge amounts of dust, but no floors, doors, windows, hallways, or openings have been sealed with plastic as work areas should be. Because of the age of the building I believe the dust we are being exposed to is full with lead. These hazardous conditions are left for days.

My neighbors believe workers employed are unlicensed and not certified in lead abatement/ remediation. No work areas have been cleaned with wet mops or HEPA vacuums after work is completed. No warning signs to tenants have been posted around work areas.

I am excited to see all of pending lead legislation enacted, especially Intros 864, 873, and 874. But Local Law 1 of 2004 has taught us that legislation is empty without enforcement. It's crucial that legislation *is* enforced, so that not one more New York tenant is lead poisoned or exposed to lead dust. The effects are well-studied, devastating and long lasting. In a city as bold and progressive as New York, we cannot afford to have one more lead-poisoned child or adult.

Please act quickly to reform the enforcement of the existing lead laws and enact this much needed package of new legislation to further strengthen the laws that protect New Yorkers from lead. Thank you.

In Spring 2017, without my knowledge, lead dust was seeping into my apartment. Construction was taking place in the neighboring apartment – but, with the approval of the building's management, it had been taking place without proper permits or proper protection plan in place. They did not cover the walls or safeguard my apartment as according to the standard practices required by the Tenants Protection Plan and Local Law 1. All that separated my apartment from the neighboring apartment was a quarter-inch of wood paneling. Lead dust became trapped in the walls and floors and seeped into all of the cloth furnishings.

My son and I have spent a year constantly sick with unexplained symptoms and a spot showed up on my bi-annual breast cancer tests; it became so bad that my son could no longer live in our home for an extended period and I suspect that exposure to lead from construction dust caused these symptoms. The Dept of Health and HPD inspectors visited the apartment for over a five month period and declared it tested high levels of lead. Both my son and I suffered with rashes, and even my pets became ill! Sadly, one died and the veterinarian believes that exposure to toxins released during construction was a contributing factor.

The only way to rectify this crisis was to take my landlord to housing court. It took court orders, fines, and major clean ups and repairs to seal up the toxic walls and floors, so my son and I could return home to a normal life.

By telling my story, I hope others will be able to know their rights, know how to report these issues, and to highlight issues with the enforcement of Local Law 1. I support all of the laws in this package, and it is my hope that Dept. of Health, HPD, and Dept. of Buildings streamline communications and actually hold these contractors, landlords, and management companies legally accountable so this never happens to anyone.

Environmental Justice Initiative*/
New York Environmental Law & Justice Project
affiliated with National Lawyers Guild Environmental Justice Committee
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Columbia Fiero, *Documentarian & Editor*
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August 31, 2018 Revised 9-25-2018

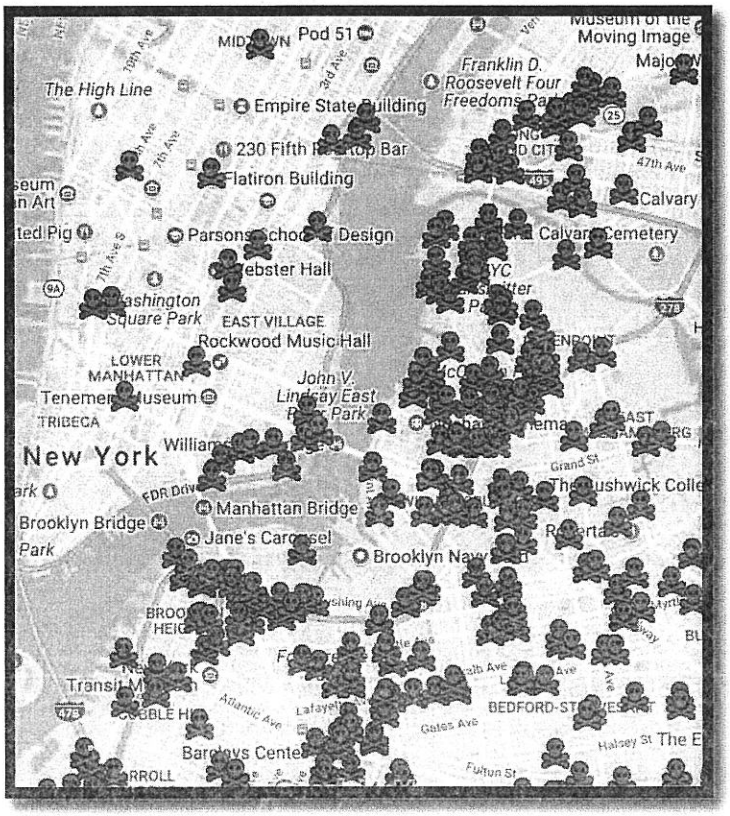
To Whom it May Concern

We are writing on behalf of the people of New York City regarding the use of Roundup in city parks. This is particularly significant given the outcome of Johnson v. Monsanto Co., the recent $289 million California Court finding toxic and carcinogenic effects of the herbicide, Roundup. Our present concerns stem mostly from the New York City Park Department continued use Roundup, and other glyphosate and surfactant based products, in city parks, especially playgrounds. This practice has continued despite significant scientific evidence of its toxicity, now recognized by the courts. This use presents an imminent endangerment to the health of the community and the environment, particularly those working directly and indirectly with this herbicide and children who use these playgrounds. It is important to note that children are 10 times more susceptible to harm from toxic pesticides and carcinogens.

Sign indicating the use of Roundup in a NYC playground located at Oliver & Madison Streets taken by Joel Kupferman

This combination of chemicals has long been recognized as a possible or probable carcinogen and is believed to cause a number of other health issues, as well. In March 2015, the World Health Organization's (WHO) International Agency for Research on Cancer (IARC) classified glyphosate as "Probably Carcinogenic to Humans" based on numerous scientific studies linking the chemical to a range of cancers, including non-Hodgkin's lymphoma,

renal cancers, skin cancers and pancreatic cancer. IARC initially published its conclusion in the Lancet Oncology Journal, the world's premier scientific journal for cancer studies.



Map showing all reported uses of Roundup but the City Parks Department alone. Via Reverend Billy and the Stop Shopping Choir, using data from the Department of Health.

The use of these chemicals is most deleterious to those who come in close contact with the product and those who are most susceptible to harm. While the benefits of using Roundup are purely cosmetic, the costs are not only the health and safety of the City's workers and children alike, but also potential liability for civil action against the City. Since the California ruling on August 10th, more than 5,000 cases have already been filed against Monsanto.

Monsanto's disingenuousness was revealed in the trial. In the 1990's 4 genome studies caused Monsanto to hire an independent genotoxin expert. Monsanto paid for studies to be conducted on Round-up, both concluded that Round-up is genotoxic, meaning it is damaging to DNA; pertaining to agents (radiation or chemical substances) known to damage DNA, thereby causing mutations or cancer. (Dr. James Perry of Swansea University). The next study by Dr. Perry in 1999 concluded that Round-up is a clastogen, an agent that can induce mutation by disrupting or damaging chromosomes.

It is in light of this this recent California State Court decision, in which a jury determined that Roundup had in fact caused the development of non-Hodgkin lymphoma in a school groundskeeper, that we are led to call for a city-wide moratorium on the use of glyphosate-based herbicides.

We demand that the City face this problem head-on and address these issues now to limit health consequences, beyond that which has already occurred. Preventing the further use of Roundup and similar products now will prevent costly litigation in the future. It is for these reasons that we demand the Mayor and the respective commissioners of the Parks and Health and Mental Hygiene Departments invoke a moratorium on the use of

glyphosate-based herbicides within the city. Furthermore, we urge the Health and Parks Departments to both acknowledge this issue and develop a remedial action plan including the minimization of potential exposure. Finally, we demand that the City publish the details of the locations, quantities, and frequency of this type of herbicide application, as well as the name of all sub-contractors used by Parks and other agencies. Workers and the community have the Right to Know.

Please see a compilation of some key research below and visit our dropbox folder for access further research on this matter. https://www.dropbox.com/sh/sw1qpb1sp2pln9b/AABJKQdSCvIbXktikcjC4p60a?dl=0

Sincerely,

Joel Richard Kupferman, *Esq. Executive Director*
Emma Dismukes, *Law Intern*
Jack Agosta, *Law Intern*

On Behalf of **The Emergency Taskforce for the Prohibition of Roundup**

1. Historic Ruling Against Monsanto Finds Company Acted with "Malice" Against Groundskeeper with Cancer: Historic Ruling Against Monsanto Finds Company Acted with "Malice" Against Groundskeeper with Cancer, DEMOCRACY NOW! (Aug. 14, 2018), https://www.democracynow.org/2018/8/14/historic_ruling_against_monsanto_finds_company.

Key Points: "California has ordered Monsanto to pay $289 million in damages to a school groundskeeper who develope cancer after regularly using the weed killer Roundup. The 46-year-old man, Dewayne Johnson, has non-Hodgkin's lymphoma. Doctors say he is unlikely to live past 2020. Judge Suzanne Ramos Bolanos read the Jury's verdict."

Beyond Pesticides Blog: Groundskeeper Who Used Monsanto's Herbicide Roundup and Contracted the Cancer non-Hodgkin lymphoma (NHL) Wins $289 Million Jury Verdict https://beyondpesticides.org/dailynewsblog/2018/08/groundskeeper-used-monsantos-herbicide-roundup-contracted-cancer-non-hodgkin-lymphoma-nhl-wins-289-million-jur verdict/

2. Breakfast with a Dose of Roundup:

Alexis Temkin, Breakfast with a Dose of Roundup, ENVIRONMENTAL WORKING GROUP (Aug. 15, 2018), https://www.ewg.org/childrenshealth/glyphosateincereal/#.W4b7hiOZPsk.

