



**Commission on  
Human Rights**

Testimony of Dana Sussman  
Special Counsel to the Commissioner/Chair  
New York City Commission on Human Rights  
Before the Committee on Housing and Buildings  
May 4, 2016

Int. No. 477 – A Local Law to amend the administrative code of the city of New York, in relation to evictions of elderly tenants

Int. No. 755 – A Local Law to amend the administrative code of the city of New York, in relation to evictions of disabled tenants.

Good morning, Chair Williams and members of the Committee on Housing and Buildings, and thank you for convening today's hearing on Int. Nos. 477 and 755. I am Dana Sussman, Special Counsel to the Commissioner and Chair at the New York City Commission on Human Rights. The Commission does not regularly appear before this Committee, but is happy to testify here today with our partners at HPD, to discuss the work the Commission is doing to address discrimination in housing, and specifically with respect to housing discrimination on the basis of age and/or disability.

With the Council's and the Administration's support, the Commission has grown in both size and in scope as we work to strategically enforce the City's Human Rights Law, one of the broadest and most protective anti-discrimination laws in the country. To do so, we opened 31% more investigations in 2015 than in 2014, of which approximately 1/3 of those were housing discrimination cases. Complaints based on disability discrimination represented the largest

proportion of complaints in housing; the vast majority of which involve requests for reasonable accommodations.

Tackling housing discrimination is a major priority of the Commission and we are addressing it in several targeted ways. We have rebuilt the Commission's testing program to address systemic and insidious forms of discrimination in housing by adding investigators experienced in testing and entering into an MOU with the Fair Housing Justice Center to specifically address housing discrimination. We have partnered with several Council Members to bring our attorneys to their districts' different tenant organizations to do on-site intake where systemic issues are uncovered in order for the Commission to conduct Commission-initiated investigations.

The Commission has also revamped our programming and community education and outreach. For example, just last week, MOPD and the Commission co-hosted a panel discussion on protections against housing discrimination for people with disabilities at Congregation Beit Simchat Torah, where Commission attorneys were on hand to conduct legal intake for any individuals who had complaints of discrimination. The Commission will also be hosting a Fair Housing Symposium in June at CUNY School of Law in Long Island City with many Administration partners to educate more New Yorkers on their rights and responsibilities under the City's Human Rights Law. The Commission has worked with our Administration partners, including MOPD, MOIA, HRA, HPD, and NYCHA, to train staff, develop referral networks, and increase internal capacity to identify housing discrimination and refer cases to the Commission.

If any tenant believes they are being targeted for eviction because of their age or disability, or immigration status, use of Section 8 vouchers or other rental assistance, religion, race, or any other protected category, they should immediately call 311 and ask for the Commission on Human Rights. Commission staff will conduct a short phone intake and schedule a longer meeting with an agency attorney to determine if the Commission has jurisdiction over their claim. We look forward to working with HPD, the Council, and our Administration partners to continue to address discrimination in housing in its most insidious forms.

TESTIMONY OF THE DEPARTMENT OF HOUSING PRESERVATION AND  
DEVELOPMENT  
TO THE NEW YORK CITY COUNCIL  
COMMITTEE ON HOUSING AND BUILDINGS  
ON INTRODUCTIONS NOS. 477, 688, AND 755  
WEDNESDAY, MAY 4, 2016 – 10AM

Good morning, members of the Housing & Buildings Committee. My name is Deborah Rand, and I am the Assistant Commissioner for Housing Litigation with the New York City Department of Housing Preservation & Development (“HPD”). I am here today to testify on Intro. Nos. 477 and 755, which would require HPD to provide referrals to seniors or disabled persons to legal services organizations upon receipt of a notification of the commencement of an eviction proceeding and Intro. No. 688, which seeks to include illegal conversion in the definition of harassment in the Housing Maintenance Code.

As you know, HPD is charged with enforcing the provisions of the New York City Housing Maintenance Code and the Multiple Dwelling Law as well as providing financing for the development of affordable housing. Through our Office of Enforcement and Neighborhood Services, the Agency responds to complaints from residents experiencing poor housing conditions and issues violations. As part of HPD’s enforcement efforts, attorneys in the Housing Litigation Division (“HLD”) bring cases in Housing Court seeking compliance with the Housing Maintenance

Code and Multiple Dwelling Law. These cases lead to court orders, which may direct correction of poor housing conditions, the imposition of civil penalties, the appointment of 7A administrators or the issuance of access warrants. Again, to be clear, although HLD does appear in Housing Court, HLD is not involved in eviction proceedings, which occur in a separate part of the Housing Court.

Evictions occur when a landlord files and succeeds in Housing Court to recover possession of a dwelling unit, and it is generally a private legal matter. HPD's Housing Litigation Division is not involved in eviction proceedings, and the Agency does not have access to information regarding eviction actions.

Other city agencies, legal services groups and community-based organizations may become involved should a tenant seek out one of the many available programs to assist households facing eviction. The New York City Human Resources Administration ("HRA") manages the City funding of free legal services programs, which provide legal advice and assistance to income-eligible tenants. The Administration has increased tenant protection legal services more than tenfold, compared to the level funded under the previous administration, reaching \$62 million when fully operational in FY18. In addition, HRA provides a range of assistance to people who might be rendered homeless through an eviction, utility

cut-off, or other housing problem, including the HOMEBASE program. Also, recent changes to the SCRIE and DRIE programs, which serve seniors and those with disabilities, now, allow more people to qualify for rental assistance and avoid the possibility of eviction. There is also a Tenant Support Unit that engages directly with tenants to help them report housing quality issues, refers them to legal services organizations to get help against harassment, and provides information on their rights and affordable housing opportunities.

