

COMMITTEE ON HOUSING AND BUILDINGS

1

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

----- X

October 30, 2023

Start: 10:32 a.m.

Recess: 12:06 p.m.

HELD AT: 250 BROADWAY - COMMITTEE ROOM, 14TH
FLOOR

B E F O R E: Pierina Ana Sanchez, Chairperson

COUNCIL MEMBERS:

Shaun Abreu
Alexa Avilés
Charles Barron
David M. Carr
Eric Dinowitz
Oswald Feliz
Crystal Hudson

A P P E A R A N C E S

AnnMarie Santiago, Deputy Commissioner of the
Office of Enforcement and Neighborhood Services
at the New York City Department of Housing
Preservation and Development

Tarek Khalil, Assistant Commissioner of Central
Inspections at the Department of Buildings

Adam Roberts, Policy Director for the Community
Housing Improvement Program

Theo Chino, First National Secretary of the
Social Democrat of America

Noelle Francois, Executive Director of Heat Seek

2 SERGEANT-AT-ARMS: Mic check. This is a
3 sound check on Housing and Buildings. Today's date is
4 October 30, 2023. Location is 250 Broadway, 14th
5 Floor. Recorded by Walter Louis.

6 SERGEANT-AT-ARMS: Quiet, please. Good
7 morning and welcome to the New York City Council
8 hybrid hearing on the Committee on Housing and
9 Buildings.

10 Please silence all electronic devices.

11 If you have any questions, please raise
12 your hand, and one of us, the Sergeant-at-Arms, will
13 kindly assist you.

14 At no time, please do not approach the
15 dais.

16 Thank you for your kind cooperation.

17 Chair, we are ready to begin.

18 CHAIRPERSON SANCHEZ: [GAVEL] Good
19 morning. I am Pierina Sanchez, Chair on the Committee
20 on Housing and Buildings. Thank you for joining us
21 today on our hearing for the heat season
22 preparedness.

23 I'd like to thank all of my Colleagues
24 who present, Council Member Avilés, Council Member
25

Barron who was hear earlier, Council Member Abreu,
Council Member Dinowitz, Council Member Carr.

It's great to see everyone, HPD, DOB.
Thank you for being here just two short business days
since our last hearing on the Mayor's Management
Report.

Picking up from there, I mentioned that
just last week I attended a nascent resident
association meeting on University Avenue where the
landlord is perennially unresponsive. According to
the HPD online portal, the building has 74 heat and
hot water complaints, 12 pest complaints, 9 paint and
plaster complaints, and when tenants' rights
organizers provided a Know Your Rights training last
week, and I was there, sharing that the first step
was to call 3-1-1, as I mentioned on Thursday, they
were met with an uproar. We called, the tenants said,
but nothing changes. Recurring complaints and
violations are more than just anecdotal. All too
frequently, Council Members, advocates, and City
agencies respond to thousands of housing quality
complaints, ranging from lack of heat to pervasive
mold, gas and electrical issues, and, when it comes

to heating issues, we know too well that unaddressed concerns can lead to lives lost.

In January of 2022, when many in this Council took office for the first time, we were met with one of the most devastating fires in New York City history. The fire at Twin Parks Northwest started by a space heater as we now know that took 17 lives, including 8 children. We can never forget this tragedy and the conditions that created its possibility. As we enter this heat season, the Council seeks to understand how HPD is improving upon its efforts to ensure that landlords comply with New York City heat laws. Heat season runs between October 1st and May 31st. During this time, building owners are required to keep minimum temperatures inside apartments, 68 degrees between 6 a.m. and 10 p.m. if the temporary outside is below 55 degrees, and above 62 degrees between 6 p.m. and 10 a.m. no matter the outside temperature. Complaints and violations are presently trending upward. In Fiscal 2022, HPD received 131,579 heat and hot water complaints and issued 131,638 heat and hot water violations. This increased to 133,274 complaints in Fiscal 2023 and HPD issued 133,257 violations. Yet, enforcement

continues to be weaker than it could be. A January 2023 report on heat code enforcement by the New York City Comptroller found that there were over 1,000 buildings where there have been heat issues that are severe and persistent every heat season between 2017 and 2021. Among those 1,000 chronic buildings, 25 percent of the buildings had no violations, indicating that the City likely took no action to address these heat issues. A 2020 report by the State Comptroller tells of a building that received 175 3-1-1 complaints but not a single inspection and no violations were issued. Despite the nearly 900,000 annual inspections conducted by HPD per your testimony just days ago, far too many New Yorkers remain in substandard housing conditions. Over the years, the City has made strides in enforcing the City's Housing Maintenance Code, the Council has enacted legislation to remedy violations impacting our communities including Local Law 18 of 2020 which established the Heat Sensor program, which my Local Law 70 expanded just this year, Local Law 1 of 2018 which created the certificate of no harassment, Local Law 117 of 2019 which requires HPD to audit 15 percent of all certifications of corrections of Class

C violations to name a few. Of course, in response to the tragic Twin Parks fire, we passed legislation to require more inspections of self-closing doors and Local Law 64 of 2022 which prohibits the sale of space heaters without certain safety features including requiring space heaters sold within New York City to be equipped with thermostats and an automatic shutoff. In addition to these most recent laws, will also be asking questions today about how HPD is using its tools from the Emergency Repair program to alternative enforcement, Article 7A proceeding, and CONH similar to a hearing we had last year.

As we enter into this heat season, we'll dig in on what we've learned from last year and before, and I look forward to hearing from the Administration on how you are performing, what issues you've identified since the last time we discussed these issues, and suggestions for how to move forward.

I would like to thank my team, my Chief-of-Staff, Sam Cardenas; my Legislative and Communications Director Kadeem Robinson as well as the Housing and Buildings Committee Staff, Taylor

1 COMMITTEE ON HOUSING AND BUILDINGS

8

2 Zelony, Claire MacLachlan, Jose Conde, Andrew Bourne,
3 Dan Kroop, and Brooke Frye.

4 I will now turn it over to the Committee
5 Counsel to administer the oath.

6 COMMITTEE COUNSEL ZELONY: Thank you.
7 Please raise your right hand.

8 Do you affirm to tell the truth, the
9 whole truth, and nothing but the truth before this
10 Committee and to respond honestly to Council Members
11 questions?

12 DEPUTY COMMISSIONER SANTIAGO: I do.

13 ADMINISTRATION: (INAUDIBLE)

14 DEPUTY COMMISSIONER SANTIAGO: Good
15 morning, Chair Sanchez and Members of the Housing and
16 Buildings Committee. My name is AnnMarie Santiago,
17 and I am the Deputy Commissioner of the Office of
18 Enforcement and Neighborhood Services at the New York
19 City Department of Housing Preservation and
20 Development. I am accompanied today by the leadership
21 of the Enforcement Team, Marti Weithman, Assistant
22 Commissioner of the Housing Litigation Division;
23 Grace DeFina, Assistant Commissioner of the Division
24 of Special Enforcement; Joshua Cucchiaro, Assistant
25 Commissioner of the Division of Code Enforcement;

Renee Peay, Assistant Commissioner of the Division of Neighborhood Preservation; Lois Winters, Assistant Commissioner of Data Management and Technology; and Angela Robinson, Assistant Commissioner of Administration and Internal Compliance. Thank you for the invitation to testify today about heat season.

The mission of the Office of Enforcement and Neighborhood Services, which we share with the Council, is to protect the quality of housing for all New Yorkers. Each of us here today represents a dedicated team of field and office staff who work every day to keep New Yorkers safe by conducting inspections in response to complaints, following up where heat or hot water are not being provided, educating owners about their responsibilities, seeking penalties, and obtaining court orders where owners repeatedly fail to comply with the requirements related to heat and hot water. At the same time, we strive to implement new laws, rules, and commonsense procedures designed to improve the living conditions for New York City families and protect tenants from harassment.

HPD is constantly assessing our processes related to heat and hot water. We believe, as

validated by the Comptroller's Report last January, that the City's active strategies for addressing heat complaints are generally effective when they are deployed. There are always challenges, however, and we are happy to have this opportunity to discuss where we were in Fiscal Year 2023 and how we are moving forward into the Fiscal Year 2024 heat season.

