

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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February 8, 2011

Start: 10:15am

Recess: 12:50pm

HELD AT: Council Chambers
City Hall

B E F O R E:
ERIK MARTIN DILAN
Chairperson

COUNCIL MEMBERS:

- Council Member Gale A. Brewer
- Council Member Leroy G. Comrie, Jr.
- Council Member Elizabeth S. Crowley
- Council Member Lewis A. Fidler
- Council Member James F. Gennaro
- Council Member Letitia James
- Council Member Brad S. Lander
- Council Member Melissa Mark-Viverito
- Council Member Rosie Mendez
- Council Member James S. Oddo
- Council Member Joel Rivera
- Council Member Ydanis A. Rodriguez
- Council Member Jumaane D. Williams
- Public Advocate Bill de Blasio

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

Vito Mustaciuolo
Deputy Commissioner, Enforcement & Neighborhood Svcs
Department of Housing Preservation and Development

Mario Mazzoni
Director
Metropolitan Council on Housing

Gladys Puglia
Member and a Chair, Board of the Directors
Make the Road New York

John Whitlow
Supervising Attorney
Make the Road New York

Mary Ann Rothman
Executive Director
Council of New York Cooperatives and Condominiums

Larry Jason
Executive Director
Brooklyn Housing and Family Services

Frank Ricci
Director of Government Affairs
Rent Stabilization Association

Kathleen Brennan
Representative
Legal Aid Society

Jon Furlong
Tenant Organizer
Pratt Area Community Council

Sateesh Nori
Director of Housing Litigation
Legal Services NYC

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

Caroline Simon
Citizen
Recently relocated from Texas

Katie Taylor
Citizen
Living in co-op building with inadequate heat

Skip Roseboro
Leader
New York Community for Change

Anna Martins
Member, Harlem Tenants Against Tahl-Propp
Member, Predatory Equity Working Group

James Wechsler
Citizen
Lives at 77 East 7th Street, inadequate heat/hot water

Marlene Whitehead
Citizen
Lives at 26-16 95th Street, East Elmhurst, inadequate
heat/hot water

Du Ching Zang
Member
CAAHV/Chinatown Tenants Union

Steven Ludsin
Citizen
Idea for "easy escrow"

[background noise, pause]

[gavel]

CHAIRPERSON DILAN: Good morning, everyone. My name is Erik Martin Dilan, and I am the Chairperson of the City Council's Committee on Housing and Buildings. Today, the Committee will conduct a hearing on two legislative proposals for its future consideration for disposal. Intro 291 is the first of the items we will hear today, and that is in relation to penalties for violating the housing maintenance code by failing to provide adequate heat and hot water. And then the other item we will consider today is Intro 439, and that is in relation to the installation of indoor thermometers in multiple dwellings. Very briefly, Intro 291 would increase civil penalties imposed against property owners who have failed to provide or meet any of the following: the central heating requirements; the minimum indoor temperature during a heating season; hot water for their tenants or in buildings without a central heat system have failed to meet standards established for use with gas fueled, electric space or water heaters. Currently, the New York City Housing

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2 Maintenance Code allows violators to be subject to
3 a civil penalty of not less than \$250, nor more
4 than \$500, per each day, per each violation until
5 the date that the violation is corrected.

6 Violators are also subject to higher civil
7 penalties of not less than \$500, nor more than
8 \$1,000 per day, for each subsequent violation, at
9 the, at the same dwelling or multiple dwelling
10 during the same calendar year, or with respect to
11 subsequent violations during the same heat season.

12 Intro 291 would allow property owners to be
13 subject to these higher civil penalties of \$500 to
14 \$1,000 for each subsequent violation that occurs
15 within two consecutive calendar years, or two heat
16 seasons. And these are for violations of the
17 indoor heating requirement; the additional civil
18 penalty would apply if the violation occurred
19 during the heat season of October 1st or May 31st
20 over a two year period. Intro 439 would require
21 property owners to install indoor thermometers in
22 Class A multiple dwellings which are dwellings
23 occupied for permanent residential purposes. The
24 bill would require owners to install at least one
25 operational indoor thermometer in the living room

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2 of each dwelling unit, replace nonfunctioning or
3 missing thermometers before new tenants move in,
4 replace within 30 days thermometers that have
5 become inoperable due to no fault of the current
6 tenant, and to maintain records relating to the
7 installation and maintenance of the thermometers.
8 The bill would also require that tenants maintain
9 these thermometers in good repair, and replace any
10 thermometers that are removed, missing or rendered
11 inoperable. It would also allow owners to be
12 reimbursed a minimal amount from occupants for
13 providing and installing such thermometers. The
14 Committee today expects to hear testimony from
15 HPD, from tenants, housing advocates, as well as
16 any others that are interested in today's agenda.
17 As I said at the outset, if you would like the
18 testify on any of these two items, please see the
19 Sergeant-at-Arms, and fill out an appearance card.
20 And I'll briefly introduce Members of the
21 Committee who are in attendance. To my right, we
22 have Council Member Lew Fidler of Brooklyn,
23 Council Member Ydanis Rodriguez of Manhattan,
24 Council Member Joel Rivera of The Bronx, Council
25 Member Gale Brewer of Manhattan, and Council

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2 Member Rosie Mendez of Manhattan. And we'll be
3 joined shortly by the sponsor of Intro 291, the
4 Public Advocate, Bill de Blasio. And I may,
5 depending on the flow of the hearing, allow him to
6 make a brief statement. We'll see how that goes.
7 So, without further ado, I'd like to turn it over
8 to HPD for their perspective on today's proposals.
9 We have Mr. Vito Mustaciuolo from HPD, and even
10 though I've introduced you, you have to introduce
11 yourself in your own voice. And you can introduce
12 the members of HPD's team who are with you today.
13 Welcome.

14 VITO MUSTACIUOLO: [off mic]

15 Welcome. Good morning, Chairman Dilan. - -

16 CHAIRPERSON DILAN: Your mic is
17 off. Yeah, you have to--Sergeant, if we could
18 maybe help him out.

19 [background noise]

20 VITO MUSTACIUOLO: Thank you. Good
21 morning, Chairman Dilan, and Members of the
22 Housing and Buildings Committee. My name is Vito
23 Mustaciuolo, Deputy Commissioner of Enforcement
24 and Neighborhood Services. Sitting next to me is
25 Christopher Gonzales, Director of

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2 Intergovernmental Relations at the Department of
3 Housing Preservation and Development; and also Ann
4 Marie Santiago, Chief of Staff to Enforcement and
5 Neighborhood Services. Thank you for the
6 opportunity to discuss Intros 291 and 439. Both
7 which relate to Housing Maintenance Code heat
8 provisions. Intro 291 proposes to amend Section
9 272115 of the Housing Maintenance Code to increase
10 the look back period for subsequent heat and hot
11 water violations from one year to two years, when
12 determining civil penalties in housing court.
13 Intro 291 would increase the potential fines for
14 landlords who neglect to provide adequate heat
15 during the cold weather months. HPD supports all
16 efforts to improve the enforcement of heat and hot
17 water violations, including the amendments
18 proposed in Intro 291. We would also propose
19 amending the effective date of 291 to October 1,
20 2011, although we would like to impose these new
21 requirements immediately, all of the changes
22 proposed would require adjustments in our data
23 collection and operational procedures to implement
24 properly. Therefore, we think it is best to aim
25 for implementation for the next heat season.