HPD is involved with providing information to the public on certain housing related issues through its housing information guide, The ABCs of Housing. The ABCs are available on our website, at all of our offices, and upon request through 311. The guide contains information on various housing issues including basic information on evictions, how tenants can access legal services (such as the Legal Aid Society and Legal Services NYC, which provide free legal representation for income-eligible persons) or community-based organizations such as Housing Court Answers, which provides information for tenants and landlords, including information about available resources for tenants facing eviction.

While we recognize the Council's interest in increasing access to legal representation, HPD does not support Intro. Nos. 477 and 755. The bills would

require: 1) owners to notify HPD when an eviction is commenced IF the tenant is a senior or disabled; 2) HPD to reach out to the household with information about eviction legal services; and 3) report on a “pattern of discrimination” with respect to these populations and eviction actions. HPD could not adequately enforce these bills without having to verify whether the person served with an eviction action is a member of the groups identified in Intros. 477 and 755. Intro. 755 requires that an owner know or have reason to know that the tenant subject to an eviction proceeding has a disability. In many cases, owners and managers of buildings may not be aware of a tenant’s existing disability. Disabilities come in all forms whether they are physical, learning, or developmental in nature. Not all disabilities are immediately apparent; a person may not choose to disclose their conditions to landlords or other parties. Although Intro. 477 does not require that owners have knowledge of a tenant’s status as a senior, it presents similar issues with respect to verifying an affected tenant’s age. While some landlords might not contact HPD at all with the notice of eviction, the opposite reaction may occur as well. An unintended consequence of these bills may be that landlords would begin sending notices of all evictions actions to HPD for fear of contravening these bills. In either case, it's not clear that the data created by these filings would allow anyone to accurately track the threat of an eviction related to seniors and the disabled, or establish a “pattern of discrimination” in these actions.

Compliance with this requirement would be difficult and even impossible to enforce, since there is no independent data source to confirm the status of the person subject to the eviction proceeding. Targeting these populations through outreach and education campaigns with educational materials may be the more proactive and comprehensive approach allowing important information to be available to these households prior to the commencement of an eviction action.

Working with our sister agencies, the New York City Department for the Aging and the Mayor's Office for People with Disabilities, we welcome the opportunity to continue to discuss with you how to provide more information to these populations on the availability of legal representation in eviction matters before an eviction becomes a possibility.

Intro 688 would add "illegal conversions" to the definition of harassment within the Housing Maintenance Code. It is our understanding that this bill is intended to target illegal activity by owners who convert their residential units for the purpose of short-term rentals and transient occupancy.

Tenant harassment can come in many forms that include tactics to get tenants to give up their apartments. Some landlords have engaged in a variety of actions,



which cause or are intended to cause tenants to give up their homes or interfere with their rights, and HPD strongly supports efforts to prevent tenant harassment. Some years ago the City amended the Housing Maintenance Code to permit tenants to file proceedings in Housing Court based upon a claim of "harassment." The Housing Maintenance Code currently defines "harassment" as any act or omission of an owner that causes or is intended to cause a tenant to vacate their unit or surrender their rights and includes: (1) the use of force or express or implied threats by the landlord; (2) repeated interruptions of essential building services; (3) failing to comply with the Order to Repair/Vacate Orders issued by HPD; (4) commencing repeated baseless or frivolous lawsuits in Housing Court; (5) unlawfully removing a tenant's possessions; (6) removing the doors and/or changing locks without notice; (7) improper efforts to obtain "buy out" agreements from tenants; and (8) other activities which could be deemed to unlawfully disturb a tenant's right to quiet enjoyment of the property.

On tenant initiated harassment actions, HPD is named as a necessary party to these claims, but the Agency's involvement differs depending on the allegations in the claim. Attorneys from the Housing Litigation Division or the Court attorneys "conference" most harassment cases in order to determine if the cases can be resolved without a trial. In actions alleging landlord harassment without an

additional claim of poor housing conditions, if the case is not resolved on consent and there is a trial, HPD's role is generally to participate in eliciting facts from witnesses in order to aid the court in making its determination. HPD does not have the ability to undertake the fact finding necessary to determine the veracity of many of these harassment claims; the Court must hold full evidentiary hearings when the parties cannot resolve the matters. On occasions when HPD has knowledge of a pattern of conduct in the building, HLD may actively support the tenant's request for a finding of harassment. In actions alleging both poor conditions and harassment, HPD is always actively involved in seeking orders to correct the violations and a finding of harassment where appropriate.

The Administration is concerned about the application of Int. 688 as illegally converting a unit from residential use could automatically be categorized as tenant harassment – even, potentially, in situations where there is no tenant or a direct impact on a tenant. Rental of a permanent unit for transient occupancy is illegal, but if the permanent tenants are completely unaffected by the conduct it would not constitute harassment. We would also note that the definition of “owner” in this bill is quite broad and includes lessees for example. We have concerns about the unintended impacts that Int. 688 might create but recognize that illegal conversions are an issue and are open to continuing discussion with the Council and our

colleagues at the Mayor's Office of Special Enforcement about the best means to address it where it occurs.

Thank you for the opportunity to testify today. We would be happy to address any questions you may have.



**FOR THE RECORD**

**THE LEGAL AID SOCIETY**

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**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL COMMITTEES ON CIVIL  
RIGHTS REGARDING INTRO 477 AND INTRO 755**

**MAY 4, 2016**

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

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

## **Introduction**

We support the Council's efforts, with Intro 477 and Intro 755, to enhance protections for elderly and disabled tenants who may face eviction from their homes.