The Housing Maintenance Code requires that hot water be provided at a temperature of 120 degrees Fahrenheit 365 days a year. Heat is only required between October 1st and May 31st. During daytime hours, between 6 a.m. and 10 p.m., heat is required only if the outdoor temperature falls below 55 degrees Fahrenheit. Between 10 p.m. and 6 a.m., heat is required to be provided at 62 degrees Fahrenheit. This means that the inspector, at the time of a daytime inspection, must consider the outdoor temperature. If the outdoor temperature is 55 degrees or above, no heat violation can be issued regardless of the indoor temperature during the day. This enforcement criteria makes it difficult for tenants to understand why no violation is issued when they may feel cold, especially when the outdoor temperature is in the upper 50s or low 60s. HPD has

received over 14,000 complaints this October, which is quite high given the temperatures this year, as compared to almost 19,000 complaints last October as of October 25th.

As you know from the Mayor's Management Report, Code Enforcement received 133,000 heat and hot water complaints that required action in Fiscal Year 2023. Almost 237,000 total complaints were received when we account for duplicate complaints, which is a slight increase over the previous year. More than 40 percent of those original complaints are filed anonymously. In addition to the data points in the MMR, I would like to provide some basic numbers about our response to heat and hot water complaints in Fiscal Year 2023. HPD attempted 126,000 heat and hot water related inspections. We reduced our response time to heat and hot water complaints from 2.7 days to 2.4 days, which is a 10 percent decrease, and increased the percentage of complaints closed in one day. Over 61,000 complaint inspections were attempted within one day of the complaints being received. We issued 16,600 heat and hot water violations to 7,567 distinct buildings. Of those, there were 6,210 heat violations issued to 4,062

distinct buildings. About 47 percent of the heat violations, accounting for almost 2,300 buildings, were related to indoor temperatures of 64, 65, 66, or 67 degrees, indicating that heat was inadequate but was being provided. We saw a drop in the number of violations issued at lower temperatures where the indoor temperature was under 60 degrees from over 1,100 violations in Fiscal Year 2022 to 940 violations in Fiscal Year 2023. We attribute the increase in heat and hot water violations of 27 percent in Fiscal Year 2023 over Fiscal Year 2022 to a colder winter, especially in the early part of the winter, and the reduction in response time, and the start of our re-staffing of Code Enforcement.

In terms of follow-up enforcement, we billed 547,800 dollars in heat and hot water inspection fees. Related to heat, we initiated 1,200 cases in housing court and obtained over 4 million dollars in civil penalties in settlements. Our emergency repair program is focused on heat violations where the heat is below 64 degrees at the time of the inspection during the day or below 58 degrees at night. ERP took action to address 3,294 violations in 2,353 distinct buildings for heat.

Tracking the outcomes for these violations, ERP verified that heat was restored by property owners to more than 1,700 buildings, or 75 percent of that total, with an average size of 34 units, and by HPD restored heat to 182, or 8 percent, of buildings with an average size of 14 units. In the majority of the other buildings, which are generally smaller properties, we were unable to confirm the restoration of heat through callbacks, inspections, or correspondence.

As we look forward to this heat season, grateful for the warm weather through this past Saturday, we do have some new tools to work with that I would like to share with the Council. Most significantly, as we enter this heat season, we have increased our number of inspectors. During FY-23, considering both new hires and attrition, we were able to reduce vacancies by over 100 positions for all of Enforcement. Our team has worked incredibly hard to interview, process for hire, and train staff as quickly as possible. For the title of Housing Inspector specifically, in June 2022 we had 129 Housing Inspector vacancies and, as of the end of this June, that number was only 44. We do still have

Inspector vacancies that we are working hard to fill, and we will be holding a job fair next weekend, on November 4th, but we are in a better position going into this heat season than we were going into last, and we want to thank the Council for their continued support.

In addition, we have appointed a new Associate Commissioner for the Division of Code Enforcement, and we are re-structuring the Division to provide additional leadership to tackle the many new programs and projects we are responsible for, including the Heat Sensor Program and the Proactive Self-Closing Door Inspection Initiative. As always, we ask for your support in all of our recruitment efforts and would be happy to share all job descriptions with you and your colleagues at the Council.

In December, we will begin seeking the new civil penalties for heat and hot water which were passed as part of Local Law 71 earlier this year. The Local Law increased the civil penalties from 250 dollars to 500 dollars per day and 500 to 1000 per day for subsequent violations to 350 dollars to 1250

dollars per day and 500 to 1500 per day for subsequent violations.

We continue to refine and enhance our technology called Real Time Field Force. Although this technology was implemented for all of our code enforcement borough offices in August 2021, through training, use, and the additional inspectors in the field, we expect it to continue to deliver more efficiencies for our team. RTFF allows our Code Inspectors working in our Borough Offices to start their day in the field for complaint inspections, improving productivity and allowing us to respond more quickly and efficiently than when we had to prepare inspection routes days in advance.

In addition, we continue to implement the Heat Sensor Program. During the fall, we reached out to owners whose buildings are enrolled in the program, reminding them of their responsibilities to install heat sensors, notify tenants, and provide reports to HPD. We advised them of the new changes to the program that will be implemented over this heat season as a result of Local Law 70 of 2023, including that heat sensor reports must be provided monthly to HPD, that they will be charged monitoring

fees if they fail to install the sensors, and that they will have the opportunity for an early discharge if no heat violations are issued during the heat season. Our inspectors have already begun posting information in the buildings about the program as required under Local Law 70. We very recently provided a full report on the HSP to the Council with details on the buildings selected and their status since entering the program. In a snapshot, of the 100 buildings selected to participate since July 2020, as of June 30, 2023, 59 buildings have installed heat sensors, 4 buildings received opt-outs from all tenants and no sensors were installed, 2 building were vacant, and 35 buildings did not install sensors or receive opt-outs from all tenants. Of the 35 buildings that did not install sensors or receive opt-outs from the tenants, 16 buildings were issued at least one heat violation in Fiscal Year 2022 or 2023. For those 16 buildings during Fiscal Year 2022 and Fiscal Year 2023, inspection fees totaling almost 30,000 dollars were billed, and HPD initiated heat and hot water cases for which over 160,000 in civil penalties were imposed. HPD also sought the installation of heat sensors in six of the cases.

We continue to refine our efforts to better understand and reduce concerns related to buildings with a significant number of complaints but very few violations or buildings that have an excessive number of heat violations issued in order to inform the agency's next steps and strategies for addressing heat and hot water issues.

In addition to our work directly related to heat and hot water directly, we enhanced enforcement of fire safety requirements, most specifically increasing the number of self-closing door violations by over 18,000. We have started our proactive self-closing door violation program, inspecting over 100 buildings to date. At the start of heat season, we reiterated our messaging to property owners not only about heat but about fire safety. We hope that the Council and the Fire Department will continue their important messaging to tenants about the need for self-closing doors and the safe use of space heaters and other methods of auxiliary heat.

HPD continues to find ways to improve our responsiveness, effectiveness, communication, processes, and our overall enforcement. Although

heat and hot water enforcement is one of the most important parts of our work, we know that other critical health and safety considerations also must continue to be the focus of our enforcement efforts.

Thank you for your continued support of the important work we do every day. We would be happy to answer any questions you might have.

CHAIRPERSON SANCHEZ: Thank you so much, Deputy Commissioner, and to the full team at HPD. Very glad to hear of a lot of the progress that has been made since last year. It's really heartening. I know we can all can acknowledge that we have more work to do, but these are steps in the right direction.

Colleagues, if you have questions, please let myself or Taylor know. I'll start asking, and you're welcome to chime in.

I'm going to start off with fines and fees. As you've talked about in particular with the Heat Sensor Program, 30,000 dollars were billed in FY-23 in fees and 160,000 in civil penalties were imposed. Taking a step back from heat sensors and broadly speaking, at the Code Enforcement hearing last December, HPD testified that as October of 2022,

1 COMMITTEE ON HOUSING AND BUILDINGS

19

2 94 percent of heat and hot water fees billed back in
3 2016 and 2017 had been collected, which sounded
4 great, but for that year, that same Calendar Year
5 2022, only 66 percent of those fees had been
6 collected. Can you give us an update on those rates?

7 DEPUTY COMMISSIONER SANTIAGO: Thank you,
8 Council Member. As you know, HPD doesn't do its own
9 collections. Our collections for our fees and for our
10 emergency repair charges are done by the Department
11 of Finance. We are working with them to update this
12 number and expect to have it in another day or two.
13 What we do know is that at the current time still,
14 the old programs that used to help the Department of
15 Finance with collections are not in place, and I know
16 that they are working with the Council on trying to
17 move that forward, and hopefully that will be a help
18 for us in what we see as far as HPD collections.

19 CHAIRPERSON SANCHEZ: Okay. Thank you.
20 With respect to the Heat Sensors Program in
21 particular, what do we know about the pervasive heat
22 and hot water issues in these buildings that are
23 receiving these 30,000 dollars in fees, 160,000 in
24 civil penalties? What are some of the drivers in
25 those buildings?

