

Testimony of the New York City Department of Housing Preservation and Development

Regarding Heat Season

October 26, 2023

Good morning, Chair Sanchez and members of the Housing and Buildings Committee. My name is AnnMarie Santiago, and I am the Deputy Commissioner of the Office of Enforcement and Neighborhood Services at the New York City Department of Housing Preservation and Development (HPD). I am accompanied today by the leadership of the enforcement team: Marti Weithman, Assistant Commissioner of the Housing Litigation Division; Grace Defina, Assistant Commissioner of the Division of Special Enforcement; Joshua Cucchiaro, Associate Commissioner of the Division of Code Enforcement; Renee Peay, Assistant Commissioner of the Division of Neighborhood Preservation; Lois Winters, Assistant Commissioner of Data Management and Technology and Angela Robinson, Assistant Commissioner of Administration and Internal Compliance. Thank you for the invitation to testify today about Heat Season.

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

HPD is constantly assessing our processes related to heat and hot water. We believe, as validated by the Comptroller's Report last January, that the City's active strategies for addressing heat complaints are generally effective when they are deployed. There are always challenges, however, and we are happy to have this opportunity to discuss where we were in FY23 and how we are moving forward into the FY24 heat season.

The Housing Maintenance Code requires that hot water be provided at a temperature of 120 degrees Fahrenheit 365 days a year. Heat is only required between October 1st and May 31st. During daytime hours, between 6 am to 10 pm, heat is required only if the outdoor temperature falls below 55 degrees Fahrenheit. Between 10 pm and 6 am, heat is required to be provided at 62 degrees Fahrenheit. This means that the inspector, at the time of inspection, must consider the outdoor temperature. If the outdoor temperature is 55 degrees or above, no heat violation can be issued regardless of the indoor temperature during the day. This enforcement criteria makes it very difficult for tenants to understand why no violation is issued when they may feel cold – especially when the outdoor temperatures are in the 60s. HPD has received over 14,000 complaints this October, which is quite high given the temperatures this year, as compared to almost 19,000 complaints last October (this data is as of October 25th when it was significantly colder last year).

As you know from the Mayor's Management Report (MMR), in Fiscal Year 2023, Code Enforcement received 133,000 heat and hot water complaints that required action (almost 237,000 total complaints were received when we account for duplicate complaints), which is a slight increase over the previous year. More than 40% of those complaints are filed anonymously. In addition to the data points in the MMR, I would like to provide some basic numbers about our response to heat and hot water complaints in FY23.

- HPD attempted 126,000 heat and hot water related inspections.
- We reduced our response time to heat and hot water complaints from 2.7 days to 2.4 days (10% decrease) and increased the percentage of complaints closed in one day. Over 61,000 complaint inspections were attempted within one day of being received.
- We issued 16,600 heat and hot water violations to 7,567 distinct buildings.
- Of those, there were 6,210 heat violations issued to 4,062 distinct buildings.
- About 47% of the heat violations were related to indoor temperatures of 64, 65, 66 or 67 degrees, indicating that heat was inadequate but being provided.
- We saw a drop in the number of violations issued at lower temperatures, where the indoor temperature was under 60 degrees, from over 1,100 violations in FY22 to 940 violations in FY23.
- We attribute the increase in heat and hot water violations of 27% in FY23 over FY22 to a colder winter, the reduction in response time and the start of our re-staffing of Code Enforcement.

In terms of follow-up enforcement, we billed \$547,800 in heat/hot water inspection fees. Related to heat we initiated 1,200 cases in housing court and obtained over \$4 million in civil penalties in settlements. Our emergency repair program, which is focused on heat violations where the heat is below 64 degrees at the time of the inspection during the day or below 62 degrees at night, was directed to address 3,294 violations in 2,353 distinct buildings for heat. Of those, heat was restored by property owners to more than 1,700 buildings (75%) with an average size of 34 units and by HPD to 182 (8%) buildings with an average size of 14 units. In the majority of the other buildings, which are generally smaller properties, we were unable to confirm the restoration of heat through callbacks, inspections or correspondence.

