

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL AND HUMAN RIGHTS

----- X

September 18, 2019

Start: 10:10 a.m.

Recess: 2:25 p.m.

HELD AT: 250 Broadway - Committee Rm.
14th Fl.

B E F O R E: MATHIEU EUGENE
Chairperson

COUNCIL MEMBERS: Daniel Dromm
Brad S. Lander
Bill Perkins
Ydanis Rodriguez

A P P E A R A N C E S (CONTINUED)

Matthew Shurka, Co-founder, Born Perfect

Katherine Cohen, Attorney Lambda Legal, NYC

Eric Lesh, Executive Director, LGBTQ Bar
Association of Greater New York

Dana Sussman, Deputy Commissioner for the
Intergovernmental Affairs and Policy, NYC
Commission on Human Rights

Margaret Brown, Associate Commissioner for Housing
Opportunity and Program Services, NYC Housing,
Preservation and Development

Robert Dazeer, Attorney, Legal Aid Society

Lucy Block, Research and Policy Associate,
Association for Neighborhood and Housing
Development, NHD

James Fishman, Private Practice Attorney

Annie Carforo, Neighbors Together

Mala Muldi, Neighbors Together

2 [sound check] [pause] [gavel]

3 CHAIRPERSON EUGENE: Good morning and
4 welcome. My name is Mathieu Eugene, and I'm the
5 Chair of the Civil and Human Rights Committee.
6 Today, the committee will be hearing testimony on
7 three bills. The first Introductory Bill Number 1682
8 is sponsored by the Speaker, and 1603 of the City's
9 Administrative Code Law. (sic) The other two bills,
10 Introduction 85-A and 1603 sponsored by Council
11 Member Kallos and Levine respectively, and to
12 strengthen protections even credit discrimination for
13 those seeking housing. In 2017, this committee heard
14 a number a number bills and to-that protecting and
15 improving the life of New York City LGBT people. At
16 the hearing multiple witnesses testified about the
17 process known as conversion therapy. These
18 treatments involved a range of practices that aim to
19 change the person's sexual orientation so that they
20 fit strictly into the norm of heterosexuality.
21 However, the American Medical Association has
22 reported that the leading and profession medical and
23 mental health association rejects conversion therapy
24 as a legitimate medical treatment. As a result, the
25 city enacted Local Law 22 of 2018 to bring conversion

1 therapy services offered for a fee. Shortly after
2 it's enacting--enactment, a lawsuit was filed
3 challenging the city's ban as unconstitutional as
4 Supreme Court and Federal Courthouse at the time.
5 More conservative LGBTQ advocates have become
6 increasingly concerned that their rights will be
7 dismantled by the court, and to avoid purportedly
8 their proceed--precedence, the Speaker has made the
9 very difficult decision to introduce Introductory as
10 being No. 1682 returning Local Law 22, and to
11 Introductory No. 85-A sponsored by Council Member
12 Kallos would ban the use Tenant Blacklists, which
13 effectively bar people from rental accommodations if
14 they have ever participated in Housing Court
15 proceedings, and New York defining of Housing Code a
16 part of the public reporting. This means that the
17 Tenant Screening Bureau who charge a landlord for
18 information on a potential tenant are able to source
19 information from filing. The problem is, however,
20 the Tenant Screening Bureau only provides basic case
21 information. They do not indicate for example that a
22 tenant has filed a case against their landlord who is
23 refusing to do repairs. Nor does the screening show
24 the outcome the case including if the tenant wins.
25

2 Therefore, just reviewing the filing is enough to
3 land then on a tenant's screening lease and can
4 prevent them from securing housing. In response to
5 this concern, the state recently passed a law
6 forbidding landlords from relying on tenant's Housing
7 Court history to refuse rental accommodation.
8 Introduction 85-A will prevent the unfair
9 blacklisting of protected tenant and provide an
10 additional venue for-to address through the
11 Commission on Human Right. Introduction 1603
12 sponsored by Council Member Levine also seeks to
13 explain how the discrimination. Credit scores
14 stronger instrument whether a person can access
15 housing. However, numerous studies show that racial
16 discrepancies continue to negatively impact people of
17 color when their scores are calculated. To address
18 this biased introduction, Introduction 1603 by
19 landlords while leasing an affordable unit control
20 assisted by New York City Department of Housing,
21 Preservation and Development, HPD from considering
22 credit score as well as Customer debt judgment a
23 collection of talent from either the application or a
24 member of their household. Before we begin, I'd like
25 acknowledge the members of this committee who have

2 joined us and we have Council Member Levin, Council
3 Member Kallos, Council Member Perkins, and Council
4 Member Ydanis Rodriguez. I'd like also to take the
5 Committee staff, Keith Yurin (sic) , Senior Counsel
6 to the Council—Senior Counsel to the Committee, Leah
7 Kopec Policy Analyst and Levin Sheen (sic) Financial
8 Analyst as well as my staff Debbie Swise (sic) and
9 Dean Fallon. Now I would like to invite Council
10 Member Ben Kallos [coughs] excuse me—to say a few
11 words about his bill, Introductory Bill No. 85-A.

12 COUNCIL MEMBER KALLOS: Good morning.
13 I'm Council Member Ben Kallos. You can as always
14 Tweet me and hit me on social media at Ben Kallos. I
15 want to thank the Committee on Civil Rights—Civil and
16 Human Rights Chair the Honorable Mathieu Eugene for
17 leading us this morning. No one should face
18 discrimination simply for having been in Housing
19 Court Tenant screening companies have a
20 responsibility to tell the truth, the whole truth and
21 nothing but the truth about those Housing Court
22 cases. We can't have a legal system where somebody
23 can go to Housing Court be vindicated and even win
24 against a bad landlord, and then repeatedly be denied
25 a place to live. Tenant Blacklists degrade Housing

2 Court and create a system where even if you win, you
3 lose. Previously landlords could refuse tenants
4 based on their Housing Court history, but the state
5 recently passed legislation prohibiting the use of
6 Housing Court history in tenant selection. However,
7 the State Legislation only allows the Attorney
8 General of the State of New York to prosecute bad
9 actors. Hundreds of thousands of New Yorkers are
10 named in the Housing Court cases every year, and
11 they're reported on these blacklists. They're
12 created by over 650 screening companies, and the
13 reports are so bad these companies along with credit
14 reports and are often used to deny these applications
15 to renters. I've been working on this since I was a
16 Chief of Staff for former Assembly Member Jonathan
17 Bing back in 2007, and this legislation Introduction
18 85-A largely mirrors that legislation that would
19 provide a protection for tenants by saying that going
20 to Housing Court should be a human right, and if they
21 felt that their human right had been violated, they
22 would be able to go to the Commission on Human Rights
23 in the city of New York to have them investigated or
24 if necessary hire an attorney for their own private
25 right of action. Either way, this would bolster what

2 we've seen happen on the state and we hope that
3 tenants can win. I want to thank central staff Jeff
4 Baker, Rachel Cordero, Valkese (sp?) Leah and Nevin
5 for—who worked tirelessly on this bill as well as a
6 coalition of advocates led by James Fishman, Legal
7 Aid, Housing Court Answers and so many others who
8 were working on this for literally a decade along
9 with my State Senator Liz Krueger, and I want to
10 thank the—my co-prime sponsor on this legislation,
11 Council Member Mark Levine who is carrying
12 Introduction No. 1603, which I am also proud to be
13 his co-prime sponsor on and together we can make
14 things better for our tenants. Thank you.

15 CHAIRPERSON EUGENE: Thank you very much
16 Council Member Kallos. Thank you. Now, I would like
17 to invite my colleagues and friend Council Member
18 Levine to talk about his bill and Introductory bill
19 Number 1603.

20 COUNCIL MEMBER LEVINE: Thank you, Mr.
21 Chair. Thank you Dr. Eugene. As you mentioned, I am
22 pleased to be co-sponsoring Intro Number 1603 with my
23 co-lead sponsor Ben Kallos concerning the use of
24 credit history as a determinant for who can enter
25 affordable housing subsidized by our city. You know,

2 when most members of the public hear this term *credit*
3 *bureau*. If they hear bureau, they think oh that
4 sounds like an official government agency like maybe
5 the Bureau of engraving. The public needs to
6 understand credit bureaus are for-profit companies.
7 Their customers are not you and me. Their customers
8 are the businesses that they are selling these
9 histories to. It is not surprising that with that
10 profit motive they are often peddling mistaken
11 histories about regular people about consumers and
12 about people who are applying for affordable housing
13 in New York City and that is why we have been active-
14 actively pushing to reduce the degree to which these
15 credit histories, which can be faulty and even when
16 accurate can simply reflect that someone has been
17 through economic distress. We don't want that
18 locking anyone out of affordable housing. Since we
19 have started working on this issue, I am pleased that
20 HPD has begun to reduce its reliance on this measure,
21 but we are pushing for a comprehensive solution that
22 ensures that we don't undermine the mission of
23 affordable housing by excluding the very people who
24 are in greatest economic need. Today a person who for
25 example has lost their job and has accumulated let's

2 say \$6,000 in consumer debt and has judgments against
3 them has lost their home, has landed in a homeless
4 shelter, they would not be protected in the changes
5 that HPD has made thus far for the way that it
6 considers credit history and the guidelines given to
7 affordable housing developers. Our bill would fix
8 that. Our bill Intro 1603 would ensure that credit
9 history even in the case of consumer judgments even
10 for people who are not currently housed and don't
11 have rent history, but this credit history would not
12 block them from affordable housing that our taxpayers
13 have subsidized, and I'm very pleased that we'll be
14 hearing this bill today, and I want to thank the
15 Chair for his leadership on this and many other
16 matters. Thank you.

17 CHAIRPERSON EUGENE: Thank you very much
18 Council Member Levine. I want to acknowledge that we
19 have been joined by Council Member Brad Lander.
20 Thank you very much. Now, we are going—I think we
21 are going to call the—let me see. [background
22 comments/pause] Now we are going to call the
23 advocates. Who are going—they are going to testify
24 on Introductory 1682. We want to call them? Okay,
25 Katherine Cohen from Landau Legal and Matthew Shurka.

2 Okay, I hope that I pronounced it right, and Eric
3 English (sic) from NGBT Association of New York.
4 Thank you very much. You may start, but before you
5 start, state your name. Thank you.