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member. I think some of the buildings really don't have ownership to speak of, and so a lot of times HPD is responding and doing the emergency repair or the patchwork to the buildings, but there really is no owner that is taking full leadership in terms of responding to those buildings. In terms of the others, as we said, we are bringing enforcement where we can to try and push the owners to install the sensors. Some owners, of course, do claim that they have hardships in terms of their financial ability. We are looking forward to the implementation of some new programs, the Homeowner Help Desk, some of these other programs that my colleagues in other parts of HPD are overseeing to try and provide assistance to these property owners.

CHAIRPERSON SANCHEZ: Thank you. The HMC states that dwelling units must have an indoor temperature of at least 68 degrees between 6 a.m. and 10 p.m. during heat season. However, I just want to draw attention to a specific case. I had a constituent that received a handout from HPD at the conclusion of an inspection that indicates the Department only issues violations when indoor

temperatures fall below 65 degrees so what is the Department's protocol, and, particularly because you did mention in your testimony that HPD's focus is on where the temperatures are 64 degrees and below.

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member. We do issue violations for 65, 66, 67, 68, and I think I mentioned in my testimony that a fair percentage of violations are for those temperatures. Below 65 degrees, really below 64 degrees is where we get involved with our Emergency Repair Program, and, therefore, follow up with the owners to do further enforcement through ERP if necessary.

CHAIRPERSON SANCHEZ: In your testimony you said that violations for buildings that have temperatures lower than 64 degrees is declining, which is a good sign. What do you attribute that?

DEPUTY COMMISSIONER SANTIAGO: That may be because we're getting out there quicker before the buildings get colder. I don't really know what else to attribute that to at this time. It's something that we can certainly look into.

CHAIRPERSON SANCHEZ: Okay. Thank you. At our Code Enforcement hearing last year, HPD testified

that about 75 percent of buildings that had violations only had one heat violation. Can you update us on what that is looking like for this year and what enforcement has looked like for those buildings that have more than one violation.

DEPUTY COMMISSIONER SANTIAGO: For Fiscal Year 2023, about 72 percent of the buildings had only one heat violation issued, which is pretty consistent with the previous year. For the buildings that have multiple violations, that's really where we use our Housing Litigation Division. Our Emergency Repair Program, again, isn't based on the number of violations but really based on the indoor temperature at the time of our inspection. The heat inspection fees that we have, as you know, are applied after I believe a third heat violation is issued to the same property. Those are the steps that we take. We also, through our Division of Neighborhood Preservation, often reach out to the buildings with the most, the highest number of heat violations to find out if there are issues for the property owner. What we sometimes find is that it is a gas restoration issue, which does take some time unfortunately as we all know. There are a lot of protocols you have to go

through in order to restore gas. We help where we can. We have a good relationship with the Department of Buildings to try and expedite on the owner's behalf if we can with Con Edison or National Grid, but there are a lot of checkboxes to get heat restored, and tenants are understandably anxious to get heat restored and will call every day, but an owner may be working towards restoration.

CHAIRPERSON SANCHEZ: Thank you, Deputy Commissioner. On that note, I do have some questions around how DOB and HPD are coordinating.

In particular, DOB, I just want to start with boilers. Can you give us a breakdown of within the City of New York and we know that the requirement is self-report to the Department of Buildings, how many buildings have oil burners, residential buildings with oil burners, gas burners, and other kinds?

ASSISTANT COMMISSIONER KHALIL: In terms of the city itself, are you referring to permanently installed boilers or...

CHAIRPERSON SANCHEZ: Yes.

ASSISTANT COMMISSIONER KHALIL: Okay, so permanently installed boilers, I'll get back to you

regarding the exact number, but for the most part there's a pretty healthy split between oil and gas, but, for the most part, the trend is that people are going more towards gas and, if they had like a more environmentally unfriendly type of fuel like number 6 fuel oil, they're typically going to number 2 fuel oil.

CHAIRPERSON SANCHEZ: Great. Do you have a sense, if you don't have the exact numbers today and I do look forward to the followup, if you don't have the exact numbers today, can you give us a rough breakdown, are we talking like 40/40/20, 45/45/10, like in terms of oil gas and then some of the newer sources, electric sources for heating?

ASSISTANT COMMISSIONER KHALIL: In terms of existing systems, the prior systems are mostly oil, right, but then, of course, the new trend is that the majority now, like a good chunk of it is gas. Electric, there are very few out there in terms of conversions from let's say even gas to electric. They're really not there yet, but in terms of an exact split, I'll get back to you on a better number, but it's a pretty healthy.

CHAIRPERSON SANCHEZ: Okay. This is something we talked about the hearing last week, moving to just understanding the self-report nature of the conditions of the boilers in our city. According to the Mayor's Management Report, DOB issued 100,000 violations for failure to file annual boiler inspection reports from Calendar Year 2018 to 2021, and those were kind of backlogged from the COVID-19 pandemic is what you shared a few days ago, but here's something that I was concerned about is building owners are required to conduct the annual inspection of the boiler and file the inspection report with DOB. What does the enforcement of this look like, and, in particular, the Statute says that if any defects are found during the inspection, the owner must correct those defects within 90 days of initial inspection and then file additional documentation with DOB. What does that look like? How often have we seen, has the agency seen owners filing that they have issues with their boilers and then coming back and filing again when they fix it?

ASSISTANT COMMISSIONER KHALIL: In terms of filing throughout the years, for the period where there was COVID and non-COVID, for the most part the

filing was pretty much consistent so owners were filing during those periods.

CHAIRPERSON SANCHEZ: What's the percentage of compliance?

ASSISTANT COMMISSIONER KHALIL: I'll get back to you with an exact number, but in terms of approximate, somewhere in the 80s mark.

CHAIRPERSON SANCHEZ: I'm sorry?

ASSISTANT COMMISSIONER KHALIL: In the 80s mark, in the 80s area, around there. I'll doublecheck the numbers though, but people were filing.

Now, in terms of defects that are reported, I'll get back to you with the exact numbers once again, but people are filing for corrections as well. People do file for corrections. In terms of the type of issues people are finding, when I say people, the third-party inspectors which are insurance companies, licensed master plumbers, oil burn equipment installers, those folks typically report any kind of issues, whether it's hazardous or non-hazardous.

CHAIRPERSON SANCHEZ: Okay. I don't love hearing we'll get back to you on so many of the questions that DOB is hearing, but tell us more, and

I don't know if this question is more for HPD or for DOB, when you are seeing buildings that are having, boiler issues are the genesis of the heat and hot water issues at the building, are you observing a trend between, a difference between whether they're oil burners or their gas or other sources?

DEPUTY COMMISSIONER SANTIAGO: I don't think we are seeing a trend about which ones are more problematic at this point.

CHAIRPERSON SANCHEZ: Do you track that information?

DEPUTY COMMISSIONER SANTIAGO: I think we do collect, at least for the ones that we do the repairs on, whether they're oil or gas, but I don't have that data with me today.

CHAIRPERSON SANCHEZ: Thank you. Turning to where you do the repairs yourselves, you mentioned a few thousand buildings where HPD ERP has been responsible for the restoration, can you tell us about these buildings, what kinds of repairs is HPD making in order to bring back the heat?

DEPUTY COMMISSIONER SANTIAGO: Sure. I think, as I stated, most of the repairs for the emergency repair generating violations are done by

the property owners so in 75 percent of the buildings, the property owner actually does the repair. What we do is we monitor to make sure that the repair is completed, we contact the tenants to confirm that heat is restored or do our own inspections to confirm that. We actually do repairs on a small number of buildings. For the most part, these are smaller buildings. We do a lot of one- and two-family homes actually that are rentals, and in those buildings, I believe that is about 178 buildings that we've done completions on for heat in the last heat season.

CHAIRPERSON SANCHEZ: What was the work that was done by HPD?

DEPUTY COMMISSIONER SANTIAGO: The work ranges, which is why the time to correct also ranges. In some buildings, it's restoring the utility, and that can be done in a couple of days if it's a nonpayment issues. Those are quick, very easy restorations. In some buildings, it is full replacement of the heating plant, and that could take some time, especially when it involves gas work as I mentioned.

CHAIRPERSON SANCHEZ: Thank you. That is a boiler replacement heat...

DEPUTY COMMISSIONER SANTIAGO: Boiler replacement, a full replacement of the boiler.

CHAIRPERSON SANCHEZ: Yeah, got it. DOB, do you ever conduct proactive inspection of boilers or is it all self-report?

