

TESTIMONY OF THE DEPARTMENT OF HOUSING PRESERVATION AND
DEVELOPMENT TO THE COUNCIL COMMITTEE ON HOUSING AND
BUILDINGS

TUESDAY, FEBRUARY 8TH 2011 – 10AM

Good Morning Chairman Dilan and members of the Housing and Buildings Committee. My name is Vito Mustaciuolo, Deputy Commissioner of Enforcement and Neighborhood Services and sitting next to me is Christopher Gonzalez, Director of Intergovernmental Relations at the Department of Housing Preservation and Development. Thank you for the opportunity to discuss Intros 291 and 439, which both relate to the Housing Maintenance Code's heat provisions.

Intro 291 proposes to amend section 27-2115 of the Housing Maintenance Code to increase the look back period for subsequent heat and hot water violations from one year to two years when determining civil penalties in housing court. Intro 291 would increase the potential fines for landlords who neglect to provide adequate heat during the cold weather months. HPD supports all efforts to improve enforcement of heat and hot water violations, including the amendments proposed in Intro 291

We also propose amending the effective date of Intro 291 to October 1, 2011. Although we would like to impose these new requirements immediately, all of the changes proposed would require adjustments in our data collection and operational procedures to implement properly. Therefore we think it best to aim for implementation for next heating season.

Intro 439 proposes to require all owners of Class A multiple dwelling to install and replace indoor thermometers in every "living room" of each dwelling unit. This requirement would not affect HPD's process of enforcing the laws requiring heat and hot water. We do not believe that this bill will have any impact on the number of 311 calls that we receive for inadequate heat.

When HPD responds to a heat complaint through 311, Code Enforcement takes the temperature in the coldest room of the residence with a New York City Department of Health certified thermometer held at the center most point in the room – waist high, away from any opening or source of heat.

This proposal requires thermometers to be placed on walls, putting them at risk of damage and potentially providing false readings related to the temperature. These thermometers are also not certified and therefore cannot be used by code enforcement officers in any official capacity.

Most large building owners have boilers that run on heat timers. These heat timers have sensors that relay information from various locations throughout the building to the boiler regulating heat building-wide. Smaller buildings have thermostats with built-in thermometers. Most residential buildings in New York City provide adequate heat to

tenants. Requiring thermometers in multiple rooms in all apartments in all buildings seems unnecessary.

HPD's mission is to enforce the Housing Maintenance Code and protect the tenants' right to a habitable living space. During the cold weather months, the bulk of this enforcement is related to responding to heat and hot water complaints. HPD continues to support any proposals that enhance our ability to enforce the provision of adequate heat and hot water and is committed to working with the Council on making improvements to the process.

We thank you for this opportunity to testify on these two pieces of legislation and welcome any questions that you might have.

GOOD MORNING. MY NAME IS LARRY JAYSON AND I HAVE BEEN WITH BROOKLYN HOUSING & FAMILY SERVICES FOR 32 YEARS.

WHEN I FIRST MET WITH COUNCILMAN DILAN LAST YEAR WE DISCUSSED ISSUES THAT WE THOUGHT MIGHT BE BENEFICIAL TO TENANTS. ONE OF OUR LONGTIME CONCERNS AT BROOKLYN HOUSING & FAMILY SERVICES IS THE WAY HEAT COMPLAINTS ARE REPORTED TO:

- a) 311**
- b) HPD**
- c) COMMUNITY HOUSING GROUPS**
- d) LANDLORDS AND**
- e) ELECTED OFFICIALS.**

ON MOST OCCASIONS, DURING MY 30 PLUS YEARS WE HEAR "I HAVE NO HEAT" OR "MY APARTMENT IS COLD" OR "MY RADIATORS ARE ICE COLD". THIS DOES NOT ADDRESS A MOST IMPORTANT FACTOR, "HOW MANY DEGREES IS YOUR APARTMENT? IS IT AT LEGAL LEVELS BY NYC CODE?"

WE ALL KNOW THAT 68 DEGREES BETWEEN 6 AM AND 10 PM AND 55 DEGREES BETWEEN 10 PM AND 6 AM CAN BE BRUTALLY COLD IF YOU ARE ELDERLY, SICK, FRAIL OR A CHILD.

THOSE HOWEVER, ARE THE LAWS AND PARAMETERS IN WHICH WE MUST WORK. MAYBE THAT LAW NEEDS CHANGE, BUT I GUESS THAT WILL BE FOR ANOTHER DAY.

THE THOUGHT OF TENANTS ACTUALLY HAVING THERMOMETERS TO BE ABLE TO GIVE AN ACCURATE READING MADE AN AWFUL LOT OF SENSE.