6 [off mic] Good morning

7 FEMALE SPEAKER: Turn your mic on.

8 MATTHEW SHURKA: [on mic] Yeah, good
9 morning. There we go. Civil and Human Rights
10 Committee, thank you for having me. My name is
11 Matthew Shurka. I am a born and raised New Yorker, a
12 constituent of Speaker Corey Johnson's district, a
13 survivor of conversion therapy and the co-founder of
14 Born Perfect. Born Perfect is a legal campaign to
15 protect LGBTQ people from the discredited and harmful
16 practice of conversion therapy. We are educating
17 those who still believe being LGBTQ is an illness.
18 I've had the privilege to lead a movement that is
19 unprecedented. Ending conversion therapy by
20 legislative means and litigation only began a decade
21 ago. No such laws or lawsuits have ever existed
22 before, and I'm proud to share the success of our—
23 [coughs] sorry, and I am proud to share the success
24 of our work alongside the hundreds of elected
25 officials who have either sponsored or voted in favor

2 of passing such a legislation nationwide. For the
3 first time in my career, I am testifying in favor of
4 repealing one of those laws, the New York City
5 conversion therapy Ordinance, Subchapter 19 of
6 Chapter 5 of Title 20 of the Administrative Code of
7 the City of New York. Since 2012, our team has
8 supported the passage of legislation in 18 states and
9 55 municipalities. At every step we have tried to be
10 as strategic as possible because the stakes of this
11 issue are high. We know that conversion therapy is a
12 LISA in practice, and we know that those who endorse
13 and promote it including anti-LGBTQ hate groups will
14 fight hard to oppose us as part of their campaign to
15 stigmatize LGBT people and portray us as deviant and
16 mentally ill. Not surprisingly, we have faced legal
17 challenges to the laws from these groups and from
18 conversion therapists who want to continue to prey on
19 our community—on our community by falsely claiming
20 they can change a person's sexual orientation or
21 gender identity. So far, all of these legal
22 challenges have failed and these life saving laws
23 have been upheld in California, New Jersey, Illinois
24 and Florida. Now, for New York. I began advocating
25 for New York Statewide law in 2013. The first

2 introduction of such a bill was in 2014 by Assembly
3 Woman Glick, and State Senator Brad Hoylman, but then
4 the legislative process stalled. For several years
5 our statewide bill was blocked and could not receive
6 a vote on the senate floor in Albany. In 2017 we
7 began to advocate for a New York City law and Council
8 Member Dromm was the sponsor on that. Since New York
9 City does not have the legal power to regulate
10 licensed mental health professionals the law that was
11 introduced and passed on the basis of consumer fraud
12 in the Consumer affairs department which we believe
13 was the best course of action at that time and was it
14 was the only such law in the nation. Since the 2017
15 New York City law passed, a new understanding for how
16 to protect LGBTQ people has emerged. We have learned
17 that LGBTQ people victims of conversion therapy fraud
18 can sue their therapist under existing consumer fraud
19 laws in every state. In the lawsuit, *Michael*
20 *Ferguson V. Jonah* and *Kate McCobb v. Wiley*, victims
21 if conversion therapy in New Jersey and California
22 sued their respective conversion therapists and won
23 on the basis of consumer fraud. Here we are in 2019.
24 In January the New Yorker Legislature passed a
25 statewide law protecting LGBTQ minors from being

2 subjected to conversion therapy by licensed
3 professionals. This was a long awaited success for
4 our New York youth. It was soon after that that I
5 and other state and national organizations began
6 discussing with Speaker Corey Johnson about repealing
7 the New York City law. We saw the law being
8 challenged by anti-LGBTQ group in the—in the case
9 *Shorts v. City of New York* and we know first hand how
10 much time and resources such litigation can take.
11 Based on the successful consumer fraud lawsuits that
12 I noted we also understood that the New York City law
13 is redundant and of existing consumer fraud
14 protections under state and local laws so that
15 repealing it will not reduce any existing
16 protections. We understood that while the New York
17 City law is valid and should be upheld there's always
18 a risk of loss in any litigation, and that such a
19 loss might well be seen as undermining laws in other
20 states. For all these reasons we strongly support
21 repeal as the most responsible and protected decision
22 the one that will best protect LGBTQ people both in
23 New York and other states, and that will best support
24 the nationwide campaign to end conversion therapy. I
25 am grateful to Speaker Corey Johnson for his

1 leadership and support. I am grateful to Council
2 Member Dromm for his leadership and tireless work to
3 support our community when we first introduced this
4 law in 2017, and I am proud of the city I call home.
5 I just want to add as I wrap it up with of them,
6 thank you for that time. I am a conversion therapy
7 survivor and from age 16 to 21 I was treated here in
8 New York City by licensed professionals treating my
9 condition and illness that they described as SSA.
10 SSA stands for Same Sex Attraction. I was separated
11 from my mother and sister for three years. I wasn't
12 allowed to speak to any females so that I understood
13 the roles of females and males as described by a
14 licensed professional. The irreversible harm it has
15 done to me and my family as a 31-year-old now is only
16 something I'm still recovering from and I deal with
17 every day and that something I will carry, and as a
18 proud leader in this campaign I am a victim to what-
19 the-the practices happened here New York. My family
20 addition we did spend \$35,000 on my conversion
21 therapy even though it harmed us deeply, and so I was
22 defrauded from the consumer point of view. I was
23 misguided by licensed professionals here in the
24 state, and so I'm proud that I worked on introducing
25

2 the—and working with Council Member Dromm introducing
3 this law and I am very proud that we now have a
4 greater understanding of how to protect LGBTQ people
5 here in the city and the state and supporting a
6 repeal for this law. Thank you.

7 CHAIRPERSON EUGENE: Thank you very much
8 for your testimony. Thank you. [background comment]

9 KATHERINE COHEN: Good morning. My—
10 excuse. My name is Katherine Cohen, and I'm an
11 attorney with Lanbda Legal here in New York City.
12 Thank you for the opportunity to speak today in
13 support of the proposal to repeal the city's
14 ordinance banning the sale of conversion therapy.
15 First, I want to thank this committee and the Council
16 as a whole for your commitment to addressing the
17 needs of the LGBTQ population in New York City and
18 for taking up this important matter. I am here to
19 express Lanbda Legal's strong support for the
20 Council's bill to repeal this ordinance. It is the
21 collective understanding of advocates working to
22 promote LGBTQ and civil rights including Lambda
23 Legal, the National Center for Lesbian Rights and the
24 Southern Poverty Law Center that this is the best
25 course of action to protect conversion therapy laws

1 across the country. Nearly 700,000 adults in the
2 U.S. have been subjected to conversion therapy at
3 some point in their lives, with half of those being
4 adolescents. As a result of statewide laws in 18
5 states, an estimated 10,000 LGBTQ youth have been
6 protected from experiencing this life threatening
7 practice Lambda Legal supported the ordinance, which
8 made clear that the sale of conversion therapy is
9 fraudulent when it was enacted by the City Council in
10 2017. At that time there was no statewide express
11 protections against this harmful practice. The city
12 took action and the state would not. Earlier this
13 year the state took the necessary step of passing a
14 law that protects LGBTQ minors throughout the state.
15 Additionally, in the last two years several lawsuits
16 have shown that consumer fraud laws are an additional
17 and powerful remedy against this harmful practice.
18 Throughout New York minors are now protect by the
19 state's new law. Everyone else is protected and ahs
20 recourse by virtue of the state and the city's robust
21 consumer protections, which exist independently of
22 this ordinance. We applaud the city's leadership in
23 spurring a statewide law and in taking the strategic
24 step to avoid baseless yet potentially damaging
25

2 litigation. We thank the city and the Civil Rights,
3 Civil and Human Rights Committee and urge the passing
4 of this motion.

5 CHAIRPERSON EUGENE: Thank you very much
6 for your testimony. Thank you.

7 ERIC LESH: Good morning and thank you
8 for the opportunity to speak in support of the
9 proposal to repeal the city's ordinance banning
10 conversion therapy. I'm particularly proud to be
11 sitting up here next to some very strong advocates
12 particularly Mathieu for his courageous work around
13 the country to end conversion therapy. There is no
14 stronger advocate in my opinion. So, it is—it's an
15 honor to be sitting up here at the table with you and
16 thank you for the time. My name is Eric Lesh. I'm
17 the Executive Director of the LGBTQ Bar Association
18 of Greater New York. We are one of the oldest LGBTQ
19 Bar Associations in the country. We serve nearly
20 2,000 LGBTQ low-income New Yorkers every year through
21 out legal clinic and our helpline. We also have a
22 clinic that serves LGBTQ youth here in New York City,
23 and I'm—I'm here testifying not just on behalf of the
24 LGBTQ Bar, but my words reflect the sentiments of
25 several other leading advocates in the civil and

1 human rights space that have worked for year to end
2 conversion therapy not just in New York. But across
3 the country. Those groups include the National
4 Center for Lesbian Rights, the Southern Poverty Law
5 Center, Lambda Legal and the Madison Society. We
6 speak with a single voice on this issue. Repealing
7 this ordinance is the right thing to do, and now is
8 the right time to do it. At the outset, when this
9 ordinance was passed in 2017, there was no state law
10 expressly prohibiting the sale of conversion therapy
11 here New York. New York had considered, but had not
12 enacted legislation to protect minors from conversion
13 therapy. The city's decision to move forward with a
14 ban at that time in light of the state's failure to
15 act was timely, was strategic and it was bold. In
16 our estimation the city's action helped elevate the
17 discussion of why conversion therapy is so harmful,
18 and highlighted why this is a dangerous practice and
19 the state needed to act right away. That law that
20 the state passed just this year now provides
21 protection for LGBTQ minors across New York State.
22 Other things have changed since the enactment of this
23 ordinance as my colleagues have brought up. Lawsuits
24 filed by the National Center for Lesbian Rights, by
25

2 the Southern Poverty Law Center have shown that
3 consumer protection laws that exist here in the city
4 and across the state are just as effective at
5 protecting adults and minors from the harmful fraud
6 of conversion therapy. Just this past June for
7 example a lawsuit filed by the Southern Poverty Law
8 Center a judge in New York City confirmed that that
9 organization that was peddling conversion therapy was
10 a fraud. They promised a cure for being gay. They
11 had to dissolve and cease all operation, and the
12 judge ordered them to pay \$3.5 million in attorney's
13 fees. That organization will never practice
14 conversion therapy in the state of New Jersey again.
15 New York has similar laws here. Meanwhile, social
16 science continues to demonstrate the extreme dangers
17 of conversion therapy Just this month for example a
18 study published by the Journal of American Medicine
19 found that for transgender people exposure to
20 conversion therapy doubles the rate of suicide
21 attempts. A study by the Family Acceptance Project
22 released last November found that when parents send
23 their LGBT children to conversion therapy they triple
24 the risk of suicide attempts. The study concluded
25 that 63% of young people sent by their parents to

2 conversion therapy attempt suicide 63%. This
3 alarming research confirms that advocates and policy
4 makers must redouble their efforts not just here in
5 New York, but across the country enacting city
6 ordinances, statewide laws to ban this harmful
7 practice. That is why right now the national and
8 local LGBTQ groups that we represent here at this
9 table in—in the city who also voice their support are
10 unanimous in praising the City Council, the Speaker
11 for their repeal of this ordinance. Throughout the
12 state minors are protected by state law. Everyone
13 else is with—is protected by consumer fraud statutes.
14 The ordinance has become over time duplicative and in
15 the face of litigation unnecessary. Repealing this
16 ordinance now avoids the cost of risk of litigation
17 and allows the city to focus and redouble its efforts
18 and other resources on LGBTQ communities at risk. It
19 shows that the city is a strategic partner in the
20 work to not just prevent people in New York from the
21 harmful practice of conversion therapy, but our
22 efforts to eradicate it from—from the nation. So, we
23 thank the thank the city, we thank the Civil and
24 Human Rights Committee, and we urge passage of this
25 motion. Thank you.

2 CHAIRPERSON EUGENE: Thank you very much
3 for your testimony, and thank you to all the members
4 of the panel. Thank you so very much. [pause] Now I
5 want to call the next panel, the members of the next
6 panel. Carmelyn P. Malalis, Deputy Commissioner for
7 New York City Human Rights, and Commissioners, thank
8 you. Thank you Deputy Commissioners. Thank you.

9 [background comments] So let me just make sure that
10 I make a clarification. We have with us the
11 Commissioner, not the Deputy Commissioner, but is
12 there somebody for the deputy Commissioner. Thank
13 you. [background comments] Alright. So, now we are
14 going to call Margaret Brown from HPD. Thank you
15 very much, and before you start will you please state
16 your names and you can start.

17 DANA SUSSMAN: Okay. Dana Sussman,
18 Deputy--

19 CHAIRPERSON EUGENE: Hold on, please.

20 LEGAL COUNSEL: We're just going to do
21 the oath.

22 CHAIRPERSON EUGENE: Please. Thank you.

23 LEGAL COUNSEL: Do you swear or affirm to
24 tell the truth, the whole truth and nothing but the
25

2 truth before this committee and to answer Council
3 Member questions honestly?