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2 Intro 439 proposes to require all owners of Class
3 A multiple dwellings to install and replace indoor
4 thermometers in every living room of each dwelling
5 unit. This requirement would not affect HPD's
6 process of enforcing the laws requiring heat and
7 hot water. We do not believe that this bill would
8 have any impact on the number of 311 calls that we
9 will receive for inadequate heat. When HPD
10 responds to a heat complaint through 311, code
11 enforcement takes the temperature in the coldest
12 room of the residence with a New York City
13 Department of Health certified thermometer, held
14 at the centermost point in the room, waist high,
15 away from any opening or source of heat. This
16 proposal requires thermometers to be placed on
17 walls, putting them at risk of damage and
18 potentially providing false readings related to
19 the temperature. These thermometers are also not
20 certified and therefore cannot be used by code
21 enforcement in any official capacity. Most large
22 building owners have boilers that run on heat
23 timers. These heat timers have sensors that relay
24 information from various locations throughout the
25 building to the boiler, regulating heat building-

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2 wide. Smaller buildings have thermostats with
3 built-in thermometers. Most residential buildings
4 in New York City provide adequate heat to tenants.
5 Requiring thermometers in multiple rooms in all
6 apartments in the buildings seems unnecessary.
7 HPD's mission is to enforce the Housing
8 Maintenance Code and protect the tenants' rights
9 to habitable living space. During the cold
10 weather months, the bulk of this enforcement is
11 related to responding to heat and hot water
12 complaints. HPD continues to support any
13 proposals that enhance our ability to enforce the
14 provisions of adequate heat and hot water, and is
15 committed to working with the Council on making
16 improvements to the process. We thank you for
17 this opportunity to testify on these two pieces of
18 legislation, and welcome any questions that you
19 may have.

20 CHAIRPERSON DILAN: Okay, thank
21 you, Mr. Mustaciuolo. Just some more
22 housekeeping, we've been joined by some more
23 Members of the Committee, Council Member Melissa
24 Mark-Viverito, immediately to my left, of
25 Manhattan, and Council Member Leroy Comrie of

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2 Queens, as well as Council Member Elizabeth
3 Crowley of, of Queens. Mr. Mustaciuolo, I'll
4 start by, by saying on 439, which is the
5 thermometer bill, which is the bill that I've
6 sponsored, I recognize that the bill is, is not
7 quite ready for prime time, and I look forward to
8 working with you conceptually on how we target the
9 false, or maybe unnecessary calls to 311 where
10 your inspectors are going out to apartments where,
11 you know, the heating is adequate, in dwellings so
12 that you can save your resources to go after the,
13 the apartments where, that, that your inspectors
14 need to focus their attention on, that's where the
15 real heat problems are. So, I say that, meaning
16 that I do have an open mind, I'm willing to work
17 with HPD to get something done, whether it
18 requires a thermometer or not, but I think we need
19 to look at how HPD's resources can be better
20 effectively used, and that was the intent of that
21 legislation. So, with that, and I'll get to
22 questions on that later, I want to start with a
23 few questions on Intro 291, and the first one is
24 for the current heat season. All right, how many
25 heat and hot water complaints--or excuse me. How

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many heat and hot water violations has the
Department issued?

VITO MUSTACIUOLO: Okay, as of
yesterday, we have issued 7,880 violations related
to heat and hot water conditions.

CHAIRPERSON DILAN: All right, how
does that compare, I guess historically, with
other years? Is this in line with what you
normally see per year? Is it, is it below what
you normally see per year? Or is it higher?

VITO MUSTACIUOLO: For this year,
complaint volume and, and violation issuance is up
slightly from last year. We've also experienced
colder temperatures this year. So we're up about
eight percent over last year.

CHAIRPERSON DILAN: WE definitely
got more snow.

VITO MUSTACIUOLO: Yeah, yeah.
Although snow is not bad.

CHAIRPERSON DILAN: Oh, no.

VITO MUSTACIUOLO: Yeah. Doesn't
necessarily mean cold temperatures.

CHAIRPERSON DILAN: Yeah, I know.

[laughs]

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VITO MUSTACIUOLO: Okay.

CHAIRPERSON DILAN: All right, so what percentage of the heat and hot water violations issued by the Department are repeat violations that recurred within the same calendar year?

VITO MUSTACIUOLO: Yeah, what I have for last year is 607 buildings citywide were issued multiple violations of heat and hot water conditions. And that would be three or more violations within the heat season.

CHAIRPERSON DILAN: So--

VITO MUSTACIUOLO: And that's out of a total of 6,200 buildings where violations were issued to, for heat and hot water.

CHAIRPERSON DILAN: Okay. And again, over the last two years, how many civil penalty enforcement actions has HPD initiated with respect to heat and hot water violations? And during this period, how much has been assessed by the courts in penalties? And how much of these penalties have actually been collected?

VITO MUSTACIUOLO: Okay, I don't have for the last two years, I only have for the

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2 last heat season. So, last heat season, well, I'm
3 sorry, just to stop for a second, before I give
4 the numbers. Our process is when we issue a heat
5 or hot water violation, we file an action in
6 housing court, upon the issuance of the violation.
7 So we do start actions in housing court on every
8 heat and hot water violation that we issue, that's
9 the current policy. Last year, for heat and hot
10 water cases, we collected \$1.8 million in civil
11 penalties. And we brought a total number of
12 cases, have that in a second. [pause] Yeah, last
13 year we brought a total number of 3,364 cases in
14 housing court, related to heat and hot water.

15 CHAIRPERSON DILAN: Could you
16 repeat that?

17 VITO MUSTACIUOLO: Sure, last heat
18 season, we brought a total number of cases in
19 housing court, it was 3,364 cases. And the civil
20 penalties for that same period was \$1.8 million.

21 CHAIRPERSON DILAN: Okay, so during
22 the past three fiscal years, how much did HPD
23 spend in repairs, I guess through the ERP or any
24 other program related to heat and hot water
25 systems.

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2 VITO MUSTACIUOLO: Yeah, I don't
3 have the exact number in front of me, but I know
4 on average we spend about \$7 million a year on
5 heat and hot water related conditions.

6 CHAIRPERSON DILAN: [pause] Okay,
7 so what I'm going to do at this time is I'm going
8 to, I'm going to come back for questions later, on
9 Intro 439. If any of my colleagues have any
10 questions, the list is open, we'll start with
11 Council Member Fidler.

12 COUNCIL MEMBER FIDLER: I--Deputy
13 Commissioner, I want to understand the math that
14 you just laid out. You, you commenced 3,000 some
15 odd cases last year, the fine total was \$1.8
16 million.

17 VITO MUSTACIUOLO: That's correct.

18 COUNCIL MEMBER FIDLER: And spent
19 \$7 million on emergency repairs. Is that in
20 addition to the fines? Did you recover that \$7
21 million?

22 VITO MUSTACIUOLO: If the owner
23 does not pay after we bill the owner for the work,
24 then a lien is placed. So there are liens placed
25 on the properties if the owner does not pay the

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2 emergency repair charges. That's separate and
3 aside from the civil penalties.

4 COUNCIL MEMBER FIDLER: Okay. How
5 much have you collected from last year, on the
6 fines, and one the, the reimbursements?

7 VITO MUSTACIUOLO: Specific to that
8 spending for heat and hot water conditions, I
9 don't have that, we'll have to research that and
10 get back to you.

11 COUNCIL MEMBER FIDLER: I, I would,
12 I think that's extraordinarily pertinent and so
13 each time you issue a heat and hot water
14 violation, you commence a proceeding to housing
15 court, and you said you've issued 7,000 such
16 violations thus far this heating season.

17 VITO MUSTACIUOLO: Correct.

18 COUNCIL MEMBER FIDLER: How many
19 proceedings have you initiated?

20 VITO MUSTACIUOLO: To date, 1,200.
21 Realize that there are multiple violations issued
22 per an occurrence.

23 COUNCIL MEMBER FIDLER: Right, got
24 it. So, it's fair to say that each person who
25 gets a violation is getting about six of them,

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give or take.

VITO MUSTACIUOLO: Approximately.

COUNCIL MEMBER FIDLER: Okay. Do you have any way of knowing how many in the, of the 1,200 that you've initiated this year, had proceedings initiated against them last year?

VITO MUSTACIUOLO: I don't have that information, but that's, again, something that we can research.

COUNCIL MEMBER FIDLER: Well, I think if we're, you know, if we're looking at passing a piece of legislation that's going to increase the look back period, I think that would be an extraordinarily pertinent piece of information to have. Whether or not we are in fact addressing a problem that exists or, or not. If, if same buildings, same landlords, are repeatedly causing you to come back and issue violations and institute proceedings, then, then there's an issue that we really need to be addressing. And this bill would at least, you know, start to address that. If, if it's never the case, then, then we're just wasting our time here, don't you think?

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2 VITO MUSTACIUOLO: I don't think it
3 would be a waste of time, even if it were one
4 building.