Elderly and disabled tenants will certainly benefit from this additional notice and from knowing they can seek legal counsel. The elderly and disabled comprise some of our most vulnerable populations. They are typically unaware of their rights and lack the resources to defend against an eviction proceeding. Many find it difficult to understand the papers they are served. Some are not even aware that they can seek legal counsel. These proposed protections are especially important given the nature of summary eviction proceeding where crucial events transpire before a tenant is able to seek legal counsel. The very nature of the Housing Court summary proceedings work against all tenants and in favor of owners whose objective is to secure an eviction as quickly as possible, avoiding judicial evaluation of any tenant defenses/claims or owner failures. A person that is elderly or suffering from some mental or physical disability is at a particular disadvantage against this dynamic. This legislation has potential to thwart owners efforts to act hastily as they are on notice their actions are being scrutinized and they are subject to criminal sanction if they are found in violation.

This additional protection is important in light of the devastating effects an eviction would have on an elderly or disabled tenant. Many in this population rely on a fixed income of either Supplemental Security Income("SSI"), food stamps or public assistance to pay their rent and meet other needs. Those who are long term tenants and are evicted will face a rental market this is increasingly unaffordable to them. A tenant's rent is considered affordable if they are paying 30% or less of their income towards the rent. Presently, the median gross rent to income ratio for rent stabilized tenants is 36.4%, an increase of 1.6% since 2011. It is no coincidence

that for the seventh straight year homeless levels have increased to an average of 57,000 per night; an increase of 5.7% over the 2014 levels. For single adults, that number is 13.4%. Further troubling is that placement in permanent housing for single adults fell by 9.8% compared to a 16.9% increase in permanent housing placements for families with children.

### **RECOMMENDATIONS**

(1) We recommend the following:

- a. Upon receiving the required notice HPD should review its records for any noted violations. If violations exist, HPD should take appropriate action. HPD and HCR should analyze trends more frequently than once a year. Our affordable housing stock continues to dwindle at alarming rates. The goals of this legislation would be better served with constant monitoring to ensure that the identified vulnerable populations are protected as intended.
- b. HPD should promulgate rules that make it easier for tenants to notify landlords they are elderly or disabled. Any receipt of the Senior Citizen Rent Increase Exemption (“SCRIE”) or the Disability Rent Increase Exemption (“DRIE”) should be considered notice of disability or senior status. Any HPD notices, in addition to providing a list of available legal services providers, should unequivocally inform tenants they are still responsible to respond to Court papers and they can seek leave of the Court if they cannot secure legal counsel right away.

## CONCLUSION

Thank you for the opportunity to testify before this committee on this important issue. We thank the City Council for introducing this legislation and hope it will consider our suggestions that will ensure it has the desired effect.

Respectfully submitted,

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**Testimony by the New York Legal Assistance Group**

**Re: Int. No. 477 – In relation to evictions of elderly tenants; Int. No. 755 – In relation to evictions of disabled tenants.**

**Before the New York City Council, Committee on Housing and Buildings**

**May 4, 2016**

Chairman Williams, Council Members, and staff, good morning, and thank you for the opportunity to speak about these proposed bills. My name is Leigh Mangum, and I am a Supervising Attorney in the Tenants' Rights Unit at the New York Legal Assistance Group (NYLAG), a nonprofit law office dedicated to providing free legal services in civil law matters to low-income New Yorkers. NYLAG serves immigrants, seniors, veterans, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, people with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free legal services. I am joined today by Cristina Pejoves, a Staff Attorney in the LegalHealth Unit, which partners with hospitals to run on-site legal clinics in order to address the non-medical issues faced by individuals suffering from serious health conditions. NYLAG's Tenants' Rights Unit provides comprehensive legal services to New York City residents, including through HRA's Homelessness Prevention Law Project, or HPLP. In 2015, NYLAG provided housing preservation legal services to more than 5,800 clients. LegalHealth is the largest medical-legal partnership in the country, running legal clinics at 25 hospitals. Last year, LegalHealth handled over



7,400 new matters for patients referred by physicians, social workers, and community-based health organizations.

First, we would like to strongly commend the City Council for continuing to take steps to address the growing problem of homelessness and housing insecurity in New York City, and for seeking solutions to ensure that all New Yorkers maintain stable housing. Eradicating homelessness is an essential step in addressing poverty and improving the lives of New Yorkers. Homelessness is a significant drain on city and state resources, from shelter costs to increased healthcare costs, and finding solutions to provide housing and keep individuals and families housed will benefit all New Yorkers.

The bills currently under consideration are laudable for recognizing that referrals to legal services can help prevent improper evictions for vulnerable populations. We support the goals of increasing protection for elderly and disabled tenants. However, NYLAG believes that every tenant who is faced with eviction would benefit from additional protections, including referrals to counsel. Therefore, we urge the City Council to expand the bills' scope to include all tenants facing eviction in New York City. We believe that it is preferable to be over-inclusive in providing information about legal counsel. Disabilities take many forms, not all of which are visible, and a landlord may not be aware that their tenant is disabled at the time of serving a Housing Court petition. For example, Sandra is a Brooklyn tenant who is a single mother to her 14 year-old son who came to NYLAG through a LegalHealth partnership. She suffers from lupus, which causes her severe weakness and fatigue, but is not likely discernible to her landlord. As a result of Sandra's condition, she had to stop working, fell behind in her rent, and was sued in a nonpayment case. NYLAG is currently defending her in Housing Court and expects her to be approved for CityFEPS, which will allow her to preserve her rent stabilized tenancy, relieve the stress and detrimental health effects of housing instability, and keep her son in the

school he attends. If Sandra had not already been working with LegalHealth, she may not have known about the availability of free legal assistance for her housing issues.