AFTER RECEIVING A COPY OF INTRO. # 439 ON WEDNESDAY, I HAD THE OPPORTUNITY TO SPEAK TO JOHN LANSDEN, THE SUPERVISING JUDGE IN KINGS COUNTY HOUSING COURT. WE DISCUSSED A BROAD VARIETY OF TOPICS REGARDING INTRO. 439. FROM THE STANDPOINT OF THE JUDGE SOME CONCERNS WERE:

- 1) THE TYPE OF THERMOMETER THAT WOULD BE USED (MERCURY / DIGITAL);**
- 2) THE THERMOMETERS SHOULD BE APPROVED AND/OR RECOMMENDED BY HPD (BRAND): MAYBE THREE OR FOUR TO CHOOSE FROM;**
- 3) WHERE WILL THE INSTALLATION BE IN THE ROOM (NOT NEAR WINDOW, NOT NEAR RADIATOR OR STANDING HEAT PIPE, NOT ON A WALL DIRECTLY BEHIND A KITCHEN STOVE).**

- 4) ARE THEY GOING TO BE INSTALLED IN ALL LIVING AREAS (BEDROOM, DEN, KITCHEN) OR JUST LIVING ROOMS?
- 5) HOW ACCURATE ARE THE THERMOMETERS? WHAT IF THE TENANT'S THERMOMETER READS 64 DEGREES AND THE SUPERINTENDENT BRINGS HIS MORE EXPENSIVE AND HPD APPROVED THERMOMETER WHICH READS 70 DEGREES. WHOSE THERMOMETER IS ACCURATE?
- 6) IF A TENANT HAS A TEMPERATURE READING OF LESS THAN 68 DEGREES ON HIS THERMOMETER, CALLS 311, AN INSPECTOR COMES TO THE APARTMENT AND WHEN HE GETS THERE HIS READING IS 68 DEGREES OR MORE, CAN HE WRITE A VIOLATION? NO, HE CANNOT. THIS COULD EASILY FRUSTRATE THE TENANTS THAT WE ARE TRYING TO HELP.
- 7) IF A TENANT IS IN COURT FOR A LACK OF HEAT (HP / RENT WITHHOLDING) AND HAS A RECORD (CHART) OF HEAT READINGS THAT ARE BELOW THE LEGAL GUIDELINES, BUT THE LANDLORD BRINGS IN COMPUTER READINGS FROM THE SENSORS THAT ARE NOW IN TENS OF THOUSANDS OF APARTMENTS CITYWIDE, WHO DOES THE JUDGE BELIEVE?
- 8) WHAT ABOUT ARTIFICIAL HEAT? (EXPLAIN)

I BELIEVE THAT THE THERMOMETER IDEA IS A GOOD ONE THAT IS NEEDED TO PROTECT TENANTS. THERE ARE STILL OWNERS OUT THERE WHO WILL CHOOSE NOT TO PROVIDE HEAT AND MAKE A LARGER PROFIT WITHOUT CONCERN FOR THE PEOPLE (ELDERLY, SICK, POOR, CHILDREN) THAT WILL BE AFFECTED. THERE ARE, HOWEVER, MANY QUESTIONS THAT SHOULD BE ADDRESSED.

I TRULY BELIEVE THAT A SMALL GROUP SHOULD BE IMPANELED. IT MUST INCLUDE SOME TENANT ADVOCATES (MAYBE LEGAL AID), BUILDING OWNERS, HPD REPRESENTATIVES AND MEMBERS OF THE JUDICIARY, POSSIBLY A TOTAL OF EIGHT (8), TO IRON OUT THE KINKS. IT CAN BE DONE QUICKLY, FAIRLY AND WITH GIVE AND TAKE FROM ALL SIDES, A COMPROMISE BILL WILL COME THAT NOT ONLY MAKES SENSE, BUT IS ONE THAT WILL ACCOMPLISH EVERYTHING THAT YOU WANT.

THANK YOU FOR YOUR PATIENCE AND FOR TAKING THE TIME TO TRY TO HELP THE TENANTS OF OUR CITY.

**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL HOUSING AND
BUILDINGS COMMITTEE HEARING ON INTRO 291**

FEBRUARY 8, 2011

This testimony is submitted on behalf of Legal Services NYC. Legal Services NYC thanks the City Council for holding this hearing and for the leadership of the City Council and the Public Advocate in continuing to address important issues of housing code enforcement. We strongly urge the Council to pass Intro 291, which would amend the Administrative Code to punish repeat offenders of the requirement to provide adequate heat and hot water to residential tenants in New York City.

Legal Services NYC is the nation's largest provider of free legal services to the poor. For nearly 40 years, Legal Services NYC has provided critical legal help to low-income residents of New York City. The eighteen neighborhood offices of Legal Services NYC operate in diverse communities throughout the city, representing thousands of low-income tenants annually in disputes involving their rights to remain in their homes, including their right to decent housing conditions.

Bedford-Stuyvesant Community Legal Services ("BSCLS"), a program of Legal Services NYC, is a legal services provider with deep roots in the culturally diverse and low-income communities that encompass the neighborhoods of central Brooklyn. BSCLS provides critical legal services to

individuals on a wide range of matters and engages in community education projects to educate and inform residents of central Brooklyn of their legal rights.

The housing practice of BSCLS represents and advises hundreds of tenants yearly on their rights as tenants, including their rights to safe, healthy, and habitable apartments. Central to safe, healthy and habitable apartments is the provision by landlords of adequate heat and hot water to tenants and their families. Indeed, adequate heat and hot water are fundamental to decent housing in a civilized society such as ours, and the absence of these services represents the denial of basic human dignity to New York City residents.

Unfortunately, many landlords in central Brooklyn, as well as throughout New York City, are failing to maintain adequate heat and hot water for their tenants. According to the Department of Housing Preservation and Development (“HPD”), between July 2009 and June 2010 there were 4,325 heat and hot water complaints in the Flatbush section of Brooklyn alone. To put this in human terms, 4,325 families were deprived of the basic services of heat and hot water in just one area of Brooklyn. Undoubtedly, thousands of other families suffer daily without heat and hot water throughout Brooklyn, and many thousands more suffer without these essential services throughout New York City.