As we look forward to this heat season, grateful for the warm weather through this past Saturday, we do have some new tools to work with.

Most significantly, as we enter this heat season, we have increased our number of inspectors. During FY23, considering both new hires and attrition, we were able to reduce vacancies by over 100 positions for all of Enforcement. Our team has worked incredibly hard to interview, process for hire and train staff as quickly as possible. For the title of Housing Inspector specifically, in June 2022 we had 129 Housing Inspector vacancies and as of the end of this past June that number was only 44. We do still have Inspector vacancies that we are working hard to fill and will be holding a Job Fair in early November, but we are in a better position going into this heat season than we were going into last and we want to thank the Council for their continued support. In addition, we have appointed a new Associate Commissioner for the Division of Code Enforcement and we are re-structuring the Division to provide additional leadership to tackle the many new

programs and projects we are responsible for, including the Heat Sensor Program and the Proactive Self-Closing Door Inspection Initiative. As always, we ask for your support in all of our recruitment efforts and would be happy to share all job descriptions with you and your colleagues at the Council.

In December, we will begin seeking the new civil penalties for heat and hot water which were passed as Local Law 71 earlier this year. The local law increased the civil penalties from \$250 - \$500 per day and \$500-\$1000 per day for subsequent violations to \$350 - \$1250 per day and \$500 - \$1500 per day for subsequent violations.

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

In addition, we continue to implement the Heat Sensor Program. During the fall, we reached out to owners whose buildings are enrolled in the program, reminding them of their responsibilities to install heat sensors, notify tenants and provide reports to HPD. We advised them of the new changes to the program that will be implemented over this heat season as a result of Local Law 70 of 2023, including that heat sensor reports must be provided monthly to HPD, that they will be charged monitoring fees if they fail to install the sensors and that they will have the opportunity for an early discharge if no heat violations are issued during the heat season. Our inspectors have already begun posting information in the buildings about the program, as required under the amended program. We very recently provided a full report on the HSP to the Council with details on the buildings selected and their status since entering the program. In a snapshot, of the 100 buildings selected to participate since July 2020, as of June 30, 2023, 59 buildings have installed heat-sensors, 4 buildings received opt-outs from all tenants and no sensors were installed. Two building were vacant and 35 buildings did not install sensors or receive opt-outs from all tenants. Of the 35 buildings that did not install sensors or receive opt-outs from the tenants, 16 buildings were issued at least one heat violation in FY22 or FY23. For those 16 buildings during FY22 and FY23, inspection fees totaling almost \$30,000 were billed and HPD initiated heat and hot water cases for which over \$160,000 in civil penalties were imposed. HPD also sought the installation of the heat sensors in six of the cases.

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

In addition to our work directly related to heat and hot water, we enhanced enforcement of fire safety requirements, most specifically increasing the number of self-closing door violations by over 18,000 . We have started our proactive self-closing door violation program, inspecting over 100 buildings to date. At the start of heat season, we reiterated our messaging to property owners

not only about heat but also about fire safety as well. We hope that the Council and the Fire Department will continue their important messaging to tenants about the safe use of space heaters and other methods of auxiliary heat.

HPD continues to find ways to improve our responsiveness, effectiveness, communication, processes and our overall enforcement. Although heat and hot water enforcement is one of the most important parts of our work, we know that other critical health and safety considerations also must continue to be the focus of our enforcement efforts.

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



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

**Testimony of New York City Comptroller Brad Lander
New York City Council Committee on Housing and Buildings
Oversight – Preparing for Heat Season**

October 30, 2023

Thank you to the Committee on Housing and Buildings for this opportunity to testify on the New York City's readiness for the 2023-2024 heat season.