A bill that forces tenants to disclose their disability and landlords to identify who is and is not disabled would be problematic for both the landlord, who may inadvertently violate the law if their tenant's disability is not obvious, as well as the tenant, who may not want to disclose the fact or nature of their disability and who would not receive legal referrals as a result. Providing legal referrals to all low-income New Yorkers who are at risk of eviction eliminates this complexity.

By increasing funding for legal service providers, the Mayor has already taken steps towards recognizing that everyone has a fundamental human right to housing, which ensures access to safe, secure, habitable, and affordable homes with freedom from forced eviction. The Mayor has recognized that homelessness leads to costlier outcomes not only for tenants but for the City of New York. By providing all tenants facing eviction in Housing Court with referrals to legal services, NYC will make further strides towards ensuring that no low income tenant goes without a proper defense.

Housing is a key component of maintaining a basic quality of living. Housing is also recognized as a critical social determinant of health, meaning that one's housing affects his or her health outcomes and may contribute to various health inequities. The fact that health and housing are often inextricably linked is most evident with the medically homeless, a population that suffers from serious and chronic illnesses and is also unstably housed or homeless. For example, a cancer patient may face eviction for non-payment of rent after losing their job due to illness. Should this patient lose their housing, their health would likely suffer as a result, as unmet housing needs are significant predictors of missed appointments, treatment adherence and worsening of health outcomes. One way to prevent this outcome is by ensuring that sick and disabled individuals have access to legal resources. While it is vital that we address housing stability for all New Yorkers, ensuring that the sick and

disabled do not lose their housing is particularly important because their homelessness significantly affects state and city resources. Without adequate housing, the medically homeless become one of the most frequent visitors to hospitals' emergency departments, which drain safety net hospital resources. By ensuring that the sick and disabled get referred to legal services, we are helping to keep them in permanent housing as opposed to shelters, which are unequipped to care for their medical needs. We are also helping them to avoid costly and often avoidable hospital admissions.

In addition, there are great social and fiscal costs of eviction and homelessness for families with children, many of whom would not fall under the protection of the bills as currently drafted. Approximately 23,000 children will sleep in NYC shelters tonight, and many thousands more are in overcrowded housing. Children are also among the most vulnerable of New Yorkers.

Expanding the categories of people at risk of homelessness who will receive legal referrals eliminates a significant, often unachievable burden on landlords and tenants, and, by increasing access to civil legal services, will help further reduce homelessness in NYC.

Once again, we thank the City Council for inviting NYLAG to testify and we applaud the City Council for putting forth these bills that help provide greater protections to New York City's most vulnerable residents. NYLAG strongly supports the spirit of Int. 0477-2014 and Int. 0755-2015 and invites the City Council to expand upon them.

Respectfully submitted:

**NEW YORK LEGAL ASSISTANCE GROUP**

Leigh Mangum, Esq.  
Cristina Pejoves, Esq.

**Testimony for the New York City Council Housing & Buildings Committee  
On Intro 477 and 755  
Housing Court Answers, Inc.  
May 4, 2016**

The two bills before the committee would require landlords to notify HPD when they are starting an eviction case against a senior or disabled tenant; and would require the housing agency to send the tenant information on available legal services. Intro 755 additionally would require that the agency report on the patterns of discrimination against disabled tenants.

**Housing Court Answers** staffs information tables in the city's five county Housing Courts, the Harlem Community Justice Center and, to serve NYCHA tenants, staffs tables at 851 Grand Concourse and 250 Broadway. We also provide a phone help line for people in eviction cases who are looking for rent arrears assistance or have questions about their cases and don't have a lawyer. We talk to about 50,000 people a year who are in some way involved with an eviction case. We assist an uncounted number of seniors and disabled tenants and I can tell you that they do not have an easy time in Housing Court for a number of reasons:

- The court rooms and hallways are not accessible to people with mobility impairments, hearing or vision limitations or mental disabilities.
- Housing Court is not suitable for people who cannot stand for hours, who cannot use the stairs, who cannot hear their names being called out in overcrowded hallways, who need accessible bathrooms, who cannot easily read the court calendar or the chicken scratch, handwritten stipulations presented by the landlords' attorneys.
- Housing Court is difficult for people who depend on Access-A-Ride. We frequently assist people who have to file papers to reopen their case because either their ride was late or didn't appear on the scheduled date.
- The courts are also not particularly welcoming to tenants on fixed incomes facing the loss of their homes; and who, if evicted, would find it an almost impossible task to land in new affordable and accessible housing.

**Housing Court Answers** supports the right to counsel for low income tenants facing eviction. Particularly for low income seniors and disabled tenants, a lawyer would make a huge difference in the outcome of their cases: if for no other reason than it would guarantee that there would be no default judgment in the case. Many seniors and disabled tenants, in our experience, do not come to court, or do not come to court when they are required to come. The reasons we hear are: I couldn't get to court, I didn't understand or couldn't read the papers, I had to wait for a day when my home attendant could bring me, I had a medical appointment the same day and it takes too long to change those, I am dependent on medical equipment, I tried to get through to the court's ADA official and could not, etc.

While these two bills would help a population that is in great need, I would like to suggest some changes:

- That HRA not HPD be the agency in responsible (because HRA contracts with the eviction prevention legal service organizations; Adult Protective Services is within HRA; HRA currently has the staff for follow up and managing the legal/case management referral process)
- That follow up on the part of the agency be required other than mailing the tenant a list of legal service providers. Seniors and disabled tenants might not be able to get through to the legal service provider or might not get the letter in time or might not be able to read or understand the letter.
- That there be a requirement for the agency to assist the low income senior or low income disabled tenant with counsel.