More troubling is the disregard by many Brooklyn landlords of the existing code enforcement mechanisms. In a list published just last week by HPD of the 200 buildings in its Alternative Enforcement Program, which comprises the most distressed buildings in the City, 99 of the buildings are located in Brooklyn. Fortunately, the Alternative Enforcement Program was created by law passed by the City Council in 2007 with the aim of increasing pressure on landlords to comply with housing codes. But more needs to be done.

BSCLS is presently representing tenants and their families who have been denied heat and hot water during this brutal winter season. In one recent case, a family in Bushwick was forced to rely on heat from the burners on their stove to heat their apartment because their landlord had ignored their pleas for adequate heat. This practice, which is unfortunately quite common among tenants in our City,

presents a dangerous fire hazard to the entire building because the open flames are left burning overnight. This family had repeatedly called 311, the City's general complaint telephone number, but to no avail. BSCLS had also obtained court orders in housing court to get the landlord to provide heat, but this method is time-consuming and proved frustrating for our client, who had to take days off from work to attend numerous court hearings.

Legal Services NYC strongly believes that strict enforcement of the housing maintenance code, buttressed by stiffer penalties for landlords' failure to comply with the law, such as the accruing penalties proposed by Intro 291, would help protect thousands of families who are being denied the basic human right of living in homes with heat and hot water in New York City. Under current law, landlords can be fined up to \$500 per day for the first heat and hot water violation. For subsequent violations within the same calendar year, penalties range from \$500 - \$1,000 per day. Fines are then reset to the lower levels at the beginning of each calendar year. The Heat Enforcement for All Tenants (HEAT) Act (Intro. 291) amends §27-2115 of the NYC Administrative Code so that repeat offenders would no longer have their fines reset. After the first violation, landlords would continue to pay escalated fines for a full two years. This change in the law would provide an important incentive for landlords to provide adequate heat and hot water to their tenants and to make lasting improvements to their heating systems, rather than providing temporary solutions to ongoing problems. At the same time, the bill would generate additional revenue for the City at a time of fiscal austerity.

~~The Public Advocate and City Council Members are recommending a targeted solution to the~~
problem of repeat violators of the requirement to provide adequate heat and hot water. By maintaining the penalties for initial and subsequent violations at the same level, Intro 291 ensures that only the longer term and continuous violators are negatively affected.

Conclusion

Legal Services NYC thanks the City Council Housing and Buildings Committee for holding this hearing and urges the full City Council to pass Intro 291.

Respectfully submitted,

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Gladys Puglla's Testimony in support of the HEAT Act

Testimonio de Gladys Puglla a favor del Acta HEAT (Calefacción)

Buenos días, mi nombre es Gladys Puglla. Soy miembro y parte de la Junta Directiva de Se Hace Camino New York, la organización comunitaria basada en la comunidad inmigrante más grande en la ciudad de Nueva York.

Vivo casi 12 años en el 1406 Putnam Avenue, Apt 2R en Brooklyn. Vivo aquí con mis tres hijos y mi nieta de 18 meses. Desde que me mudé en este apartamento hace 11 años, he tenido muchos problemas con el propietario. Nunca ha fumigado, para destapar los baños nos cobra, hay muchos problemas con la electricidad, tengo una ventana rota, las ventanas de mi apartamento ninguna funcionan y no tiene buena insolación, tengo moho en mi cuarto y mi baño, tengo plomo en mis paredes y lo que hace es pintar las paredes. La razón de mi testimonio hoy es porque soy una más en la lista larga de inquilinos de la ciudad de Nueva York que está pasando por la situación de no tener calefacción en el apartamento.

Desde el 1 de octubre del 2010, he estado llamando la línea 311 para mis reclamos de que el dueño de mi edificio no da calefacción. Da calefacción durante el día, pero llega las 6 de la tarde y la boiler se daña o ya no funciona o está en piloto hasta el siguiente día. Por lo menos, esas son las excusas que el súper nos da. Durante el día los radiadores y los tubos de calefacción funcionan perfectamente y calienta todo el apartamento. Pero después de las 6 de la tarde nos dice el súper usted tiene tapado los radiadores, que las válvulas están cerradas, son las una y mil respuestas que tiene para que no le molestemos. También le hemos tocado la puerta a las 7, 8, 9, 10, 11, 12 de la noche. A veces nos abre la puerta y cuando abre dice solo que la boiler está prendida y pasamos otra noche más sin calefacción. Ahora ha cogido que el fin de semana no da calefacción en la noche. Hemos tenido unas noches con temperaturas muy bajas este invierno y no tuvimos calefacción durante esas noches tan frías. A veces no tenemos agua caliente tampoco. También he escuchado que los otros edificios que tiene el mismo propietario que tampoco les da calefacción.

Ahora dígame cual es su juego que tiene con nosotros. Siempre está la calefacción prendida durante el día porque es cuando vienen los inspectores de la Ciudad. Agradezco a los inspectores que vienen antes de las 6 de la tarde y avisan al dueño que van a venir a inspeccionar, pero si siguen comunicándole al dueño de su venida nunca van a encontrar ningún problema. Pero los inspectores no vienen en la noche cuando está apagada.