5 COUNCIL MEMBER FIDLER: Fair
6 enough. But you know, we shouldn't, we wouldn't
7 be deluding ourselves into thinking that, you
8 know, we've struck a mighty blow. You know, I
9 would imagine that there are a number of buildings
10 that are repeat offenders, because I, you know, I
11 generally find that there's a certain striation
12 within, within property owners where they just,
13 they're neglectful owners, and repeat, you know,
14 they probably are the cause of, you know, half, a
15 small group, half of the problems. I, you know,
16 tell me whether or not this piece of legislation
17 needs to move and needs to move now. Now you
18 would have enough time for next season, if we
19 amended the effective date.

20 VITO MUSTACIUOLO: Yes, absolutely.

21 COUNCIL MEMBER FIDLER: Okay. And
22 last question, on the other bill, just what is a
23 "certified thermometer" and how would it be
24 different, I mean, you know, the rules of physics
25 apply to certified and noncertified thermometers,

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I would think. So what's the difference?

VITO MUSTACIUOLO: Sure. So, at the beginning of each heat season, we actually send a housing inspector to the Department of Health. They have a laboratory, and we actually test the thermometers that we use to take our temperature readings. So they're certified that they're accurate within plus or minus one or two degrees. Because again, we use these thermometers, and the results in Housing Court. So we have to be able to substantiate the readings in Housing Court.

COUNCIL MEMBER FIDLER: And that, and I could well understand why you wouldn't be able to issue a violation without equipment that has been certified to be accurate, but I mean, just a garden variety, pick it up in the drugstore thermometer have to be reasonably accurate. I mean, what--You know, I'm certainly not a scientist, so--

VITO MUSTACIUOLO: Yeah, I mean, it, they are reasonably accurate, but what I, would I feel comfortable with a housing inspector defending the results in Housing Court based on

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that? No.

COUNCIL MEMBER FIDLER: I don't think, well, I understand that as the purpose of the bill. I mean, I think the, the purpose of having the thermometer was so that you really were getting calls that weren't preposterous. You know? My apartment's too cold, my thermometer shows X degrees. And if it's, you know, you come in and say, "You know what? My thermometer is a little bit different" and says you're right or you're wrong, that, you know, people would have an objective basis before they called and said, "It's too cold in here." So--

VITO MUSTACIUOLO: Yes.

COUNCIL MEMBER FIDLER: --I'm not sure that the cert--I mean, I wouldn't want you to issue the violation on the uncertified thermometer, but having the uncertified thermometer in the apartment might reduce the number of inappropriate calls and increase the number of appropriate calls, don't you think?

VITO MUSTACIUOLO: Absolutely. And obviously from experience, you know, a lot of tenants do have thermometers. But they go out and

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2 purchase them and they're substantially cheaper
3 than \$10 that I believe is what the reimbursement
4 fee is, in this Introduction. In addition to, the
5 concern is that this would require that a
6 thermometer be placed in every living room.
7 Concern is what would happen if a tenant refuses
8 to have the landlord place it into every living
9 room. Now, a lot of tenants have their own
10 thermometers, and they do keep a log, and it's
11 very effective in Housing Court. It's also very
12 effective when they call 311, when they indicate
13 to us what the best time of day is, to perform an
14 inspection. And we try to do our best to route
15 inspectors accordingly. So, again, a lot of
16 tenants, and especially tenants who have
17 experienced problems in their buildings before,
18 have gone out and bought thermometers. And they
19 do give a good gage. You know, we have walked
20 into apartments where tenants have thermometers,
21 that have registered 68, and they still call in
22 complaints if they want us to come out and verify
23 that. Right? Oftentimes there are other
24 conditions, as well.

25 COUNCIL MEMBER FIDLER: Well, I

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2 think just for, I mean, obviously the thermometer
3 bill needs work, but I, I didn't understand the
4 certified issue as an objection, and I'm not sure
5 that that one really applies.

6 VITO MUSTACIUOLO: It's not an
7 objection, it's just that we honestly cannot use
8 that when we--

9 COUNCIL MEMBER FIDLER: Yeah, no, I
10 understand.

11 VITO MUSTACIUOLO: --enforce the
12 Housing maintenance code.

13 COUNCIL MEMBER FIDLER: I
14 understand.

15 VITO MUSTACIUOLO: Yeah.

16 COUNCIL MEMBER FIDLER: Thank you.

17 CHAIRPERSON DILAN: Okay, thank
18 you, Council Member Fidler. And we've been joined
19 by the Public Advocate, Bill de Blasio. Council
20 Member Brewer has agreed to defer to the Public
21 Advocate, so with that, Mr. de Blasio.

22 PUBLIC ADVOCATE: Thank you, Mr.
23 Chairman, and thank you Council Member Brewer.
24 I'll be, just wanted to say a few, very brief
25 opening remarks, and just have a question for HPD.

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2 First, I want to thank Chair Dilan. We served
3 together for many years, and I always realize that
4 this Committee I think is one of the most
5 challenging, the Chair in this Council, I think
6 the most, some of the deeply felt issues and
7 contentious and complex issues, and Chair Dilan, I
8 think you've, you've handled it with extraordinary
9 judgment and fairness to everyone involved. So, I
10 thank you for that, and I thank you for expediting
11 consideration of this bill, which is particularly
12 pertinent 'cause we're in the middle of the cold
13 weather season. And as we're seeing the number of
14 complaints have been rising steadily this year
15 compared to previous years, so, so many New
16 Yorkers, sadly, are living without heat and hot
17 water on some regular basis. And I think it's one
18 of these shocking things. You know, a lot of us,
19 a lot of folks, I had the honor here of serving
20 with over the last years. We tried to bring
21 public attention to some of the unknown facts of
22 life in New York City, to folks who are hungry and
23 struggling in many ways. While the fact that
24 there are thousands of New Yorkers, who at one
25 point or another in the winter, have a regular

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2 experience of not having heat and hot water. And
3 that includes seniors, that includes families with
4 children. That's an unacceptable reality in our
5 City. So, one of the solutions, I think, is the
6 legislation I've proposed, the Heat Act, Intro
7 291. And I think it is a continuum with some of
8 the other work that my office has been trying to
9 do, such as our Worst Landlords Watch List, which
10 gets out the basic fact again, that most landlords
11 are good and do their job and are responsive to
12 their tenants, but there is a small group of bad
13 apples--don't make repairs, don't provide heat and
14 hot water--we're trying to keep pressure on them
15 and get actual repairs made and real change. This
16 legislation is one of the tools to do this. I
17 would want to say at the outset, I appreciate the
18 work the City is doing, I appreciate the work that
19 HPD is doing, I want to particularly commend
20 Commissioner Cestero and Deputy Commissioner
21 Mustaciuolo, for the work they have done, and our
22 office has worked closely with them. And I know
23 they work hard to address the issues of landlords
24 who are not doing their job, but I also know that
25 the court system where, and many times which

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2 becomes the last resort in the process, is not an
3 overly effective one, and not an overly quick
4 venue to get resolution. So I think HPD has had a
5 challenge of trying to get the right results for
6 the City and for tenants. I think they've needed
7 stronger tools and this legislation is part of
8 that process. Now, bottom line again, most
9 landlords do their job; some of those who don't,
10 literally do an economic equation. They say,
11 "Hey, I cannot provide heat and hot water for a
12 period of time and save that money. If I get
13 fines, I'll end up in court, I'll bargain them
14 down, I won't end up paying that much." That's an
15 unacceptable reality, and a reality we have to
16 stop. This act will help to close one of the
17 loopholes that has allowed some landlords to
18 actually see their fines reduced when we go from
19 one calendar year to another, which is one of
20 those things that have emerged in law and
21 bureaucracy that kind of boggles the imagination,
22 but it's true. Someone doing the wrong thing and
23 actually gets a break the longer they do the wrong
24 thing. We want to close that loophole and make it
25 harder for someone who is not providing heat and

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2 hot water, make sure that that thousand dollar per
3 unit violation continues from year to year until
4 the problems is fixed. Now, just one last point
5 on this, the, this is one piece of I think a
6 multi-piece solution. I think a lot of the most
7 important actions have to take place, thank you,
8 at the state level. I want to commend Senator Liz
9 Krueger, who's talked about a better way of
10 adjudicating these violations to make sure that
11 there is more accountability, and that actually
12 more fines get collected. And by the way, that is
13 also good for the City on the revenue level when
14 they are valid fines that we deserve to collect.
15 And also, I think we need to find a way at the
16 state level to change the current penalty
17 structure, and instead of having a maximum that
18 often isn't achieved, have mandatory penalties so
19 landlords who aren't doing the right thing really
20 feel it in the pocketbook and learn to do the
21 right thing toward their tenants. And finally,
22 again, a thank you to all the members of the
23 Committee and to Chair Dilan, and Chair Dilan I
24 want to thank you also for introducing Intro 439,
25 which I think is another step to making sure that

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2 we are using common information to confirm which
3 New Yorkers have the heat and hot water and which
4 don't, the thermometers in every apartment I think
5 would be a big step forward, and I want to thank
6 you for your leadership, and look forward to the
7 testimony today, again, thank you for having this
8 hearing.