ASSISTANT COMMISSIONER KHALIL: No. Just to give you like a general idea of what the Boiler Unit handles, we handle proactive inspections which we refer to audits, and we do them both on permanently installed boilers as well as mobile boilers as well because basically a mobile boiler is like a large boiler plant on wheels. We do the proactive inspections, and we check to see, for example, if there are proper permits being pulled for the permanent and mobile boilers. We also check to see what the conditions are in terms of operation, are there combustion area issues, safety control issues, clearance issues, is the boiler on, is it not, etc.

DEPUTY COMMISSIONER SANTIAGO: Council Member, if I can, I'd just like to go back to your earlier question a little bit about HPD and DOB

collaboration. As part of our proactive effort, we have entered into an MOU with DOB to share information around the buildings and the Heat Sensor program in particular for this heat season, and we're going to focus on potentially doing joint inspections at those properties so we will get more family with kind of the information that DOB has on those, we'll be able to go out together and make some assessments so we're hoping that that will inform some of our responsiveness in the future.

CHAIRPERSON SANCHEZ: Got it. That's the first time that such a collaboration has taken place?

DEPUTY COMMISSIONER SANTIAGO: Yes.

CHAIRPERSON SANCHEZ: Got it. A step in the right direction. Otherwise, DOB, what causes DOB to conduct an audit of a boiler?

ASSISTANT COMMISSIONER KHALIL: In general, the higher aim is obviously we like to make sure that buildings have consistent heat. That's our objective. The reactive component to it is just complaints coming from tenants and us not only just responding but also looking into what the issues are and then properly referring it whenever we need to refer it to our counterparts at HPD, etc.

CHAIRPERSON SANCHEZ: Got it. So is it 3-1-1 data, like how are complaints coming to DOB?

ASSISTANT COMMISSIONER KHALIL: Complaints come through 3-1-1, and it's referred to us in terms of priorities. Higher levels are A, B, etc.

CHAIRPERSON SANCHEZ: Got it. Okay. Thank you.

I'd like to acknowledge Council Member Hudson who has joined us.

Another one for DOB. Regarding the certificate of no harassment program, Local Law 1 of 2018 established this pilot program requiring owners of certain buildings to obtain certificate of no harassment or the CONH before filing for permits at DOB to perform certain construction work. Can you give us an update or share what kind of information DOB might be getting about heat and hot water concerns at a building in connection with this? Are we seeing heat and hot water being used to target tenants?

ASSISTANT COMMISSIONER KHALIL: In terms of heat and hot water complaints and tenant harassment provisions, I can't really say there's a lot of issues coming down the pipeline regarding it.

We have encountered situations where you have tenants who complain about their heating issues, and we deal with the owners directly in those circumstances to try to make sure that we're very objective and that we're getting to where we need to get to in terms of restoring heat or making sure the issue goes away, whatever the heating issue. Like it could be, for example, like a vibration coming from a boiler and we'll dig into it, etc.

DEPUTY COMMISSIONER SANTIAGO: Council Member, just to clarify, most of the CONH requirements in terms of doing the investigation are at HPD so we can look into that question for you. It wasn't directed to us so I didn't prepare anything.

ASSISTANT COMMISSIONER KHALIL: I guess that explains why we're not seeing a lot.

CHAIRPERSON SANCHEZ: But the information is filed with DOB or is it just HPD tells DOB yes or no because of the results of your investigations?

DEPUTY COMMISSIONER SANTIAGO: If a property owner wants to do certain types of work at a building that falls under the CONH program, whether it's the pilot program or the SRO program or the zoning resolution. Once the owner goes to DOB to

1 apply for permit, the DOB tells them that they need
2 to get the certificate of no harassment from HPD so
3 then the owner has to file a separate application
4 with HPD for the CONH investment, and, once that
5 investment is concluded, we share our outcome with
6 the Department of Buildings, and either the owner can
7 proceed to get their permits or not, depending on the
8 outcome of that investigation.
9

10 CHAIRPERSON SANCHEZ: Got it. Thank you.
11 Today, do you have any background on what kind of
12 findings your CONH investigations are unearthing?

13 DEPUTY COMMISSIONER SANTIAGO: In general,
14 I would say, again I don't have the numbers with me,
15 we grant more CONH applications than we deny. When we
16 have an internal finding that there may have been
17 harassment, there's a hearing that happens outside of
18 the agency to further go through that finding and an
19 owner can challenge that.

20 CHAIRPERSON SANCHEZ: That's at HPD?

21 DEPUTY COMMISSIONER SANTIAGO: That's at
22 OATH.

23 CHAIRPERSON SANCHEZ: Okay. Got it. Thank
24 you. That's helpful. Okay, looking back up. Okay, so
25 moving to the alternative enforcement program so back

to HPD. AEP requires HPD to perform frequent inspections to a select number of apartment buildings, 250 each year, track corrections of violations, issue orders to correct if the owner fails to act, and make repairs if necessary. This program can be very effective because the fines are escalating the longer you wait to repair, the worse your fines get. Can you provide us an update of the AEP program since what you shared last year, how has performance been, and in particular I think I recall you mentioning that 15 percent of buildings that go through AEP will go back through AEP again so what is that rate of repeat going through this program which is supposed to be such a deterrent?

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member. We focused on our research on AEP to heat and hot water, I'm sorry, for this hearing so we can go ahead and update you on the general AEP numbers after the number, but in terms of heat, there are currently 649 buildings in the AEP, and, of those, 21 percent had heat violations last year. Now, some of those, of course, are new buildings to this program that they just came in in January 31st or thereabouts, right, so half of their heat season was

prior to being in AEP and half their heat season was after, but the buildings in AEP that have heat violations basically are treated very much the same, right, so AEP does do more monitoring but they respond to complaints that come in through 3-1-1, they can identify when they're out there at the building doing their regular monitoring.

CHAIRPERSON SANCHEZ: Does HPD have any evidence to suggest that AEP buildings tend to resolve their heat and hot water violations faster, more efficiently than buildings that are not in?

DEPUTY COMMISSIONER SANTIAGO: Buildings are required, I believe, just looking at Grace, to complete 100 percent of their heat and hot water violations prior to discharge, right, so heat must be provided in advance of them being discharged from the program if there were violations preexisting or issues.

CHAIRPERSON SANCHEZ: Got it, but they're in the program because they were pretty bad at doing a couple of different things?

DEPUTY COMMISSIONER SANTIAGO: We looked at Round 16, which is the most recent round of AEP, and about 34 percent of the buildings had heat

violations prior to being in AEP. As you said, buildings don't get into AEP because of just heat. They have to have a number of issues and a lot of violations, but it certainly is one factor.

CHAIRPERSON SANCHEZ: Great. Thank you. I look forward to an update on just in general how AEP buildings are doing.

Moving to emergency repairs, we talked a little bit about what HPD has been doing but just, as you all know, HPD has the power to intervene and correct any emergency violations via the ERP program when a property owner fails to do so. With respect to heat and hot water, how long on average does it take HPD or under what circumstances does HPD decide that it's going to be HPD workers or contractors that are going to go in and do the work?

DEPUTY COMMISSIONER SANTIAGO: Thank you. As I said, there are about 6,000 heat violations issued last heat season. About 3,300 of those were considered emergency repair generating violations which means we would take action to see if an emergency repair was necessary so our first steps, of course, is contacting the owner, letting them know. We contact the tenant. If the tenant tells us heat is

restored by the time we contact them, the violation can be closed. We send staff out usually within days to doublecheck to see where heat is being provided or not. Again, if we find that heat has been restored or we find actually an owner working, we'll monitor that repair until we find the restoration is completed, and that is the vast majority of those violations. If we should go there on that visit and there's no evidence that any work is in progress, there's nothing on file with DOB in terms of it's a gas issue, we will move to start the process to have heat restored. Again, that may be contacting the utility company to see if it's a utility issue, if it's a payment issue or a shutoff issue. We will hire a contractor. We have a process that is predefined where we have contractors on call to go and do an assessment to determine what needs to be done. Again, it can take a short time if it's a small piece that needs to be repaired and they can do that right away. They're authorized to do that. But if it is a full replacement, they need to order the parts, they need to order the boiler, they need to file with DOB as DOB and they do file emergency work notifications, DOB has a process where a contractor can start kind

of right away as long as they file and they keep filing to show what the progress is, and we've done that in less than 200 buildings for heat specifically, a little bit closer to 300 buildings when we're talking about heat and hot water.

CHAIRPERSON SANCHEZ: I sort of hear you saying though that HPD emergency repair is going in when the landlord can't be found, definitely isn't doing work. How long might that take? I know you said it depends on what the issue is.