Key Points: "[B]ecause children and developing fetuses have increased susceptibility to carcinogens, the federal Food Quality Protection Act supports including an additional 10-fold margin of safety. With this additional children's health safety Factor, EWG calculated that a one-in-a-million cancer risk would be posed by ingestion of 0..01 milligrams of glyphosate per day."

A04971 Summary: NYS ASSEMBLY AND SENATE GLYPHOSATE BAN BILL

BILL NO A04971

SAME ASSAME AS S03210
SPONSOR Rosenthal L
COSPNSR Simon, Abinanti, Weprin, Barron
MLTSPNSR
Add §37-0115, En Con L
Prohibits the use of glyphosate and products containing glyphosate in any park, playground or picnic area owned or operated by New York state, New York city, or any municipality.

Glyphosate [from PESTICIDEs USE BY NYC Agencies in NYC 2016 NYC DOHMH P.8}

The most heavily used liquid herbicides were glyphosates, best known as Roundup® products. Glyphosate is a broad-spectrum, non-selective systemic herbicide that can be used throughout the growing season. In early 2015, the International Agency for Research on Cancer (IARC), a branch of the World Health Organization (WHO), changed the classification for glyphosate to a "probable human carcinogen." Glyphosate shows little acute toxicity, but there has been growing concern that chronic exposure may increase risk of certain cancers. There is also some evidence that heavy use of the chemical in warm climates with soil high in certain toxic metals could present significant risk in developing severe kidney damage in agricultural workers.

Environ Sci Technol. 2013 Mar 19;47(6):2839-45. doi: 10.1021/es303854c. Epub 2013 Mar 4.

Linking source and effect: resuspended soil lead, air lead, and children's blood lead levels in Detroit, Michigan.

Zahran S[1], Laidlaw MA, McElmurry SP, Filippelli GM, Taylor M.

Author information

Abstract

This study evaluates atmospheric concentrations of soil and Pb aerosols, and blood lead levels (BLLs) in 367839 children (ages 0-10) in Detroit, Michigan from 2001 to 2009 to test a hypothesized soil → air dust → child pathway of contemporary Pb risk. Atmospheric soil and Pb show near-identical seasonal properties that match seasonal variation in children's BLLs. Resuspended soil appears to be a significant underlying source of atmospheric Pb. A 1% increase in the amount of resuspended soil results in a 0.39% increase in the concentration of Pb in the atmosphere (95% CI, 0.28 to 0.50%). In turn, atmospheric Pb significantly explains age-dependent variation in child BLLs. Other things held equal, a change of 0.0069 μg/m(3) in atmospheric Pb increases BLL of a child 1 year of age by 10%, while approximately 3 times the concentration of Pb in air (0.023 μg/m(3)) is required to induce the same increase in BLL of a child 7 years of age. Similarly, a 0.0069 μg/m(3) change in air Pb increases the odds of a child <1 year of age having a BLL ≥ 5 μg/dL by a multiplicative factor of 1.32 (95% CI, 1.26 to 1.37). Overall, the resuspension of Pb contaminated soil explains observed seasonal variation in child BLLs.

PMID: 23428083 DOI: 10.1021/es303854c

[Indexed for MEDLINE]

LEAD AND ARSENIC found at Alfred E. Smith Houses
Call for Increased Protective Measures
=to institute exposure reduction measures immediately
=to test extensively- outdoors and indoors
August 15, 2018
dropbox supporting documents https://www.dropbox.com/sh/plzobkp67jn6xzw/AAA290_CzajTyRbYJqPEK5IZa?dl=0

Please note the alarming levels of both lead and arsenic that Environmental Justice Initiative (EJI)/NY Environmental Law and Justice Project (NYELJP), discovered in the soils at NYCHA's Alfred E. Smith Houses. This is a serious ongoing issue, particularly in light of the NYCHA scandals that covered up widespread lead poisoning, the recent arsenic results are especially grave because in one of our tests, we found extremely high levels at the Hamilton-Madison House Children's Day Care Center playground.

While some officials and contractors have claimed that the levels of contaminants are not high enough to warrant concern, the cumulative impact of exposure to contaminants within buildings and outside on the grounds is threatening and poses imminent harm. Because there is ongoing construction, residents are exposed to dust from the open air sites, continuous trenching, and tree root invigoration methods. As many residents already have existing respiratory issues, the dust and heat can exacerbate their health conditions.

High levels of arsenic of 85 ppm were found in the tree well of the daycare play area, which is five times above "Residential Soil Cleanup Objectives" of the NYS Department of Environmental Conservation. Besides the increased risk of lung, skin, and bladder cancer when exposed to arsenic, there is also evidence suggesting that long-term exposure to inorganic arsenic in children may result in lower IQ scores and a host of other maladies. As counsel to NYCHA's Alfred E. Smith Tenant Association, EJI/NYELJP's active dogged insistence has resulted in a stop-gap measure of covering the tree well with woodchips. However, further protective actions, testing, and enforcement must be done immediately.

Additionally, NYCHA's well-documented, intentional cover-ups have endangered the residents' health and safety over the years, which proves that this resident population is already at risk for health issues. Specifically, for this FEMA-funded rebuild/construction project at Smith Houses, NYCHA never hired their own arborist, despite previously having one, which has led to the destruction of trees, erosion, and loose soil. Further lead exposure can be attributed to the dust promulgated by the destruction of trees. Such airborne dust particles can only augment the residents' exposure to lead, being both present indoors and outdoors.

We formally request that the appropriate agencies with jurisdiction including the Environmental Protection Agency, Federal Emergency Management Agency, US Attorney General's Office, US Department of Housing and Urban Development, the US Attorney General's Office, the NYS Department of Health, NYS Department Environmental Conservation, NYC Department of Environmental Protection, and NYC Department of Health monitor the area and test the soil. It is shocking that despite our preliminary testing which reveals such detrimental results, these responsible agencies continue to ignore and deny their duty to the Smith residents. The agencies' combined lack of action is ironic and deleterious as this FEMA Sandy Resiliency program is a federally funded, state-channeled project, and located in NYC, yet the agencies refuse to take more than a cursory glance at the issue. This situation parallels that of the ongoing crisis in Flint. This blatant neglect is the epitome of environmental racism.

Joel K dropbox supporting documents https://www.dropbox.com/sh/plzobkp67jn6xzw/AAA290_CzajTyRbYJqPEK5IZa?dl=0

Joel R Kupferman, Esq,
ENVIRONMENTAL JUSTICE INITIATIVE for HAITI
New York **ENVIRONMENTAL LAW & JUSTICE PROJECT**
National Lawyers Guild- Environmental Committees, Haiti and Indigenous Peoples' Rights Committees
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Ban Glyphosate Herbicides in NYC

Environmental Law and Justice Project

The Emergency Taskforce for the Prohibition of Roundup

Sign indicating the use of Roundup in a NYC playground located at Oliver & Madison Streets taken by Joel Kupferman

Protect our Communities

The use of glyphosate based herbicides poses a significant public health and safety risk

New York City Parks Department continues to use Roundup and other glyphosate and surfactant based products in city parks, especially playgrounds. This practice has continued despite significant scientific evidence of its toxicity, now recognized by the courts. This use presents an imminent endangerment to the health of the community and the environment, particularly those working directly and indirectly with this herbicide and children who use these playgrounds. In light of this this recent California State Court decision ELJP is calling for a city-wide moratorium on the use of glyphosate-based herbicides.

This combination of chemicals has long been recognized as a possible or probable carcinogen and is believed to cause a number of other health issues, as well. In March 2015, the World Health Organization's (WHO) International Agency for Research on Cancer (IARC) classified glyphosate as "Probably Carcinogenic to Humans" after numerous studies linked the chemical to a range of cancers, including non-Hodgkin's lymphoma, renal cancers, skin cancers and pancreatic cancer.

1. CARCINOGENIC AND OTHER HEALTH DAMAGES
2. AGGREGATE EXPOSURE TO THE COMMUNITY
3. CHILDREN ARE MORE SUSCEPTIBLE TO HARM

Aesthetic Practice

The presence of weeds does not represent a public health risk, this practice is purely aesthetic.

Lack of Transparency

Agencies do not publish locations and amounts of herbicides used on public land.

City Legal Liability

Preventing the further use of Roundup and similar products now will prevent costly litigation in the future.

New York Environmental Law and Justice Project
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Monsanto to Pay $289 Million

Jury says Roundup caused the development of non-Hodgkin's lymphoma in school groundskeeper

Monsanto's disingenuousness was revealed in the trial. In the 1990's 4 genome studies caused Monsanto to hire an independent genotoxin expert. Monsanto paid for studies to be conducted on Round-up, both concluded that Round-up is genotoxic, meaning it is damaging to DNA; pertaining to agents (radiation or chemical substances) known to damage DNA, thereby causing mutations or cancer. (Dr. James Perry of Swansea University). The next study by Dr. Perry in 1999 concluded that Round-up is a clastogen, an agent that can induce mutation by disrupting or damaging chromosomes.

The use of these chemicals is most deleterious to those who come in close contact with the product and those who are most susceptible to harm. While the benefits of using Roundup are purely cosmetic, the costs are not only the health and safety of the City's workers and children alike, but also potential liability for civil action against the City.

Since the California ruling on August 10th, more than 5,000 cases have already been filed against Monsanto.