4 DANA SUSSMAN: Yes.

5 LEGAL COUNSEL: Thank you.

6 CHAIRPERSON EUGENE: Thank you very much.

7 DEPUTY COMMISSIONER SUSSMAN: Good

8 morning, Chair Eugene and Committee members. I'm
9 Dana Sussman, Deputy Commissioner for the
10 Intergovernmental Affairs and Policy at the
11 Commission on Human Rights. Thank you for convening
12 today's hearing on Intros 85 and 1603, two important
13 bills in the city's effort to address housing
14 discrimination and access to housing. Before I speak
15 on the bills, I'll highlight some of the Commission's
16 efforts to combat housing discrimination. They are
17 more robust than ever. In January 2018 the
18 Commission established its source of income unit a
19 small dedicated unit of staff special—specifically
20 focused on both intermediate—on both immediate and
21 interventions and large scale systemic prosecutions
22 to combat source of income discrimination in which
23 individuals with housing vouchers including Section
24 8, City Steps, HASA or other forms of rental
25 subsidies are turned away by landlords who refused to

1 accept them, which has been a violation of the city
2 Human Rights Law since 2008. Since the inception of
3 the Source of Income Unit, the unit has resolved 236
4 cases through pre-complaint interventions securing
5 housing for housing insecure and homeless New Yorkers
6 after being turned away by a housing provider because
7 of their voucher, allowing a tenant to remain in
8 their home through the use of a voucher, getting a
9 voucher restored or extended or delaying or
10 preventing an eviction. In addition to responding
11 immediately to critically urgent cases, the unit also
12 filed complaints against housing providers where
13 appropriate particularly where pre-complaint
14 intervention does not resolve the matter or a housing
15 provider has repeatedly violated the law or where a
16 systemic pattern or practice issue is identified.
17 The Commission resolve a case earlier this year that
18 demonstrative of its comprehensive efforts to combat
19 source of income discrimination. The case involved a
20 prospective tenant who alleged that respondent the
21 owner of three buildings containing affordable units
22 refused to accept complaint's—accept the voucher and
23 denied her housing application. After the complaint
24 was filed respondent promptly expressed a desire to
25

2 resolve the case and cooperated fully in the
3 Commission's investigation. However, the Commission's
4 investigation revealed that respondent had an
5 unlawful policy of refusing to accept such vouchers,
6 and that at least two individuals including
7 complainant and likely more had been denied pursuant
8 to that policy. The Commission, complainant and
9 respondent entered into a conciliation agreement
10 requiring respondent to pay emotional distress
11 damages to complainant, and damages for loss of
12 housing opportunity. In addition to civil penalties
13 to the General Fund of the City of New York.
14 Respondent also agreed to adopt policies not only to
15 change their policy with respect to vouchers, but
16 also regarding broadly tenant screening, reasonable
17 accommodations for tenants with disabilities and the
18 use of criminal history information in making housing
19 decisions, to train all employees with managerial
20 authority or with job duties related to reviewing
21 applications on compliance with the City Human Rights
22 Law, and to post the Commission's Fair Housing poster
23 in all buildings that they—they own in New York City.
24 In addition to the Commission's targeted efforts to
25 combat source of income discrimination, the

2 Commission's work to address housing discrimination
3 across all protected categories including race,
4 immigration status, national origin, disability and
5 others involved several creative strategies. The
6 Commission's Project Equal Access continues to
7 advocate for accommodations for people with
8 disabilities in housing through its pre-complaint
9 resolution efforts, achieving 174 such resolutions in
10 Fiscal Year 2019 up from Fiscal Year 2018. Project
11 Equal Access remains a key program of the Commission
12 and it's focus to resolve matters for members of the
13 public as expeditiously as possible and without
14 litigation where appropriate. Project Equal Access
15 deploys specialized staff at the Commission to work
16 directly with landlords and other housing providers
17 to create physical accommodations and other
18 accommodations to allow people with disabilities to
19 remain in their homes, improve access to common
20 spaces and entrances and exits, and ensure that
21 people can live with their service animals and/or
22 emotional support animals. In Fiscal Year 2019 the
23 Commission resolved a ground breaking first of its
24 kind case against a landlord based on its use of
25 criminal history to screen out applicants. Using the

1 legal theory relying on 2016 Head Guidance a national
2 statistics that such a policy has a disproportionate
3 impact on Black and Latin as prospective tenants. In
4 another ground breaking resolution, the commission
5 earlier this year resolved a case involving a large
6 housing provider that owns approximately over 8,000
7 units that failed to reasonably accommodate a
8 tenant's use of a wheelchair by refusing his repeated
9 requests over several years to widen the bathroom
10 door and install a roll-in shower in his apartment
11 and to make the building's entrance accessible.
12 After the Law Enforcement Bureau investigated and
13 issued a probable cause determination, the parties
14 entered into a conciliation agreement requiring the
15 housing provider to revise his anti-discrimination
16 policies, create a website the first of its kind as
17 part of a consolation agreement with the Commission
18 that is specifically designed to be accessible to
19 individuals with disabilities and includes
20 information about how to request reasonable
21 accommodations from the housing provider, conduct
22 anti-discrimination training for all employees,
23 display the Commission's Know Your Rights postings
24 and pay the complainant \$160,000 in emotional
25

2 distress damages, the highest emotional distress
3 damages award to date in a housing action with the
4 Commission. As further relief negotiated under the
5 settlement, the housing provider installed automatic
6 entrance and mail room doors throughout the four
7 buildings of the housing complex to make the entire
8 complex physically accessible to individuals with
9 mobility impairment. Turning now to these two
10 proposed bills, first Intro 85 would make it a
11 protected category under the New York City Human
12 Rights Law to discriminate in housing based on a
13 perspective or current tenant's inclusion on an
14 "Tenant Blacklist", i.e. tenant screening list that
15 are used to identify supposedly risky tenants by
16 naming it tenants—excuse me, risky renters, by naming
17 tenants who have been involved in a Housing Court
18 case. The bill adds participating in a housing or
19 proceeding to a list of protected categories in the
20 housing discrimination section of the City Human
21 Rights Law. Since Intro 85 was drafted and
22 introduced there have been legislative changes at the
23 state level that prohibiting the use of Tenant
24 Blacklists as a screening tool for prospective
25 tenants. As Council Member Kallos noted, Real

2 Property Law Section 227-F empowers the Attorney
3 General to civilly prosecute landlords who continue
4 to use these lists. The Administration and the
5 Commission look forward to working with the Council
6 to consider ways that the city can strengthen these
7 protections by considering the possibility of a
8 private right of action under city law and using the
9 Commission as a venue. Intro 1603 would make it
10 unlawful—make it an unlawful discriminatory practice
11 to deny a rental or lease of the housing
12 accommodation controlled of subsidized or both by HPD
13 based on prohibited indicators of credit. As my
14 colleague at HPD will explain in further detail,
15 since this bill was introduced, HPD updated its
16 marketing guidelines to allow an applicant the choice
17 to avoid a credit check by providing evidence of 12
18 months of complete rent payments. In the Commission's
19 experience housing providers regularly use credit
20 history as an arbitrary basis for rejecting qualified
21 applicants who are demonstrably able to pay their
22 rent on time. Some housing providers for example have
23 rejected applicants based on their credit history
24 even where 100% of the rent will be covered by a
25 housing voucher. The Commission prosecutes such

2 cases now as discrimination based on lawful source of
3 income. However, we believe that additional
4 protections along the lines of those proposed in this
5 bill can help to remove unnecessary impediments to
6 housing in our city. The Commission along with our
7 partners at HPD and others within the Administration
8 look forward to working with the Council on these
9 critical issues to reduce barriers to stable and
10 affordable and safe housing across New York City.
11 Thank you.

12 CHAIRPERSON EUGENE: Thank you very much,
13 Commissioner. Would you please start.

14 ASSOCIATE COMMISSIONER BROWN: Good
15 morning Chair Eugene and members of the Committee on
16 Civil and Human Rights. I am Margaret Brown,
17 Associate Commissioner for Housing Opportunity and
18 Program Services. This is my first time testifying
19 in front of the Civil and Human Rights Committee and
20 I'm excited for the opportunity to explain a bit more
21 about our work. Affordable housing is one of the
22 biggest concerns that New Yorkers face and
23 correspondingly, and it is one of the top priorities
24 of Mayor de Blasio's Administration. Our Housing
25 Lottery process is a vital way to connect New Yorkers

to the affordable homes we are producing at a record pace. It is no secret that there is a housing crisis in New York City. Although we now have the largest housing stock on record, the city's vacancy remains—the city's vacancy rate remains low at 3.63%.

Building our successes during the first few years of this Administration we accelerated and expanded our housing plan to achieve 300,000 affordable homes by 2026 and released Housing New York 2.0 a suite of new programs, partnerships and strategies to help thousands more families and seniors afford their rent, buy a first home and stay in the neighborhoods they love. As a result, five years into the plan we have established a new baseline for how affordable housing can and should be built in New York City. Already this Administration has financed over 135,000 affordable apartment through Fiscal Year FY19.

57,000 of which serve low-income individuals making less than roughly \$36,500 per year or \$47,000 for a family of three. As we accelerate and expand the goals of Housing New York, we are also looking to speed up the delivery of affordable housing we are producing and ensure those homes serve the New Yorkers who need them most. Housing Connect the

1 City's affordable housing lottery system allows New
2 Yorkers to search for affordable housing, fill out a
3 profile and apply for multiple homes with a few
4 clicks of a button. Since launching in 2013 through
5 December 2018, over 2.2 million people have made
6 accounts on Housing Connect, 1.2 million have
7 submitted applications and 23,000 households have—
8 have moved into new homes. Now, six years after this
9 revolutionary application was created, HPD is
10 currently building a new and improved Housing Connect
11 2.0 system to launch next year, which will include an
12 even friendlier user experience. In order to make
13 New York the fairest big city in America, HPD also
14 updated our marketing policies the developers must
15 follow to further limit how credit history impacts
16 housing applicants, address and clarify complexities
17 in income calculations, ensure special protections
18 for survivors of domestic violence, and make the
19 lottery selection process more efficient. Just last
20 month we also rolled out new policies to reduce the
21 chances of a tenant being denied due to poor credit
22 history with the introduction of the option for
23 applicants to provide 12 months positive rental
24 payment history rather than a landlord initiated
25

2 private check. The change also paves the way for
3 applicants to apply for affordable housing without
4 the need to provide a Social Security Number, or an
5 individual taxpayer identification number for every
6 adult in the household. The policy update also lower
7 credit check fees to sync with the new state law
8 which limit credit and background check fees to \$20
9 per application and thus applicants avoid credit
10 check fees altogether by providing a recent credit
11 check to the landlord. Further, HPD updated our
12 policies to align with the recent state New York–New
13 York State Housing Stability and Tenant Protection
14 Act of 2019, which no longer allowed Housing Court
15 History to be considered when evaluating a potential
16 tenant in any New York apartment. These updates
17 demonstrate the city’s consist–continued commitment
18 to create more opportunities for all New Yorkers.
19 Importantly, developers must also meet all of the
20 steps outlined in the published marketing
21 requirements before they are able to go forward with
22 selecting applicants. HPD has been very focused on
23 expanding our existing outreach tools, and education
24 efforts. We currently have a robust communications
25 requirement during the marketing process including, but

2 not limited to outreach to local community boards,
3 elected officials and the general public through
4 online and print advertise—advertisements both
5 citywide and local. Understanding that some may find
6 applying for affordable projects to be complicated,
7 HPD provides resources to lottery applicants in a
8 variety of ways. Besides hosting bi-weekly marketing
9 seminars for potential lottery applicants to teach
10 them about the process, our Housing Ambassador
11 Program partners with community based service
12 providers such an Impact Brooklyn or the Mutual
13 Housing Association of New York who help individuals
14 prepare and even apply for affordable housing
15 lotteries. We've also conducted Housing Ambassador
16 Training for Council staff at those 100 goals and
17 industry offices, and are always looking for more
18 opportunities for this partnership. HPD and the
19 Department of Consumer and Worker Protections that
20 each rent initiative supported by the Council also
21 provides free one-on-one financial counseling and
22 assistance with affordable housing applications, and
23 our recent fairs, marketing seminars and mobile van
24 continue to allow us to assist New Yorkers directly
25 in their communities. Thanks to the City Council

2 we've been able to translate the out-patient guides
3 into 17 languages. With this robust and aggressive
4 work in mind, we appreciate the Council's shared goal
5 to increase access to our lottery system. We thank
6 Council Members Kallos and Levine for their
7 leadership and application process and we are happy
8 to discuss further Introductions 85 and 1603, which
9 codify many existing practices in place due to rent,
10 leasing policy changes by HPD or the passage of the
11 New York State Housing Instability Tenant Protection
12 Act of 2019 to ensure that future legislation matches
13 these recent changes. We would also be interested in
14 discussing Intro 1603 further thinking of how it
15 could be implemented to more than just HPD financed
16 projects. Thank you again for the opportunity to
17 testify and I will take any questions.