9 CHAIRPERSON DILAN: All right,
10 thank you, thank you Mr. Public Advocate.

11 PUBLIC ADVOCATE: Oh, I should, or
12 do you want to go on first?

13 CHAIRPERSON DILAN: You have the
14 floor.

15 PUBLIC ADVOCATE: Oh, let me, my,
16 forgive me, I had one question for HPD, I'll do
17 this quick. Just wanted to ask, in light of the
18 history of the way fines have been, or violations
19 have been approached in this City, could you just
20 give us a little more of your experience of how
21 effective or ineffective the current fine
22 structure has been? How, how frequently some
23 landlords have been able to delay paying fines or
24 getting them bargained down at Housing Court?

25 VITO MUSTACIUOLO: Yeah, it

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2 certainly has been a challenge. Whenever we file
3 an action in Housing Court, we seek the maximum
4 civil penalties permissible. Unfortunately, as
5 you've noted, the Housing Courts generally do not
6 impose the maximum civil penalties. And so they
7 are settled at a much lesser amount. And that's
8 why we obviously support the Intro, because any
9 measures to increase the civil penalties are
10 effective. But I think that we also need to, you
11 know, to talk to the Court system, and to make
12 sure that they understand our concerns.

13 PUBLIC ADVOCATE: I appreciate
14 that, I think there is a lot to do on, in terms of
15 reform on that level. But just to put a point on
16 that last question. So, again, most landlords
17 doing the right thing, for those who aren't, is it
18 fair to say they have something of an expectation
19 that the amount that their official violation
20 total, the amount of total fines that they start
21 with, is not going to be the amount that they will
22 end with, and that they have some expectation
23 they'll be able to lower that through the court
24 system?

25 VITO MUSTACIUOLO: I'm not sure if

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2 there's an expectation. I think, you know,
3 perhaps historically that has proven itself to be
4 the case. But for recalcitrant landlords, we have
5 taken other actions. So, even the imposition of
6 civil penalties is only one step in the
7 enforcement process. Recently, we announced the
8 proactive initiative, and we believe that that
9 will be a huge deterrent, you know, to bad
10 landlords. In addition to which, there's also
11 some, you know, Intros that we're discussing with
12 the Council, that would make a, the ERP charges
13 standalone, a tax lien for a sale. So we believe
14 that there are other measures, in addition to
15 increased civil penalties, that we can incorporate
16 to, you know, to go against the bad landlords. As
17 you said, most landlords are good landlords and
18 comply. The percentage of buildings that have had
19 repeat heat violations issued, is a small number.
20 But it's still big enough that we need to address.

21 PUBLIC ADVOCATE: Thank you, and I
22 want to thank HPD and the Administration for your
23 support of this legislation, it's much
24 appreciated. Thank you, Chair.

25 VITO MUSTACIUOLO: Thank you, Mr.

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2 Public Advocate. Council Member Brewer, followed
3 by Council Member Rodriguez.

4 COUNCIL MEMBER BREWER: Thank you
5 very much. Vito's a rock star. [laughter] My
6 question is, of the 607 buildings that you
7 mentioned out of the 6,200, where there's more
8 than three violations, will those also be targeted
9 as part of the, the 200 buildings that you're
10 looking at to try to make more serious attempts to
11 correct them, that's part of the other sort of
12 general program where you're looking at
13 violations. Are they within that 607?

14 VITO MUSTACIUOLO: I actually will
15 have to match up the, the buildings.

16 COUNCIL MEMBER BREWER: Okay.

17 VITO MUSTACIUOLO: But certainly
18 we're looking at buildings that have higher
19 violation counts. And certainly buildings that
20 are trending in the wrong direction.

21 COUNCIL MEMBER BREWER: Okay.

22 VITO MUSTACIUOLO: So we're looking
23 at buildings for the proactive initiative, we're
24 looking at buildings that are starting, we're
25 starting to see an increase in violations. But

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we'll certainly match up the 607.

COUNCIL MEMBER BREWER: I was just wondering, 'cause I guess your target of both the legislation that, legislations that are being discussed today and in general, will be that 607, trying to get that number down. Is that--?

VITO MUSTACIUOLO: That's correct.

COUNCIL MEMBER BREWER: And so, do you think that, that 291 would help to get that number down in terms of how the, the penalties are structured differently? Would that be a--we're trying to, I guess what we're, I'm trying to say, is what would be the most help to you in trying to get that 607 number down to zero, if possible, obviously.

VITO MUSTACIUOLO: Yeah, I, I certainly believe that 291 will help us get there. I think, as I had mentioned earlier, I think we still need to work very closely with the Council on coming up with other legislative ideas. But 291 certainly is something that we support.

COUNCIL MEMBER BREWER: Okay, thank you.

CHAIRPERSON DILAN: Council Member

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Rodriguez.

COUNCIL MEMBER RODRIGUEZ: Thank you, Chairman Dilan. I am not a member of this Committee, but this issue is so important for me. Especially because the district that I represent, most of the building they are close to 100 years old, Assistant Commissioner, he already know. And I can say that Vito has been the person that probably we've been visiting more of the community together. Someone that there's not a time when we need to go and do the, go in with the inspectors to be sure that we address the issue of lack of heat and hot water in my district. There's a number of occasions that we've been visiting those building, where tenants have been calling because they have been complaining for lack of heat. So, I know how personal is this issue for you. But reality is that this is a issue that still is affecting our City. And, and unless we work together in this, in legislation, so, or Intro such as this one, or other, we will not be able to address this issue. My question is, how serious is the problem of lack of heat and hot water in the City? And what obstacle has you face trying

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to resolve this issue?

VITO MUSTACIUOLO: I think one of the biggest challenges that we really have, as Chair Dilan had mentioned earlier, is to better, best utilize our resources. So we do receive, you know, a large number of complaints or calls into 311, that upon inspection are unfounded. So we really want to work closely with the Council in helping resolve that. 430, and Intro 439, I think is a good start. I don't necessarily believe it gets us there. Because we still, again, are responding to complaints and then not issuing violations. One of the bigger challenges after the violations issued, is actually to get the heat restored. You know, clearly any time we step in after a landlord has not complied with a violation, and are attempting to spend money that would ultimately result in a bill or a lien, there are challenges. And oftentimes we have to file in Housing Court for access warrants for us to actually get in and make repairs. Again, we have tools to do that, and certainly working closely with the Council, and with Council staff, we've been able to be successful with that.

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2 COUNCIL MEMBER RODRIGUEZ: What is
3 your point of view of Intro 291, that's looking to
4 increase the, the penalty for landlords who
5 continue repeating a number of occasion, not
6 providing heat and hot water?

7 VITO MUSTACIUOLO: Again, we love
8 the concept of any Introduction that would help
9 increase our ability to enforce the Housing
10 Maintenance Code, is something that we support.
11 The challenge will be in actually getting the
12 Housing Court judges to impose the maximum civil
13 penalties.

14 COUNCIL MEMBER RODRIGUEZ: Thank
15 you.

16 CHAIRPERSON DILAN: Okay, thank
17 you, I was remiss in pointing out that we have
18 been joined by the Republican leader for a good
19 amount of time now, Jimmy Oddo who's sitting in
20 the back. I have Council Member Mark-Viverito,
21 then the list is open.