Nearly two years ago, the Twin Parks fire in the Bronx tragically killed 17 people and exposed a set of failures in the City's ability to enforce heat codes. Given the lack of adequate heat in the building, tenants resorted to using unsafe electric heaters.

In response to this tragedy and the need to improve the City's code enforcement regime, my office published a report this past January titled "[Turn Up the Heat: Strengthening Enforcement of NYC's Heat Laws.](#)" The report analyzes nearly one million heat complaints from approximately 70,000 unique privately owned buildings between 2017-2021.

Our key findings include:

- **Heat code complaints and violations are not distributed equally across the city.** The population of the five community districts with the highest volume of 311 complaints related to a lack of heat are 93% people of color and the five community districts with the most heat related violations are 89% people of color.
- **The City's enforcement strategies – issuing violations, HPD-initiated litigation, using the Emergency Repair Program, and the new Heat Sensor Program – are generally effective.** Across the board, these interventions led to reductions in heat complaints the following season. For example, issuance of violations to a building correlated to a 47% average drop in the number of heat complaints in the following heat season. However, the rationale used to deploy the strategies is unclear.
- **In a small percentage of buildings, lack of heat is persistent and severe.** There are 1,077 buildings in New York City in which tenants complained more than 5 times each heat season from 2017 to 2021, about 1.5% of all buildings with heat complaints. Just about 30%, or 244,176, of all complaints made city-wide during the 2017 – 2021 heat seasons were made by tenants living in these 1,077 buildings.
- **While the City has many potential strategies to address heat complaints, they are often not deployed in many eligible cases.** Of those 1,077 buildings in which tenants complained more than 5 times each heat season, over 25% of the buildings did not have any violations against them, indicating the City did not take any enforcement action related to a lack of heat.

Since the Twin Parks fire, the City has taken some steps to address heat code enforcement challenges. In May and June 2022, the Council passed laws to reduce the amount of time that a landlord has to respond to and increase the penalties for a violation related to self-closing doors. In addition, the laws created a self-closing door inspection program, banned the sale of certain types of electric heaters, and expanded fire education and language accessibility. More recently, the Council passed Local Law 70 to expand the heat code sensor program as well as Local Law 71 to increase civil penalties for certain violations. The New York City Department of Housing Preservation and Development (HPD) is addressing its shortage of Inspectors, which faced acute attrition challenges especially throughout the COVID-19 pandemic. However, the City must take additional measures to improve heat code enforcement.

The report includes a series of recommendations that have yet to be implemented in the following categories:

- **Use data and technology to inform or prioritize inspections with a focus on buildings with persistent heat complaints.** This includes providing Inspectors with comprehensive information about the history of heat complaints in each building, expanding on a database of buildings with persistent heat complaints to prioritize inspections, and offering more flexible inspection options for tenants.
- **Conduct comprehensive site inspections and identify landlords' willingness to comply.** HPD and the Department of Buildings (DOB) should conduct joint inspections of central heating and distribution systems to better coordinate with the property owner on barriers to providing consistently adequate heat.
- **Expand proactive code enforcement and targeted escalation.** HPD should utilize the Emergency Repair Program (ERP) or 7A to make comprehensive repairs as needed and/or offer preservation purchases where buildings are acquired by not-for-profit developers, renovated as necessary, and operated as affordable housing.
- **Expand tenants' rights and education.** The City should expand direct multilingual outreach to tenants and fund community organizations that educate and assist tenants. New York State should pass Good Cause eviction protections to prevent the fear of eviction from dissuading tenants to advocate for better conditions.

For more detailed findings and recommendations, please see the report [here](#). We look forward to working with elected officials, agencies, and advocacy groups to ensure the City is doing everything it can to prevent more tragedies and ensure all New Yorkers get access to adequate heat in their homes. Thank you.



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City Hall, New York

October 30, 2023

Dear Chair and members of the committee,

Thank you for the opportunity to testify regarding Int 1208. I am Vijay Dandapani, President and CEO of the Hotel Association of New York City.