Estoy cansada y enferma, tengo mucha tos y sufro de sinusitis. El recibo del doctor y las medicinas me está saliendo caro. Ahora estoy pagando extra en mi celular porque tengo

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que llamar a 311 casi todos los días. También tengo a mi nieta de 18 meses que tengo que mandarla a dormir a la casa de su abuelo para que no se me enferme. Por eso apoyo esta legislación y los esfuerzos de la Ciudad de Nueva York para obligar a los propietarios dar calefacción en sus edificios.

Muchas gracias. ¡SÍ SE PUEDE!

Good morning. My name is Gladys Puglla. I'm a member and co-chair of the Board of Directors of Make the Road New York, the largest immigrant-based community organization in New York City.

I live at 1406 Putnam Avenue, Apt 2R, in Brooklyn. I have lived in this apartment for almost 12 years with my three children and my granddaughter, who is 18 months old. Since I moved into this apartment, I have had a lot of problems with the landlord. He has never fumigated, he charges us to fix the bathrooms, there are a lot of problems with the electricity, I have a broken window, the windows never work and the apartment is poorly insulated, I have mold in my bedroom and bathroom, I have lead in the walls and his answer is to paint over it. But the reason for my testimony today is because I am one more in the long list of tenants in New York who do not have heat in their building.

I have been calling 311 since October 1, 2010, because my landlord has not been giving us adequate heat in the building. There is heat during the day, but at 6 pm, all of a sudden the boiler doesn't work, or it shuts off, or it's on pilot until the next day. At least that's what the super tells us. During the day, the radiators and the pipes seem to work perfectly fine and our apartment is warm. But after 6 pm, the super tells us that the radiators are blocked, or the valves are closed. There are always a thousand and one excuses so we will stop bothering him. We have knocked on his door at 7, 8, 9, 10, 11, 12 o'clock at night. Sometimes he opens the door but when he opens the door, he just tells us that the boiler is on, and we have to face another night without heat. We have had some freezing nights this winter and we did not have heat in the building on those nights. Sometimes we don't have hot water either. I have also heard that this owner does not provide heat in the other buildings he owns either.

I'd like to know what game he's trying to play with us. The heat is always on during the day, when the City's inspectors come. I appreciate the inspectors who come before 6 pm and let the owner know that they are going to come back and inspect again, but if they continue to let the owner know when they're coming, they're never going to find a problem. And the inspectors don't come at night when the heat is off.

I'm sick and tired of asking them to give us heat every night. I have a bad cough and sinus problems. I'm spending a lot of money going to the doctor and buying medicine. Now I'm also being charged extra on my phone bill because I have to call 311 almost every day. And I have to send my 18-month old granddaughter to sleep at her grandfather's house so she won't get sick. That's why I'm here today to support the HEAT Act and all the City's efforts to ensure that landlords are providing heat in their buildings.

Thank you very much. ¡SÍ SE PUEDE!



Testimony in Support of Int. 291 – The Heat Act

My name is John Whitlow and I am a Supervising Attorney at Make the Road New York (MRNY), a non-profit organization based in the communities of Bushwick, Brooklyn; Jackson Heights, Queens; and Port Richmond, Staten Island. MRNY builds the power of immigrant and working class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services. Our organization consists of over 8,000 members, most of whom are immigrants and many of whom live in substandard housing. I submit this testimony on behalf of MRNY and thank the Committee for the opportunity to participate in this hearing.

MRNY supports the proposed law, Int. 291 – The Heat Act, which doubles the penalty period – from one year to two – in which heat and hot water violations are subject to stiffer civil penalties. As a housing attorney representing tenants struggling to get much needed repairs in their apartments, I have found that landlords often ignore HPD violations, presumably finding it more cost effective to withhold services to their tenants than to comply with the City's Administrative Code. The Heat Act, by effectively increasing penalties for landlords who repeatedly fail to provide adequate heat and hot water, incentivizes landlords to comply with the law. It is a step toward improving the quality of life of New York's tenants.

However, more work needs to – and can be – done in this area. In my practice, I have seen first hand – in the context of tenant-initiated Housing Part actions – HPD settle cases with recalcitrant landlords for a fraction of what they owe in civil penalties. While I understand the rationale behind settling these cases for less than the full amount of penalties owed, it strikes me that stricter enforcement of the penalty provisions already on the books would serve as an effective deterrent to offending landlords and would also provide an additional revenue stream to HPD.

It has also struck me that despite the fact that it is tenants who are inconvenienced and at times put in peril by landlords who do not maintain their buildings up to code, penalties accruing as a result of HPD violations go to the City. While tenants can sue

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their landlords for damages stemming from problems in their building, this requires commencing a separate litigation – i.e. apart from an HP action in Housing Court – and navigating an often-lengthy and complicated court process. The Council should explore amending the Administrative Code to allow tenants to recover fines apart from what HPD is currently able to recover in the form of civil penalties.

These issues notwithstanding, MRNY firmly supports The Heat Act and urges its passage by the Council, as the law will make it more expensive for landlords to deprive their tenants of heat and hot water. The Heat Act is a step forward for tenants seeking healthier, safer homes.

Metropolitan Council on Housing

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February 8, 2011

My name is Mario Mazzone, and I'm the director of the Metropolitan Council on Housing, a tenants' rights organizing and advocacy organization. I'm thankful for the opportunity to testify about the important matter of heat on this cold winter day.

The failure to provide heat in the winter is a telltale sign of a slumlord. New York City's heat laws are overly generous to landlords; 68 degrees in the day, and 55 at night. For anyone who has lived in these conditions you know the minimum temperatures by law here are cold enough. Landlords who collect rent from tenants every month but fail to provide adequate heat are stealing. They are criminals, and we need not talk about them in any other manner. A store owner who failed to provide the service he was selling would be more easily and severely prosecuted.