22 COUNCIL MEMBER MARK-VIVERITO:
23 Thank you, Mr. Chair. And it's good to see Public
24 Advocate de Blasio here with us. I have a
25 question from the tenants' perspective. What--

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2 obviously, we're, you know, one of the bills
3 speaks to like the repeat offender, so to speak,
4 but what happens in the case where utilities are
5 cut off, you know, that affects obviously the heat
6 and hot water. From the tenant perspective, if
7 that's something that is consistently happening,
8 yes you can go to court, you can try to get it
9 reinstated, but what other options do tenants have
10 to try to really address that issue? What's, and
11 what kind of support does HPD provide to tenants
12 in those, in that case?

13 VITO MUSTACIUOLO: Right. If we do
14 find that the reason why heat and hot water is not
15 being provided is because the utility has been cut
16 off, whether it's for nonpayment of service or
17 because of a violation, we will make the repairs
18 and also pick up the account, whether it's
19 electrical or gas, to restore the heat. And
20 actually last year we spent about :3 million just
21 in utility, you know, emergency repair charges.

22 COUNCIL MEMBER MARK-VIVERITO: So,
23 you're saying that you take over the account in
24 that case, to provide--

25 VITO MUSTACIUOLO: If it's to

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2 provide heat and hot water, yes. So, if it's a
3 gas service or an electric service to the boiler,
4 that's shut off, we will pick up those accounts.
5 We also do fuel drops, and on some buildings that
6 are repeat offenders, we will actually put the
7 building on an automatic fuel delivery for the
8 heat season.

9 COUNCIL MEMBER MARK-VIVERITO: And
10 how do you, how do--Okay, so you take over those
11 accounts. At one point does it get back to the
12 owner? I mean, at what point, you know, that's
13 interesting, I mean, I've, I'm--

14 VITO MUSTACIUOLO: Yeah, at the end
15 of each heat season, and actually what we started
16 this year, is during heat season, we actually will
17 send that information to the Division of
18 Neighborhood Preservation, which also reports to
19 Enforcement Neighborhood Services. And they do
20 outreach to the owners, to get them to pick up the
21 accounts. Again, our primary concern is to make
22 sure that services are restored. So we will open
23 up an account with the utility company in HPD's
24 name, and we will make every effort to continue to
25 reach out to the landlord and have them pick up

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the account. In some--

COUNCIL MEMBER MARK-VIVERITO: And,
mm-hmm.

VITO MUSTACIUOLO: --in some cases,
we actually are successful in working with tenants
in getting tenants to pick up the accounts. But
generally speaking, our focus is obviously to go
after the landlord.

COUNCIL MEMBER MARK-VIVERITO: So
then in the case of, you said \$3 million was spent
in taking some of these accounts, how much of that
\$3 million, I know that Council Member Fidler was
asking about how does HPD recoup the money, how
much of that \$3 million usually in a given year,
how much do you get back from the landlord?

VITO MUSTACIUOLO: Yeah, again,
we'll have to get back to you on that. I mean, we
have a percentage of how much we recoup each year.
To actually relate it to a specific charge is
going to take us a little bit of time. But we
know in generally how much we recoup in emergency
repair charges. It's not always related to that
spending for that year, because we do collect
liens from prior years. But we can certainly do

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2 the analysis, it's just, it will take us a little
3 time.

4 COUNCIL MEMBER MARK-VIVERITO: And
5 the last question, just regarding that, so
6 obviously the interest is to get the heat and hot
7 water back as soon as possible. In the case where
8 it is about an account not being paid, I'm
9 assuming, do you have some sort of a relationship
10 with ConEd? That that informa--you know, once
11 that situation is what it is, that you can get
12 that account set up as quickly as possible and get
13 that heat back or the hot water back?

14 VITO MUSTACIUOLO: Right, we, we
15 actually set the accounts up over the phone with
16 the utility companies. What could be a challenge
17 is to actually get them access into the, the
18 basement to either install a meter or to restore
19 the service. And also it would depend on weather,
20 and their availability. But they know that these
21 are important issues, and we do have a great
22 relationship with the utility companies, so they
23 do expedite those, the service turn-ons for us.

24 COUNCIL MEMBER MARK-VIVERITO:
25 Okay, thank you.

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2 CHAIRPERSON DILAN: Okay, thank
3 you, and I just want to, just acknowledge and I
4 guess I have to, you know, because it is his bill,
5 I have to have some sort of discussion with him,
6 that your amendment having the effective date be
7 effective for the next coming heat season, I think
8 is, is reasonable. I don't have the Public
9 Advocate's perspective on that, but I think
10 operationally it's, that seems to be reasonable.
11 And we'll have discussion as go forward on
12 amendments as it relates to, to 291. And I would
13 say just as it relates to 291, clearly our intent,
14 I think that the Public Advocate has acknowledge,
15 HPD has acknowledged, I will also acknowledge, the
16 intent here is to go after the worst actors. As
17 everyone has said, the majority of property owners
18 and homeowners in this City, we believe do the
19 right thing. We want to make sure that we also
20 amend to protect those type of homeowners. But I
21 think, make no mistake, the owners that cause the
22 most egregious offenses and refuse to provide
23 their tenants heat and hot water, we all believe
24 is, to be, to be unacceptable and we intend to
25 act. Now, for someone who has a boiler problem,

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2 and attempts to, to fix that boiler problem during
3 the heat season, we're, you know, we're
4 sympathetic to that, we're open to that, we'll
5 look to, to manage those type of problems within
6 the bill, and look forward to, to your input on,
7 on how we do that. I just want to thank Council
8 Member Fidler, who is still here, for his line of
9 questioning on Intro 439, because he, without
10 speaking to me, he understood my intent of the
11 legislation. It's not my intent for the
12 thermometers to be used in a legal proceeding,
13 that you often do to, to defend tenants of the
14 City. I think the intent of the bill was to just
15 try to minimize the impact on your inspectors, and
16 collaborate with 311, so that we can get a
17 accurate understanding of when your resources
18 should be deployed. So, I think we'll start and
19 we'll speak to your resources. We, we--You
20 mentioned at the outset, but if you could repeat
21 it again, what was the total number of heat and
22 hot water complaints that you received for the
23 past two heat seasons?

24 VITO MUSTACIUOLO: I have this heat
25 season.

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CHAIRPERSON DILAN: Okay.

VITO MUSTACIUOLO: So. So far we have received 153,748 calls into 311. Of which roughly 50 percent of those are duplicate complaints.

CHAIRPERSON DILAN: Okay.

VITO MUSTACIUOLO: So the way our system is designed, if we receive a complaint from 100 Gold Street, that's a primary complaint. If we receive multiple complaints from that same address, the system will actually identify them as duplicate complaints, until an inspection is actually performed.

CHAIRPERSON DILAN: Okay. So, of the total number of complaints that you received, you were able to identify that 50 percent were duplicate. How many were unwarranted? Do you have that type of data?

VITO MUSTACIUOLO: Yeah, we'll have to get back to you on that, 'cause--

CHAIRPERSON DILAN: Yeah, very interested in that, because I--I guess what I'd like from you, aside from maybe a specific number, do you have a--can you give us a sense as to how

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many unwarranted calls you receive on heat and hot water?

VITO MUSTACIUOLO: Yeah, I mean, approximately 35 percent--

CHAIRPERSON DILAN: 35 percent.

VITO MUSTACIUOLO: --of inspections that we perform for heat and heat related conditions, do not result in the issuance of a violation for that condition.

CHAIRPERSON DILAN: All right.

Well, I'd say that, I would agree that that's, I think you would agree that that's a high number. 35 percent of that total, and I guess a lot of it could be, could be, and I'm not saying that it is, a lot of it could be because there's issues, other issues going on between a homeowner and a tenant, and the City I think needs to focus on the real heat and hot water complaints that need to be addressed, and not the other underlying issues. So that, that's what I'm looking to get to, whether we use a thermometer, whether we use some other measure, I'm open to it. I do think that, you know, maybe if it's, if it's not mandated, you said it's used in cases where it hasn't been

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2 mandated and has proved to be effective. I think
3 we can get more out of it in the future, so again
4 I'll, I'll end my questioning here, but I do want
5 to continue to explore this, this area, because
6 if, if in the budgetary times that we, we are in,
7 and the PEGs that you are receiving, if we could
8 find a way to get at that 35 percent number and
9 bring that number down, I think we both agree that
10 could be of benefit to the agency. And to the
11 residents of the City, as well.