18 CHAIRPERSON EUGENE: Thank you very much
19 for your testimony. Thank you. Before I proceed
20 with a question, I want to give my—give colleague
21 Levine, if he needed to ask questions because he has
22 to leave. Please go ahead.

23 COUNCIL MEMBER LEVINE: Thank you so
24 much, Mr. Chair for that accommodation and I'm glad
25 to see both of you. Commissioner, I know you share

2 our belief that the point of affordable housing is to
3 serve people who are in the greatest economic need,
4 and the goal of this legislation is to make sure we
5 don't leave people behind, and fulfilling that
6 mission. I want to clarify then what is the minimum
7 credit score cutoff for folks seeking city funded
8 affordable housing? Is it 500 or is it 580

9 ASSOCIATE COMMISSIONER BROWN: Well,
10 applicants cannot be rejected on the basis of credit
11 score at all. In the—when we first implemented
12 credit restrictions, restrictions on developers use
13 of credit screening criteria one of the pieces of
14 feedback we had was that credit score is an
15 efficiency measure, and so we left in the guidelines
16 the opportunity for a developer to say anyone over
17 and that the cut off here is 580 for an applicant to
18 the lottery, 500 for an applicant to—that comes
19 through our homeless set-aside referral process, but
20 that option to say with that score, I'm just forward.
21 I'm not taking a deeper dive into what drives that
22 score, and that score the 580 really represents what
23 the kind of lower end of satisfactory credit the 579
24 is poor credit. So, it's really pretty a low—a pretty
25 low bar, but a developer if they want to set up an

2 efficiency measure, can say anyone 580 or above I'm
3 jus accepting without looking at anything else in
4 their credit history, but no applicant can be
5 rejected based on credit score.

6 COUNCIL MEMBER LEVINE: I just want to
7 understand then someone in a homeless shelter with a
8 credit score below 500?

9 ASSOCIATE COMMISSIONER BROWN: The
10 developer has to take a deeper dive into what's
11 behind that credit score. One of the things we
12 learned as we started looking at credit scores is
13 that credit scores vary widely based on the credit
14 information reported by the three bureaus, but also
15 on the credit scoring system. Applicants can
16 actually have over a 1000 scores based on different,
17 kind of the matrix of all the different scoring
18 systems that are available and then the three bureaus
19 as well, and so, we—we really don't want to rely on
20 credit score particularly where an applicant is at
21 risk of being rejected. So, we require that the
22 developer take a deeper look into the credit to say
23 what's driving that score, and then there are very
24 restrictive criteria restrictive on the developer
25 that can be used to actually reject somebody. One of

2 the ones that you referenced in your testimony, in
3 your opening statement was delinquencies and I want
4 to make clear that those are currently open many
5 judgments in excess of \$5,000 is one of the remaining
6 criteria that is currently in the guidelines.

7 COUNCIL MEMBER LEVINE: Right and therein
8 lies the problem from our perspective that there are
9 still people for whom though this may not absolutely
10 close the door, would—would negatively prejudice
11 their prospects of getting housing including people
12 who remain in the homeless shelter system longer than
13 they otherwise would. It could be people that are
14 not in the shelter system land there because to them
15 the cutoff is a little bit higher, 580. We're
16 seeking to close that loophole. We're seeking to
17 make sure that the lowest income New Yorkers who are
18 obviously going to be far more likely to have
19 judgements against them, have delinquencies and have
20 low credit scores don't face higher barriers than
21 other New Yorkers, and that—that remains our
22 motivation behind the bill. I know you share the
23 motivation. It sounds like our dispute is on—on just
24 how much of a factor we're comfortable with this
25 being. My answer would be it shouldn't be a factor

2 as usually you're looking for nuance. My fear is
3 that nuance could still tilt in disfavor for the
4 people who are most in need. So, I appreciate the
5 chance to discuss this with you. I apologize that I
6 have to—to leave, but I do thank the Chair for this
7 accommodation and thank you for bringing this to the
8 hearing today.

9 CHAIRPERSON EUGENE: Thank you very much
10 also Council Member Levine for your advocacy and
11 thank you so very much for the wonderful and what
12 you're doing on the effort with the people here.
13 Thank you so much.

14 ASSOCIATE COMMISSIONER BROWN: And do
15 just want to say Council member as you're walking out
16 that we look forward to working with you on this. We
17 really want to make sure that this bill is
18 implemented with maximum impact.

19 CHAIRPERSON EUGENE: Thank you so very
20 much. Commissioner, Deputy Commissioner, you know, we
21 know in New York City, New York City is a very
22 complex city. Many of us who are less unfortunate we
23 can understand the system, we can navigate, but the
24 majority a good number of people in New York City
25 they don't even know even their rights when they

2 rights have been violated. They don't know that.
3 They are work—they are hard working people. They
4 spend hours to go work to provide for their children
5 to bring food on the table. Really their minds you
6 know, and you know regulations. They don't know how
7 to stand for their rights. They don't know when to
8 stand—to stand for their rights. What in the Human
9 Rights Commission has in place to inform those
10 people, to educate them, to let them know, they, you
11 know what you have a right and if your rights have
12 been violated this what you have to do. This is what
13 we have available for you. What do they—you has in
14 place to help those people because all of us under
15 the city's and constituents and New Yorkers they al—
16 we all have the same rights. The entire town also to
17 the benefit that the Human Right Commission has in
18 place?

19 DEPUTY COMMISSIONER SUSSMAN: Sure, um,
20 so our—our approach is sort of multi-pronged. We
21 have a team from our Community Outreach Bureau that,
22 um, you know our—our staff right now at the latest
23 count speaks over 30 different languages. We are out
24 in the five boroughs every single day. I think we're
25 going to be—our agency will be with you I think

1 today, we doing today, um for our Caribbean
2 communities event. Um, we are—we partner and leverage
3 our—our relationships with agencies like HPD and, um,
4 and Department of Social Services to provide
5 information to New Yorkers who are housing unstable
6 or looking for housing to know what their rights are.
7 We also take very seriously our obligation to inform
8 and so we still have obligations under the city's
9 Human Rights Law. We recognize that people are
10 battling bureaucracy, and a lot of different
11 challenges and so it should not always be on the
12 individuals who are, you know, who—who may experience
13 discrimination to understand and advocate for their
14 rights, but the that's the entities that have
15 responsibilities and obligations under the city's
16 Human Rights Law know what they are and know that
17 they have to comply with them. So, we work with
18 housing providers both large and small, real estate
19 entities. Again our sister agencies that have
20 housing stock to ensure that we know what's happening
21 on the ground that landlords and other housing
22 providers know what their obligations are and we
23 provide, you know, literature, resources, rapid
24
25

2 response as necessary to make sure that people access
3 the housing that they're entitled to.

4 CHAIRPERSON EUGENE: Yes, I just want to
5 take the opportunity also to commend the Human Rights
6 Commission, yourself and the Commissioner, and I'll
7 just say for--for the outreach they are doing in the
8 community. Yesterday you were in my district
9 reaching out to people from all the backgrounds. As
10 a matter of fact I was there--

11 DEPUTY COMMISSIONER SUSSMAN: Yes.

12 CHAIRPERSON EUGENE: --and I appreciate
13 also one the persons who is working on this project
14 as did in my district and she was very aggressive
15 asking me to translate, you know, the--the flyer to all
16 the languages. Thank you so very much. Thank you,
17 but we are talking about reaching out to the--the
18 tenants, the people, but we know that there are two
19 sides of the--of the situation. At the same time as
20 we are trying to educate and to--to reach out to the
21 tenants, what about the landlord? What the
22 Commission has in place to educate them to make
23 awareness to let them know that hey, guys there are
24 rules and regulations, there are do's and don't. You
25 know as the landlord you cannot do this, you cannot

2 do that. If you do this, you do that you are going
3 to be in trouble.

4 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

5 CHAIRPERSON EUGENE: We don't want to-toe
6 put you in trouble and to-to give you a hard time,
7 but this is the law. If you do that, you're going to
8 be in trouble. You have obey the law because the
9 tenant has their rights. What do you have in place
10 to educated the landlord also, and to help them
11 understand that there are things they should not do,
12 because one other thing, there are people who do
13 stuff they're in trouble. So, they know because they
14 don't even-I'm not talking about those who are not.
15 So some of the time people may do something. They may
16 not know what they are doing, and also this is the
17 general situation for the landlord, but I'm talking
18 in general. Some people, I'm talking about people
19 who are not aware of the something or a worsening
20 condition. They may commit, you know, a crime. We
21 don't know, but let me put it and come to the
22 landlord. So, now just to ensure that they landlords
23 they know also what they should not do. What do you
24 have in place?

2 DEPUTY COMMISSIONER SUSSMAN: So, we have
3 workshops and education opportunities for landlords
4 for brokers, for people with access to housing stock
5 that we—and we regularly partner with different other
6 business entities, community boards. Again, housing
7 providers both large and small to provide these
8 resources. We also through out enforcement efforts
9 work to provide education. So, if we learn that a
10 housing provider is unaware of the law, we provide
11 information to that housing provider to that landlord
12 so that they will not violate law again. We have a
13 challenge in—in that we want to ensure that people
14 get the housing they're entitled to as quickly as
15 possible. So instead—I lieu of filing complaints in
16 certain situations we will do some pre-complaint
17 advocacy to place that individual in housing with
18 that landlord. However, if we see that that landlord
19 violates the law again once they've been made aware
20 of the—their obligations under the city Human Rights
21 Law, we will again advocate to get that individual
22 into housing, but then file a complaint and, um, and
23 challenge that landlord's systemic practices and make
24 sure that their policies and practices are changed.
25 They may be subject to civil penalties. They person

2 who's turned away may be subject to emotional
3 distress damages or loss of housing opportunity
4 damages ,and we also use our enforcement efforts to
5 send a message to the large providers that they
6 cannot violate the law with impunity that the
7 Commission is an active and engaged enforcement
8 agency, and we will use our enforcement tools for
9 maximum impact and go after large entities to have
10 the broadest impact that we have. So, we use both an
11 educational model and also an enforcement model to-to
12 spread the-the word about the Commission's
13 enforcement efforts and-and the requirements under
14 city Human Rights Law.

15 CHAIRPERSON EUGENE: How many cases the
16 Commission handles every year, case of
17 discrimination?

18 DEPUTY COMMISSIONER SUSSMAN: Sure so,
19 we-our MMR numbers just came out I believe yesterday,
20 and our intakes into the Commission through phone
21 calls, through email inquiries or, you know, walk-ins
22 into our offices was close to 10,000 last year that
23 about 9,800. We filed close to 800 complaints, but
24 we also shifted many of those cases that would
25 otherwise be complaints into pre-complaint

2 interventions to respond more quickly. So last year
3 we resolved nearly 600 cases through pre-complaint
4 intervention, and we closed over 900 cases that had
5 been filed as complaints. So, we have a lot of data
6 around our—our latest numbers from Fiscal Year 2019.

7 CHAIRPERSON EUGENE: Okay, okay. So, I
8 know that you and the Human Rights Commission you are
9 trying to reach our people like working people to
10 prevent—to prevent, you know, cases of
11 discrimination. What are the challenges that you are
12 facing?

13 DEPUTY COMMISSIONER SUSSMAN: I think the
14 challenge is our system is set up in a way that
15 creates—there—there are challenges to the process.
16 So, the Commission is—our process is dictated by
17 statute, and it's dictated by our rules of practice.
18 The Commission just underwent a several year long
19 review, and notice and comments to update our Rules
20 of Practice for the first time since 1998 to address—
21 to build in more efficiencies into our process, but
22 our process can be lengthy for that reason. We are
23 an investigative and litigation body. So, we serve
24 complaints on respondents. They have certain amounts
25 of time to respond. They get extensions to respond.