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FOR THE RECORD

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Good morning Chair Williams and members of the committee. My name is Sarah Desmond. I am the Executive Director of Housing Conservation Coordinators (HCC), a 44 year old not-for-profit housing advocacy and legal services organization that is based in Hell's Kitchen and dedicated to preventing homelessness and improving living conditions for lower income residents. I am here today in support of Intro 688, sponsored by Council Member Lancman to expand the definition of tenant harassment to include illegal hotel use.

HCC has been actively fighting illegal hotel use for more than a decade. Initially the illegal use was more localized in SRO hotels and Class A apartments along the west side of Manhattan. Now with the advent of centralized platforms like Airbnb, VRBO and Homeaway (to name a few) illegal use has spread citywide and the number of units used as illegal hotels has grown exponentially. The Coalition against Illegal Hotels is now comprised of 40 affordable housing advocacy groups and legal services agencies from neighborhoods throughout New York City.

### **History**

We first became aware about the growing problem of illegal hotel use in 2005. Individual tenants, concerned about compromised building security and lack of quiet enjoyment of their homes, initially brought their concerns to HCC's attention. Typically owners had illegally converted vacant apartments or single room occupancy (SRO) hotel units for transient use in violation of use-related zoning regulations, fire code requirements and various other NYC Administrative Codes. These units were often scattered throughout a building or adjacent buildings and either controlled by a building owner or net leased to a third party operator. In SROs, owners frequently installed bunk beds in rooms for dormitory style rentals exacerbating overcrowded public hall shared-bathrooms among other living space problems. Since the introduction of the on-line platforms, illegal hotel use has grown exponentially and spread to neighborhoods in every borough.

### **Illegal hotels as an incentive to push out tenants**

While illegal hotels first emerged as a quality of life issue, we soon realized that it also presents an affordable housing issue, as permanent tenants are denied essential services in an attempt to push them out to make way for the more lucrative illegal hotel. Once vacant these units are often

illegally deregulated and disappear from the housing market altogether in favor of the more lucrative short term rentals.

The financial incentive is clear -- illegal hotels typically rent anywhere from \$175 to more than \$1000 a night, well more than what can be charged on a monthly basis and far more than the monthly rent paid by a long term rent stabilized tenant. Listed below are a examples where entire buildings have been largely converted to illegal hotel use:

- 15-19 West 55<sup>th</sup> Street - The two adjacent buildings on West 55<sup>th</sup> Street originally housed 64 rent regulated apartments. Today, only 16 permanent rent stabilized tenants remain. The tenants have lived in the building since the 1970's, and many have raised families there. Though the current rent stabilized tenants are committed to staying in their longtime homes, the management seems determined to make their lives difficult. The vacant units were renovated and rented as illegal hotels, with bookings on a number of websites, including booking.com, hotelplanner.com and youtube among others. The construction noise, debris, dust and overall decrease in services and security has made life untenable for the 16 remaining tenants, all of whom are seniors.
- East Side, near Grand Central - This 14 unit building is now run entirely as an illegal hotel, save for two units that are occupied by rent-regulated tenants. One is a young woman; the other is a senior who has lived in the building for decades. The remaining 12 units are advertised heavily (in English and Spanish language websites, including hotels. booking.com, tripadvisor.com letsbookhotel.com, possibly Airbnb and youtube) as hotels. The location, near Grand Central, makes it equally attractive to tourists and traveling corporate employees. The tenants are harassed and intimidated by building management and have been sued in eviction proceedings.
- West 53<sup>rd</sup> Street - Only 8 permanent tenants remain out of a total of 28 apartments. The remaining 20 units are used for transient rentals. The permanent units are desperately in need of repair and those same tenants must wait 15-20 minutes to access a free elevator. Meanwhile, the hotel units boast large flat screen tvs, renovated rooms and Egyptian cotton sheets.
- West 47<sup>th</sup> Street – The West 47 Street block between 8<sup>th</sup> and 9<sup>th</sup> Avenues is overrun with illegal hotel use. On any given day you will encounter tourists with roller luggage speaking foreign languages. A quick scan of the DOB website pulls up 40+ complaints in 12 buildings on the one block alone. One building on the block has only two remaining permanent tenants.

While the stories above are of the more egregious illegal hotel practices, we regularly see buildings with multiple of units converted to short term rentals and therefore not available for rent by a permanent tenant.

### **Illegal Hotels cause quality of life issues**

In addition, the quality of life concerns that accompany illegal hotel use are itself a form of harassment against permanent tenants. The City is home to 3.3 million housing units. We're on top of each other – literally. We share building entrances, hallways and common walls, we trust each other to adhere to social norms necessary to living in such close quarters. Tenant safety depends on knowing our neighbors. When units are rented out for illegal hotel use, they bring a steady stream of largely un-vetted strangers into our homes. If it goes wrong – it's the unwitting tenants who bear the brunt of loud parties, overcrowded apartments, and strangers in the hallway among other concerns. We've heard stories of tourists who unknowingly let strangers in with them, leave the building door ajar because they have too few keys for a unit, or "palm" the buzzer to gain access to the building. Transient traffic in residential buildings brings a host of unwanted conditions –including vermin infestation, bed bugs and damage to public hallways and entrance doors

### **Alternative form of warehousing**

Finally, we are working with two buildings that are largely vacant and have been used extensively for illegal hotel use. In one building 16 tenants remain out of 64 units; in the other 8 tenants live in a 96 unit building. In both cases, the owners rented the vacant units as short term rentals to create a robust income stream as they attempted to empty the building of the permanent residential tenants in order to convert the property to non-residential purposes. In both buildings, the income from the short term rentals provided the owners with an income stream without having to convey tenancy rights on the short term occupants. In the past they would have had to "warehouse" the units -- leave them vacant—and forego that rental income so not to convey tenancy rights. Now they can warehouse the units and receive a more robust income stream from renting them as illegal hotels to tourists without a worry of tenancy rights.