12 VITO MUSTACIUOLO: Absolutely.

13 CHAIRPERSON DILAN: Okay. So, with
14 that, I'd like to thank you--oh, Council Member
15 Fidler for a follow up.

16 COUNCIL MEMBER FIDLER: Yeah, just,
17 just briefly, 'cause I'm again confused by the
18 math. You had 153,000 complaints, half of them
19 were duplicates. That's 75,000.

20 VITO MUSTACIUOLO: Right.

21 COUNCIL MEMBER FIDLER: But you
22 instituted 1,200 proceedings on 7,000 violations.

23 VITO MUSTACIUOLO: Again, that,
24 the--actually the cases, somewhat, are behind the
25 issuance of the violations. We have to allow an

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2 opportunity for the violations to actually get
3 entered into the database. You know, and also
4 realize, too, that there are multiple violations
5 issued on a particular building.

6 COUNCIL MEMBER FIDLER: Yeah, no,
7 I, I get that.

8 VITO MUSTACIUOLO: So--Right.

9 COUNCIL MEMBER FIDLER: And I'm
10 assuming that there are also multiple complaints
11 that are being issued on, coming into you on the
12 same building, that you're not considering
13 duplicative. Otherwise, the math makes no sense.
14 You're suggesting that 35 percent of them are
15 unwarranted, I mean, just be quick, at 50 percent
16 of them unwarranted, you should be instituting,
17 you should be issuing 37,000 violations, and
18 clearly that's not the math. So, I'm just--

19 CHAIRPERSON DILAN: Well, I think
20 in--

21 COUNCIL MEMBER FIDLER: I don't see
22 what I'm missing.

23 CHAIRPERSON DILAN: In fairness,
24 and you have to give him an answer, but I asked
25 him, he acknowledged that he didn't have a hard

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number, so I asked him for a guesstimate.

COUNCIL MEMBER FIDLER: Yeah, no, I understand, but I just, I just pumped it up by 15 percent more. And you know--

VITO MUSTACIUOLO: Yeah, I mean, there are also other factors happening at the same time. We're attempting to call tenants back to see if conditions have been corrected. If the tenant tells us that the heat and hot water's been restored, we close it out at that point. Right, because there's no reason to go further.

COUNCIL MEMBER FIDLER: So what's your lag time in responding to a heat and hot water complaint?

VITO MUSTACIUOLO: On average, it's three to five days. Again, that's from the time that a complaint is called in to 311, until an inspector is dispatched. During that time period, we're also reaching out to the registered managing agent or landlord and we're also calling tenants to confirm that the condition still exists. And we do close a percentage of complaints, I believe it's about 20 percent of complaints are closed just on call back. Again, we only close the

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2 complaint when a tenant tells us the condition's
3 corrected, not when the owner tells us the
4 condition's corrected.

5 COUNCIL MEMBER FIDLER: So, I mean
6 even with those estimates--

7 VITO MUSTACIUOLO: I could walk
8 through the entire process--

9 COUNCIL MEMBER FIDLER: --there's
10 still some, some stuff, you know, a pretty hefty
11 percentage missing in the gap there, and I'm not,
12 you know, this isn't a gotcha moment, I'm not
13 trying to, I'm really trying to understand, you
14 know, because as we are challenged and charged
15 with doing more with less here in government, I
16 would really like to figure out how to make the
17 best use of your inspector's time, so that you're
18 only going to the places that you should be going.
19 And issuing the violations, you know, as promptly
20 as possible. I mean, three to five days is a long
21 time for anyone to be without heat or hot water,
22 and you know, on the other hand, you know, if
23 you're chasing somebody who's calling in an
24 apartment that's got 75 degrees in it,
25 unnecessarily, that's contributing to your lag

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2 time. So, and I don't imagine that we're going to
3 be hiring more inspectors next, you know, winter,
4 either. So, I really would like to understand how
5 these break down, and if you could that to the
6 Chair, and to the Committee--

7 VITO MUSTACIUOLO: Sure.

8 COUNCIL MEMBER FIDLER: --I think
9 that would be very, very helpful as we kind of try
10 to look at a, a more efficient way.

11 VITO MUSTACIUOLO: Absolutely. We
12 have a disposition for every complaint, so we can
13 certainly give you a more precise breakdown. I
14 was really just kind of focusing on the major
15 areas.

16 COUNCIL MEMBER FIDLER: Thank you.

17 VITO MUSTACIUOLO: Yeah.

18 CHAIRPERSON DILAN: Okay, thank
19 you, Council Member Fidler. We'll go back to
20 Council Member Rodriguez, and then we'll close the
21 list, and we'll hear from the public.

22 COUNCIL MEMBER RODRIGUEZ: Thank
23 you. Deputy Commissioner, like how different do
24 you treat the neighborhood where most of the
25 building are close to 100 years old? Compared to

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2 other area like that they are, they don't deal
3 with the situation?

4 VITO MUSTACIUOLO: Yeah, we don't
5 really treat neighborhoods differently, at least
6 not with respect to response to heat and hot water
7 complaints. What we do though is we move our
8 resources accordingly. So if we see that a
9 particular borough has had a higher number of
10 complaints, then we will move inspectors from one
11 location to another. You know, even if it's for a
12 short period of time, to complement the workforce.
13 We've, honestly, this, this winter, because of the
14 weather, we've used more overtime, to respond to
15 heat and hot water complaints. You know, I mean,
16 the snow, even though it doesn't necessarily mean
17 a higher volume of complaints, it means that our
18 inspectors have more difficult time getting
19 around. So, we've actually supplemented with
20 overtime.

21 COUNCIL MEMBER RODRIGUEZ: I just
22 think the realities are different on someone who
23 own a building that was built 15 years ago, most
24 likely would not ev--that person does not provide
25 hot water heat, it's not because issue the

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2 difference with the boilers. However, a building
3 that was built close to 100 years ago, should be
4 treated different because the reality or the lack
5 of repair in many of those boiler will have a
6 negative impact on the lack of heat and hot water.
7 So those HPD, let's say has a plan saying, "Forget
8 about this winter, but the winter 2011/2012 is
9 coming." So, before we get into the winter, is
10 there any plan where we are sure that the boilers
11 are working in those building that are so old?
12 Such as those that we have in our community?

13 VITO MUSTACIUOLO: Yeah, Council
14 Member, it's not really the age of the building,
15 it's more the age of the heating plant. I don't
16 think there are many buildings that still have 100
17 year old boilers in them, that are operable. It's
18 possible, but we haven't really seen many of
19 those. You know, honestly, some of the older
20 buildings that, if they're well maintained and the
21 system works properly, they provide the best heat.
22 The buildings retain heat longer, you know, the
23 old hot water systems and radiators, actually the
24 residual heat lasts a lot longer than the newer
25 buildings with the forced hot air. So, I think it

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2 really depends on, on one that the heating plant
3 that's in place is operational, and that it's the
4 proper size for the building. So, I don't really
5 believe that the age of the building is really a
6 factor.

7 COUNCIL MEMBER RODRIGUEZ: But
8 does, does HPD has a plan before to be ready that
9 before the winter's coming, in areas in the City,
10 where you know that you have the higher percentage
11 of call complaining on 311, to reinforce and to be
12 sure, especially in building when the previous
13 year, landlord has been fined for not providing
14 heat and hot water?

15 VITO MUSTACIUOLO: We have taken
16 proactive measures in the past during the
17 summertime before, before a heat season. We do
18 issue a release advising owners of their
19 responsibilities. And as Council Member Brewer
20 had indicated earlier, something that we will look
21 at is to see if any of these buildings are good
22 candidates for our proactive enforcement program.