The sad fact is that a number of landlords run their buildings based purely on economically rational logic. For those of you who were around during the fight for adequate lead-paint legislation, you will remember that many landlords held no bars in attempting to defeat legislation that would provide minimal precautions for infants in apartments with lead-based paint. No matter that literally tens of thousands of children who are exposed to lead paint suffer from debilitating brain damage that lasts a lifetime, a powerful contingent of landlords attempted to block legislation aimed at protecting these children, because the landlords were more concerned about protecting their profits.

For those of you who go back to the late 1970s and early 1980s, you'll remember that there was an epidemic of landlords who burned their buildings, with tenants living in them, to collect insurance money. For years, the South Bronx in particular was burning, until a number of insurance companies decided to stop making payouts to buildings in certain zip codes that burned due to arson – and the suspicious fires nearly halted. It's sad to say, but the reason why landlords stopped burning their buildings down is that the economic incentive disappeared.

Unfortunately, we have a system when it comes to heat where for many landlords, the economic incentive is to provide less heat than the law allows. Many landlords are making rational economic assessments, and are concluding that it's in their best economic interest to provide less heat than the law requires, and risk facing city fines. These landlords know that the fines are small, that they can get these fines reduced, and that their negligence one year will not follow them into the next. We need to change the economics of heat in New York City.

The Metropolitan Council on Housing supports the HEAT Act because it starts to change the economics of heat. It starts to make following the heat law the economically rational choice instead of breaking the law. Until landlords start to see providing adequate heat as something that makes economic sense, we'll continue to have thousands of New Yorkers freezing in the homes they pay hard-earned rent money for. Landlords who follow the law have nothing to fear. Today we are talking about legislation aimed simply at adjusting the enforcement mechanisms to make sure that an existing law works. Your mandate is clear.

Mario Mazzone

Metropolitan Council on Housing



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

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TESTIMONY ON INT. NO. 439
BEFORE THE COMMITTEE ON HOUSING & BUILDINGS
Presented by Mary Ann Rothman
Tuesday, February 8, 2011

Good morning Chairman Dilan and members of the Committee. My name is Mary Ann Rothman, and I am the Executive Director of the Council of New York Cooperatives & Condominiums (CNYC Inc.), a membership organization comprised of housing cooperatives and condominiums located throughout the five boroughs of New York City that are the homes of more than 170,000 New York families.

CNYC seeks consistently to have the home owner status of our members recognized in legislation, in regulations and in practices. There are instances, of course, where multiple dwelling laws are appropriately applied to cooperatives (and occasionally even to condominiums), such as when the code affects the public areas of these buildings or rental units that are owned directly by the cooperative or condominium. However, the individual shareholders of cooperatives and the unit owners of condominiums bear full responsibility for the interior of their units. For this reason, we ask that cooperatives and condominiums be exempted from the requirements of Int. 439.

Clearly, Int. 439 is well intentioned. Thermometers in every living room could help in confrontational situations between rental tenants and the owners of their buildings. They can be useful in promoting energy conservation while ensuring that the requirements of the law are met. However, in a cooperative or condominium, the owners live in the building and share a common interest in ensuring that the heating system works efficiently and effectively. Furthermore, these home owners may or may not want a thermometer in their living rooms and it is their right to make this choice.

There is ample precedent for recognizing the special ownership nature of cooperative and condominium living. For example, the law requiring that fire safety information be posted on the inside of the front door of rental units requires simply that cooperatives and condominiums distribute this information to the shareholders and unit owners. CNYC respectfully requests similar exemptions in Int. No. 439.

NY Communities for Change

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Hello, my name is Skipp Roseboro, and I am leader in NY Communities for Change. Before I begin, I would like to thank the council for allowing me to speak on such a critical issue, and I would like to commend the public advocate for taking proactive steps in fighting this very serious problem.

The immoral suffering of tenants in winter months in New York City has been taking place all of my life, and I am a born and raised New Yorker. Many landlords don't take care of the heating needs of tenants, and it is shameful and embarrassing to say, but we need laws to push them into truly being responsible.

That is why New York Communities for Change is so supportive of the public advocate's HEAT Act: It provides the teeth we need to give people the essential heat in the winter months. As it stands, many, landlords don't want to spend the money on fuel-oil or for necessary heat related repairs. The city of New York must hold landlords' feet to the fire when they are leaving tenants out in the cold.

Many members of our organization fight through the winter by wearing jackets, hats, gloves inside their own homes, and by illegally heating their apartments with their ovens, or running up their electricity bill with space heaters. They are not alone: You hear about New Yorkers struggling without heat every year on the news. It is time for it to stop.

It is so dangerous for landlords to deprive their residents of heat and hot water. The problems that arise range from discomfort to actual survival. The elderly, babies and small children, people stricken with illness are all put at grave risk when forced to live in freezing temperatures. And for those who aren't sick, it is much easier to develop illnesses when you are constantly lacking heat.

This bill puts the screws to repeat offenders, who don't deserve any mercy. No longer should landlords look at the small fines they are charged with, for not providing heat, as simply "the cost of doing business." The HEAT act truly disincentives such abhorrent behavior, and we strongly urge and look forward toward its passage.

Thank you again for your time on this critical issue.