Int. 1208 proposes to extend the 0.875% hotel tax from December 1st, 2023 to December 1st, 2027. This additional tax was first imposed in 2009 in the aftermath of the Great Financial Crisis of 2008 with a two-year sunset. It has since been continually extended.

There is a mistaken notion that raising hotel taxes will not affect New Yorkers when in fact there is both a direct and corollary effect on the hotel industry. The direct effect is due to the fact that an overwhelming majority of New York hotel workers live and work within the five boroughs and the arresting effect of hotel taxes not only results in lost jobs, but also precludes much needed future job growth.

A recent study published in the reputed [Journal of Travel Research](#) noted that lodging taxes have a negative effect on hotel performance particularly from group bookings as group and meeting planners regularly practice destination shopping where pricing is critically important. I end by noting that NYC hotel occupancy still is behind 2019 numbers by nearly 6% while also trailing principal international gateway cities like London and Paris that are competitors. Hotel rates in both those cities for the month of July exceeded 2019 July rates by 35 and 79% respectively while New York City saw a 14% increase with over 20% of hotel inventory either closed or catering to the migrant crisis leaving fewer rooms for regular business.

Research shows that a two percent reduction in the occupancy tax would increase hotel stays by about 45,000 room nights per month, also increasing tax receipts for the City overall. Extending this tax rate at its current sky-high level will prevent us from recouping the jobs and revenue lost during the pandemic and keep working problem out of work.

Sincerely,


Vijay Dandapani
President & CEO



October 30, 2023

Community Housing Improvement Program Testimony on Heat Season

Thank you for holding this hearing today. I am Adam Roberts, Policy Director for the Community Housing Improvement Program, also known as CHIP. We represent New York's housing providers, including apartment building owners and managers. We are here to express concerns about the city's existing heat season policy.

The current heat season policy of maintaining a minimum temperature of 62-68 degrees, depending on the time of day, from October 1 through May 31, is outdated. City heat season policy must recognize that climate change is real and dramatically elevates indoor air temperatures. Summer heat now lasts well into October and starts in May. Yet, the city's heat season remains the same, as if climate change were not a reality.

The current heat season schedule hampers the ability of rental buildings to comply with laws like Local Law 97. Since turning on building-wide heating and cooling systems is a laborious process, rental buildings are forced to pump heat even when the outside temperature is warm. This increases a building's carbon emissions, complicating its path to comply with LL97. Heat season may force many rental buildings onto alternative compliance paths or out of compliance entirely.

Ideally, rental buildings could better control temperatures by performing costly, but necessary, sustainable design work such as electrification and facade replacement. However, state legislative changes in 2019, which eliminated the ability of buildings with rent-stabilized apartments to recoup the costs of retrofitting, have led banks to refuse to provide loans for retrofitting. Without loans, owners cannot pay to institute sustainable design measures. No contractor, architect, or engineer will electrify a building or replace a facade without the assurance that an owner can pay.

The impact of this outdated heat season policy is that tenants and apartment building workers live and work in unnecessarily uncomfortable environments. Heat season should be readjusted to reflect the fact that climate change is real, LL97 must be effectively implemented, and that work necessary to better control indoor air temperatures is currently too costly for buildings with rent-stabilized apartments. We hope the council will work to fix this problem.

Again, thank you for holding this hearing today.



Heat Seek Testimony on Preparing for Heat Season
Committee on Housing and Buildings
October 30, 2023

Noelle Francois
Executive Director
Heat Seek NYC

I want to begin my testimony by thanking Council Member Pierina Sanchez and the Committee on Housing and Buildings for holding this hearing.

My name is Noelle Francois and I am the Executive Director of Heat Seek, the only nonprofit in the city working specifically with tenants experiencing insufficient heat in their apartments in the wintertime. We use smart temperature sensors to accurately and reliably document the indoor temperature during the winter months and enable tenants to prove exactly how often the temperature in their apartments is too low and in violation of the law.