23 COUNCIL MEMBER RODRIGUEZ: Thank
24 you.

25 CHAIRPERSON DILAN: Okay, as soon

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2 as I said, you know, close the list, obviously
3 some pertinent stuff came up, so I will allow it.
4 The Public Advocate has a follow up question, then
5 I have one brief question in closing, and then we
6 will move on, I guarantee you, after that.

7 PUBLIC ADVOCATE: Thank you, Mr.
8 Chair. Very quickly following up on Councilman
9 Fidler's questions. So, understanding the
10 complexities of getting the number right of how
11 many New Yorkers are lacking heat and hot water at
12 any given moment, is it a fair statement, at least
13 to say on any given day in winter there are
14 hundreds of families without heat and hot water,
15 would you say thousands, you know, in the low
16 thousands? Can you give us some sense of on an
17 average day in winter, how many families in this
18 City don't have heat and hot water?

19 VITO MUSTACIUOLO: Yeah, I think it
20 is safe to say that on average there are hundreds
21 of families throughout the City. As I had said
22 earlier, in some of the questioning, you know, and
23 I apologize if I'm repeating this again, but last
24 heat season, we issued violations to 6,200
25 distinct buildings for heat and hot water. Only

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2 of which 607 buildings actually were issued, three
3 or more violations throughout the course of the
4 heat season. Which would indicate, you know, that
5 again most owners do respond, that they do make a
6 correction that is lasting, and that they're in
7 compliance. But there are still 600 or so owners
8 or buildings, I should say, where we had had to
9 issue multiple violations.

10 PUBLIC ADVOCATE: So hundreds,
11 hundreds on any given day, thousands in the course
12 of the season, just to give it some shape.

13 VITO MUSTACIUOLO: Right. And
14 again, that doesn't count our efforts throughout,
15 actually do work through the emergency repair
16 program.

17 PUBLIC ADVOCATE: Thank you.

18 VITO MUSTACIUOLO: Thank you.

19 PUBLIC ADVOCATE: Thanks very much.

20 CHAIRPERSON DILAN: Okay, just one
21 follow up in closing. How many inspectors do you
22 have available to address heat and hot water
23 issues?

24 VITO MUSTACIUOLO: We currently
25 have 300 and--300 inspectors that are non-lead

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2 inspectors. During heat season, obviously all of
3 our inspectors, including the 100 lead inspectors
4 that we have, excuse me, do write heat and hot
5 water violations.

6 CHAIRPERSON DILAN: So all 400
7 then, is that, is it--

8 VITO MUSTACIUOLO: All 400, yes,
9 every inspector can write a heat and hot water
10 violation. And even inspectors who are
11 traditionally not assigned to complaint response,
12 during heat season we do give them routes for heat
13 and hot water complaints.

14 CHAIRPERSON DILAN: Okay, thank
15 you. Thank you very much. Thanks for your time.
16 [pause, background noise] Okay, so, we have 15
17 people signed up to speak on, on today's items.
18 First we'll hear from a panel in favor, we'll
19 bring in Mr. Mario Manzoni [phonetic], Met Council
20 on Housing; Mr. John Whitlow [phonetic] of Make
21 the Road New York; and Gladys Padilla of Make the
22 Road New York. And they will be followed by
23 [pause, background noise] and they'll be followed
24 by Mary Ann Rothman, Mr. Frank Ricci, [pause] and
25 Mr. Larry Jason. [pause, background noise] Okay,

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2 why don't we begin with Mr. Manzoni, then we'll go
3 Ms. Padilla, and then Mr. Whitlow, we'll go in
4 that order.

5 MARIO MAZZONI: Hi, my name is
6 Mario Mazzoni, I'm the Director of the
7 Metropolitan Council on Housing, which is a
8 tenants' rights organization. And I'm thankful
9 for the opportunity to be speaking here about this
10 extremely crucial matter of heat on a very cold
11 winter day. We feel that the failure to provide
12 heat is the telltale sign of a slumlord, and the
13 current New York City heat laws are fairly
14 generous. If you've ever lived in an apartment
15 where they provide the minimal 68 degrees during
16 the day and 55 at night, you'll know that that's
17 actually fairly cold. And really what's
18 happening, I'm going to summarize it and go really
19 quickly through this, but basically for a tenant
20 who's paying rent and a landlord who's not giving
21 heat, you're actually stealing from a tenant. And
22 we need to start talking about this in matters of
23 criminal matters, not in terms of, you know, just
24 talking about what's fairness. This is actually
25 what the tenants are paying for. And so I want to

1
2 just go through two historical examples, to talk
3 about what's the real issue, which is the
4 economics of running a building. If you, for
5 people who were around during the lead paint
6 fights, in earlier years, you'll see that
7 landlords, many landlords resisted attempts to put
8 meaningful protections in place for children who
9 were being exposed to lead paint and suffering
10 lifetime brain damage. And what changed that was
11 the economics of meaningful enforcement of the
12 lead paint bill and liabilities. And for those of
13 you who go back a little further, before my time,
14 too, in the late 1970s and early '80s, landlords
15 were burning buildings, with tenants in them in
16 some cases, to collect insurance money. And that
17 was also about economics. And there was, in the
18 early '80s, a series of zip codes that insurers
19 failed, they said, "We will no longer insure
20 buildings in these zip codes, in the South Bronx,
21 if the buildings burn by fire" and the arsons
22 dropped dramatically. That's the economics of it.
23 And so we support this, the Heat Act, primarily
24 because it starts to change the economics of heat
25 in buildings. Unfortunately, right now, the

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2 economics for some landlords suggest to them that
3 it is cheaper to not provide heat and to pay less
4 of a heating bill, than to pay, and that that will
5 save them money because the City's fines are
6 inadequate and they know that they can have some
7 of them written off. And so, we support what is
8 really a sound, rational response to this, which
9 is to change the economics of it. So that no
10 landlord in the City can reasonably say, "It's in
11 my economic interest to provide less heat." We
12 want to change that. Hopefully from the testimony
13 from HPD we heard today, we're not talking about
14 the vast majority of landlords in a City, these
15 are the ones that are breaking the law. The law
16 needs to be revised to, to reinforce that. I did
17 want to make one comment based on the last
18 testimony, which I think needs to be understood.
19 We get hundreds of calls to our Tenants' Rights
20 Hotline that we have three days a week. Many of
21 them are people who have called 311, gone through
22 the normal procedures and are unable to get
23 results. In the matter of getting heat, one major
24 problem with the 311 system is that tenants have
25 no idea when the HPD inspector will come to their

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2 apartment. And are not able to provide access to
3 the inspectors. That's a huge problem. When
4 you're in a court case and you have an appointed
5 time, the inspector will be there at 1:00 p.m. on
6 Tuesday. You can make sure that a neighbor is
7 able to provide access at that time. But when we
8 hear people calling who have jobs, who go through
9 a night without heat, you're not going to get an
10 inspector at 11:00 p.m. most times. That's a huge
11 problem and that's one of the main reasons why
12 people's complaints don't end up being, get
13 followed through: inadequate time. And the other
14 problem with the HPD inspection system has to do
15 with the fact that tenants actually do self-help
16 means of providing heat on a regular basis, when
17 you have a three to five day lag time. We hear
18 lots of people who turn their ovens on, and keep
19 them on all day, or turn their gas burners on, or
20 who buy space heaters. And I'm sorry to say, but
21 a lot of the issues are not no heat, they're
22 inadequate heat, and when you have that type of
23 lag time, you're going to have a major discrepancy
24 in that. So I just wanted say that while, while
25 we've look at these statistics from the side of

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2 the supposed tenant who wants to get back at their
3 landlord through a false complaint, I think we
4 have far more that are missed because the system
5 of enforcement doesn't--and of inspections--
6 doesn't quite meet the needs of, of most tenants,
7 especially working tenants in New York.