Metropolitan Council on Housing

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February 7, 2011

Hello, my name is Katie Taylor. I am one of only two rent stabilized tenants left in my building in Brooklyn that was turned into a co-op. My landlord tried to empty the house decades ago by not providing heat or hot water. I suffered this condition for an entire fall and winter. I would not be moved!

The landlord decided not to register the house as Rent Controlled. Therefore he was not entitled to any rent increases.

That brings us to our present day, of "Ken's Law", in which the co-op president of this building is allowed to manipulate the heat as he sees fit. We are presently experiencing heat that comes up four (4) times a day for one (1) hour. That leaves twenty (20) hours with no heat. The apartment is so cold during this time that my poor kitty cats, Cerryngetti and Affreeky force them selves into bed with me.

I have posted the HPD Regulations on a bulletin board on the first floor (1st) for all to read. "Ken" chooses to ignore these regulations.

The reason for this lack of providing proper heat is an attempt to save money on fuel, and he realizes that the penalty for not providing regulated heat is so small, he is willing to take the chance he can get through the Winter with no problems.

Katie Taylor





Testimony of Zhi Qin Zheng on the HEAT Act
February 8, 2011

Hello, my name is Zhi Qin Zheng. I live at 61 Delancey Street, and I am a member of CAAAV's Chinatown Tenants Union.

I've lived at 61 Delancey Street for more than 20 years. In the past, we rarely had this problem of not having heat or hot water. But in the recent past few years, because of the increasing gentrification of Chinatown, our last two landlords often wouldn't turn on the heat and hot water, intentionally on the weekends or in the winter.

Recently, every few days, my daughter needs to email the current landlord because every other day, there's no heat in the building.

And my daughter feels calling the landlord has no impact, which is why she emails him. The landlord responds by saying our windows, because we're installed an air conditioner in one of the rooms, is leaking the hot air from our apartment. This is obviously an excuse.

And the super tells us the same excuse. We've fought with the landlord several times, and every time, it's the same excuse.

HPD inspectors have come by and said that it's not because of the windows that we don't have heat in our apartment, it's because the landlord doesn't turn it on.

This is my own experience. And I know there are many other tenants who have had the same problem with their landlord. There are many elderly tenants who come to our office, who don't have heat and hot water. They use electric radiators, which is very unsafe. There are also tenants who use their stove to heat their apartment. This is a very dangerous situation.

Why is it that for so many years, we complain, call 311, and yet landlords still don't provide heat and hot water? Part of the reason is because the current penalty for not providing heat and hot water is not strong enough, and they disregard it.

If the penalty is stronger, then landlords will be less willing to break the law and not provide heat and hot water. So we hope the City Council passes the HEAT Act and helps protect tenants against irresponsible landlords. We also wish the new penalties in the HEAT Act could be stiffer, but are glad that the Council is thinking about taking the first step to ensure tenants' safety.

Thank you for your time.



Pratt Area Community Council
201 Dekalb Avenue • Brooklyn, NY 11205
1224 Bedford Avenue • Brooklyn, NY 11216
www.prattarea.org

COMMUNITY • DIVERSITY • DEVELOPMENT

**Testimony of Pratt Area Community Council
Brooklyn NY
To the New York City Council**

February 8th, 2011

**Testimony Respectfully Submitted by Jon Furlong
Tenant Organizer**

My name is Jon Furlong and I am a tenant organizer the Pratt Area Community Council (PACC), a 45 year-old community-based nonprofit organization committed to working with residents of the Brooklyn neighborhoods of Fort Greene, Clinton Hill and Bedford Stuyvesant. Our mission is to maintain neighborhood diversity and stability. We take a comprehensive approach to safeguarding our neighborhoods by improving distressed properties, preventing unwarranted evictions, stopping foreclosures, creating homeownership opportunities, developing local leaders and preserving, creating and managing affordable housing.

The community organizing department at PACC is currently working with tenants in nearly 25 buildings throughout central Brooklyn. During the course of the year as we meet with tenants in their buildings, or through the individual counseling done on a walk-in basis, one of the chief complaints we hear from ALL tenants is that landlords are not providing adequate heat or hot water.

Tenants who know their basic rights call 311 time and again to have the heat come on briefly, only to have it go back out again. In two particular buildings, 1490 Bedford Avenue, and 950 St. Marks Avenue, tenants have struggled with this issue since the beginning of the fall. The majority of the tenants in each building are senior citizens and children. When inadequate heat is provided, tenants often have to resort to other measures such as turning on the oven and opening the door, or having space heaters in each room of their apartment. This is not only costly to low or very low-income tenants but also creates a fire hazard.

Currently, landlords can be fined for their violations up to \$500 per day for the first violation. For subsequent violations within the same calendar year, penalties range from \$500 - \$1,000 per day. Fines are reset to these lower levels at the beginning of each calendar year. Under the Heat Enforcement for All Tenants Act (Intro. 291), repeat offenders would no longer have their fines reset. After the first violation, landlords would continue to pay escalated fines for a full two years. This would help stop landlords from repeating this offense while generating revenue for the City. For 1490 Bedford Avenue, this would mean heftier fines for the landlord who has annually provided poor heat since 2006.