Thank you for your attention. We urge you to support Intro 688.



**Testimony before the Committee on Housing and Buildings  
of the New York City Council  
By Ali Ruth Davis, Chief of Staff  
Real Estate Board of New York  
May 4, 2016**

Good afternoon Chairperson Williams and members of the committee on Housing and Buildings. The Real Estate Board of New York (“REBNY”), representing over 17,000 owners, developers, managers and brokers of real property in New York City, thanks you for the opportunity to testify on the proposal relating to amending the definition of harassment to include illegal conversions of dwelling units.

REBNY opposes illegal short-term rentals and applauds the efforts undertaken by the Council and the Administration to stop this practice, but also strongly feels that penalties must be directed at those actually responsible for causing violations. Intro No. 688 does not take into account the illegal conversion of dwelling units by the tenants themselves, who may be using Airbnb without the knowledge or permission of the building owner or landlord.

As currently written, this bill would allow tenants to illegally convert their residences and create a series of inconveniences for their fellow tenants (not to mention the building owner him or herself), only to have unaware owners penalized for harassment once the conversion is reported. Despite their best efforts, it is often impossible for an owner to know the status of every individual unit they own on a daily basis, and with no affirmative defense in this legislation, this bill assumes that regardless of circumstances, the owner will always be considered the guilty party.

REBNY recommends that this bill be amended to state that all penalties for illegal conversions will be imposed upon the entity that initiated the conversion. If this bill is to achieve its well-conceived goal of discouraging illegal activity, then it must be written to hold violating parties responsible for their actions. Automatically holding building owners and landlords responsible for the actions of their tenants may actually encourage illegal conversions by tenants who know that their actions will not have legal consequences for them, which would defeat the purpose of this legislation altogether.

With modifications to address the aforementioned concerns, REBNY would support Int. No. 688. Thank you again for the opportunity to comment, and we welcome any opportunity to work with the Council to improve this introduction.



## **MEMORANDUM IN OPPOSITION**

### **INTRO. 477 & Intro. 755**

The Rent Stabilization Association of New York represents over 25,000 owners and managers of residential buildings that contain over 1 million units of housing. Intro.'s 477 and 755 require owners to give notice to HPD prior to instituting eviction proceedings against senior citizens and disabled tenants, respectively.

The purpose of the notice is so HPD can then provide tenants with information as to where they can obtain legal representation. RSA is not opposed to anyone obtaining information regarding legal representation. However, as a practical matter owners do not know the actual ages of their tenants. Also, owners would probably not have information regarding a tenant's disability unless the tenant was already receiving a rent freeze under the city's Disability Rent Increase Exemption (DRIE) program.

Also these bills are flawed for legal reasons. As a matter of law, Housing Court proceedings, particularly the procedures relating to initiating those proceedings, are governed by Article 7 of the State Real Property Actions and Proceedings Law; the City Council does not have the legal authority to supplement the requirements of the RPAPL with additional notice requirements. Creating additional notification requirements is pre-empted by the State Legislature and invalid.

It also bears highlighting that the penalty for failing to comply with the notice requirement contained in these bills is a misdemeanor. Failing to comply with technical requirements in the RPAPL are considered either curable, in which case the proceeding can continue, or non-curable, which the proceeding is dismissed. Creating a criminal penalty is beyond the realm of any procedural requirements not only in the RPAPL but probably every other law. It is unprecedented.

Tenants that qualify for the Senior Citizens Rent Increase Exemption Program (SCRIE) and DRIE would be better served by receiving a notice detailing legal representation options as part of their certification process from the city when they qualify for SCRIE or DRIE. For those tenants that are not in either program the Office of Court Administration (OCA) currently provides such information in the courthouse.

RSA opposes both bills because there is no way an owner would be able to comply with the requirements of either bill.



**MEMORANDUM  
IN OPPOSITION  
INTRO. 688**

The Rent Stabilization Association of New York represents over 25,000 owners and managers of residential buildings that collectively contain over 1 million units of housing. Intro. 688 adds another definition to the harassment language in the administrative code.

The Amendment to the code would make a violation of section 28-210.3 grounds for a tenant to bring a harassment proceeding against an owner. Section 28-210.3 is the section of the law that the Mayor's Office of Special Enforcement uses to enforce the multiple dwelling law against violators renting apartments less than 30 days. Therefore a tenant renting their apartment for a short term rental in violation of the law would make an owner liable of harassment to other tenants in the building even if the owner has no knowledge of the offending tenants' actions. In many cases already in the housing court system owners are being held liable for violation of sect. 28.210.3 even when they have started legal proceedings against tenants illegally renting their apartments.

RSA is strongly opposed to Intro. 688. It makes no sense to punish owners for the action of one tenant against other tenants when owners are often powerless to enforce the existing law against the offender.



**GODDARD RIVERSIDE  
COMMUNITY CENTER**

**Law Project**

51 West 109th Street, New York, New York 10025  
212.799.9638 Fax 212.721-1514

**FOR THE RECORD**

**TESTIMONY**

**ON**

**Intro 0688**

**PRESENTED BEFORE:**

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

**PRESENTED BY:**

**Dan Evans**

**Tenant Organizer**

**Goddard Riverside Law Project**



GODDARD NEIGHBORHOOD CENTER 1901-1959  
RIVERSIDE COMMUNITY HOUSE 1889-1959



## **Testimony of Dan Evans – Goddard Riverside Law Project**

My name is Dan Evans, and I am a Tenant Organizer at The Goddard Riverside Law Project. Our office provides legal assistance, tenant advocacy and organizing support to tenants on Manhattan's West Side, with a special focus on working with SRO Hotel and Rooming House tenants.