1 We want to ensure that both parties are at the table,
2 and aware of what's happening and that can take some
3 time. Investigations can take time. One of the
4 reasons why we've created new specialize units a Pre-
5 Complaint Intervention Unit, a Source of Income Unit,
6 a Gender Based Harassment Unit is to address
7 immediate concerns that aren't well situated to
8 through a lengthy litigation-investigation/litigation
9 process. So, I think as I discussed previously at
10 other hearings we are always working to be as nimble
11 and as flexible and as creative as possible to-to
12 address the immediate needs of New Yorkers with the
13 recognition that some cases will go through a full
14 complaint and investigation process, and others will-
15 could potentially be resolved through some telephone
16 advocacy or sending lets or other forms of pre-
17 complaint action.

18
19 CHAIRPERSON EUGENE: Thank you very much
20 Deputy Commissioner. Let's see. So, Ms. Brown, in
21 terms of, you know, outreach you know conducted by
22 HPD so what can you tell us about the outreach that
23 HPD reach out to people in the community to let them
24 know about the assistance or the program affordable,
25

2 you know, in HPD in order to help them, you know,
3 facing the housing discrimination case?

4 ASSOCIATE COMMISSIONER BROWN: So, that's
5 really--so, the--specific to having information and
6 the new, particularly the new tenant protection laws,
7 there is really kind of two pieces. One is how those
8 laws apply to affordable housing, and the affordable
9 housing lotteries. We have updated our guidelines and
10 created materials for education around it that both
11 for landlords and tenants particularly for the
12 landlord side in the--in HPD housing where we are
13 specifically overseeing that housing and overseeing
14 the rental of those units is--is somewhat easier for
15 us because we have actual oversight and enforcement
16 on those units as they are being rented so we can see
17 the--the--ensure that the landlords are using the
18 marketing guidelines that we have, and then in terms
19 of outreach to applicants to affordable housing, we
20 have both our own team from HPD does about two
21 seminars and communities per week. We did over 100
22 last year around the affordable housing application
23 process, and particularly the--the--the polices around
24 that by which applicants can and cannot be screened,
25 and also we have what we call our Housing Ambassadors

2 Program where we train local community organizations
3 to help to educate the public and their constituents
4 in affordable housing lottery process and policies,
5 and more broadly in policies that affect tenants.

6 That said, outside of just what applies to affordable
7 housing lotteries, HPD is working closely with the
8 new Mayor's Office of Tenant Protections to develop a
9 broad scale campaign around the new Tenant Protection
10 Laws to make sure that both tenants and landlords are
11 fully informed of their rights and obligations under
12 those new protections.

13 CHAIRPERSON EUGENE: Thank you very much.

14 Talking about outreach, but we know that New York
15 City is home to so many people, and many of them, you
16 know, and which is of their primary language, you
17 know, and not only do they have, you know, a social,
18 cultural by year, (sic) but the language may be a by
19 year, too, and they're—they're more comfortable, not
20 comfortable, but they get more when they're dealing
21 with their own people, you know, or using their own
22 languages. What do you have in terms of, you know,
23 languages, you know, staff speaking other languages,
24 to reach to other people.

2 ASSOCIATE COMMISSIONER BROWN: Absolutely
3 so our, our—all of the materials for the affordable
4 housing lottery process are translated into—the
5 system itself is translated into seven languages in
6 addition to English. We have all of the materials on
7 how to apply translated into an addition 10 languages
8 on top of that, and one of our key tools is really
9 the Housing Ambassadors. We have housing ambassadors
10 that I believe serve about 20 different languages.
11 We currently have 50 housing ambassadors across the
12 city and are constantly looking to grow that program
13 and training new ambassadors all the time. Those
14 ambassadors are in communities across the city so
15 that applicants can really be served in the language
16 that they need, and in their own communities.

17 CHAIRPERSON EUGENE: What can you tell us
18 about the access to HPD control our subsidized
19 housing? People in the community don't really get
20 access to those, you know, HPD Housing. What can you
21 tell us about that? What is the process?

22 ASSOCIATE COMMISSIONER BROWN:
23 Absolutely.

24 CHAIRPERSON EUGENE: And the people who
25 don't know about the process is there anything in

2 place also to educate people to let them know, you
3 know what, you can get access to those housing
4 opportunities?

5 ASSOCIATE COMMISSIONER BROWN: Sure.

6 Again in terms of education both our own team that
7 runs the affordable housing lottery process does two
8 to three information sessions for the public in
9 communities every single week. Again, we did over
10 100 last year and are on pace to do even more that
11 that this year, but really the Housing Ambassador
12 Program is really the best extension of our education
13 efforts in that those are organizations that already
14 sit in communities, already help people apply for
15 affordable housing and we train those organizations
16 in the Affordable Housing Lottery process so that
17 they know the exact qualification standards that
18 people need. They know how to use Housing Connect.
19 They can help people in that process, and again, they
20 can serve people in multiple languages.

21 CHAIRPERSON EUGENE: Deputy Commission-
22 Commissioner Sussman and Ms. Brown I want to thank
23 you so much for your testimony. Thank you so very
24 much for what you are doing. Thank you.

25 ASSOCIATE COMMISSIONER BROWN: Thank you.

2 DEPUTY COMMISSIONER SUSSMAN: Thank you.

3 CHAIRPERSON EUGENE: You want to come and
4 I want take a break for five minutes. I'll be back
5 right now because I got to go to the Committee of
6 Aging that I'm a member also. They're having the
7 public, you know, public hearing also. I'll be back
8 right now. I'm sorry about that. [background
9 comments/pause] Alright. So let me take the
10 opportunity to thank you for your patience and we
11 want to resume the hearing now. Let me call the next
12 panel. Robert Dazeer, (sp?) I would say Robert Dazeer
13 [laughs] Hi, very good to see you. James Fishman from
14 Fishman Legacy (sic) and let me mention also that
15 Robert Dazeer is form Legal Aid Society, Lisa Brock
16 from AMHD. [background comments/pause] Okay. You may
17 start any time and will you please state your name
18 before you start.

19 ROBERT DAZEER: It looks like this
20 microphone doesn't have power.

21 CHAIRPERSON EUGENE: Is it okay?

22 ROBERT DAZEER: Hello.

23 CHAIRPERSON EUGENE: Oh, yes, uh-hm.

24 ROBERT DAZEER: Good morning Robert
25 Dazeer. Thank you, Chairperson Eugene and the

2 committee for the opportunity to testify today. I'm
3 Robert Dazeer, a staff attorney with the Legal Aid
4 Society part of our housing practice. The Legal Aid
5 Society commends the committees for holding this
6 hearing today on these two bills, which prohibit the
7 use of Tenant Blacklists and screening prospect
8 tenants and prohibit the use of certain credit
9 information in rental housing applications for
10 apartments controlled of subsidized by HPD. These
11 bills would prohibit the consideration of the credit
12 history of anyone other than the tenant's designated
13 representative and require key disclosures on the
14 process and criteria for credit evaluation. The Legal
15 Aid Society strongly supports the passage of both
16 bills, which were long overdue and would ease access
17 to affordable housing for numerous New Yorkers. With
18 regard to Intro 85, the practice of blacklisting
19 tenants simply for appearing in Housing Court as a
20 defendant is unjust and unfair. Landlords use tenant
21 screen reports to target low-income tenants and
22 prevent access to quality and affordable housing. TSB
23 Tenant Screening Bureau Reports are often inaccurate,
24 incomplete or misleading. There are nearly 652 TSBs
25 in the U.S. providing reports with information that

1 may be different or incorrect. It's nearly
2 impossible for consumers to ensure the accuracy of
3 the report used by every landlord. In many case the
4 reports only mention that the tenant was a defendant
5 in Housing Court without providing any details. Even
6 if a tenant prevails against their landlord in court,
7 they're still often added to these screening reports,
8 and find themselves cut out by prospective landlords.
9 This practice also has a chilling effect on tenants
10 who withhold rent because they're not getting repairs
11 from their landlords. It also doesn't account what
12 happens in Housing Court. For example, these tenants
13 who may take their landlord to court for these issues
14 often get abatements, which vindicates their position
15 is not reflective in those reports. Also you have
16 tenants who have to flee their homes for safety
17 reasons and end up being sued by their landlords.
18 These are also not reflected in those reports. Until
19 recently there was no state and there minimal federal
20 -federal regulations on these tenant screening
21 reports. So, we applaud the City Council for taking
22 action to address this issue and ensure fairness to
23 tenants or prospective renters. Intro 1603 would
24 prevent the consideration of a credit score or
25

2 consumer debt judgment, collection action or medical
3 debt in the rental application of prospective tenants
4 for apartments controlled or subsidized by the HPD
5 and would ban consideration of the consumer credit
6 history of anyone other than a designated household
7 representative and require disclosure of the process
8 and criteria by which the credit history will be
9 evaluated. Credit scores are notoriously unreliable
10 and regular erroneous. A 2013 Federal Trade
11 Commission study found one in five consumers have
12 material errors on their credit reports. Other
13 students have shown that around 25% of credit reports
14 contain serious errors that were enough to deny
15 credit. Further, there are serious racial
16 disparities in credit, which should not be allowed
17 expand into determining who has access to affordable
18 housing. The Legal Aid Society is regularly
19 approached by consumers seeking assistance with
20 errors on their credit reports that result in
21 economic repercussions. The process of correcting a
22 credit report with the credit reporting bureaus is
23 confusing, time consuming and overly complicated for
24 the average consumer. This task is far more
25 difficult when the victim is an immigrant, a low-

2 income individual or a member or another vulnerable
3 community. Also, numerous consumers are victims of
4 identity theft, which has an adverse impact on their
5 credit scores and consequently their ability to
6 obtain housing. These victims go through a vicious
7 cycle where a single theft of their personal
8 information leads to severe consequences and has a
9 long lasting impact on their ability to obtain
10 credit. Finally, someone's medical history or
11 personal medical information should not be included
12 in considering a rental application. Medical debts
13 incurred by a tenant or a tenant's relative for which
14 the tenant remains liable in most cases has no
15 bearing on the person's integrity or willingness to
16 pay rent. Moreover, there are significant privacy
17 concerns when prospective landlords have access to a
18 person's medical history. It is critical to allow
19 tenants who have faced hardship, but are able to pay
20 rent to have access to housing. So, in conclusion,
21 we thank the City Council for introducing these
22 measures and taking action to address these issues.
23 We look forward to working with the Council to push
24 these bills forward and pass them into law. Thank
25 you.

2 CHAIRPERSON EUGENE: Thank you very much
3 Mr. Dazeer for—Robert for your testimony. Thank you.
4 The next speaker, please.