PACC is **extremely** supportive of this legislation and hopes that its passage will mean an improved level of enforcement against landlords who repeatedly do not provide heat or hot water. We would like to also suggest that instead of levying fines against a particular landlord, the penalties be assessed as a lien on the property. This may increase the likelihood of collection on behalf of the city

In any case, small fines and open violations are not solving chronic problems. This is a quality of life and a health and well-being issue that must be addressed. By holding the penalties for initial and subsequent violations at their same level, only the targeted longer term and continuous violators are negatively affected. The increased duration of the period for finding subsequent violations also incentivizes landlords to make substantial improvements to their heating and hot water systems, rather than finding temporary solutions to ongoing problems.

Jonathan Furlong
Section 8 Community Organizer
Pratt Area Community Council
201 Dekalb Avenue
Brooklyn NY 11205

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**Testimony by The Legal Aid Society
and the Community Service Society
before the
Committee on Housing and Buildings on
the H.E.A.T. Act**

February 8, 2011

Interest and Expertise of the Legal Aid Society

The Legal Aid Society is the oldest and largest provider of legal assistance to low-income families and individuals in the United States. The Society's Civil Practice operates 14 neighborhood offices and city-wide units serving residents of all five boroughs of New York City, providing comprehensive legal assistance in housing, public assistance, family law, and other civil areas of primary concern to low income families and individuals.

We appreciate the opportunity to testify before the Committee on Housing and Buildings. This proposed legislation is an important step toward ensuring that tenants and their families in New York City receive the basic services that the law requires in regard to provision of residential heat and hot water.

**REQUIRED INSTALLATION OF INDOOR THERMOMETERS IN MULTIPLE
DWELLINGS**

The brutally cold winter that we are now experiencing graphically demonstrates the vital importance of providing adequate heat. For most of us, the thought of enduring this winter without adequate is unimaginable. Tragically, it is a recurring theme that, for many of the thousands of people whom The Legal Aid Society represents, living for brief or even extended periods of time with inadequate heat or even no heat at all is a reality. Between October 1st and May 31st, a period designated as "Heat Season," building owners are also required to provide tenants with heat under the following conditions: Between the hours of 6:00 AM and 10:00 PM,

if the outside temperature falls below 55 degrees, the inside temperature is required to be at least 68 degrees Fahrenheit; and, between the hours of 10:00 PM and 6:00 AM, if the temperature outside falls below 40 degrees, the inside temperature is required to be at least 55 degrees Fahrenheit.

However, without an indoor thermometer, which few low-income tenants possess, it is often impossible for a tenant to prove in court that s/he has been denied adequate heat. The provision of an indoor thermometer would allow tenants to document the temperature in their apartment and confirm violations of the warranty of habitability. Those documented violations could then form the basis for relief to be sought in Housing Court by tenants or their advocates.

As legal advocates, we have found that when tenants are able to keep a heat log of indoor temperatures (in conjunction with available outdoor temperatures), it is an invaluable tool for enforcing the heat requirements and obtaining necessary repairs in court. If it is possible to amend the bill, we believe this important legislation would be strengthened if landlords with previous “heat violations” were required to provide their tenants with thermometers at no cost.

TWO-YEAR PERIOD FOR INCREASED HEAT AND HOT WATER VIOLATIONS

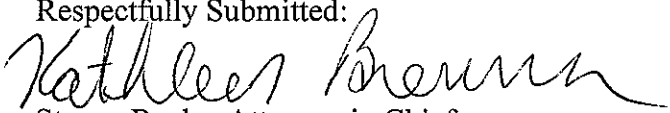
Most landlords attempt to maintain their buildings and provide adequate heat and hot water to their tenants. Unfortunately, in our practice, every year we see some landlords who regard Housing Maintenance Code violations as a cost of doing business. These landlords are seen again and again in Housing Court and in the HP parts dedicated to resolving affirmative tenant complaints about inadequate housing conditions. For landlords who do not see provision of heat and hot water as both responsible and legally mandated, the current law offers a loophole that re-starts the clock each year.

This proposed legislation would discourage landlords from repeatedly violating their most fundamental obligation to provide heat and hot water.

CONCLUSION

Thank you again for the opportunity to testify before the Committee on Housing and Buildings.

Respectfully Submitted:



Steven Banks, Attorney in Chief

Adriene Holder, Attorney in Charge Civil Practice

Scott Rosenberg, Attorney in Charge, Law Reform Unit-Civil

Judith Goldiner, Supervising Attorney

Kathleen Brennan, Staff Attorney

Linda Holmes, Staff Attorney

THE LEGAL AID SOCIETY

199 Water Street, 3rd Floor

New York, New York 10038

(212) 577-3332

Testimony of Mrs. Dulce Wechsler.
February 8th, 2011

*As presented by her husband,
James Wechsler.*

Good morning. My name is Dulce Wechsler. My husband and I have been living at 77 E. 7th Street in Manhattan for the last 15 years. I have a 3 year old son who has had to brave the cold every winter since he was born because our landlord does not provide sufficient heat or hot water. As an example, we spent two months last winter without heat, there were weekends we did not have hot water or electricity and this winter the trend has expanded to sometimes turning off the heat as soon as it gets dark for the entire night. Sometimes, after dinner, when it is time to do the dishes or give my son a bath, we have found that the water has been turned off and the heat has stopped.

My son often turns to me and says he is freezing. To this day, he has not been able to sleep on his crib, much less his own room because the room is so cold, it would be cruel for him to be there. So we have been forced to co-sleep to ensure that he is warm enough and healthy.