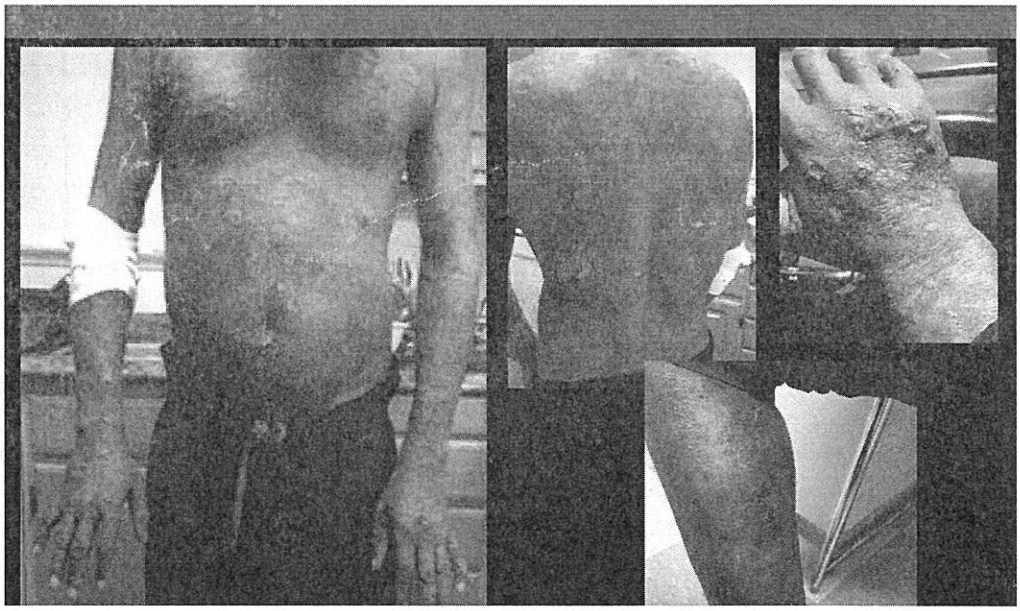

Image of Dewayne Johnson, school groundskeeper with non-Hodgkin's lymphoma, from powerpoint of Brent Wisner opening statement at trial

ABOUT THE NEW YORK ENVIRONMENTAL LAW AND JUSTICE PROJECT

ELJP is a non-profit public interest organization based in Manhattan which counsels and represents groups and individuals concerned with the preservation and improvement of community environmental conditions. We believe it is possible for people to protect themselves and their communities from dangerous and burdensome environmental hazards through knowledge and effective and affordable legal avenues. Environmental justice should be available to all people regardless of race, gender or age. By utilizing our "commando" law techniques we are able to effectively promote the interests of the environmental community.

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The North Shore Waterfront Conservancy of Staten Island, Inc.
P.O. Box 140502
Staten Island, New York 10314

September 14, 2018

To: Chairperson, Costa G. Constantinides, Environmental Protection Committee
Chairperson, Mark Levine, Committee on Health
Chairperson, Robert E. Cornegy, Jr., Committee on Housing & Building
New York City Council members

Reference: Oversight- The City's Enforcement of Existing Lead Laws: Proposed Int. No. 3-A Lead Package Remediating lead water hazards in schools, Proposed Int. No. 91-A Lead Package Remediating lead water hazards in day car facilities, Proposed Int. No 420 -A Lead Package Soil lead hazards in parks and other publicly accessible areas, Proposed Int. No. 422- A Lead Package Soil lead hazards for certain private dwellings, Proposed Int. No. 464- A Lead Package Investigation by the Dept of Mental Hygiene of dwelling units in which children identified with elevated blood lead levels routinely visit, Int. Lead Package Identifying lead water supply mains and service lines through and online interactive map and providing educational resources and tolls for preventing lead contamination, Int. Lead Package Investigation by the Department of Health and Mental Hygiene in connection with lead poisoning incidents, Int. Lead Package Lead reference/action levels and standards relating to lead- based paint hazards, Int. Lead Package – Remediating lead water hazards in dwellings, Int. Lead Package – Requiring first draw samples when testing for lead in water, Lead Package – Permanent removal of lead based paint, Int. Lead Package- Improving interagency cooperation, and issuing stop work orders, in conection with lead paint and construction work, Int. Lead Package – Agency referrals for blood lead screenings, Int. Lead Package – Education and outreach regarding childhood lead poisoning prevention, Int. Lead Package Lead – based paint hazards in certain dwellings, Int. Lead Package – Testing for lead content in potable water sources in parks, Int. Lead Package – Remediating lead water hazards in certain facilities serving children, Int. Lead Package – Investigation by the Department of Health and Mental Hygiene in connection with lead poisoning incidents involving pregnant women, Int. Lead Package – Remediating lead soil hazards in certain facilities serving children, Int. Lead Packaging – Remediating lead soil hazards in dwellings, Int. Lead Packages – Reporting on lead poisoning prevention and control, Int. Lead Package – Investigations of lead – based paint hazards by independent and certified inspectors, Int. Lead Package – Remediating lead paint hazards in certain facilities serving children.

On behalf of the North Shore Waterfront Conservancy of Staten Island, Inc., and the Environmental Justice and Waterfront Communities that we advocate on behalf of. We are pleased to submit our testimony in reference to **Oversight- The City's Enforcement of Existing Lead Laws** and we would like to thank you for this opportunity. And we support all the proposed Intros on the Oversight – The City's Enforcement of Existing Lead Laws. However, we do have some recommendations based on our experience with lead poisoning involving the Environmental Justice Communities on Staten Island's North Shore that we are testifying to in this document.

This is a subject that hits home for Staten Island's North Shore as in 2009, we were designated by the U.S. Environmental Protection Agency as one of ten nationwide Environmental Justice Show Case Communities. Primarily because of the clustering of numerous contaminated sites in a 5.2-mile radius on the North Shore and because for several decades our children's lead levels have remained high while the rest of the City of New York's lead levels in children have decreased.

We are asking for an amendment to *Int. 0003 -2018/ Proposed Int. No. 3- A*: as we agree with scientists that 0 (zero) Lead levels should be the standard. As any lead exposure is dangerous for developing brains be they in the unborn child, infants and/or children.

Bill Moyers's Show on " The Toxic Politics- Lead Poisoning and Children

http://billmoyers.com/episode/full-show-the-toxic-politics-of-science/

We are also recommending that all schools, preschools and any other facilities that have children on site have their water tested before the school year begins and then tested again mid school year. Parents and or guardians should always be made aware of the test results even if the test results show no lead in the water on site. This would be helpful in helping parents with children that have lead in their system narrow down where the possible exposure could have occurred.

https://www.epa.gov/environmentaljustice/environmental-justice-showcase-communities-region

We are asking for clarification on *Int. 0420 – 2018/ Proposed Int. No. 420 – A,* on the remediation of NYC Department of Parks and Recreation properties. As Parks has a policy that does not require them to remediate any parks that were not former Brownfields/Industrial sites. On Staten Island we have Veterans Park that was never an industrial site, however it may have been an orchard as this area was farm land. Veterans Park has high arsenic and lead levels in its soil and according to CDC these combined chemicals are usually found in locations that were orchards. They were used as pesticides and herbicides in the 1800s and early 1900s. If parks like Veterans Park are not included in *Int. 0420 – 2018/Proposed int. No. 420 – A*, we are requesting that they too be included.

http://www.gothamgazette.com/index.php/environment/227-staten-islands-toxic-stew

Int. 0865- 2018/ Int. Lead Package Lead reference/action levels and standards relating to lead-based paint hazards. We are recommending that 15 parts per billion that is being suggested, be

reduced to 1 part per billion as the goal is not to have any children exposed to lead. And to establish a 0 (zero) Lead Level standard for New York City, we need to set higher values.

We also believe that testing for lead should be done twice a year with parents and guardians receiving the results of those tests.

Int. 0873 -2018/ Int. Lead Package Permanent removal of lead – based paint. We are recommending that all dwellings built before 1979 be made free of lead - based paint. We are requesting this because paint manufactures were still selling lead- based paint to consumers up until 1978 when congress finally banned it.

http://www.leadlawsuits.com/history/history-of-the-use-of-lead-paint/

Int. 0877-2018/Int. Lead Package – Agency referrals for blood lead screenings. Due to the North Shore of Staten Island having Lead contamination in its soil regardless of the neighborhood or income levels. We are requesting that all children on the North Shore of Staten Island be required to receive lead poisoning screening. Please see the above reference to the U.S. Environmental Protection Environmental Justice Show Case Community Link that also has a map of the Environmental Justice Communities on the North Shore of Staten Island, which is the entire North Shore from East to West.

Int. 0907-2018/ Int. Lead Package- Remediating lead soil hazards in certain facilities serving children. We are requesting that these facilities receive twice a year inspection to make sure that remediation efforts are being maintained. Such as maintaining grass to prevent bald spots that will expose lead contaminated soil. And on sites that are using mulch to cover the ground that the mulch is being replenished to cover the bare ground that contains lead soil.

We are also recommending that from Pre-school and beyond that the NYC Department of Health and Mental Hygiene track all children that are identified as having lead poisoning throughout their lives. So that there is a health record and record of how their lives have been affected by lead poisoning. One of the most prominent recent situations regarding a lead poisoning case is that of Freddie Gray and his sisters in Baltimore, Maryland. It makes you ask just how many Freddie Grays are there in our cities? And what have their lives, such as they are, been like and what their lives could have been like - if they had never been exposed to the cognitive killing effects of lead poisoning.

https://www.msn.com/en-us/news/us/freddie-gray-and-sisters-suffered-lead-poisoning-family-said-in-2008-lawsuit/ar-AAbB3l3

https://www.washingtonpost.com/local/freddie-grays-life-a-study-in-the-sad-effects-of-lead-paint-on-poor-blacks/2015/04/29/0be898e6-eea8-11e4-8abc-d6aa3bad79dd_story.html?utm_term=.8a5e604529ef

Thank you for your time and consideration.