DEPUTY COMMISSIONER SANTIAGO: What the repair is.

CHAIRPERSON SANCHEZ: How long does it take to make that determination?

DEPUTY COMMISSIONER SANTIAGO: The determination is made fairly quickly. I think what we count now, and this is actually one of the places we hope to improve for next year, what we count now is the time between the issuance of the violation and the closure of that violation, and that also includes administrative time on both ends in terms of the closure because we need to make sure permits are filed and so on. What we're going to try to start counting is actually the time to heat restoration,

right, which will be a shorter period of time because, as I said, there's time between restoring the heat, getting all the permits filed, closing out the work. The median time right now is 23 days for HPD to close its violation after doing the repair.

CHAIRPERSON SANCHEZ: Got it. So that's after the repair is done?

DEPUTY COMMISSIONER SANTIAGO: No. We're not able to count when the heat is actually restored to when the violation is closed. That's the period in which we count.

CHAIRPERSON SANCHEZ: Okay.

DEPUTY COMMISSIONER SANTIAGO: So, for example, heat could be restored on Monday, our inspector doesn't get there until Wednesday to check, and then we need to wait for the permits issue to be resolved so we can close the job so right now we're not counting until Monday, we're counting until Friday or next week if we don't get the permits until then.

CHAIRPERSON SANCHEZ: Okay, but you're saying you're going to start counting until heat restoration so when it's actually...

DEPUTY COMMISSIONER SANTIAGO: We've changed our system to be able to count to actual heat restoration date, which I think will be more reflective of the actual timeline.

CHAIRPERSON SANCHEZ: Okay. Thank you. Moving back to the Heat Sensor program, you mentioned your recently submitted annual report. Thank you for that. The report showed that 26 of the 50 buildings selected for the Heat Sensor program in Fiscal 2023 actually installed a heat sensor and that over half of the buildings without heat sensors are in the Bronx, surprising, so what are the steps that HPD is taking to ensure that buildings selected for the program are complying?

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member. What we have started to look at is of the buildings that did not install sensors, why didn't they install sensors, because you can see also from the report that some of those buildings that did not install sensors also did not have heat issues during the season so the question is how can we converse with those owners to really understand what did they do that now they have no heat violations even though they didn't install the

sensors and what benefit would installing the sensors provide on those properties, and I think that's where we're still doing analysis of this program about whether it is the installation of the sensor that is improving the conditions in the building or is it better to ensure that the own is directing financial resources that they have to actually fixing the problem.

CHAIRPERSON SANCHEZ: In the updated law, we negotiated in a provision that allows buildings to exit the program if they do not have violations during the heat season, by January, right. Are there changes that you would want to make to that in the observation of improvements without the program?

DEPUTY COMMISSIONER SANTIAGO: I think we need to go through one full heat season with this change to kind of answer that question so I'm certain we'll be getting back to you with our next heat season report with some comments on that question.

CHAIRPERSON SANCHEZ: Great. I'm all ears. In this recent report, you also mentioned that four buildings opted out, the tenants opted out of receiving heat sensors in their units. How is this checked?

DEPUTY COMMISSIONER SANTIAGO: The law requires also that the tenant fill out a form, and we do audit those so we can contact the tenants, we do go to some of those buildings and actually speak to them in person to make sure that they've signed the form.

CHAIRPERSON SANCHEZ: Okay. One second. I have my questions in a couple of different places. Moving to litigation, when, in particular, does HPD pursue housing litigation for heat and hot water violations?

DEPUTY COMMISSIONER SANTIAGO: In general, we do not pursue litigation against buildings that have only one heat or hot water violation in the season. Other than that, it's generally we initiate cases.

CHAIRPERSON SANCHEZ: Are we talking about HP actions or what kind of cases?

DEPUTY COMMISSIONER SANTIAGO: We refer to them as heat and hot water cases, but they are HP actions essentially, yes.

CHAIRPERSON SANCHEZ: Got it. Okay, on average, how long do these HPD-initiated HP actions

take from filing the case to resolving the heat violation?

DEPUTY COMMISSIONER SANTIAGO: A couple of things on that, Council Member. As we talked about the ERP program, that is the primary way that we ensure that the violations are resolved. Housing court can take a long time as I'm sure you're aware and so we don't rely on that as the mechanism to say whether the heat violation is corrected or not in general. We bring heat cases starting in I would say November, and those cases will continue through the heat season. The timing it takes is really dependent on the court calendar in large part so it's not really within our control. Generally, we try to settle cases on the first appearance. When the owner comes in, we seek an order to correct which is the most important aspect is to make sure that we have that order if we need to go back to court, and we get a civil penalty in most cases. Again, that's dependent on the property.

CHAIRPERSON SANCHEZ: Just so that I understand, there's a heat and hot water violation, it's not one of the 72 to 75 percent of buildings that only have one complaints, it's one of the more

persistent challenges, the building has not been responsive. When do you decide to take them to court because if they're not responsive then you're pursuing ERP. If they are responsive, then you're trying to get repairs..

DEPUTY COMMISSIONER SANTIAGO: No, there are two totally separate tracks. They happen simultaneously.

CHAIRPERSON SANCHEZ: Okay.

DEPUTY COMMISSIONER SANTIAGO: We don't wait until ERP is resolved to make a determination on housing court.

CHAIRPERSON SANCHEZ: Okay, so it's automatic?

DEPUTY COMMISSIONER SANTIAGO: It's an automatic referral for litigation, and, again, it is not dependent on the ERP process. Even if the owner has corrected the condition, it doesn't influence whether or not we bring the litigation because we're looking for that order and we obtain that penalty if it's warranted.

CHAIRPERSON SANCHEZ: Got it. I see that there was an increase in heat and hot water HP actions commenced by HPD from 1,120 during the 2021

to 2022 heat season and then 1,874 during 2022 to 2023 heat season. Are these numbers right and what is accounting for the increase?

DEPUTY COMMISSIONER SANTIAGO: I will have to doublecheck the numbers. We can certainly get back to you on that. There was an increase, and I would attribute it to the increase in the number of violations issued.

CHAIRPERSON SANCHEZ: Got it. Yet, 1,874 is still much lower than the number of buildings where you pursued ERP and the number of violations filed so what accounts for that delta?

DEPUTY COMMISSIONER SANTIAGO: That count of cases can have more than one violation. It's not one case per violation, right, so if we issue a heat and a hot water violation at the same time, that could be one case. If we issued three violations, it could still be one case. They're not a one-for-one.

CHAIRPERSON SANCHEZ: Okay, that makes sense, but, just looking at your testimony, mention of 2,353 distinct buildings for heat, not recalling which year you mentioned this is from, but still 1,800 is still much lower than the amount of

buildings, properties that HPD is going into, so what's the delta there?

DEPUTY COMMISSIONER SANTIAGO: We can lay out the numbers for you. I don't want to speak off the top of my head in order to say that so let us lay out the numbers clearly and then we can certainly answer any questions you might have.

CHAIRPERSON SANCHEZ: Okay. Sounds good. Thank you. My esteemed Counsel suggests that I ask for the HPD/DOB MOU just to understand how you're coordinating...

DEPUTY COMMISSIONER SANTIAGO: Certainly.

CHAIRPERSON SANCHEZ: Thank you. moving to the 7A program, in particular, you are well-aware of some of the criticisms that you receive from advocates and folks across the city on the what seems to be scarce use of 7A, so 7A, which allows judges in housing court to appoint property administrators when the owner of property has effectively abandoned the property and the conditions of the property are dangerous to life, health, and safety of tenants. Community Service Society highlights that HPD brings 7A proceedings approximately 23 times per year compared to roughly 10,000 chronically distressed

buildings in New York City, representing over 115,000 apartments so this is a tool that could be used against these perennially bad actors. Do you think that the agency is using 7A proceedings enough?

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member. Again, we've prepared 7A answers based on heat, but I would say that just in general our use of 7A is really for properties where all else has failed to bring the building back into compliance. We bring hundreds, if not a thousand, comprehensive cases every year. We bring thousands of heat and hot water cases every year. We bring other types of cases, access warrant cases, false certification cases. These are all tools that we have at our disposal. We have the AEP program. We have the Heat Sensor program, Underlying Conditions program. We have so many tools to try to get properties to come into compliance, and I think we wisely try to use each type of tool. A 7A case really requires us to be able to convince judges and courts that there is no other available through which we can get compliance, and that is a pretty high bar for us to meet every time.

CHAIRPERSON SANCHEZ: Got it. Can you contrast a comprehensive case, for instance, what are we seeing? The word comprehensive can include a lot but what's sort of the mix of problems that a comprehensive case is trying to address?