5 LUCY BLOCK: Good morning. My name is
6 Lucy Block.

7 CHAIRPERSON EUGENE: Good morning.

8 LUCY BLOCK: I'm a Research and Policy
9 Associate at the Association for Neighborhood and
10 Housing Development, NHD. Thank you, Chair Eugene for
11 having this hearing today and for the opportunity to
12 testify. NHD builds community power to win affordable
13 housing and thriving equitable neighborhoods for all
14 New Yorkers. We're a coalition of community groups
15 across New York City and we use research, advocacy,
16 and grassroots organizing to support our members and
17 their work to build equity and justice in their
18 neighborhoods and citywide. I'll be commenting today
19 on Intro 85-A. I—in my written testimony I commented
20 on the original legislation. I was pleased to see
21 some of the changes in the amended legislation. So,
22 I'd like to revise my written testimony, but I'll go
23 ahead and give the relevant part of my testimony.
24 So, AND enthusiastically supports making involvement
25 in Housing Court a form of unlawful discrimination in

1 housing accommodations. The Tenant Blacklist is an
2 illegitimate and exploited as a mechanism that
3 systematically disempowers tenants. Landlords take
4 tenants to court frivolously and abusively as a
5 tactic to harass and remove them from their homes.
6 This has overwhelmingly impacted people of color who
7 face many layers of barriers to housing stability.
8 For example research by geographer and analyst Abe
9 Salberg showed that the black population in the
10 census tract was the highest predictor of eviction
11 filings. After being targeted by a landlord and
12 displaced via Housing Court tenants on the blacklist
13 face discrimination as additional obstacles to the
14 already arduous search for decent and affordable
15 housing. The mere existence of the Tenant Blacklist
16 also undermines all tenant protections discouraging
17 any tenant from using the legal system to assert
18 their rights. Whether they've been involved in
19 Housing Court proactively or defensively, the
20 blacklist places a scarlet letter on tenants' written
21 records and prevents them from securing stable
22 housing. So, my original concern with the
23 legislation was about the exception for tenants who—
24 for cases where the tenant or tenants have not
25

2 satisfied the terms of an order issued in such action
3 or proceeding that was in the original legislation.
4 So, I'm pleased to see that that appears to have been
5 removed from the amended legislation, and the only
6 remaining concern that I have is about the—the fees
7 that are included, which I believe started \$100 per
8 unit, which really don't seem to me to be a large
9 enough disincentive to landlords to refrain from
10 using tenant screening blacklists and it is \$100 per
11 unit per month. I can't see that being a
12 disincentive for small landlords or large landlords
13 and I saw that the commission will have some
14 discretion in raising the amount of the fines, but I
15 think that minimum is really way too low.

16 CHAIRPERSON EUGENE: Thank you very much
17 for your testimony. Thank you.

18 JAMES FISHMAN: Well, thank you. Thank
19 you Chairman Eugene. My name is James Fishman. I'm a—
20 in the past 30 years I have represented New York City
21 tenants and consumers as an attorney in private
22 practice. Prior to that time I served as an assistant
23 attorney general in the Consumer Fraud and Detection
24 Bureau and prior—and after that I was a staff
25 attorney at the Legal Aid Society. My private

2 practice of the last 30 years has consisted primarily
3 of defending residential and commercial tenants from
4 eviction in Housing Court, and prosecuting an
5 individual and class action lawsuits in federal court
6 against credit reporting agencies and debt collectors
7 under the Fair Credit Reporting Act and the Fair Debt
8 Collection Practices Act. For the past 15 years I
9 have focused extensively on the problem of Tenant
10 Blacklisting. As for the nature of my practice, the
11 two halves, the Housing Court half and the Federal
12 Court half have really come together in the Tenant
13 Blacklisting realm. Tenant Blacklisting is a very
14 serious and pervasive problem affecting virtually all
15 residential tenants regardless of where they live. In
16 a nutshell blacklisting occurs when a prospective
17 landlord rejects an application from a prospective
18 tenant because the applicant was sued by a previous
19 landlord in a Housing Court proceeding anywhere in
20 the country regardless of what the case was about and
21 regardless of prevailed in the case. Because
22 blacklisting seriously impairs the ability of an
23 individual to obtain residential housing, it is an
24 issue that must be fully understood that it can be
25 prevented if possible or at least minimized. Over the

1 past 15 years my advocacy in this area has taken a
2 variety of forms including pursuing individual and
3 class action suits against tenant screening bureaus
4 for violation of the Fair Credit Reporting Act based
5 upon inaccurate or incomplete reporting of Housing
6 Court information about tenants, suing landlords in
7 State Supreme Court to block them from even starting
8 a Housing Court eviction proceeding that would result
9 in blacklisting. In that regard we have been able to
10 obtain injunctions in about a dozen cases where
11 courts have found that the mere filing of a Housing
12 Court case creates immediate or irreparable harm to a
13 tenant because of blacklisting, and those judges have
14 disjoined landlords from suing these tenants in the
15 Housing Court and instead said to the landlord you
16 can litigate your eviction plan in the Supreme Court
17 case. Now, obviously that's not a widespread
18 solution, but it does illustrate the—the nature and
19 urgency of the problem. I even sued the Office of
20 Court Administration in a Section 1983 action
21 alleging that the Office of Court Administration's
22 issuance and sale of electronic data to the tenant
23 screening companies facilitated the process and
24 resulted in a Constitutional violation, which chilled
25

2 the rights of tenants to actually use the Housing
3 Court. So, in my Housing Court advocacy I also
4 endeavored wherever possible to convince landlords
5 lawyers who were threatening to sue my clients in an
6 eviction proceeding to name them only as John Doe or
7 Jane Doe so as to keep their name out of Housing
8 Court records altogether, which is rally the only way
9 to prevent blacklisting when a case brought. As a
10 result of those efforts over the past 15 years,
11 tenants, landlords, landlord and tenant lawyers and
12 Housing Court judges have become much more attuned to
13 the problem of Tenant Blacklisting and its causes and
14 effects. Intro 85-A represents a well intentioned
15 effort to solve the problem. However, it does have
16 some significant flaws, which should be recognized
17 and addressed and it must be emphasized that even if
18 it is enacted with or without these flaws the problem
19 of Tenant Blacklisting will not disappear and in some
20 cases will become more problematic. First, the bill
21 essentially creates an administrative violation
22 against a landlords that's enforceable by the Human
23 Right Commission where a landlord denies an apartment
24 simply because an applicant was a party to a Housing
25 Court case. In the real world, however, sadly

2 landlords know that they will have to come up with
3 some other pretextual reason to deny an apartment to
4 avoid liability, and there are many non-illegal
5 reasons a landlord is permitted to use to deny an
6 apartment that hides the fact that it was based on a
7 prior Housing Court case. Although landlords are
8 required to provide a written adverse action notice
9 if an apartment is denied either in whole or in part
10 because of a credit report including a tenant
11 screening bill report. Many landlords either ignore
12 this requirement or they're unaware of it. Those
13 landlords who are aware of the obligation and provide
14 an adverse action notice use one that is drafted for
15 them by the tenant screening bureau that they use.
16 These companies provide a full service including a
17 form adverse action notice so that the landlord
18 simply has to collect the box on their screen and it
19 spits out that notice. But those notices do not
20 identify any specific information in the credit
21 report itself that caused the denial specifically
22 whether it was a prior Housing Court case or not and
23 instead it tells the applicant to write to the Tenant
24 Screening Bureau to obtain a copy of their report.
25 However, by the time the applicant requests and

2 obtains their report from the Tenant Screening Bureau
3 that apartment has long been rented to someone else
4 making the entire process futile. The law enacts—the
5 law is not privately enforceable in the first
6 instance. With a private right of action, tenants
7 must rely on an already overburdened enforcement
8 agency to provide redress. A landlord who receives a
9 letter, however, from a private attorney threatening
10 suit for illegally denying an apartment based upon a
11 Housing Court record will be far more effective than
12 attorney in denial of an apartment with the ability
13 to do that. Next private right of action must
14 include a provision for the recovery of actual
15 statutory and punitive damages to serve as a
16 deterrent so that landlords who do this repeatedly
17 will pay a lot more than the cost of doing business
18 by engaging in these practices. It also need to be
19 recognize that what tenants really want and what they
20 really need, however, is not a lawsuit against a
21 landlord. What they want is an apartment. The bill
22 does not provide that solution. Instead, it forces
23 tenants to repeated apply, get denied and then—and
24 then each time file a complaint with the Human Right
25 Commission. Nothing that in that process makes it

2 even more likely that the tenant will obtain an
3 apartment, and unlike the newly enacted State Law,
4 Real Property Law Section 227-F, the bill does not
5 contain a rebuttal but presumption of illegal
6 discrimination where the landlord obtained or viewed
7 a Tenant Screening Report or Housing Court records.
8 This provision is critical because it tells landlords
9 who use tenant screening bureaus that they will have
10 a heavier burden in defending against a
11 discrimination complaint if they use these bureaus.
12 When fewer landlords use tenant screen bureaus the
13 problem of Tenant Blacklisting dramatically
14 dissipates. Also, many brokers and landlords perform
15 and initial informal and oral screening by simply
16 telling an applicant don't even bother completing an
17 application if you are sued in a Housing Court case.
18 The bill as written would not prescribe that conduct
19 and should be expanded not only to take this practice
20 into account, but also to expressly include real
21 estate brokers from this prohibition as opposed to
22 just landlords. I understand that the bill does
23 include agents, but brokers are not expressly
24 included and can be viewed as independent
25 contractors. The bill also does nothing to protect

2 New York City tenants who were sued in the New York
3 City Housing Court when they seek to rent an
4 apartment outside of New York City or New York State.
5 These tenant screening bureaus are national companies
6 and the Housing Court records that they sell to
7 landlords are national. So, if somebody who was sued
8 in New York City later seeks to rent an apartment
9 anywhere else in the country, that New York City
10 Housing Court case will follow them. I understand
11 there's nothing the City Council or the State of New
12 York can do about that, but it's a reality that this
13 does not end the problem, and also as a result both
14 the state law 227-F and this bill provide a false
15 sense of security to tenants that blacklisting is no
16 longer an issue. It is. In Housing Court I've heard
17 judges and landlord lawyers tell me that since the
18 enactment of 227-F there is no longer blacklisting.
19 It's no longer a problem and that nobody needs to be
20 concerned about it, and I think that's a false sense
21 of security. It needs to be recognized that for the
22 reasons I've state particularly because it follows
23 you when you leave New York that it is still a big
24 problem. A far more comprehensive solution to Tenant
25 Blacklisting I believe is in another bill Intro 1250

2 a bill I worked closely with Council Member Kallos
3 on, which would require the licensing of tenant
4 screening bureaus by the Department of Consumer
5 Affairs, and it would strictly restrict the type of
6 information about Housing Court cases they would be
7 permitted to report to landlords, and if they are
8 required to comply with a law like that, it would
9 entirely abandon the entire process because they
10 would actually have to look at these Housing Court
11 records and not just a computer scent that provides a
12 few word summary of what happened in the case. Now,
13 in 2011, the City Council passed the Tenant Fair
14 Chance Act, which required landlords and brokers to
15 notify applicants in advance if they used a Tenant
16 Screening Bureau and if so, which one. So that an
17 applicant could go to that bureau, obtain a copy of
18 the report in advance of an application. That was
19 also a well intentioned bill, but it is largely
20 ignored and very few landlords even know about it or
21 comply with and it doesn't provide a whole lot of
22 assistance in restricting blacklisting. So, for all
23 the above reasons, I want to emphasize that I believe
24 that it is a step in the right direction to be taking
25 action of this nature, but I believe that it need to

2 be supplemented in a number of key ways to make it a
3 much more effective law. Now, with respect to 1603,
4 I believe that there's a lot of dovetailing between
5 the two bills and in particular with respect to
6 Housing Court records used by developers in the
7 lottery process. I have also represented a number of
8 tenants who have been denied housing through the
9 housing lottery system solely because of a prior
10 Housing Court case. A large percentage of people who
11 are eligible for the lottery have a prior Housing
12 Court Case in their history whether they deserved it
13 or not. The New York City Housing Court is the
14 largest housing court system in the country with over
15 275,000 cases filed there each year. Housing Court
16 cases are permitted under the Fair Credit Reporting
17 Act to appear on a credit report for up to seven
18 years. So, when you multiply 7 times 275,000, the
19 chances are that a lottery applicant was previously
20 sued by a landlord for falling behind in their rent.
21 It happens to almost—it happens a lot. It's a very,
22 very common situation where somebody ends up being a
23 month behind. They get sued and that's all it takes
24 to be blacklisted. Now the—the HPD Manual or Policy
25 Manual governing the screening process in the—for the

2 housing lottery is—is particularly of interest to me.

3 It has some very strict guidelines already. However,

4 in my experience those guidelines are routinely

5 ignored. It' my understanding from litigating in

6 federal court against the Tenant Screening Bureaus

7 that developers have essentially outsourced their

8 screening process to these national tenant screening

9 bureaus who create their own proprietary and entirely

10 okay credit scoring models, which the developers

11 don't even know about let alone participate in

12 creating. By doing so, these developers have

13 completely ignored their obligations under HPD

14 policies and regulations and have instead permitted

15 these national tenant screening bureaus to run their

16 application process thereby eviscerating the

17 affordable housing lottery process. The federal

18 class action that I currently have pending against a

19 national tenant screening bureau called Corelogic and

20 it was filed in the Southern District of New York.