Sincerely,

Beryl A. Thurman, Executive Director/President
Creating Livable Communities, www. nswcsi.org

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Environmental Protection Joint Committee Hearing: Lead Poisoning
September 27, 2018

On behalf of New York's affordable housing industry, NYSAFAH would like to thank the City Council for its efforts to address the serious issue of lead paint and its effects. This three-Committee hearing represents the seriousness with which this body takes this issue, and the affordable housing industry appreciates that seriousness, and hopes to be a partner in tackling these issues moving forward.

As documented by the NYC Department of Health & Mental Hygiene (DOHMH) in its "Report to the New York City Council on Progress in Preventing Childhood Lead Poisoning in New York City," the City has made great progress in reducing childhood lead poisoning since 2005. However, we understand that all stakeholders share in the Council's belief that more can and should be done to examine the issue and find solutions for further reducing those instances.

To that end, NYSAFAH is **supportive** of the following bills under discussion today and thanks their various sponsors and co-sponsors for their efforts:

> **Int 904 - In relation to investigation by the department of health and mental hygiene in connection with lead poisoning incidents involving pregnant women.**
> **Int 918 - In relation to reporting on lead poisoning prevention and control.**
> **Int 877 - In relation to agency referrals for blood lead screenings.**
> **Int 881 - In relation to education and outreach regarding childhood lead poisoning prevention.**
> **Int 871 - In relation to requiring first draw samples when testing for lead in water.**
> **Int 864 - In relation to investigation by the department of health and mental hygiene in connection with lead poisoning incidents.**
> **Int 464 - In relation to education and outreach regarding childhood lead poisoning prevention.**

With respect to a few of the bills being heard at this hearing, NYSAFAH has concerns that the proposed solutions are unnecessary or counter-productive in addressing lead poisoning. Those **concerns** are described below:

> **Int 874 - In relation to improving interagency cooperation, and issuing stop work orders, in connection with lead paint and construction work.**

Involving the Department of Buildings (DOB) in a process that should be led by Housing Preservation of Development (HPD) and DOHMH is likely to cause confusion and process delays. The DOB is being asked to exercise discretion with respect to the severity of the lead

paint violation and whether it has been fully corrected—which is outside of that agency's current purview and understanding.

Stop Work Orders (SWOs) are time consuming and therefore very costly. This is of particular concern on affordable housing projects that use the Low-Income Housing Tax Credit (LIHTC), with critically important deadlines to get to TCO and deliver those credits. In general, this process should remain under the jurisdiction of DOMHM and, where appropriate, HPD.

Int 919 - In relation to investigations of lead-based paint hazards by independent and certified inspectors.

NYSAFAH is concerned with the increased cost potential in requiring that inspector be EPA-certified, and would like to better understand the justification for this requirement. The limiting of the inspector pool to this certification class, coupled with the increased number of inspections that the bill would be requiring, may lead to a difficulty in getting an inspector in a timely matter and a greater cost for doing so. It is unclear that these specific steps would be helpful in reaching the goals at hand—identifying and remediating lead paint hazards.

Int 916 - In relation to remediating lead soil hazards in dwellings.

There is uncertainty regarding what constitutes "covering, replacing or remediating" the impacted soil area, as well as concerns over the high costs that may be required. NYSAFAH would also like to better understand the link between lead levels detected in soil and links to health impacts, absent other factors.

This bill may have the unfortunate consequence of disincentivizing owners and developers from offering green areas such as parks, playgrounds or community gardens to its tenants.

Int 873 - In relation to permanent removal of lead-based paint.

We are uncertain what is meant by the clause "free of lead paint" in this bill. Lead paint may exist in the City's aging housing stock, but is not understood to be a hazard except when it is chipping or dusting. If this bill intends to reconsider that standard to mean a full removal of lead paint, NYSAFAH would like to better understand the justification.

Int 868 - In relation to remediating lead water hazards in dwellings.

We are concerned with the cost implications of a requirement to install new filtration systems or provide filtration pitchers to every unit, regardless of any finding of a lead paint hazard associated with that building or nearby environment. NYSAFAH would like to better understand from health or environmental experts as to whether there is believed to be a significant or growing concern about lead in the City's water supply that would necessitate this new requirement.

NYSAFAH is the trade association for New York's affordable housing industry statewide. Our nearly 400 members include for-profit and nonprofit developers, lenders, investors, attorneys, architects and others active in the financing, construction, and operation of affordable housing. Together, NYSAFAH's members are responsible for most of the housing built in New York State with federal, state or local subsidies.

Thank you again for the opportunity to submit this testimony.

September 27, 2018
Contact: Patrick Boyle, Policy Director, NYSAFAH (646) 473-1209

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Testimony Regarding the Package of Bills Related to Lead Being Heard on 9/27/2018 In a Joint Hearing of the Committees on Health, Housing and Buildings, and Environmental Protection

Thank you for the opportunity to comment on these important bills concerning lead poisoning. New York City, and the nation, have had tremendous success in reducing childhood blood lead levels to a fraction of what they were fifty years ago. Average blood lead levels for children under five were 14 micrograms in the 1970s. Now they are less than 1. We have reached the point where the so-called reference level for elevated blood lead, 5 micrograms per deciliter, is nine times lower than the level of 45 that calls for any medical treatment.[1] Clearly, the elimination of lead in gasoline and paint, and decades of renovation and repair of the housing stock, have eliminated major sources of lead in the environment.

That success, however, has not completely eliminated lead sources. In many ways, the threat has changed. Many children with detectable lead levels today have come from other countries where lead in gasoline is still common. Or, they are exposed to toys or foods with lead content, including many popular baby foods.[2] The reality in most cases of lead poisoned children is that investigations have ruled out the child's housing as being the potential source of lead. As the levels of lead in blood continues to drop, confounding variables make it harder and harder to identify the true source. In an analysis of 2012 data, New York City's Department Health found that 93% of the pregnant women identified with elevated blood lead levels were foreign born and likely exposed before coming here.[3] Based on reporting by the New York Post, it seems that the Department of Health did not notify NYCHA of the majority of the children in public housing with elevated blood lead levels because DOH testing did not find lead in their apartments.[4]

We believe that the current legislative proposals have to be viewed in the context of such new information.

Ints. 422 and 916, for example, would require soil testing outside private and multiple dwellings, annual notices to tenants, and, in conjunction with Int. 865, set a soil lead reference level of 400 ppm. A 2014 study of 54 community gardens in New York City (almost 70% of which had at least some new, clean soil) found that 44% had at least one soil sample over 400. The proposed bills would result in unnecessary alarm and excess cost without likely reducing the ambient levels of lead in soil much if at all. The median urban background level, attributed mainly to leftover lead from gasoline, is 211.[5] A review of various efforts at soil treatment in other cities notes that the movement of soil and dust tends to continue after remediation, increasing the levels of lead in 'clean' soil over time. A Battelle report for EPA found that while soil removal in a highly polluted area had beneficial effects, "Similar soil removal and replacement strategies were less effective in other locations, where initial conditions were less severe (USEPA, 1993b, 1993c). In these communities, control group children exhibited declines in blood-lead concentration as large, or larger, than children receiving soil abatement."[6] That said, there is a significant difference due to neighborhood and housing type. A 2017 study of fifty-two private backyards in Greenpoint by researchers from Columbia found 92 percent had at least one soil sample over the reference level.[7] A targeted approach to specific neighborhoods and specific sources (in this case, likely old exterior paint) might make more sense.

As a practical matter, we should also consider the potential costs of soil abatement on the scale contemplated. Where will the soil go if removed? Will it require handling as toxic waste? How will it be transported, and what facilities would

accept it? With ambient levels so high, the proposed treatment could costs hundreds of millions of dollars and make entire neighborhoods unaffordable.

Ints. 464 and 904 call for the Health Department to address elevated blood lead levels in people under 18 and pregnant women with the same apartment inspections used for children under six, and new water inspections. Teens and adults, however, are not crawling on the floor and engaging in the hand to mouth activity of infants and toddlers. In many if not most cases involving adults, actual sources can be identified through interviewing the subjects as the Health Department has done. In fact, the Health Department's guidelines for health care providers on lead poisoning in adults notes that "most adult lead poisoning cases are related to repainting and repairing steel bridges and other steel structures…" Risk factors for lead poisoning in adults, according to DOH, include lead from bullets left in the body, but lead paint and lead in water are not even cited.[8]

There appears to be no research to suggest that Int. 868, 871 or 902 requiring testing of water fixtures and/or the use of special filters is required for public safety. The Department of Health's current online advice to concerned parents is to run the tap for 30 seconds before using water for drinking or cooking, but there is no evidence that water generally is the source for any significant number of elevated blood lead levels in New York City. New York City has treated its water system to contain lead in pipes for decades and our water is generally recognized as among the safest anywhere. Water, as a lead source, is not even mentioned in any of the DOH's annual lead poisoning reports, so it seems that spending hundreds of millions of dollars on testing or plumbing is completely uncalled for and will only raise the cost of housing.

Int. 873 requires testing and abatement of all apartments on turnover. Again, the expense is disproportionate to the problem which—if every child with an elevated blood lead level was exposed in their home—might involve a thousand or two apartments out of some 2.6 million dwellings built before 1960. The same argument applies to Int. 919, requiring the use of certified inspectors for visual inspections, adding hundreds of dollars to the cost of every apartment turnover when the number of apartments with issues is small. Given roughly 300,000 turnovers a year in existing buildings, according to the New York City Housing and Vacancy Survey, this could be more than a $50 million annual expense. And that is on top of the dust clearance testing cost already required on turnover. We can't keep compounding tens or hundreds of millions of dollars in extra expenses without impacting housing affordability.