Citywide, heat complaints remain relatively stable year over year, at over 200,000 annually. However, only a small fraction of those complaints translate into heat violations issued by HPD. While some complaints are certainly resolved by the landlord prior to an HPD inspection, or represent instances where a tenant feels cold but the temperature isn't below the threshold, Heat Seek data demonstrates that many, many legitimate heat complaints are not translating into violations. After specializing in this work for almost a decade, our data makes clear that an exclusively complaint driven system for maintaining the city's housing stock is ineffective and insufficient.

Heat Seek has served as a neutral third party to provide tenants a resource to adequately document serious and persistent heat issues in their apartments. Last heat season, Heat Seek sensors in just 150 apartments documented over 59,000 hours in which the temperature was below the legal limit. Forty percent received no violations at all. Heat Seek has documented

cases in 20 buildings where our sensors collected more than 100 hours of illegally cold temperatures, the tenants called in heat complaints to 311 numerous times, and yet they never received a single heat violation from HPD. That is a quarter of the buildings Heat Seek operated in last heat season.

Heat Seek has proven that there is a better way to investigate heat complaints using technology, especially in instances of a chronic failure to provide heat in accordance with the law. Real time data transmission would make HPD more effective and efficient, allowing them to send inspectors at times when they are actually able to observe and record a violation. Utilizing this technology would conserve agency resources, as either HPD's workload would be reduced because no violations are found and inspectors can communicate that to the tenant so they understand the temperature is not illegally low, or HPD issues violations and the landlord is compelled to make repairs/remedy the issue, thus also reducing HPD's workload because the tenant is not continuously calling with a new complaint in an effort to get a violation placed. There is no reason for HPD to continue guessing what the temperature is when widely available technology exists to tell us the answer at any hour of the day. We strongly urge HPD to adopt this technology with the enthusiasm it deserves, and empower HPD inspectors to install sensors themselves to address chronic complaints.

Serious heat violations rarely exist in a vacuum. As our data analysis of the Heat Sensors program demonstrates, buildings in the program benefit from the increased scrutiny of HPD that comes with program enrollment. Because of the bi-weekly inspections, buildings in the program report higher rates of violation for a variety of breaches of the warranty of habitability in the first year of the program, beyond just heat. It is clear that complaint based inspections are a burden on tenants and often fail to surface serious issues to HPD; however, when HPD takes a more proactive approach and visits bad actor buildings consistently, issues are identified and addressed.

The inability of our city government to adequately tackle the city's heating crisis feeds directly into the city's inability to preserve affordable housing, fueling and exacerbating the housing crisis we are currently mired in. Housing instability and poor maintenance are two sides of the same coin, which disproportionately impact communities of color.

Wholesale failure to maintain the city's affordable housing stock is not an option, but it is the path that HPD is choosing with its current approach to addressing the most pervasive habitability issue for tenants. We *must* take a more aggressive approach to adequately maintaining the affordable housing we currently have, because rents are continuing to rise at alarming rates and

more affordable housing is not being built at a rate sufficient to meet the need. One of the best ways to address our homelessness crisis is to minimize displacement by keeping people who have housing in their homes. But we cannot do that if those homes are allowed to fall into disrepair to the point that they are unlivable and tenants are forced to relocate.

We live in the 21st century, in the age of technology, and we cannot continue to operate as though these tools are not readily available to us. The city's obstinate refusal to adopt mainstream technology is not only a failure to its mission to promote quality and affordability in the city's housing, but also a failure to society at large, in a pivotal moment where so many are deeply in need and expect far more from their government.

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Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Deputy Commissioner Ann Marie Santiago

Address: _____

I represent: _____

Address: _____

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

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Date: _____

(PLEASE PRINT)

Name: Assistant Commissioner, Tarek Khalil

Address: _____

I represent: NYC Department of Buildings

Address: _____

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