Our office consistently receives complaints from tenants that units within their buildings have been converted, either by illegal construction without proper DOB permits, or by owners using the units in violation of their certificate of occupancy. Harassment is currently defined as performing one of a list of acts which causes or is intended to cause a tenant to leave their home. While this is important, it is crucial that the definition of harassment be expanded to include actions taken by owners to operate their buildings in violation of the law and greatly affects tenants quality of life in their homes. While our office has a laundry list of buildings that do this, there are two specific buildings that come to mind.

First, The Imperial Court, located at 307 West 97<sup>th</sup> Street. Not only is the owner of the building operation an illegal hotel in violation of the certificate of occupancy, they are also operating in violation of an Appellate Division Order to immediately cease any and all transient rentals. Although the owner is operating in violation of the law, they have nothing to lose as the violations are nothing but a slap on the wrist and a cost of doing business. There are 227 units in the building, and tenants report that approximately 70 permanent, rent-stabilized tenants live in the building. That means that over 150 units are being rented out on a nightly basis. The Imperial Court's website lists nightly rates as high as \$350.00 per night. The owner has nothing to lose by violating court orders, and evading tenants' charges of harassment when engaging in such a lucrative, albeit illegal, business model.

The tenants living in the Imperial Court can attest that essential services are mediocre at best, and some services are not provided at all – including mail service – as the needs of the transient guests take priority over long term, rent-stabilized tenants.

A second example is 314 West 138<sup>th</sup> Street, a seven unit SRO brownstone in Harlem. There is only one remaining tenant occupying the premises, and his landlord continues to rent the remaining units out on a transient basis to Columbia students. This makes life difficult for the last remaining tenant. When he requests repairs, his requests are met with buy-out offers and threats of eviction. Additionally, the owner is attempting to renovate the remaining units in the building, despite a stop work order from DOB. The owner clearly would rather have high-paying tourists occupy the premises than permanent, rent-stabilized tenants, as that business model is much more lucrative.

Intro 0688 should pass because it will amend the harassment law to make illegally converting a dwelling unit that was intended for permanent residence purposes per se harassment. This would provide both tenants and advocates an additional tool for fighting back against owners who refuse to use their buildings for their intended purpose. When owners illegal convert units, it seriously impacts the permanent tenants' quality of life. It causes a necessary reduction in services, as residential buildings are not meant to handle commercial use, and can be a nuisance, as well as encourage landlord harassment of tenants.

Illegal hotels contribute to the loss of affordable housing units in New York City, and incentivize landlords to harass their tenants, to obtain vacant units. New York City must stand strong, and pass legislation that strengthens our laws to protect rent regulated tenants, and not allow owners to continue operating illegal hotels, and chalk up paying nominal fees, merely a cost of doing business.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Dan Evans". The signature is fluid and cursive, with the first name "Dan" being larger and more prominent than the last name "Evans".

Dan Evans  
Tenant Organizer  
Goddard Riverside Law Project



**LEGAL  
SERVICES**

**INCORPORATED**

**TESTIMONY**

**IN SUPPORT OF**

**INTRO NO. 688: ON AMENDING THE DEFINITION OF  
HARASSMENT IN THE NEW YORK CITY  
ADMINISTRATIVE CODE TO INCLUDE ILLEGAL  
CONVERSIONS OF DWELLING UNITS**

**PRESENTED BEFORE:**

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

**PRESENTED BY:**

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

**MAY 4, 2016**

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**MFY LEGAL SERVICES, INC., 299 Broadway, New York, NY 10007  
212-417-3700 [www.mfy.org](http://www.mfy.org)**

## **Introduction**

MFY envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. We assist more than 20,000 New Yorkers each year.

MFY is a member of the Coalition Against Illegal Hotels, a coalition of more than 40 housing and tenants' rights organizations, that has been fighting illegal hotels for more than a decade. The coalition grew out of the Illegal Hotels Working Group, which includes city, state and federal elected officials, community based organizations and housing groups.

## **Conversion Of Residential Dwelling Units To Short-Term Stays Creates Incentives For Landlords To Harass Tenants Out Of Their Homes**

Illegal short-term rentals in residential buildings, commonly referred to as illegal hotels, have plagued New York City for over a decade. Illegal hotels negatively impact tenants' lives, creating quality of life issues – including increased noise at all hours of the day and night, overcrowding of elevators and common areas of the building, and overall degradation of building services – and safety risks as residential buildings do not have to comply with the stringent safety and fire standards that commercial hotels and other transient accommodations do because permanent residents, unlike guests, are familiar with their surroundings and how to evacuate in the event of a fire.

The worst actors in the illegal hotels industry are building owners and third-party commercial operators that remove multiple units from the residential rental market to lease for short-term stays. Since the advent of online platforms such as AirBnB, VRBO, and HomeAway, to name a few, illegal hotels have grown exponentially in the City, which has only worsened the impact on the lives of permanent tenants living in these affected buildings and exacerbated New York City's housing crisis.

The illegal hotel industry creates the potential for owners to gain substantial profits and deregulate units. Recognizing the significant profits to be made, landlords increase pressures on tenants – particularly rent regulated tenants – and step up harassing tactics to empty units for conversion to illegal hotels. In an effort to gain bigger profits from residential buildings while avoiding renting to permanent tenants, owners rent to tourists on a nightly basis, often netting the equivalent of an entire month's lawful rent in only a few nights. We have repeatedly seen a correlation between heightened tenant harassment in residential buildings – ranging from frivolous lawsuits, reduced services and failure to make repairs – when the landlord is illegally renting some units to tourists on a nightly basis.