Int. 865 proposes new reference standards for lead in paint, soil and dust. The lower standard for xrf results would expose hundreds of thousands of additional apartments built since 1960 to potential liability and expense, despite the lack of evidence that these dwellings are a hazard to children. Thousands of older apartments that have been fully renovated and received exemptions from lead rules under existing laws would theoretically be subject to enforcement again, although there are no studies indicating that they are still significant sources for elevated blood lead levels. We would argue that all reference standards for soil, dust, and paint should be the same as those set nationally for consistency in treatment and enforcement, particularly as worker certification programs are national in scope.

It should also be noted that several bills dealing with safety in day care facilities make the owner of the building equally responsible for abatement and compliance. This is a catch-22 for owners who did not rent to a day care operator in the first place, but had to allow the use in residences pursuant to other laws.

Finally, we would point out that Int. 874, authorizing a stop work order for unrelated work when a lead violation is found in a building, would have the contradictory effect of punishing residents who might benefit from the permitted repairs and improvements underway. Stop work orders should be reserved for work being done improperly, not used as a blunt instrument to hammer property owners arbitrarily.

In sum, it is not clear how any of these bills significantly or practically enhance safety, but it is clear that together they would cost hundreds of millions of dollars, even billions, at the expense of tenants, owners and taxpayers.

Thank you again for the opportunity to comment.

End Notes

1. The Children of Flint Were Not 'Poisoned', The New York Times, July 22, 2018

2. Heavy Metals in Baby Food: What You Need to Know, Consumer Reports, August 16, 2018
3. Lead Poisoning in New York City : Continued Decline in 2012, July 9, 2014
4. “NYCHA failed to report cases of elevated blood lead levels to feds”, New York Post, July 17, 2018
5. Lead (Pb) and other metals in New York City community garden soils, Mitchell et al, 2014
6. Review of Studies Addressing Lead Abatement Effectiveness: Updated Edition, EPA 747-B-98-001, December 1998
7. High Levels of Lead Contaminate Many Backyards in Brooklyn Neighborhood, Earth Institute, Columbia University, October 2017
8. Lead Exposure in Adults, NYC Department of Health, 2018

Testimony offered by Victoria "Tory" Frye, Community Education Council Six elected parent member

September 27, 2018

My name is Victoria ("Tory") Frye and I am an elected parent member of the District Six Community Education Council (CEC6), the mother of two New York City public school children (in community school districts 5 and 6), a resident of Washington Heights, and an associate medical professor in the department of Community Health and Social Medicine at the City University of New York School of Medicine.

Lead is a potent neurotoxin that affects developing brains and neurological systems, causing cognitive damage and adverse behavioral outcomes. "There is no safe level" of lead, states Dr. Mona Hanna-Attisha, the Michigan pediatrician who uncovered the Flint MI water scandal, in the New York Times on June 9 of this year.

As is now well-known, elevated lead levels have been found in the drinking and washing water of numerous District Six public school buildings. Elevated levels were found using two methods of assessing lead levels in water: pre-flush and post-flush of the pipes. In the case of the building where my younger child attends school, one reading was over 6,000 parts per billion (PPB), well over the Environmental Protection Agency's (EPA) "action" level of 15 PPB. Recent data from the Department of Education indicates that 25% of schools continue to have one or more fixture at or above the 15 PPB action level set by the EPA. Some parents are not confident that the city is disclosing enough or complete information and/or do not trust the city's response.

The negative impact of lead exposure on children is hard to overstate. A recent study, published in 2015, among students in Chicago public schools, correlated math and reading test scores with blood lead levels (BLL) between birth and the time of testing; the researchers found that, after adjusting for factors such as poverty, maternal education, preterm birth or low birthweight, race/ethnicity, and sex/gender, even extremely low levels of lead in blood (far lower than the "acceptable" limit of 10 micrograms/deciliter) were associated with decreased math and reading scores. Specifically, lead levels of 5-9 micrograms/deciliter (mic/dL) accounted for 13% of reading "failure" and 14.8% of math "failure," compared to lead levels under 4 mic/dL. Even a lead level as low as 2 mic/dL was associated with decreased test scores. A follow-up study uncovered racial disparities in the effects of lead poisoning on school performance.

Low levels of exposure to lead in drinking water via schools can lead to elevated BLL. One study found that after 150 days of typical water consumption at a concentration of 0.23 PPB children had increased blood lead levels. Another study concluded: "Therefore, for the worst case school, a child drinking water from multiple taps in the school (as represented by simulations using median values), or in specific areas of the school with high content taps (as represented by simulations using 90th percentile value) will be at a higher exposure than at home and could present BLLs exceeding 5 mg/dL."

New York passed a law requiring testing of schools' water outlets once every five years. This is inadequate. What would be helpful for the city to mandate are the following:

- Require annual testing of the water in all New York City public schools using the recommended, pre-flush method.
- Set the action level for remediation at 1PPB.
- Require the Departments of Education and Health & Mental Hygiene offer on-site capillary blood lead screening for all students at all schools where elevated WLL are found so that children found to have elevated levels via screening, can be offered testing (via a blood draw) that will also be done on-site. When and if children with elevated blood lead levels are identified using this two-step process, the DOHMH will support parents/guardians as they seek treatment for their children.
- Require the Departments of Education and Health & Mental Hygiene include, in their annual report to the New York City Council, a focused analysis of school water-based and child (older than 5) blood-based lead levels. This may require systematic sampling of children older than 5 as routine (blood-based) screening by pediatricians is not mandated or even recommended.
- Install point-of-use water filtration systems in all NYC public schools to the extent that all drinking and washing water is filtered. These must be ADA compliant drinking fountains with bottle fillers that have integrated filtration (certified to NSF/ANSI 42 and 52). Funds must also be allocated to support the maintenance of the filtration systems.
- Create and make available by March 2019 a searchable, user-friendly database that parents and citizens can use to locate specific information in writing regarding the total numbers of outlets in a school building; the total number tested; when all testing events were run; what method was used; what remediation took place (i.e., what components were remediated); when the remediation occurred; what, specifically, was remediated; and a rationale for the choices made in the remediation process.
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REBNY
REAL ESTATE BOARD OF NEW YORK

TESTIMONY
of
The Real Estate Board of New York

Before the New York City Council
Committees on Housing and Buildings, Health, and Environmental Protection
Council Chambers, City Hall

September 27, 2018

INTRODUCTION

The Real Estate Board of New York (REBNY), the City's leading real estate trade association, representing commercial, residential, and institutional property owners, builders, managers and brokers, applauds the Council's efforts to address childhood lead-poisoning in New York City which can cause acute developmental challenges for young children, such as a lower IQ, even at low levels (10 µg/dL).[1] Our members have taken careful measures to comply with current EPA & City guidelines ensuring that units remain safe after renovations and repairs, and informing residents of members' responsibility to notify, investigate and remediate units to maintain lead-safe housing.

The City Council has ambitiously proposed 25 separate bills that introduce new protections against lead poisoning while also expanding existing laws across three key areas: soil, water, lead-based paint. Since 2005, when the City enacted its first protections against lead-poisoning, lead-blood levels dramatically declined by more than 90% for children below six with levels at or above 5 micrograms per deciliter (µg/dL), placing the annual rate of identified cases at 2.3 cases per 1,000 children as of 2017.[2] REBNY is proud of the work done with the City to achieve these reductions, and looks forward to finding opportunities to continue this trend.

REBNY applauds the Council's efforts to review and go beyond current lead inspection policies, and agrees that there should be continued improvements over existing laws to continue to lower instances of childhood lead poisoning. However, some of the proposed bills are far too heavy-handed, requiring measures that will ultimately require trade-offs to the City's affordable housing stock and possibly the public's safety. Coupled with the fact that the need for many of these bills are not scientifically supported, the resources owners will invest into their properties to comply with these bills will result in marginal improvements to housing and public health. We believe that our collective resources are better served if efforts were redirected to the specific neighborhoods where elevated blood lead levels are most prevalent.[3]

We also recommend that the City offer legislative solutions that address specific lapses in compliance to strengthen current guidelines and laws. One such lapse in compliance is related to chronic underreporting and lack of enforcement of the U.S. Department of Housing and Urban Development

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[1] "What Do Parents Need to Know to Protect Their Children?" Centers for Disease Control. Last Updated October 30, 2012. Accessed September 11, 2018. https://www.cdc.gov/nceh/lead/acclpp/lead_levels_in_children_fact_sheet.pdf.

[2] Report to the New York City Council on Progress in Preventing Childhood Lead Poisoning in New York City. NYC Department of Health and Mental Hygiene. August 30, 2018. Accessed September 20, 2018. https://www1.nyc.gov/assets/doh/downloads/pdf/lead/lead-rep-cc-annual-18.pdf

[3] Quarterly Reports 1 & 2 on Childhood Blood Lead Level Surveillance. NYC Department of Health & Mental Hygiene. August 2018. <https://www1.nyc.gov/assets/doh/downloads/pdf/lead/lead-quarterly-report.pdf> Accessed September 26, 2018.