DEPUTY COMMISSIONER SANTIAGO: In a comprehensive case, we are seeking correction of all open violations. Generally if there is an owner in the picture, that is the way to go because what we are trying to do is push the court to have the owner use their resources to make the repairs on the building and address any concerns so we seek an order to correct, which gives timelines for the owner to make corrections. We go back and we re-inspect based on that. We can go back and bring contempt cases and get significant penalties against property owners. With our Anti-Harassment Unit, we've been very successful too in bringing portfolio litigation against an owner for multiple buildings at the same time and seeking the correction of thousands of violations across a portfolio. I think this is the way to make sure that owners are being responsive.

CHAIRPERSON SANCHEZ: Okay, so you are well-familiar, and I often use examples from my own

District at these hearings. Our District, you can walk into any given building on Grand Concourse or on University Avenue or on Grand or on Davidson, and you almost certainly will be walking into a building that has upwards of 20 or 30 violations so can you help me understand, is it the case that HPD is pursuing comprehensive litigation or one of these tools at all these open buildings? How many cases is HPD bringing to housing court each year and what is HPD doing about these thousands and thousands of buildings across the city, many of which are in the Bronx, that have these pervasive issues?

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member. Again, we can provide you those numbers. We don't have those for today, but we can certainly provide you how many cases we initiate and all types of cases. As you know, AEP selects 250 buildings every year. Through Underlying Conditions, we select between 50 and 100 buildings every year. Heat Sensors picks 50 buildings now going to be every year. Those are just some of our programs. We're always responsive I hope to you and your Colleagues whenever you bring buildings to our attention. It's difficult to be in every single building. As you

said, there are quite a few buildings. We use our Division of Neighborhood Preservation to try to help owners who maybe don't have the resources and, again, we push hard on my colleagues in other parts of HPD to really make the resources available for people when the boiler breaks. It's expensive to replace a boiler, and for smaller property owners that is a challenge. For the bigger buildings, your Grand Concourse buildings, those types of buildings, enforcement is really the tool that we have, and so we try and do as best we can to make sure all of these tools are effective.

CHAIRPERSON SANCHEZ: Got it. What triggers a comprehensive case being brought to court?

DEPUTY COMMISSIONER SANTIAGO: Generally, we're looking at a good number of recent violations being issued, an owner not making the repair. If there's a lot of false certification, we generally go that route, but those are buildings we can certainly look at as well for comprehensive litigation. Sometimes there are referrals from people where we don't have a lot of violations and then we have to go down the road of either having the Anti-Harassment Unit go out and issue violations or Code Enforcement

do a building-wide inspection so it does take some time depending on what stage the building is in at the time that it comes to our attention. We run data to show us what buildings are not quite meeting the AEP cutoff but getting there to look at those buildings as well.

CHAIRPERSON SANCHEZ: All right. I'm just in part reacting to the reality you can't be everywhere at the same time. The resources are constrained, but there are 10,000 buildings across the City of New York that are chronically distressed, and I think even when you add up all of the buildings that are participating in AEP and the range of comprehensive litigation, everything else, I'll wait for the number, but I'm willing to venture that we're talking about maybe 2,000 buildings, hopefully. Yeah, I'd just like to understand and work more, I don't think this necessarily can be answered at the hearing but understand how HPD thinks about the universe of buildings that have tenants living in substandard conditions and what more we can be doing, whether it's within Code Enforcement, within other entities to drive better conditions.

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member, and I think we wholeheartedly agree with that. I think we constantly need to be assessing our tools and thinking about new tools to help us get deeper.

CHAIRPERSON SANCHEZ: Thank you. Okay, 7A and heat and hot water. We did say this hearing was specifically about heat and hot water so how many 7A cases did HPD commence that had heat and hot water as part of the problem?

DEPUTY COMMISSIONER SANTIAGO: That specific question, we will have to get back to you with, Council Member. There are currently 24 buildings in the 7A program, and they've come in over the years so it will take us some time if you want specifically on those buildings to know, but generally there are a lot of systemic issues at 7A buildings, and I would not be surprised that it's a very high percentage.

CHAIRPERSON SANCHEZ: Yeah, that makes sense. Just so that I understand the interplay between different programs and enforcement methods that HPD has, a 7A building will be a building that HPD has brought comprehensive litigation, that HPD

has done emergency repairs in, has done all of these other things?

DEPUTY COMMISSIONER SANTIAGO: It doesn't have to be a checkbox in every box, but generally speaking, we want to exhaust all of our options. If there is no owner in the picture, there may be no point for comprehensive litigation, for example. Generally yes high ERP, generally yes high violations.

CHAIRPERSON SANCHEZ: Thank you. Turning back to HPD inspectors on the field, and, by the way, I said it on Thursday and I'll say it today again, I love running into HPD and DOB inspectors on the field. These folks are from different parts of the neighborhood and they have a real ear to the ground and they seem to love their work so thank you to all of our inspectors for the work that you do to keep us safe, and I will never stop advocating for more of you so good to see the lower vacancy rates, but I will continue to push on that front. One complaint that I consistently hear from constituents and I think my Colleagues also share this concern is the issue of inspectors coming at times that don't work for the tenants, so access not being able to be

provided. What does HPD do to coordinate inspections if anything?

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member. You do know we receive hundreds of thousands of complaints a year, and this is one of the challenges we face, and I think eventually we will hope to find the technological solution where we can match the Department's needs to do inspections quickly with the tenants' availability. It is a very difficult thing for us. What we generally do is we attempt an inspection and, if no one is home to provide access, the inspector will leave a card under the door for the tenant asking them to call us to schedule an appointment if they still need us to come. We also generate a letter just in case the card doesn't get left or the tenant doesn't get, we mail a letter to the tenant saying we were at this time, again providing them with a telephone number to make an appointment, and we do that at both the complaint inspection part of the process and the emergency repair part of the process.

For heat inspections also, since that's our topic today, if we go to a unit and the person isn't home, we do attempt access to other units in

the building to make sure, usually you can knock on someone else's door and someone is home, and we can take a temperature there.

CHAIRPERSON SANCHEZ: Yeah, I've ran into inspectors doing that. People are like why, I didn't call, and it's a whole thing, but it's great. Thank you for doing that, inspectors.

Last one on this, a Comptroller audit finding that HPD's settlements on heat and hot water cases in housing court is usually much lower than the penalty amount. What drives how HPD settles these cases and the amounts settled for?

DEPUTY COMMISSIONER SANTIAGO: Generally speaking, I think that Comptroller's report was looking at our default penalties, and our default penalties when we would ask for them would cover the entire period from the issuance of the violation until the default penalty was asked for, which could be months, weeks. Generally, heat is not out that long so when you come in and settle those penalties, the court wants to take a penalty for the period of time that there was actually no heat, not the period of time that the court process lasted, and so we tried to have that conversation with the Comptroller,

but I think there was something missed in the translation.

CHAIRPERSON SANCHEZ: Okay. Thank you. What programs that are coming down the pike, what resources exist either on the DOB side for boilers or on the HPD side to help private owners to meet some of the financial challenges that may be causing the heat and hot water issues?

DEPUTY COMMISSIONER SANTIAGO: I guess I'll start. Again, you know the Council is aware of things like the Homeowner Help Desk and the other programs, Home Fix, that HPD is specifically advocating for. I know that there are other agencies also doing work to try and engage owners to provide apartments and offering incentives to help owners meet those financial challenges. I think we want to make sure that owners understand what resources are available. I think communication is key. Just again, going back for one second to our collaborations with DOB, we do try to send out on their behalf, and I think I probably mentioned this last week as well, notices to owners reminding them about their boiler inspection requirements, urging them to do what they can in advance of problems arising. We do the same

around pests and mold, reminding them to do their annual inspections and address leaks early when they come, address pests early when you see them in collaboration with the Department of Health. Don't wait until your building is infested. When you have a violation, do the line, do the building, check the garbage. I think we just need to continue to encourage property owners to take as holistic and early of an approach as they can to some issues that eventually can become extremely problematic.

CHAIRPERSON SANCHEZ: Thank you. DOB, do you find that most owners are aware of the HEAP program to assist them in making boiler repairs or replacements?