21 My client was denied an apartment in the Affordable

22 Housing Lottery after the developer related

23 management blindly relied on a screening report

24 prepared by Corelogic, which referenced a Housing

25 Court case that had been filed against her several

1 years earlier. That case involved a landlord's claim
2 of non-payment of rent and it was voluntarily
3 discontinued by the landlords a week after it was
4 files because the landlord realized the rent had, in
5 fact, been paid. There was no judgment. There was no
6 eviction and, in fact, the case was discontinued by
7 the landlords. Yet, several years later that Housing
8 Court case appeared on a screening report prepared
9 for Related (sic) by Corelogic and it was used to
10 deny her an affordable housing lottery apartment.
11 This past December I conducted a deposition of a
12 corporate representative of Related in that lawsuit,
13 and the deposition confirmed that the HPD policies
14 and procedures for resident selection of occupancy
15 were completely ignored and that it was related to
16 policy to in effect turn over their screening process
17 to Corelogic. Major developers like related who
18 receive significant financial benefits by
19 participating in the affordable housing lottery must
20 be strictly regulated in this regard. They must not
21 be permitted to turn over their screening process to
22 national tenant screening bureaus who have no
23 interest in determining the extent-the nature and
24 extent of any prior Housing Court history. Like
25

2 Intro 85-A, 1603 should also be amended to include a
3 private right of action so that persons victimized by
4 the illegal conduct have the ability to directly
5 enforce their rights in court and recover damages and
6 attorney's fees. Thank you for your time.

7 CHAIRPERSON EUGENE: Thank you very much,
8 Mr. Fishman. Do you have a written statement?

9 JAMES FISHMAN: I apologize. I did not
10 have a chance to print it out, but I will submit it.

11 CHAIRPERSON EUGENE: Thank you so much. I
12 appreciate that. Thank you. So, we all know that
13 credit score is a big issue. We know that and
14 fortunate when they're seeking housing. So, what did—
15 why do you think that credit score is really a big
16 issue for tenant when they're seeking housing, the
17 credit score?

18 JAMES FISHMAN: Yes, well, I think one
19 thing that has to be understood the term credit score
20 has many meanings. There are many, many different
21 scores. As I mentioned in the case I have with
22 Corelogic, they have their own proprietary product
23 called Safe Rent or something. I forget the term they
24 use to describe it. It's made up of a variety of
25 factors. It's sort of like the McDonald's Secret

2 Sauce. They will not tell you what makes up that
3 score, what factors are used and a developer told me
4 under oath they don't know what factors go into
5 creating the score that they are then spoon fed by
6 the tenant screening company. So, that's one type of
7 score, one that is developed entirely by a credit
8 bureau. Then there's the national scores such as
9 FICO, which is probably the most well known. Each of
10 the big three credit bureaus: Trans Union, Equifax
11 and Experian have also each developed and implemented
12 their own proprietary scores, and you can pull up all
13 three of the reports on—in the Creditreport.com and
14 each one of those bureaus could be reporting a
15 different score for you because it's all based on a
16 variety of different factors. What the problem with
17 scoring is, though, is that, you know, the central
18 problem with all credit scoring I believe is that it
19 makes the process into a pass/fail. It turns a
20 subjected process into an objective process. It is an
21 easy way out to say sorry you didn't meet this
22 number. You're out without looking at well why didn't
23 they meet this number and why is that number so
24 critical? In my case Corelogic assigned a score of
25 505 to my client. Their cut-off is 550 to—to get a

2 conditional approval for the affordable lottery
3 department. My client was never told why she got a
4 505 and what she could do to improve the score.
5 Related was told, but my client was not. There was no
6 policy to inform my client what she could do because
7 there is a 10-day appeal process where you can appeal
8 a denial, but you're never told why you failed, and
9 what, you know, if you are 45 points below the cutoff
10 what you could do to raise your score. It's a
11 completely opaque process, and it's not in the
12 interest of the powers that be that run these things
13 to tell people what's involved in these scores. So, I
14 think scores should not be used at all. I think that
15 they are exclusionary, they're arbitrary and it
16 doesn't take into account that there's all kinds of
17 subjective reasons, but it does make it faster and
18 cheaper and easier, and that's I think what the
19 interest is on the side of the developers.

20 CHAIRPERSON EUGENE: And that's the
21 question that I was going to ask. You said that you
22 believe that scores should not be used at all, but
23 now this is not the case. They sending in the score.
24 What other alternative you think that, you know, can
25 be used to help the tenant?

2 JAMES FISHMAN: Are you talking about in
3 the affordable lottery system--

4 CHAIRPERSON EUGENE: Yes.

5 JAMES FISHMAN: --or generally?

6 CHAIRPERSON EUGENE: Both

7 JAMES FISHMAN: Well, I-I don't see why
8 there cannot be a prohibition against using the score
9 in the Affordable Lottery System.

10 CHAIRPERSON EUGENE: Uh-hm.

11 JAMES FISHMAN: That's something that's
12 heavily regulated by the city, and certainly HPD and
13 the City Council can--can bar the use of scores, and
14 instead require more subjective information as
15 opposed to general beyond the affordable housing
16 system and housing generally by the private landlords
17 or in credit generally. I don't know that there is
18 a basis to prohibit the use of scoring in that
19 regard. I do think, however, that there can be
20 legislation to require that the creation of the score
21 be more transparent so that people know what they can
22 do to raise their score, and what is causing their
23 score to be reduced.

24 CHAIRPERSON EUGENE: We all know that,
25 you know, when the tenant try to go to Housing Court

2 with the landlord that can result of them being
3 placed in the, you know, blacklist. So when you have
4 a constituent and you have a client or a tenant
5 coming to you anyone can answer this answer, this
6 question. You know that, you know, the tenant will
7 have to go to the court with landlord, and we know
8 that, you know there's list also for the tenant to be
9 on the blacklist, what type of assistance or advice
10 that you provide to the tenant in order for the
11 tenant to be able to handle the situation properly
12 and to prevent the tenant to be in the blacklist?

13 JAMES FISHMAN: Thank you for that
14 question.

15 ROBERT DAZEER: Thank you for that
16 question. You know, a lot of times we don't have
17 that opportunity because tenants come to us at a time
18 where they've already appeared in court or papers
19 have already been filed. So, in the instances where
20 the opportunity to take any preemptive action we, you
21 know, may take measures as trying to negotiate
22 before, you know, there's any filing particularly in
23 the holdover cases before there's any appearance.
24 So, I think that is what triggers the appearance on
25 the list, but beyond that where there are—where there

2 is action and, you know, there is some indication
3 that the tenant is vindicated either by errors in
4 billing or if there are conditions that, you know,
5 give rise to an abatement. We try to draft
6 agreements in a way that, you know, reflects that and
7 that, you know, cuts off any possibility of a
8 judgment. Just a number of measures to try to
9 mitigate the damage. You know, as was indicated it's
10 kind of an objective measure that doesn't look at
11 the, you know, the facts and circumstances
12 unfortunately and that's what we're trying to combat,
13 but, you know, where there is like any opportunity
14 to, you know, kind of give some context to what
15 occurred, we take measures in that regard and, you
16 know, that kind of happens in the way that we draft
17 agreements.

18 CHAIRPERSON EUGENE: Thank you very much.
19 I know that Legal Aid Society is providing the
20 wonderful services to the people because my office
21 has been working with you guys for many years
22 providing litigation and legal assistance to people
23 in need, but probably there may be a need to do some
24 more outreach to let the people know about the
25 services that you are providing and that will give

2 them the knowledge and also the knowledge to come
3 early to inform the Legal Aid Society about this
4 legal situation in terms of housing and then in that
5 case you will be able in the position to advise them
6 in advance and probably to prevent them to go to the
7 blacklist. Do you think so?

8 ROBERT DAZEER: Well, that I think that
9 any opportunity to do outreach and take preventive
10 action we welcome that. We are present in the
11 Housing Courts in all of the five boroughs. We have
12 offices there where tenants who are, you know, anyone
13 can ask questions and receive advice from us, and we
14 also work with the community based organizations in
15 all the five boroughs, people who are out on the
16 front lines and, you know, seeing conditions in the
17 building and bringing it to our attention and, you
18 know, that's also part of our outreach efforts, but
19 you know any ideas that there are to, you know, those
20 efforts, certainly welcome them and we're always
21 exploring those options.

22 CHAIRPERSON EUGENE: Yes, Uh-hm.

23 LUCY BLOCK: Yeah, I'd just like to add
24 that I—I think advising tenants to avoid Housing
25 Court altogether is not—is not a good strategy when—

2 when we're trying to protect tenant rights and create
3 additional tenant rights and encourage tenants to
4 take action against their landlords take group
5 actions for repairs, for anything not to mention all
6 these cases where tenants are unjustly taken to
7 Housing Court or taken to Housing Court as like
8 clearly a harassment or displacement tactic, and I
9 just wanted to go back to your earlier question and
10 point out one thing about the really unjust dual
11 system of housing between our stabilized or regulated
12 housing and unregulated housing. Where a stabilized
13 tenant has a right to renew their lease can take
14 their landlord to Housing Court, and feel pretty
15 assured that their going to be able to remain in
16 their apartment whereas a tenant in unregulated
17 housing is going to face the repercussions of
18 potentially their landlord not renewing their lease,
19 but then being on the blacklist when they go out to
20 try to search for another apartment. So, the risk
21 for a tenant in an unregulated apartment in a small
22 building or a building that was formerly stabilized
23 the risk is—is really much greater for them, and they
24 have much less power to—to assert and protect their
25 rights.

2 CHAIRPERSON EUGENE: Yes, sir.

3 JAMES FISHMAN: Yeah, I agree with that
4 that there is certainly a huge disparity between
5 regulated tenant and the unregulated tenants who have
6 no recourse other than perhaps a retaliatory eviction
7 claim, which is not an easy claim to establish, but
8 it also it creates anomaly because in the two and
9 three-family house case for example where a landlords
10 says for whatever reason I'm not renewing your lease.
11 He doesn't need a reason. That tenant then has a
12 choice. Either voluntarily vacate and try and find
13 another place, or go to court and defend the eviction
14 proceeding because there is a state law that allows
15 the Housing Court judge to stay an eviction for a
16 period of time up to six months, and I believe under
17 the new law a year if that tenant, you know meets
18 certain criteria. However, in order to benefit from
19 that state law, you have to first allow yourself to
20 become blacklisted. So, it is, you know, an ironic
21 result that if you want to avoid blacklisting you
22 just move, and find some place else or maybe go to a
23 shelter, but if you want to take advantage of what
24 the state has afforded, which is to say yes we
25 understand that people need time to find another

2 place, their kids are in school or whatever, you have
3 to be names as a respondent in a holdover proceeding
4 which has now blacklisted you and made it that much
5 harder find another place to rent. So, I don't know
6 the answer to that problem, but it is certainly
7 something that needs to be recognized that this is a
8 huge number of people in the city who live in such
9 apartments that face this every day.

10 CHAIRPERSON EUGENE: This is a very tough
11 situation to be, and I think this is a very difficult
12 decision to take also to be part of the blacklist,
13 and that is going to put the tenant in more problems
14 as you said. I think this is a situation that we
15 will have to look into.