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(HUD) regulations in NYCHA housing.[4] Another is related to the City's lack of enforcement of currently required inspection requirements on owners where children below the age of six years reside.[5]

REBNY appreciates the opportunity to provide the following specific comments on the proposed bills:

INTRO NO: 873

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to permanent removal of lead-based paint

SPONSORS: Chin, Koslowitz, Kallos

The bill requires owners to ensure units are free of lead-based paint upon unit turnover. The bill language lacks clarity regarding what is meant by "free of lead-based paint" and "encapsulation." Current standard practice allows owners to encapsulate lead-paint with a lead-paint encapsulant, and as long as a surface is not friable or abrasive there is no scientific basis it would result in adverse health effects.[6] If the Council is suggesting encapsulation may only be achieved by adding new layers of sheetrock or through gut-renovation as the primary means to achieve lead-safe dwelling, they will add wholly unnecessary and significant costs to remediation, forcing rents to increase to help pay for these unnecessary, costly renovations. The added costs of remediating lead-based paint to these new standards will severely impact small owners and their ability to afford such improvements. Disrupting lead at these levels may exacerbate and create additional health hazards. Lastly, adding layers of sheet rock will only make repairs within the wall, such as plumbing leaks harder to access.

INTRO NO: 919

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to investigations of lead-based paint hazards by independent and certified inspectors

SPONSORS: Torres, Treyger, Holden, Cumbo, Kallos

REBNY is supportive of a provision requiring owners to annually inspect units where a known presence of lead-based hazard exists—and they already do so as required by law, however, this bill drastically expands the scope of housing covered by this requirement. Requiring EPA certified inspectors to perform a visual inspection to identify "lead-based paint hazard," which is defined as any condition causing exposure to lead from lead-contaminated dust, peeling or chewable lead based paint or from a deteriorated subsurface,[7] is cost-prohibitive and could have deleterious impacts on affordable housing over time. Visual inspections may be adequately performed by owners provided they follow lead-safe

[4] Ferré-Sadurní, Luis. "Little Decline in Number of Children in Public Housing With High Lead Levels, Report Says." The New York Times. August 30, 2018. https://www.nytimes.com/2018/08/30/nyregion/nyc-public-housing-lead.html. Accessed September 11, 2018.

[5] Hicks, Nolan. "NYC Has Never Sued Under Law Requiring Landlords to Test for Lead Paint." The New York Post. September 25, 2018. Accessed September 26, 2018. < https://nypost.com/2018/09/25/nyc-has-never-sued-a-landlord-who-failed-to-inspect-for-lead-paint-report/>

[6] "Hazard Standards for Lead in Pain, Dust and Soil (TSCA Section 403)." U.S Environmental Protection Agency. Updated June 22, 2018. <https://www.epa.gov/lead/hazard-standards-lead-paint-dust-and-soil-tsca-section-403> Accessed September 26, 2018.

[7] NYC Administrative Code § 27-2056.2 (6)

EPA guidelines. There is no appreciable difference with having an EPA certified inspector perform the visual inspection. Furthermore, this bill will apply to areas where lead contamination is not a problem by requiring inspections of all pre-1960 housing. The NYC Department of Health and Hygiene (DOHMH) reports show the highest reported levels of elevated blood-lead (above 5 µg/dL) occur in Brooklyn, followed by Queens, the Bronx, Manhattan, and Staten Island, respectively, with the highest rates reported across the following neighborhoods: Greenpoint, Brooklyn at 51.9, Southwest Queens at 19.7, Fordham – Bronx Park, Bronx at 17.5, Central Harlem, Manhattan at 13.4 and Port Richmond, Staten Island at 22.6 (per thousand).[8] The City should focus any new inspection requirements on neighborhoods with the highest reported cases of elevated levels. Lastly, the bill language lacks clarity and fails to clearly identify the responsible party needing to remediate surfaces in cooperatives and condominiums.

INTRO NO: 916

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to remediating lead soil hazards in dwellings

SPONSORS: Salamanca, King, Holden, Cumbo, Kallos

Detected levels of lead-hazards in soil can arise from dust in the environment, likely from overhead subways, fire escapes or bridges containing lead-based paint. In light of the most recent DOHMH reports stating lead-paint hazards are the leading cause of lead-exposure,[9] there is little, if any, scientific basis for requiring soil remediation to the extent this bill does. Furthermore, the Council should provide greater clarity in defining the scope intended by "covered soil area." If the bill intends to bring any and all types of landscaping (from planters or sidewalks to bigger landscaped lawns) into compliance it could add a significant expense for owners, forcing higher rents to pay for compliance. In order to avoid liability for a potential discovery, owners throughout the City may be forced to concrete over potentially exposed areas.

INTRO NO: 874

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to improving interagency cooperation, and issuing stop work orders, in connection with lead paint and construction work

SPONSORS: Chin, Torres, Cumbo, Kallos

While REBNY agrees with the Council that lead-paint hazards should be cured immediately following discovery, authorizing two different City agencies with the authority to issue stop work orders for unrelated violations is counterproductive. All permitted work should not be interrupted or delayed for any reason other than for a violation for work related to the permitted area.

[8] Environment & Health Data Portal. NYC Department of Health & Mental Hygiene. < http://a816-dohbesp.nyc.gov/IndicatorPublic/VisualizationData.aspx?id=2184,4466a0,14,Summarize> Accessed September 26, 2018.

[9] Report on the New York City Council on Progress in Preventing Childhood Lead Poisoning in New York City. NYC Department of Health & Mental Hygiene. August 30, 2018. < https://www1.nyc.gov/assets/doh/downloads/pdf/lead/lead-rep-cc-annual-18.pdf> Accessed September 26, 2018.

INTRO NO: 868

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to remediating lead water hazards in dwellings

SPONSORS: Ampry-Samuel, Holden, Koslowitz, Cumbo, Kallos

REBNY appreciates the Council's efforts to prevent lead-contaminants in water, however, requiring owners to install water filtration systems or that they otherwise provide a water filtration pitcher within units where children of applicable age reside may not be necessary. The Council should only enact such legislation if lead testing shows lead hazards are present in the water supply, especially since owners typically replace piping anytime there is a known leak.

INTRO NO: 864

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to investigation by the department of health and mental hygiene in connection with lead poisoning incidents

SPONSORS: Johnson, Holden, Cumbo, Kallos

The Council should outline investigative procedures for DOHMH to follow. Otherwise, the bill could result in the issuance of unrelated building violations.

INTRO NO: 907

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to remediating lead soil hazards in certain facilities serving children

SPONSORS: Rodriguez, Holden, Cumbo

The Council should clarify the intended scope of this bill. Remediating large, expansive areas add significant costs to owners for efforts that may not be necessary.

INTRO NO: 420

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to soil lead hazards in parks and other publicly accessible areas

SPONSORS: Constantinides, Holden, Cumbo

The Council should clarify the affected areas. The lack of clarity purported by the bill language may impede development efforts of privately owned public spaces (POPS) and the maintenance of green spaces, which is widely known to improve public health and lower crime.[10]

INTRO NO: 865

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to lead reference/action levels and standards relating to lead-based paint hazards

SPONSORS: Johnson, Holden, Kallos

The Council's proposed levels fall in line with the recommended threshold by the Centers for Disease Control and Prevention (CDC) and HUD, which help to identify children at risk for lead poisoning earlier, reducing their risks for lead exposure. Setting a clear, new base level will not only promote transparency, but it will eliminate instances of underreporting by City agencies.[11] We are significantly concerned regarding the proposal that would amend the definition of lead-based paint. Lowering the threshold from 1.0 mg of lead per square cm or greater, to 0.3 mg of lead per square cm is a dramatic reduction that significantly differs from what has normally been considered to be an acceptable standard. Further, the universe of buildings that this would affect is still unclear. REBNY believes there must be additional conversations with the City regarding this proposal's impact on housing in conjunction with the other bills being considered.

INTRO NO: 464

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to investigation by the department of health and mental hygiene of dwelling units in which children identified with elevated blood lead levels routinely visit

SPONSORS: Dromm, Cumbo, Kallos

REBNY supports the Council's efforts to improve reporting practices to better identify sources of lead exposure. The practice should be expanded to healthcare providers to assist in determining where the biggest improvements can be made to prevent and identify lead exposure as early as possible.

INTRO NO: 920

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to remediating lead paint hazards in certain facilities serving children

SPONSORS: Treyger, Holden, Koslowitz, Cumbo, Kallos

[10] Anuta, Joe. "As Green Space Went Up, Crime Went Down in Poor Neighborhoods." Crain's. August 21, 2018. < http://www.crainsnewyork.com/article/20180821/REAL_ESTATE/180829973/as-green-space-went-up-crime-went-down-in-poor-neighborhoods> Accessed September 26, 2018.

[11] Pattani, Aneri. "NYC Undercounts Thousands of Children Most At Risk for Lead Exposure." WNYC News. March 21, 2018. Accessed September 11, 2018. https://www.wnyc.org/story/nyc-undercounts-thousands-children-at-risk-lead/

The City Council should consult the New York State Department of Health, which has regulations in place for day care providers regarding lead-based hazards before enacting further enhancements that could deter owners from leasing space to these providers.

INTRO NO: 91

SUMMARY: A Local Law to amend the administrative code of the city of New York, in relation to remediating lead water hazards in day care facilities

SPONSORS: King, Vallone, Koo, Levin, Cornegy, Maisel, Holden, Cumbo

Again, the City Council should consult the New York State Department of Health, which has regulations in place for day care providers regarding lead-based hazards before enacting further enhancements that could deter owners from leasing space to these providers.

Thank you for the opportunity to provide testimony for today's hearing. REBNY respectfully requests to receive updated drafts of the other bills on the docket should the Council decide to move forward, as amendments may affect our membership.