ASSISTANT COMMISSIONER KHALIL: First, I want to talk about in terms of let's say like the home relief, there's a home relief program. That's for owners where DOB does not issue a penalty, like a Class 1 violation, a Class 2 violation, etc. We give owners a certain amount of time to actually resolve the issue, a DOB violation, which is a lesser type of violation. In terms of communicating with the owners, addressing your question, I haven't really had that kind of dialogue in terms of like are they actually

aware of it, I'm not really sure. The only thing that we do make sure we do is we make sure that we provide them with guidance in terms of how to resolve any kind of legality issues they have with their boilers. Let's say, for example, their boiler is not registered for one reason or another, we try to provide them with guidance on how to make sure that you register it, which permits they need, etc. If there's any, let's say for example, issues with their boilers in terms of Code compliance, we try to provide them with guidance in terms of that. In terms of means and methods, etc., programs, no.

CHAIRPERSON SANCHEZ: I know that DOB has had more office hours for homeowners that are more in tune with the schedules that most people have so late hours and things like that. Do you have any information on how much more outreach DOB has been able to do through these initiatives?

ASSISTANT COMMISSIONER KHALIL: This is fantastic, especially with the previous five years' worth of boiler violations that went out recently. There are a lot of homeowners, a lot of building owners that are asking questions like how do we resolve these particular open outstanding violations.

They're not aware sometimes of the waiver provisions in the rule itself, and so we have people from like the administrative part of the Boiler Division to sit at these particular outings on Tuesday nights and they answer questions. We also had a program as well with DOB where we were going out on weekends and doing outreach and actually resolving issues on the spot as well. That's another program we were doing as well. A lot of questions came in about annual boiler violations because of the massive amount that went out in the past five years.

DEPUTY COMMISSIONER SANTIAGO: Also, I would like to give some love to the Neighborhood Housing Services because we do also refer a lot of property owners to them and they can also be very helpful to especially smaller property owners.

CHAIRPERSON SANCHEZ: Love received. Okay, so regarding inspectors in both agencies, how is the hiring freeze going to impact the hiring that you are trying to do? You mentioned upcoming job fairs, and will inspectors at each agency be exempted under the Mayor's guidelines of public health, safety, or revenue generation.

DEPUTY COMMISSIONER SANTIAGO: Housing inspectors are exempt.

ASSISTANT COMMISSIONER KHALIL: On the DOB side, we're okay. We're pretty healthy, and there are no issues at the moment.

CHAIRPERSON SANCHEZ: But are you exempt?

ASSISTANT COMMISSIONER KHALIL: Exempt from the hiring freeze?

CHAIRPERSON SANCHEZ: From the PEG.

ASSISTANT COMMISSIONER KHALIL: No, we're not.

CHAIRPERSON SANCHEZ: Okay. Thank you. Glad to have that on the record. Last set of questions here.

I'd like to acknowledge Council Member Oswald Feliz. Thank you for joining us.

Last few set of questions for me here. They might be seemingly unconnected because I've asked them in different parts of the hearing, but, HPD, do inspectors ever come overnight for inspections?

DEPUTY COMMISSIONER SANTIAGO: Yes, and actually I should have mentioned that earlier too. We are expanding the number of inspectors who work and

they will probably work until 1 o'clock in the morning. We will, of course, contact tenants before we show up at 12:30 a.m. to do those inspections. We are planning to have about 12 inspectors available to do those inspections.

CHAIRPERSON SANCHEZ: Okay. That's great. In connection to the MOU, you mentioned the MOU around Heat Seek, but does HPD and DOB, do you ever do joint inspections in other circumstances?

ASSISTANT COMMISSIONER KHALIL: We do joint inspections in terms of, go ahead, AnnMarie.

DEPUTY COMMISSIONER SANTIAGO: In particular, one building in the Bronx last year, we definitely did a couple of inspections at a property where there seemed to be intermittent issues with the boiler, and I think the idea was to see if between the two agencies we could identify what the issues were, and actually I think that building had no further heat complaints that season. I'm not sure if anything actually was, we found anything at that inspection, but as needed, I think our agencies work well together when necessary.

CHAIRPERSON SANCHEZ: Thank you. We know that just having an inspector come, like just the

presence can change behavior by the landlord so it's important to have that presence even, you know, for whatever the circumstances.

DEPUTY COMMISSIONER SANTIAGO: Thank you.

CHAIRPERSON SANCHEZ: So more inspectors, no PEGs. Okay. Has HPD ever used programs like Neighborhood Pillars to facilitate preservation purchases when a landlord consistently does not provide adequate heat or demonstrates that they have an inability to do so?

DEPUTY COMMISSIONER SANTIAGO: Thank you for that question, Council Member. I think we try to work collaboratively with our colleagues on the development side when owners approach the agency about seeking, I don't know about Neighborhood Pillars specifically, I will have to get back to you, but I think in general our preservation programs, when they can be applicable, the issues clearly are that those programs take time. You don't apply to whatever preservation program and get the money the next day, and often if we're dealing with issues right now, unfortunately those programs just have too long a lead time even in the best case scenario to provide that relief to the property owner.

CHAIRPERSON SANCHEZ: Thank you. Okay, well, that surprisingly concludes my questions, and I see that my Colleagues have ran out.

I just want to end this portion of the hearing on this note. There are buildings that have these pervasive issues, and it's not to take away from the great work that HPD and DOB are doing. In fact, I'm very happy to hear some of the improvements that the agency has made this year over last year, more inspectors, trends are going in the right direction in terms of the kinds of heat complaints that we're seeing, but there is still, I represent a District where the median worker earns 23,000 dollars and what that means in terms of housing quality is that they're often taken advantage of, and I just want to make sure that we're working towards agencies that are able to get compliance from owners because we're not there yet so I look forward to a continued conversation. Thank you for your participation today.

DEPUTY COMMISSIONER SANTIAGO: Thank you, Council Member.

ASSISTANT COMMISSIONER KHALIL: Thank you.

CHAIRPERSON SANCHEZ: Thank you.

ASSISTANT COMMISSIONER KHALIL: My apologies. I guess maybe I misunderstood the question, but in terms of DOB inspectors, they're actually exempt from the PEG. I guess from my perception I was thinking like will there be an impact. I was saying that basically my staff is fully staffed. That's what I was saying and there's nothing to PEG basically...

CHAIRPERSON SANCHEZ: Got it.

ASSISTANT COMMISSIONER KHALIL: Just to clarify that. My apologies.

CHAIRPERSON SANCHEZ: Thank you. Both Housing inspectors and Buildings inspectors are exempt from the PEG. Thank you so much.

ASSISTANT COMMISSIONER KHALIL: Yeah.

CHAIRPERSON SANCHEZ: Okay.

COMMITTEE COUNSEL ZELONY: Okay. Thank you. We will now turn to testimony from the public.

Please listen for your name to be called whether you're here in person or appearing on Zoom.

If you are testifying on Zoom, when it is your turn to testify, you will be prompted to unmute. Please accept this prompt and begin your testimony.

In the interest of time, your testimony will be limited to two minutes per person, and we'll give it a few seconds for folks to file out of the room.

We will start with Adam Roberts. When you are prompted to unmute, you can start speaking.

SERGEANT-AT-ARMS: You may begin.

ADAM ROBERTS: Thank you for holding this hearing today. I am Adam Roberts, Policy Director for the Community Housing Improvement Program, also known as CHIP. We represent New York's housing providers including apartment building owners and managers, and we are here to express concerns about the City's existing heat season policy. The current heat season policy of maintaining minimum temperatures of 62 to 68 degrees depending on the time of day from October 1st through May 31st is outdated. City heat season policy must recognize that climate change is real and dramatically elevates indoor air temperatures. Summer heat now lasts well into October and starts in May, yet the City's heat season remains the same as if climate change were not a reality. The current heat season schedule hampers the ability of rental buildings to comply with laws like Local Law 97.

Since turning on building-wide heating and cooling systems is a laborious process, rental buildings are forced to pump heat even when the outside temperature is warm. This increases the building's carbon emissions, complicating its path to comply with Local Law 97. Heat season may force many rental buildings onto alternative compliance paths or out of compliance entirely. Ideally, rental buildings could better control temperatures by performing costly but necessary sustainable design work such as electrification and façade replacement. However, State legislative changes in 2019, which eliminated the ability of buildings with rent-stabilized apartments to recoup the cost of retrofitting, have led banks to refuse to provide loans for retrofitting. Without loans, owners cannot pay to institute sustainable design measures, and no contractor, architect, or engineer will electrify a building or replace a façade without the assurance that an owner can pay. The impact of this outdated heat season policy is that tenants and apartment building workers live and work in unnecessarily uncomfortable environments. Heat season should be readjusted to reflect the fact that climate change is

real, Local Law 97 must be effectively implemented, and that work necessary to better control indoor air temperatures is currently too costly for buildings with rent-stabilized apartments. We hope the Council will work to fix this probably.

Again, thank you for holding this hearing.