On many occasions, the landlord, who lives in the building, will spend the weekends elsewhere. When this happens, often the water as well as the heat are turned off until Sunday night, when he returns. HPD has issued over a hundred violations against this landlord, with little results.

The building where I live is divided into rent stabilized and market value apartments. The only apartments who have had violations issued to them, and who regularly go without sufficient, if any, heat and hot water, are those that are rent stabilized.

My family and I have been fortunate enough to have a friend in our building who does not suffer from these service shortages and who lets us get buckets of water so that I may give me son a bath, and wash our dishes, and flush our toilet.

Clearly, there is currently no incentive for the landlord to obey the law. That is why I am asking you to publicly support the HEAT Act, pass it quickly, and send all landlords a strong message that there is no immunity for them cutting necessary services to their tenants. This way, I won't have to hear my son say he is freezing anymore and we will feel like winters will be just another season to enjoy rather than fear.

Thank you.

Testimony of Marlina Whitehead

February 8th, 2011

Good morning, my name is Marlina Whitehead. I live at 26-16 95th Street East Elmhurst. My husband and I have lived in this basement apartment for the last seven years. I suffer from asthma and bronchitis and the cold has made these conditions worse. Our landlord turns off our heat to save money, leaving my husband and I to seek heat in different ways.

We have been forced to turn on the stove and boil water to keep warm. We sleep wrapped in blankets and wake up to an apartment that is so cold, I sometimes feel like I am outdoors. Unfortunately, this is not a new thing in my household because our heat problems have been going on for many years. Not only is there not enough heat to keep us warm, we do not even have a working radiator in our apartment.

We have raised this issue with the property manager throughout the years but they have not been responsive. The landlord lives in a gated community in South Carolina, where its plenty warm, and where he doesn't have to answer to our requests. To my landlord, giving us heat is just an extra expense he does not want to deal with. We have had to reach out to HPD to come and inspect our home and this has led HPD to issue violations in my apartment.

As you can see from all of our testimonies, my situation is not an isolated case, but rather an example of city wide practices that clearly leave thousands of tenants to suffer through the cold months, while landlords continue to make a profit from our suffering. I am asking all City Council Members to support the HEAT Act and send landlords this powerful message. If it is money the landlords are worried about, make it so expensive for them to cut our heat, that they will think twice before breaking the law and leaving tenants like myself out in the cold.

Thank you.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

in favor in opposition

Date: 2/8/11

(PLEASE PRINT)

Name: STEVEN A. LUDSIN

Address: 160 VARICK ST NY, NY 10013

I represent: EZSCROW

Address: SAME AS ABOVE

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 2/8/11

(PLEASE PRINT)

Name: KATIE TAYLOR

Address: 135 GARFIELD PLACE 2R BRlyn

I represent: MET Council on Housing

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 2/8/2011

(PLEASE PRINT)

Name: Zhi Qin Zheng

Address: 61 Delancey St.

I represent: _____

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: M. A. Nazari

Address: Met Council on Housing 39 1st Ave

I represent: NYC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Mary Ann Rothman

Address: Council of New York Cooperatives

I represent: and Condominiums

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: James Wechsler

Address: 77 E 7th St.

I represent: Myself

Address: 77 E 7th St.

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: FEBRUARY 8, 2011

(PLEASE PRINT)

Name: ANA MARTINS

Address: 1890 7th Ave. - Apt. 7A - NYC 10026

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: Feb. 8, 2010

(PLEASE PRINT)

Name: Carol Lynn Simon

Address: 116 Williams Ave

I represent: Concern citizens

Address: N/A

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 02/08/11

(PLEASE PRINT)

Name: MARLINA Whitehead

Address: 26-16 45th STREET

I represent: _____

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

Date: _____

(PLEASE PRINT)

Name: SKIPP ROSEBORD
Address: 23 PULASKI ST Apt 4 Bklyn 11206
I represent: NEW YORK FOR COMMUNITY CHANGE
Address: 24 NEVINS ST BKLYN

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 433 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: LARRY JAYSON
Address: 415 ALBEMARLE BL Bklyn
I represent: Brooklyn Housing Family Services
Address: 415 ALBEMARLE BL Bklyn

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

Date: 2/8/11

(PLEASE PRINT)

Name: Sateesh Noli
Address: 1360 Fulton St Suite 201
Brooklyn NY 11216
I represent: Legal Services NYC
Address: 550 Broadway NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 439 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: The Legal Aid Society, Kathleen Brennan

Address: 199 Water Street, NYC, NY

I represent: Legal Aid Society

Address: 199 Water Street, NYC, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: JON FURLONG

Address: 201 DeWitt

I represent: PRATT AREA COMMUNITY COUNCIL

Address: 201 DeWitt Ave Brooklyn NY 11205

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Vito Mustaciulo

Address: 100 Gold Street

I represent: NYC HPD

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

in favor in opposition

Date: _____

Name: FRANK RICCI / MITCH POSILKIN
(PLEASE PRINT)

Address: _____

I represent: Rent Stabilization Assoc.

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

in favor in opposition

Date: 2/8/11

Name: Gladys Puglia
(PLEASE PRINT)

Address: 1406 Putnam Ave 2R, Brooklyn 11237

I represent: Make the Road NY

Address: 301 Grove St Brooklyn 11237

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

in favor in opposition

Date: 2/8/11

Name: John Whitlow
(PLEASE PRINT)

Address: 301 Grove St. Brooklyn, NY 11237

I represent: Make the Road NY

Address: _____

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