New York Lawyers
For The Public Interest, Inc.
151 West 30th Street, 11th Floor
New York, NY 10001-4017

Testimony of New York Lawyers for the Public Interest at the joint hearing of the New York City Council Environmental Protection, Health and Housing and Building Committees in support of various proposed introductions aimed at strengthening New York City's Lead Poisoning Prevention Laws

September 27, 2018

Greetings Chairmen Constantinides, Levin, Cornegy and members of the Environmental Protection, Health and Housing and Building Committees. My name is Christine Nyamekye Appah and I am a senior staff attorney in the Environmental Justice Program at New York Lawyers for the Public Interest (NYLPI). I work on issues related to children's environmental health. For more than a decade, NYLPI has engaged in legal campaigns to protect children from toxic exposures where they live, learn and play.

NYLPI has been actively involved in efforts to prevent childhood lead poisoning. We are part of both state and citywide coalitions that have been working to advance stronger public policies to protect children from sources of lead in their homes and schools. We have lobbied for regulation to lower the blood lead level used by the state to spark intervention by the Department of Health. We have successfully sued landlords whose negligent repair and renovation practices of older housing have caused lead dust to threaten the health and wellbeing of families residing in lead contaminated buildings. We have actively engaged in research and outreach to inform families and community members about the recently passed lead in school drinking water testing regulations. We released a report on the widespread lack of enforcement of Local Law 1 of 2004, which, despite its promise, has not been effectively enforced for over a decade.[1] We remain deeply committed to eliminate the scourge of childhood lead poisoning from all of its sources and manifestations.

I appreciate this opportunity to provide testimony in support of several of the proposed introductions geared toward reducing lead exposures across the City. NYLPI is particularly supportive of the measures that seek to lower the blood lead level action level, protect families and pregnant women, promote public education on lead, facilitate inspection for and remediation of lead sources in day cares, and provide some mandates for reducing lead

[1] New York Lawyers for the Public Interest, et. al, Lead Loopholes How Lax Enforcement of New York City's Lead Paint Poisoning Prevention Laws Lets Landlords off the Hook and Leaves Children at Risk, http://www.nylpi.org/wp-content/uploads/2018/09/LL1-Report-Final-Draft.pdf, September 2018

exposure during construction/renovation. These legislative proposals address the dire need to protect families from various sources of lead in their environment.

About NYLPI

NYLPI is a social justice organization that was founded forty years ago to provide critical legal services and advocacy for New Yorkers in need. We provide services through our environmental justice, health justice and disability rights programs through the community lawyering model.
NYLPI's community lawyering model is a client driven process that uses all of the skills of our staff to promote sustainable solutions and strategies for neighborhood empowerment. NYLPI also operates the Pro Bono Clearinghouse which coordinates volunteer efforts from the private bar and fosters capacity building for nonprofit organizations. As an organization, we are deeply committed to advancing the public interest through innovative and sustainable legal and policy solutions.

Fighting Lead Poisoning in New York City

While the problem of lead poisoning in children is far from being resolved, the City of New York has made considerable progress in addressing this public health crisis.[2] Both New York State and the City of New York have invested significant amounts of resources and research into the scope and best practices for eliminating this completely preventable health condition. The state professed a goal of ending childhood lead poisoning by the year 2010 - a promise that sadly has yet to be realized.[3] The City has endeavored to continue working to lower the number of children with lead poisoning. We can not afford to leave another generation of children vulnerable to the threat of lead poisoning in their environments.

As one of the first states in the nation to pass legislation targeting the problem of lead paint in residential housing, New York has created a framework that should - if implemented as conceived - create a precipitous decline in the number of cases of childhood lead poisoning. Local Law 1 of 2004 was enacted to be a countervailing force against the rise in the number of children with blood lead levels over City's action level of 10 mcg/dL. However, in the thirteen years since its enactment, much remains to be done to fully actualize the promise of this historic legislation.

Lead: An issue of environmental justice

The problem of lead poisoning is particularly acute in communities that struggle with environmental justice issues. Environmental justice issues range from a lack of healthy housing and green space to a lack of access to clean air and water and disproportionately affect communities with lower incomes and communities of color. Environmental justice

[2] Schiff, C., After Reducing Child Lead Exposure 90%, NYC is Going Even Further to Protect Kids, Medium, https://medium.com/@NYCMayorsOffice/after-reducing-child-lead-exposure-90-nyc-is-going-even-further-to-protect-kids-bdeff08652fd, July 1, 2018
[3] https://www.health.ny.gov/environmental/lead/exposure/childhood/finalplanhist.htm

communities face challenges brought on by the industrial activities and toxic facilities siting which place sources of pollution within close proximity to where people live, learn and work.

Environmental justice communities deal with a particular type of harm of "cumulative environmental impacts." These already burdened communities face the regular accumulation of environmental hazards in such a way that, taken together, cause great harm to the community's health and well being. Studies on cumulative impacts of environmental hazards take into account the socioeconomic factors and physiological impacts that environmental injustices can have on individuals.[4] As such, it encourages a holistic approach to addresses environmental justice issues.

In the context of our discussion on ending childhood lead poisoning, NYLPI encourages the City Council to stay particularly mindful of the fact that while studies indicate that the majority of lead poisoning cases are from lead paint, environmental justice communities face the cumulative impacts of various lead sources including water, construction dust, soil and tainted consumer products like toys and food.

NYLPI has conducted an assessment of the proposed legislative amendments aimed at combating lead exposure in day care facilities. We acknowledge the work of the City Council members who have thoughtfully engaged this issue and have put forth various solutions to the problems faced by daycare centers on this very challenging issues. We see particular themes and areas that we feel would be best addressed by a holistic approach that highlights the common issues discussed in the lead package. We are taking this approach in light of the likelihood that some of these bills will ultimately be merged together after today's hearing.

The City regulates day care facilities under Article 47 of the New York City Health Code. The regulations permit the City to ensure that the environments where day care facilities are operated are safe and that staff and related personnel are properly trained in relation to lead and other environmental hazards. The City has slightly different regulatory requirements for day care facilities depending on their size and location. The package of lead bills should clarify what size of the day care facility that each piece of legislation endeavors to regulate. We believe that the risk is too great to exclude smaller group day care settings. The package of lead bills should be amended to ensure that smaller group day care settings are also included, perhaps with modifications that account for their unique nature.

Day care safety is essential to a child's health and development

A study on the relationship between the built environment and children's health revealed that "[w]hile pediatricians are accustomed to thinking about health hazards from toxic exposures, much less attention has been given to the potential for adverse effects from "built environments" such as poor-quality housing and haphazard land-use, transportation, and community planning. In fact, children spend little time in natural environments compared to

[4] Solomon, G., et. al, Cumulative Environmental Impacts: Science and Policy to Protect Communities, https://www.annualreviews.org/doi/pdf/10.1146/annurev-publhealth-032315-021807, January 2016.

the time they spend indoors and in neighborhoods."[5] Day care facilities are some of the first places where children from every demographic across the city spend a significant amount of time outside of their homes. The environmental health and safety of a day care facility is particularly important because children are enrolled when they are very young and most susceptible to the hazards of lead.

Lowering the Blood Lead Level Action Level

NYLPI supports Proposed Introduction 864-2018's attempt to lower the blood lead action level to 5 mcg/dL and to peg the City's action level to that of the federal standards established by the Center for Disease Control. Science and public health research data have shown, no level of lead is safe for children and earlier intervention can provide much needed mitigating help.

Clear definition of the term 'facility.'

The bills need to provide some clarity on the types of day care facilities that are covered. For example, Proposed Introduction 920-2018 defines covered facilities as day care facilities, preschools, nursery schools or "a school", but does not describe what kind of school this is limited to. Proposed Introduction 920-2018 does include some language limiting the definition of day care service to not include schools that are in facilities that are operated by the board of education, however, this opens questions about private and charter schools. Proposed Introduction 3-2018 has a similar issue in that it states that "covered facilities" are defined as "schools" without further explanation of this key term. Some of the bills state what facilities are covered or that the term facility specifically references daycare centers. However the vagueness in some of the bills can cause administrative issues.

Certifications from day care owners

Proposed Introduction 91-2018 would create a presumption that all day care facilities operated in buildings that were erected before January 1, 1978 will be presumed to have lead based paint. The presumption would be rebutted by a sworn statement proffered by the owner or operator along with any other information that the City may require. Current law also requires an annual survey for lead-based paint hazards. The City should endeavor to further clarify what the annual visual inspection should include and institute a practice of providing a visual inspection compliance notification chart for public display.

Standardizing the testing mechanisms for lead in water

A recent study by the Environmental Defense Fund noted that currently, only seven states have laws that require day care operators to test for lead in their drinking water. The study's suggestions included ensuring that the water service lines leading into day care centers are free

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[5] Cummins SK, Jackson RJ, The Built Environment and Children's Health, National Center for Environmental Health, http://centerforhealthyhousing.org/Portals/0/Contents/Article0810.pdf, 2001.

of lead.[6] Their research also acknowledged a study by the U.S. Environmental Protection Agency which cited water as a major source of lead poisoning for children under six months of age.

The City Council should look to the guidelines set in place by New York State Public Health Law 1110 for the protocols for testing for lead in school water. It is important to note that the requirements for the state's testing do not include day care centers which would provide the City with an opportunity to tighten regulations around testing. For example, the state law requires testing of all school taps that have not been designated "lead free" once every five years. Given the vulnerability of children in day care centers to lead poisoning, the City Council should make the testing a yearly requirement and should make annual testing one of the factors required for maintaining an operating license. Under New York City's Health Code, day care operators are required to test every five years. NYLPI supports the bills with provisions that direct day care facilities to have tests for water conducted on an annual basis.

Some of the bills point to the need to use EPA Certified personnel and EPA certified lead testing kits. Some EPA certified lead testing kits are used for testing physical materials associated with the plumbing system and not water. Any new legislation must clarify what type of testing materials and certifications are being required.