We have seen this particular correlation in many SRO buildings. SRO owners have historically harassed tenants out of their homes to make way for more lucrative occupants, or simply warehoused the rooms until the building was empty. As the potential profits were realized with



the birth of the illegal hotels industry, owners increased their efforts to harass long-term rent-stabilized tenants from their homes to make room for illegal hotel operations.

One example is the Grand Imperial Court Hotel, which is a residential SRO hotel on West 79<sup>th</sup> Street. The Grand Imperial began renting to tourists in approximately 2005, gaining enormous profits and concurrently stepping up harassing tactics to push out the long-term permanent tenants living in the building. The harassment came in many forms, including one brazen act involving the owner's efforts to illegally convert an entire line of units in the building by constructing an interior stairwell to attempt compliance with the more stringent Fire Code requirements for commercial hotels with regard to egress. The DOB erroneously issued a permit to the building without requiring a Certificate of No Harassment ("CONH"), which is required before an owner can lawfully obtain permits to alter the use or occupancy of an SRO building. Based on this erroneously-issued permit, the owner sent notices to the tenants in the affected units informing them that they had to vacate their units within 30 days. Once this error was brought to the attention of the proper City officials within DOB, the permits were rescinded.

The Grand Imperial subsequently applied for a CONH in 2011. Based on submissions by tenants and community groups, HPD made an initial determination that harassment had occurred and commenced a proceeding against the Grand Imperial at the Office of Administrative Trials and Hearings to challenge its application. After a hearing during which more than 10 tenants testified, Administrative Law Judge Casey issued a 36-page decision recommending denial of the CONH based on findings of harassment and intimidation by the owner and its staff, including commencement of frivolous eviction proceedings against the permanent SRO tenants, denial of essential services and refusal to make repairs. Deputy Commissioner Vito Mustaciuolo denied the Grand Imperial's CONH application on December 12, 2012.

Although the illegal conversion of residential dwellings has not traditionally been classified as harassment, it is time for it to be so classified as it creates an unlivable environment that can seriously erode tenants' quality of life and put the lives of tenants and guests at risk.

### **Recommendations**

Landlord harassment of tenants continues because it works, and it works because it is cost-effective. Tenant harassment is usually part of a business model to empty, deregulate, and illegally convert units to illegal hotels, renting for periods of shorter than 30 days. As the law stands now, the action by landlords who unlawfully convert their buildings rental units for short-term stays of less than 30 days is not explicitly deemed harassment under the Administrative Code, and thus, this tactic continues to proliferate as a common and legal practice undertaken to pressure rent-regulated tenants to vacate their homes. For these reasons, MFY strongly supports the proposed amendment to include the illegal conversion of dwellings units within the definition of harassment in the Administrative Code.

## **Conclusion**

MFY Legal Services strongly supports Intro 688 and commends the Council for its continuing efforts to curb abusive landlord practices. If passed, Intro 688 would enable tenants to combat harassment by landlords who illegally convert residential buildings into short-term illegal hotels. In addition to creating quality of life issues for tenants, illegal hotels put the safety of permanent tenants and tourists at risk. It is also necessary in order to hold building owners accountable to the law and their tenants. As a member of the Illegal Hotels Coalition, MFY supports Intro 688 as another tool to deter landlords from illegally converting residential dwellings and to preserve affordable housing.

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 477 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/4/2016

(PLEASE PRINT)

Name: ~~##~~ FLORENCE M. RICE

Address: 540 W 158th Street Apt 25  
New York NY 10032

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 477 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/4/2016

(PLEASE PRINT)

Name: KAYDIAN "KAY" MARIE PRESSLEY

Address: 303 W 117th Street

I represent: FLORENCE M. RICE

Address: 540 W 158th Street Apt 25  
New York, NY 10032

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: 5/4/2016

(PLEASE PRINT)

Name: Terri Davis-Merchant

Address: CCHR

I represent: HPD

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/4/2016

(PLEASE PRINT)

Name: Deborah Sussman, ASST Commissioner

Address: Housing Litigation, HPD

I represent: CCHRPD

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: 5/4/2016

(PLEASE PRINT)

Name: DEBORAH RAND, ASST COMMISSIONER

Address: Housing Litigation, HPD

I represent: HPD

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 477,755 Res. No. 600

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: FRANK RICCI

Address: \_\_\_\_\_

I represent: Rat Stabilization Assoc.

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. 477 & 755 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/4/16

(PLEASE PRINT)

Name: ~~Christina P...~~ Leigh Magnum

Address: 7 Hanover Square, 18th Floor, NYC

I represent: New York Legal Assistance Group

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 688 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/4/2016

(PLEASE PRINT)

Name: Marti Weithman

Address: 464 West 152 St., NYC 10031

I represent: MFY Legal Services

Address: 299 Broadway, 4th Fl. NYC 10007

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 688 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5-4-16

(PLEASE PRINT)

Name: Ali Davis

Address: \_\_\_\_\_

I represent: Real Estate Board of New York

Address: 570 Lexington Ave, 10022

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 477+755 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5-4-16

(PLEASE PRINT)

Name: Jennifer Laurie

Address: 50 Broad St 1104 NYC 10004

I represent: Housing Comm. Answers

Address: 50 Broad St 1104 NYC 10004

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 688 Res. No. \_\_\_\_\_

in favor  in opposition

Date: May 4 '16

(PLEASE PRINT)

Name: Tom Caylor

Address: 525 W 45

I represent: West Side Neighborhood Alliance

Address: 711 10<sup>th</sup> Ave

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 688 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Bennett Baumer (Housing Conservation)

Address: 777 10 Ave. NY, NY 10019 (Coordinators)

I represent: Housing Conservation Coordinators

Address: 777 10 ave.

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