CHAIRPERSON SANCHEZ: Thank you, Adam. Can I just ask a clarifying question. How exactly would you change, what is your recommendation for the changes to the definition of heat season?

ADAM ROBERTS: I don't think there's a specific date that it should be changed to, but currently saying that heat season starts as early as the beginning of October. We had summer temperatures last week, and this is the end of October. We've had 70-degree days well into November, and the same could be said for spring too. It could be very warm at this point in April. Certainly, early May can often feel like summer, so requiring that buildings turn on their heat to 68 degrees then is really the core problem.

CHAIRPERSON SANCHEZ: Thank you so much, Adam, and your testimony also reminds me we have a

compliance path for rent-stabilized buildings for Local Law 97 that I have some concerns about so I'd love to hear more of your thoughts to make sure that we can make sure that our affordable buildings across the city are electrifying and becoming more carbon-free so more to come on that. Thank you.

ADAM ROBERTS: Excellent.

COMMITTEE COUNSEL ZELONY: Next, we'll hear from Theo Chino.

SERGEANT-AT-ARMS: You may begin.

THEO CHINO: Hello. My name is Theo Chino. I'm the First National Secretary of the Social Democrat of America, the socialist faction of the Democratic party, also known as the Committee of the Socialists International. We are (INAUDIBLE) socialists, and you can check out our website at socialistsus to understand the differences.

Because we believe housing is a human right and as socialists we need to empower the City to actually fix the tenant concern such as bringing heat and hot water. Currently, the laws are just words on papers, so we need to change how government can be proactive if the landlord failed to manage their property. We socialists believe that

landlording is a service job, just like driving a cab or being a doctor, and, as such, the City of New York should issue license. The goal is not to burden the landlord but instead to provide the means to adequately do their job, assist them with training if needed, if they are overwhelmed and also to provide flexibility. Concerning Mr. Roberts' testimony, it's a little bit moot since the heat rules are based on the outside temperature. The outside temperature, because of climate change, will go up. Therefore, the heat doesn't need to be turned immediately. This is just pure management so we don't need to change those rules. Also, if a landlord is unresponsive, we need the City to lower the threshold of when ERP is triggered. We cannot wait until (INAUDIBLE) building. Every citizen needs to have decent housing. We also need the HPD inspector on the ground to be able to answer complaints without pointing the finger to another HPD department and telling people to call 3-1-1. If HPD is unable to allocate resources, it's for the City Council to think about breaking HPD into various departments so citizens are not frustrated when HPD starts pointing the finger to another HPD department. This City needs a vision and start moving

towards a model that is made for the tenant and the landlord so we can ensure domestic tranquility and promote general welfare. Another idea we socialists (INAUDIBLE) have is the desire to tax the rich. Thank you very much.

CHAIRPERSON SANCHEZ: Thank you so much, Theo.

COMMITTEE COUNSEL ZELONY: Julissa Sarmiento (phonetic), Noelle Francois. Please come up to the desk. Thank you.

NOELLE FRANCOIS: I want to begin my testimony by thanking Council Member Pierina Sanchez and the Committee on Housing and Buildings. Is it on? No? Is it on? Okay.

I want to begin my testimony by thanking Council Member Pierina Sanchez and the Committee on Housing and Buildings for holding this hearing. My name is Noelle Francois. I'm the Executive Director of a non-profit called Heat Seek. We're the only non-profit in the city working specifically with tenants who are not receiving adequate heat in their apartments in the winter time. We use smart temperature sensors to help accurately and reliably

document the indoor temperature to prove exactly how often the temperature is too cold in the apartment.

Citywide heat complaints remain relatively stable year over year at about 200,000 each year. However, only a small fraction of those complaints translate into heat violations by HPD. We believe, and our data shows, that many, many legitimate heat complaints are not translating into violations. After doing this work for almost a decade, we believe that an exclusively complaint-driven system for maintaining the City's housing stock is inefficient and ineffective. We've stepped in as a third party to help tenants accurately document the temperature in their apartments. Last heat season, Heat Seek sensors in just 150 apartments documented over 59,000 in which the temperature was below the legal limit, yet those buildings received just 90 violations. Heat Seek has documented cases in 20 buildings where sensors collected more than 100 hours of illegally cold temperature, and tenants called heat complaints in and they received zero violations so we know that the violations that HPD is issuing are just a small fraction of what's actually happening in buildings. There's a better way. Using

technology, we can know exactly what the temperature is inside tenants' apartments at all times. Real-time data transmission used by HPD would make them more efficient and effective. There's no reason for HPD to keep guessing at what the temperature is inside people's apartments when widely available technology exists that can tell us exactly that. We strongly urge HPD to adopt this technology with the enthusiasm that it requires and deserves and have inspectors install temperature sensors themselves to address repeat complaints.

Serious heat violations rarely exist in a vacuum. Thank you.

CHAIRPERSON SANCHEZ: No, you can finish.

NOELLE FRANCOIS: Okay, great. Serious heat violations rarely exist in a vacuum as our data analysis of the Heat Sensor program shows. Buildings in the program benefit from the increased scrutiny of HPD inspectors coming biweekly to those buildings. Because of those biweekly inspections, buildings in the program report higher rates of violation for all kinds of housing issues, not just heat. It's clear that complaint-based inspections are a burden on tenants and often fail to surface serious issues.

However, when HPD takes a more proactive approach and visits bad actor buildings consistently, issues are identified and addressed. The inability of our City government to adequately tackle the City's heating crisis feeds directly into the City's inability to preserve affordable housing and the housing crisis we're currently facing. Evictions and poor maintenance are two sides of the same coin. Failure to maintain the City's affordable housing stock is not an option, but it is the path that we're on. We must take a more aggressive approach to adequately maintaining the affordable housing we currently have because rents are continuing to rise at alarming rates and affordable housing is not being built at a sufficient rate to meet demand. One of the best ways to address housing is to keep people who are currently housed in their homes, but we can't do that if those homes are allowed to fall into disrepair to the point that they're unlivable and tenants are forced to move out. We live in the 21st century, in the age of technology, and we cannot continue to operate as if the tools are not available to us. Our failure to adapt is a failure to society and a

failure to protect tenants in New York City. Thank you.

CHAIRPERSON SANCHEZ: Thank you so much, Miss Francois. Very helpful testimony and thank you for meeting with my team in advance of the hearing.

If you can just share on the record, the devices that Heat Seek uses, how is the information collected, how is it transmitted, to whom, and how do you address privacy concerns that arise from the use of these devices?

NOELLE FRANCOIS: Sure, absolutely. All tenants who have a Heat Seek sensor opt in so they come to us and request a sensor because they're in a building that has consistent, chronic heating issues, and then the way that the sensors transmit data is twofold. If a tenant has wi-fi, we can connect a smart temperature sensor which is essentially just a thermometer that connects to the internet. We connect it to their own wi-fi, and it transmits their data hourly up to our web app which we maintain as a neutral third-party non-profit. We also can work with tenants who don't have wi-fi. We use a cellular data sim card so it operates like a cell phone, but, again, it transmits the data up to our app, and then

tenants have access to their data. They can also designate an advocate, an attorney, a tenant organizer who can also view their data.

CHAIRPERSON SANCHEZ: Thank you. How does this compare to HPD's implementation of the Heat Sensor program to your knowledge?

NOELLE FRANCOIS: In what sense?

CHAIRPERSON SANCHEZ: The device and the information transmission and all that.

NOELLE FRANCOIS: My understanding is that the Heat Sensor program, HPD requests a printout of the data from the landlords like every 30 days, whereas ours is transmitted in real time so someone could watch the data come in hourly and, in theory, send an inspector when they see that the apartment is in violation and catch that violation.

CHAIRPERSON SANCHEZ: Thank you so much. Yes, I've had numerous conversations with HPD about whether we can do the data collection in a better way that is not relying solely on landlords and owners printing information and sending it to HPD for enforcement because there are obvious concerns with that so going to continue to welcome your advocacy

and just ideas that you have about how HPD can better conduct the program.

NOELLE FRANCOIS: We'd be happy to help.
Thank you.

CHAIRPERSON SANCHEZ: Thank you so much.

COMMITTEE COUNSEL ZELONY: Diane P., Vijay Dandapani, Asphendar Javeed (phonetic).

This concludes public testimony. If we have inadvertently forgotten to call on someone to testify, if you could please raise your hand using the Zoom raise hand function, we'll try to hear from you now.

CHAIRPERSON SANCHEZ: With that, this public hearing is concluded.

I want to thank all of the Staff Members who helped bring this hearing together.

With that, have a good afternoon. [GAVEL]

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 November 8, 2023