16 JAMES FISHMAN: You did ask the question
17 a minute ago that I wanted to also answer about are
18 there strategies the might be used to help tenants.
19 That's something that I've been focusing on for a
20 very long time in my tenant defense practice is
21 finding ways to either people out of the blacklist
22 altogether by convincing a landlord to only name the
23 as John Doe or Jane Doe, which only works if they
24 come to me before they've been sued, but I've also
25 developed a mechanism to train and undo the

2 blacklisting problem in settling a Housing Court
3 case, by including a provision in the settlement
4 agreement in which the landlord agrees to substitute
5 my client's name in the caption of the case with John
6 Doe and then there is also a provision that says that
7 the court is to-directs the clerk of the court to
8 remove this person's name from its official record
9 and replace it with John Doe. That document, that
10 settlement agreement then gets submitted to the judge
11 and it's now a so ordered court order, which we then
12 send the court clerk and say you now must take this
13 person's name out. Now, this is a relatively new
14 process that we've started using the last two months.
15 So I can't report on how successful it is, but again
16 my focus is getting the name out because one the name
17 is out we either keep it out or get it out. Once
18 that's done, blacklist is solved, but without that
19 it's not.

20 CHAIRPERSON EUGENE: Thank you very much.
21 We know that protection people's identities is a very
22 big issue everywhere, in New York City and everywhere
23 in the in the world and people maybe in a very
24 difficult situation because of mistaken identity. So
25 in case of a housing situation did you ever hear

2 cases of people being on the blacklist because of
3 mistaken identity, and what do you suggest? What you
4 are--

5 JAMES FISHMAN: Well--

6 CHAIRPERSON EUGENE: --what you are able
7 to do, what is it?

8 JAMES FISHMAN: Well, first of all if you
9 think of the context of identity theft, and I have
10 also represented a lot of identity theft victims who
11 were, you know, either their name was stolen and in a
12 less, a more benign situation the credit bureau
13 merged their files with somebody else. Keep in mind
14 that in credit-major, regular credit bureau reporting
15 the big three who are reporting mostly trade line
16 information there are two extra layers of protection
17 to ensure that you have the right person's date of
18 birth and Social Security Number, which are tied to
19 every credit transaction, and so when somebody's--when
20 a--when a trade line, you know, credit card appears on
21 somebody's credit report that not theirs either
22 because it was merged with somebody else or somebody
23 stole their identity, there is a way to address it
24 with Social Security and date of birth at a minimum.
25 However, with housing records neither of those

2 identifiers exist. There is no Social Security
3 Number attached to a Housing Court record and there
4 is no date of birth. So, all you have is a name and
5 address. You have very large buildings in New York
6 with hundreds of people with this exact same address
7 taking away the apartment number for a moment. The
8 chances of somebody with a common name having the
9 same name of as somebody else living in your building
10 is—is substantial, and so yes it is much more likely
11 that somebody could be denied an apartment because of
12 somebody else's housing court case because there is a
13 complete absence of those identifiers in creating the
14 report in the first place.

15 CHAIRPERSON EUGENE: Thank you very much.
16 So, probably this is a question for Legal Aid
17 Society. Is there anything that you have been able to
18 do to help people improve their credit scores or
19 anything you have available to help them because, you
20 know, the credit scores is really a problem for those
21 who are seeking housing?

22 ROBERT DAZEER: So, my work in the Legal
23 Aid Society is mostly around housing. We do have a
24 unit that does assist consumers with, you know,
25 cleaning up their credit and, you know, dealing with

2 discrepancies. I think they would probably be able
3 to speak more to that process, but we definitely have
4 attorneys on staff that do work to help people with
5 that.

6 CHAIRPERSON EUGENE: Okay, thank you very
7 much. My last question: Are you aware of any other
8 practice evaluation used by other jurisdiction in
9 terms of qualifying people for housing you have in
10 other states?

11 JAMES FISHMAN: Yes.

12 CHAIRPERSON EUGENE: Other than credit
13 score?

14 JAMES FISHMAN: Are you just wanting to—
15 to prevent the blacklisting problem or to address it?

16 CHAIRPERSON EUGENE: Yes.

17 JAMES FISHMAN: Well in Northern
18 California they passed a law barring the use
19 completely of Housing Court records being violated
20 tenants and that law was thrown out on constitutional
21 grounds. They passed a subsequent law that prohibits
22 or actually seals Housing Court records for the first
23 90 days because practice shows that an overwhelming
24 majority of these cases get resolved rather quickly,
25 and so if they're sealed they're in the first 90 days

2 and they're no accessible to the tenant screening
3 companies. Now that is something that I've looked at
4 as to whether that would work in New York and I don't
5 believe it would for the reason that because we have
6 the largest housing court system in the country the
7 volume is such that the company that actually gets
8 the data directly from the courthouse is months
9 behind already in keeping up with the volume. So,
10 even if there was a 90-day freeze if they don't look
11 at that case for six months the case will be unfrozen
12 by the. So, I don't think that works in New York.
13 Right now there is only one company in New York that
14 is obtaining the Housing Court records, has their
15 information and then selling it to all these other
16 companies and that's Lexis, and the process that they
17 use is they send people into the courthouse clerk's
18 offices with a laptop and they sit at the public
19 access computer and they simply take down the
20 information right off the screen, put it in their
21 computer and then upload it to Lexis and they do that
22 every single day that the court is in session.
23 However, what I've discovered is that there's a huge
24 backlog because they simply can't keep up with the
25 volume. So, there isn't a lot of currency in the

2 information. So if a case gets dismissed or
3 discontinued they don't know about it for six or nine
4 months, and if they report that information for
5 example if the case was filed and it's an ongoing
6 case but it was actually dismissed or discontinued,
7 then that didn't—the Tenant screening company is not
8 getting fully current information about that case and
9 then the landlords whose reviewing an applicant is
10 also not getting current information, and I can't say
11 that I feel badly for the company, you know, for a
12 company like Lexis who can't find a way to get
13 information since they're—it protects their job in
14 the information business, but that's the reality
15 because we are the largest housing court in the
16 country.

17 CHAIRPERSON EUGENE: Okay, with this,
18 thank you so very much all of you, and have a
19 wonderful day. Thank you so much.

20 LUCY BLOCK: Thank you.

21 CHAIRPERSON EUGENE: Thank you. Now I
22 want to call Annie Carforo I believe, Neighbors
23 Together, and Nyla Abdul Madever also from Neighbors
24 Together. [background comments/pause] Thank you.

2 Thank you, much. Thank you very much. Would you
3 please state your name before you start.

4 ANNIE CARFORO: Annie Carforo from
5 Neighbors Together.

6 CHAIRPERSON EUGENE: Thank you. Go
7 ahead.

8 ANNIE CARFORO: Thank you the members of
9 the Committee on Civil and Human Rights for the
10 opportunity to testify today. My name is Annie
11 Carforo and here in the house with Neighbors Together
12 a social service and advocacy organization located in
13 Central Brooklyn. We're here in support of Bills
14 Intro 85 and Intro 1603. As our city grapples with
15 an unprecedented homeless crisis, it is clear our
16 members who are experiences homelessness and unstable
17 housing that finding an apartment for themselves and
18 their families is imperative if they want to re-
19 establish their lives. Unfortunately, New York
20 City's housing market it has become increasingly
21 difficult to penetrate if you're low income
22 particularly because the unrelenting barriers
23 landlords and brokers reinforce. The majority of our
24 members are in rental assistance programs to help
25 subsidize their rent. Many of them receive their

2 vouchers after a legal eviction due to non-payment of
3 rent and were given a voucher with the intended
4 purpose to ensure that this situation will never
5 happen again. However, the very circumstances that
6 helped them secure their voucher then prevents them
7 from utilizing the rental assistance because they
8 show up on the Tenant Blacklist. Echoing what most
9 people said the Tenant Blacklist is arbitrary at best
10 and without details of the situation behind Housing
11 Court appearances, landlords have been allowed to
12 judge an applicant superficially and most times
13 inaccurately. As for Intro 1603 we are ecstatic to
14 see City Council take steps forward to legally
15 protect housing applicants from credit requirements.
16 Again, echoing what most people said, credit is a
17 biased calculation that advantages people of
18 privilege. You have to be financially flexible to
19 build and maintain strong credit and costly expenses
20 like rent payments will not factor into your score.
21 If you're low-income or on fixed income, it only
22 takes one unforeseen circumstance to destroy your
23 credit and increasingly we have seen it become a tool
24 owners use to deter low-income New Yorkers from
25 applying to their buildings. While Intro 1603 will

2 help thousands of New Yorkers who rely on Housing
3 Connect for affordable housing, the bill does neglect
4 to include language for people with rental assistance
5 subsidies, and other very vulnerable population held
6 captive by credit requirements. While source of
7 income discrimination is illegal, credit requirements
8 are not and the lack of legal protections sets up a
9 convenient loophole for landlords to abuse. They
10 frequently cite credit as a disqualifying factor for
11 voucher holders and housing opportunities. We conduct
12 housing searches at Neighbors Together and it's
13 becoming much more common to witness brokers turn
14 down our members because of their credit not
15 because of their voucher. We do hope that the
16 Council does not overlook the opportunity to close
17 this unabated loophole and help strengthen housing
18 vouchers. I'm confident that a bill including
19 protections for credit requirements for people using
20 rental assistance subsidies will have a noticeable
21 impact on the housing and homelessness crisis. Thank
22 you for your time.

23 CHAIRPERSON EUGENE: Thank you very much
24 for your testify. Will you please start.

2 MALA MULDI: Hi. My name is Mala Muldi
3 (sp?). Good morning, good afternoon to the Committee
4 Council. Can you hear me? Okay, yes. Thank you for
5 the opportunity to speak. My name is Mala Muldi and
6 I'm a single mother of two, and we doubled up with my
7 sister and her children in her apartment. Even
8 though I have first vouch—even though I am a voucher
9 holder for over a year, I felt a very strong need to
10 come and testify today. I applaud the Council
11 specifically Council Member Levine for introducing
12 intro 1603, which will protect a large swath of New
13 York—New Yorkers who rely on Housing Connect for
14 their affordable housing and from unfair and
15 unrealistic credit requirements. However, the bill
16 neglects to include protection for voucher holders
17 another population of New Yorkers who need housing
18 who are intimidated by brokers and landlord because
19 of their credit score as a single tenant. My credit
20 is currently 628, which in my opinion is respectively
21 due to my financial circumstances and the fact that I
22 have a voucher that will cover 70% of my rent
23 guaranteed. Now, while I was pregnant with my second
24 child, I experience premature labor. My daughter
25 Astor Godet (sic), with my daughter being born

2 premature she had a number of medical issues and
3 remained in acute for three months. After her birth
4 the medical and the social worker suggested that I
5 quit my job, and during this time I could not keep up
6 with my bills. So, instead of me to most, my credit
7 took a hit, and when I received the voucher I never
8 thought my credit would be used so deliberately
9 against me. Landlord and brokers have learned that
10 they can no longer say outright no vouchers without
11 facing consequences instead. They said they
12 ridiculously had credit requirements to effectively
13 ban all long-term people for applying to their
14 apartments. They already know that we will meet the
15 requirement, but they can say with confidence we
16 accept vouchers but you need to have a credit of 700.
17 So, not my credit a number that does not reflect my
18 ability or history of on-time payments, it's what is
19 stopping me from finding home. I hope the Council
20 understands that if I want to work on my financial
21 stability I need a home. These landlords don't care
22 that in my last apartment I paid rent every time or
23 that I have a renter's letter from a past landlord.
24 They definitely don't care that I have a voucher that
25 will guarantee my rent every month until something

2 changes that will use this level number to judge my
3 financial responsibility. To conclude, that I am
4 grateful for the 1603. I feel strongly that it needs
5 to go further to protect the rental assistance
6 subsidies. This is a population that will continue
7 to be held captive by this credit until a new law is
8 passed. Thank you for your time for me Council.

9 CHAIRPERSON EUGENE: Thank you very much
10 . Thank you Ms. Abdul.

11 MALA MULDI: Muldi, yeah.

12 CHAIRPERSON EUGENE: Muldi. Thank you
13 very much for sharing with us your story, and thank
14 you so much to both of you. Thank you for your
15 testimony. Thank you.

16 MALA MULDI: Thank you.

17 CHAIRPERSON EUGENE: With this, the
18 meeting is adjourned. [gavel]

19

20

21

22

23

24

25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date September 24, 2019