Expanding the scope of potential sources of lead poisoning

Consider adding additional sources of lead to the list of prohibited items. Day care centers require a considerable amount of materials to run smoothly – not limited to toys and bedding. These two items however have the opportunity to contribute to the sources of lead exposure because of their proximity to the children. Day care centers should take extra effort to avoid purchasing items that could potentially harbor amounts of lead.

We appreciate the approach developed by Proposed Introductions 864-2018 and 865-2018 that takes a more inclusive approach to reviewing the potential areas in a child's life where they may have been exposed to lead and testing accordingly.

Public notice provisions

The City should require that any facility that has been found to contain lead in excess of the action levels must provide written notice to families as well as conspicuous posting that details the location of the lead source, the remediation measures in place and a time frame for completing the remediation work. The written notices should be provided in languages suitable for the child's family.

Conclusion

NYLPI supports these legislative proposals as they collectively address the acute problem of lead poisoning. Ultimately, the City has already has strong laws in place that, if properly

[6] McCormick, L., et. al, Putting children first: Tackling lead in water at child care facilities, Environmental Defense Fund, https://www.edf.org/sites/default/files/documents/edf_child_care_report-062518.pdf, 2018

enforced, would work to alleviate and possibly prevent further cases of lead poisoning. We acknowledge the difficulty that the lack of compliance from some landlords and contractors can pose to enforcement officials. The City must work to ensure widespread compliance with it's already existing regulations on testing, abatement and safe work practices to remove hazards before children are affected. We urge the City to utilize its well established public information infrastructure to make lead poisoning prevention central to our public health efforts. We look forward to working with the City Council and City agencies to provide support and assistance to rid New York City of lead poisoning cases.

Respectfully Submitted,

Christine Nyamekye Appah
Senior Staff Attorney
Environmental Justice Program
New York Lawyers for the Public Interest

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: Carmen Quinones

Address: 850 columbus

I represent: Douglass Houses (President)

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: Assistant Commissioner Patrick Wehle

Address: _____

I represent: DHS

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: 9/27/18

(PLEASE PRINT)

Name: Ann Marie Santiago

Address: 100 Gold

I represent: HPD

Address: _____

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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: 9/27/18

(PLEASE PRINT)

Name: Maria Torres-Springer

Address: 100 Gold

I represent: HPD

Address: _____

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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 874 Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: NIKKI LEGER

Address: 30 SICKLES

I represent: self and Cooper Sq. Comm

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 420/422 Res. No. _____

☐ in favor ☐ in opposition

Date: 9/27/18

updated

(PLEASE PRINT)

Name: Franziska Landes

Address: 434 W. 120th St. Apt 4J

I represent: Columbia University, Soil Testing

Address: 116th St. Lamont-Doherty Earth Observatory

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. 3 694 Res. No. _____

☐ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Director Steven Schindler

Address: _____

I represent: DEP

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 874 Res. No. _____

☑ in favor ☐ in opposition

Date: Sept. 27, 2018

(PLEASE PRINT)

Name: James Markowich - LDFNYC

Address: 233 East 5th St. #2

I represent: Tenants Taking Control (TTC)

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

LL1 oversight ☐ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Adriana Espinoza

Address: 30 Broad

I represent: NYLCV

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. _____

Lead dust ☐ in favor ☐ in opposition

Ambient lead *Date:* 9/27/18

(PLEASE PRINT)

Name: Winifred Armstrong

Address: 400 Central Park West - Apt 5P - 10025

I represent: myself - Member of Park West Village Working Group

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 420-A Res. No. _____

☑ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Sara Perl Egendorf

Address: 1135 Dean St #3 Brooklyn NY 11216

I represent: Brooklyn College

Address: 2900 Bedford Ave

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 361 Res. No. _____

☐ in favor ☐ in opposition

Date: 9/27/18

Commissioner **(PLEASE PRINT)**

Name: Vincent Sapienza

Address:

I represent: DEP

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: _____

(PLEASE PRINT)

Name: Shireen Mujeeb Riazi Kermani

Address: 250 Broadway 10010

I represent: NYCHA

Address: NYCHA

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: 9/27/18

(PLEASE PRINT)

Name: Daniel Huber

Address: 110 William St. 14th Floor

I represent: Independent Budget Office

Address: 110 William St. 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: _____

(PLEASE PRINT)

Name: Vito Mustaciuolo

Address: _____

I represent: GM, NYCHA

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. 864/873/874 Res. No. _____

☑ in favor ☐ in opposition

Date: 9/27/2018

(PLEASE PRINT)

Name: Ann Daily

Address: 420 E. 12th St. #5H NY

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 420-A Res. No. _____

☒ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Jan Mun

Address: 181 Green St, Bklyn, NY 11222

I represent: Cornell University

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: 9-27-18

(PLEASE PRINT)

Name: Ms Charles

Address: 361 Grandview Ave S.I.

I represent: Mariners Harbor Houses

Address: 200 Lockman Ave

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. lead bills Res. No. ______

☒ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Jacqueline Gallant

Address: 423 6th St Brooklyn NY 11215

I represent: Natural Resources Defense Council (NRDC)

Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

H2O Daycare Apple testing

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

☒ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Benjamin [illegible]

Address: ______

I represent: New York Lawyers for the Public Interest

Address: 150 W. 30th NYC

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☑ in favor ☐ in opposition

464, 864, 865, 873, 891, 904, 919, 920

Date: ______

(PLEASE PRINT)

Name: Corey Stern

Address: 800 Third Ave, 11th Floor, NY, NY 10022

I represent: 190 individual kids, NYCHA poisoned

Address: Multiple NYCHA

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. 874 Res. No. _____

☒ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: EDWARD RUDYK

Address: 100 Bradley PLACE #11L BX NY

I represent: Lead Dust Free NYC

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

health Angle - testing

Appearance Card

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

☐ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Benjamin Andersm

Address: _____

I represent: Childrens Defense Fund - NY

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 2018 Res. No. 420

☒ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Fran Agnone

Address: 18 W 120th Street, NY, NY 10027

I represent: The National Wildlife Federation

Address: 124 Monitor Street, Brooklyn NY 11222

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. 2018 Res. No. 420

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: HANNAH CINELLI

Address: 53 RUSSELL ST. #1 BK, 11222

I represent: CONCERNED PARENTS IN 11222

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: David CARPENTER

Address: University at Albany

I represent: _____

Address: 5 University Place, Rensselaer 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: 9/27/18

(PLEASE PRINT)

Name: Jill Samuels

Address: Montefiore Medical Center

I represent: Lead Poisoning Prevention Program

Address: 111 E. 210th St. Bronx, NY 10467

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: 9/27/2018

(PLEASE PRINT)

Name: JACKSON FISCHER-WARD

Address: 250 BWAY

I represent: A/M HARVEY EPSTEIN

Address: 250 BWAY

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: 9/27

(PLEASE PRINT)

Name: Arthur Klock

Address: _____

I represent: Local 1 Plumbers

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: 9/27/18

(PLEASE PRINT)

Name: CHRISTINE RUCCI

Address: 216 E 5th St - GFWNYC

I represent: Cooper Square Committee

Address: 63 East 4th St NYC + myself

10003

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: Jalisa Gilmore

Address: 60 W 142nd st NY, NY 10037

I represent: New York City Environmental Justice Alliance

Address: 166A 22nd st. Brooklyn, NY

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 420/422 Res. No. _____

☐ in favor ☒ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: GEORGE LOZEFSKI

Address: 2409 LINDYRD WESTBURY NY 11590

I represent: NYC URBAN SOILS INSTITUTE

Address: FLOYD BENNETT FIELD, BROOKLYN NY

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 23 Lead Bill Res. No. _____

☑ About ☐ in favor ☐ in opposition

Date: 9/27-18

(PLEASE PRINT)

Name: Mary Ann Rothman

Address: 110 Riverside Drive NYC 10024

I represent: Council of NY Cooperatives & Condominiums

Address: 250 West 57 Street, NYC 10107

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. 420+422 Res. No. _____

☒ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Joel Kupferman

Address: 225 Broadway NY, NY

I represent: Smith Houses

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 865 Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: Frank Ricci - Mitch Posilkin

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. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: DR. LeNora Fulani

Address: 560 W. 43rd St

I represent: All Stars Project

Address: 42ND St - Manhattan

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: 9/27/18

(PLEASE PRINT)

Name: BRANDON KIELBASA (LDF NYC)

Address: 61 E. 7th ST. NY NY

I represent: Cooper Square Com. (LDF 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: 9-27-18

(PLEASE PRINT)

Name: Matthew Chachere

Address: 45 ~~Wadsworth~~ Wadsworth Ave NY NY

I represent: NMIC, NYCCELP

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: 9/27/18

(PLEASE PRINT)

Name: Ben Anderson

Address: 5101 39th Ave, Apt. F14, Sunnyside NY

I represent: Children's Defense Fund - NY

Address: 815 2nd Ave, 8th Flr, NY, NY

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. 420 Res. No. _____

☒ in favor ☐ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Franziska Landes

Address: 434 W. 120th St. Apt 4J New York, NY 10027

I represent: myself

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. 421, 422 Res. No. _____

☐ in favor ☑ in opposition

Date: 9/27/18

(PLEASE PRINT)

Name: Igor Bronz

Address: 2277 Homecrest Avenue Apt 3R Brooklyn NY 11229

I represent: Urban Soils Institute (USI)

Address: Ecology Village, Floyd Bennett Field, Brooklyn, NY 11234

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: Dr Oxiris Barbot

Address: Acting Commissioner

I represent: DOHMH

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: _____

(PLEASE PRINT)

Name: Corinne Schiff

Address: Deputy Commissioner

I represent: Environmental Health

Address: DOHMH

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