8 CHAIRPERSON DILAN: Thank you, Mr.
9 Mazzoni. Ms. Padilla? Oh, it's not Padilla,
10 sorry. Puglia.

11 GLADYS PUGLIA: Puglia.

12 CHAIRPERSON DILAN: Puglia, excuse
13 me.

14 GLADYS PUGLIA: Okay. Good
15 morning, everyone, ladies and gentlemen. My name
16 is Gladys Puglia. I'm a Member and a Chair of,
17 one of the Chair of the Board of Directors of Make
18 the Road. We are one of the largest immigrant
19 based, community based organizations in New York
20 City. I live on 6th, 1406 - - Avenue, Apartment
21 2, Brooklyn, New York. I have lived there in this
22 apartment almost twelve years. I live there with
23 my three children and my granddaughter who's 18
24 months. Since I moved to this apartment, I have a
25 lot of problems with the landlord. Has never

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2 fumigated, has never changed here, fixed the
3 bathroom, we need to pay him. We have another
4 problem with the electricity--lights keep burning
5 out. We have problems with the windows, they is
6 not insulated well. We have another thing that we
7 have mold on the walls, especially bathrooms. So,
8 we have lead on the walls, too, so which the
9 inspector came in and told the landlord that he
10 had to fix it, and he just painted over. The
11 reason that this testimony is because I'm ti--I'm
12 one of the tenants of the thousand complainers
13 that we have in this City, so I'm including in
14 that list because I've been calling since October
15 1st, calling 311 saying, "We need heat."
16 Especially after 6:00 p.m., 'cause that's when the
17 landlord shuts of the boilers, and he always says
18 it's not working, the boilers, or he's saying that
19 we covering the heaters, or whatever, the
20 radiators, so that's what all the little excuses
21 that we get from the super saying that, "You
22 covering the heaters, that's why you're not
23 getting heat." So, but I tell him, "During the
24 day there's still heat like crazy that we have to
25 open the windows, but during the night, so it

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2 doesn't work." So. And then, there's another
3 issue, too, that we go and knock on his door after
4 6:00 p.m., we knock, 7:00, 8:00, 9:00, 10:00
5 o'clock, 11:00, 12:00 o'clock, he never answer us,
6 or he just come out and say, "Oh, the boiler's on.
7 So wait until it goes, the heat goes up." So,
8 another night we have another, another night with
9 no heat, and especially these colder nights that
10 we're having in this winter. So, last Friday is
11 the last night that we didn't have no heat, for
12 already three days. Even though, I mean, the--the
13 temperature hasn't not been that hot, that low,
14 but we haven't had no heat on during the nights.
15 So, like I told my lawyer [laughs] that I have to
16 send my granddaughter to his grandfather, to the
17 grandfather's so she could sleep over, because we
18 don't have no heat at night. So, I have to send
19 her out, to the Williamsburg side, so she could
20 sleep in a hot, nice room. I just want you to
21 tell the inspectors, "Thank you for coming." They
22 do come. Even though I'm not there, they do come.
23 But the thing is that, like Mario's saying, they
24 don't tell us when they're coming, that's one
25 issue. But sometimes my kids coming from school

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2 that are there, so they come in, but the thing is
3 that they tell the landlord that they coming in,
4 so the landlord give us, like I tell you, our
5 proportion heat that they, and they find it fine.
6 Or if somebody's cooking, the apartment is fine.
7 The room is warm. But the thing is, the issue is,
8 too, that the first room, which is my bedroom, is
9 the first room, that's the one that is always the
10 coldest in the whole apartment. Because the heat
11 doesn't get there. And that's I don't know why,
12 how this landlord has this heating system done.
13 So, we get some heat probably in the kitchen, but
14 we don't get it in the rest of the rooms. So,
15 that's another issue we're having in this
16 apartment. So, it's difficult. It's difficult to
17 work with this landlord, and we have tell him and
18 complained every day and every night. So, we have
19 called them and we didn't get no issue undone. We
20 don't get nothing resolved. So, I'm begging you
21 all, if this Intro goes into effect, it's going to
22 help a lot of tenants in New York City. Thank
23 you.

24 CHAIRPERSON DILAN: Thank you. Mr.
25 Whitlow.

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2 JOHN WHITLOW: My name is John
3 Whitlow, and I'm a Supervising Attorney at Make
4 the Road New York, a nonprofit organization based
5 in the communities of Bushwick, Brooklyn; Jackson
6 Heights, Queens; and Port Richmond, Staten Island.
7 Make the Road builds the power of immigrant and
8 working class communities to achieve dignity and
9 justice through organizing policy innovation,
10 transformative education and survival services.
11 Our organization consists of over 8,000 members,
12 most of whom are immigrants, and many of whom live
13 in substandard housing. I submit the testimony on
14 behalf of Make the Road and thank the Committee
15 for the opportunity to participate in this
16 hearing. Make the Road supports the proposed law,
17 Intro 291, The Heat Act, which doubles the penalty
18 period from one year to two year, in which, two
19 years, in which heat and hot water violations are
20 subject to stiffer civil penalties. As the
21 Housing Attorney representing tenants struggling
22 to get much needed repairs in their apartments,
23 I've found that landlords often ignore HPD
24 violations, presumably finding it more cost
25 effective to withhold services to their tenants,

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2 than to comply with the City's Administrative
3 Code. The Heat Act, by effectively increasing
4 penalties for landlords who repeatedly fail to
5 provide adequate heat and hot water, incentivizes
6 landlords to comply with the law. In this regard,
7 it's a step forward toward improve--or a step
8 toward improving the quality of life of New York's
9 tenants. However, more work needs to and can be
10 done in this area. In my practice, I've seen
11 firsthand, in the context of tenant initiated
12 housing part actions, HPD settle cases with
13 recalcitrant landlords for a fraction of what they
14 owe in civil penalties. While I understand the
15 rationale behind settling these cases for less
16 than the full amount of penalties owed, it strikes
17 me that stricter enforcement of the penalty
18 provisions already on the books would serve as an
19 effective deterrent to offending landlords and
20 would also provide an additional revenue stream to
21 HPD. It has also struck me that despite the fact
22 that it is tenants who are inconvenienced, and at
23 times put in peril by landlords who do not
24 maintain their buildings up to code, penalties
25 accruing as a result of HPD violations go to the

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2 City, and not the tenants. While tenants can sue
3 their landlords for damages stemming from problems
4 in their building, this requires commencing a
5 separate litigation, i.e., apart from an HP action
6 in Housing Court, and navigating an often lengthy
7 and complicated court process. The Council should
8 explore amending the Administrative Code to allow
9 tenants to recover fines apart from what HPD is
10 currently able to recover in the form of civil
11 penalties. These issues notwithstanding, Make the
12 Road firmly supports The Heat Act and urges its
13 passage by the Council. As the law will make it
14 more expensive for landlords to deprive their
15 tenants of heat and hot water. The Heat Act is a
16 step forward for tenants seeking healthier, safer
17 homes. Thank you.

18 CHAIRPERSON DILAN: Okay, I'd like
19 to thank you all for your time and testimony. I
20 understand the, the Public Advocate has a
21 question.

22 PUBLIC ADVOCATE: Thank you, Mr.
23 Chair. Just a quick question. And I want to
24 specifically ask Gladys, first of all, which,
25 which neighborhood in Brooklyn is your building

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in?

GLADYS PUGLIA: Bushwick.

PUBLIC ADVOCATE: Bushwick. And
it's a six unit building, is that right?

GLADYS PUGLIA: Yes.

PUBLIC ADVOCATE: Okay. So, how
many years has this off-and-on heat been going on?

GLADYS PUGLIA: Since I move in.

PUBLIC ADVOCATE: Since you moved
in. Seniors in the building? Kids in the
building? Families?

GLADYS PUGLIA: Well, there was,
used to be a senior on third floor, but she, they
move out because she was very old and then the,
constantly problems that she was having in the
apartment, so they, the kids took 'em out, took
her out.

PUBLIC ADVOCATE: So, but, in part
because it was so cold at night, it wasn't a place
where a senior citizen could live?

GLADYS PUGLIA: Yeah, one of the
issues. And then she couldn't, she couldn't be
taken care of.

PUBLIC ADVOCATE: And?

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2 GLADYS PUGLIA: And they have
3 children, we have children, on the first floor and
4 second floor, and the same problem.

5 PUBLIC ADVOCATE: What is it, how
6 do the parents deal with not having heat at night?
7 What do they do to make sure their children are
8 warm? I mean, is it a struggle?

9 GLADYS PUGLIA: Stove, yeah, we
10 turn on the stove, put in a lot of pots to boil
11 water, that's why we don't--

12 PUBLIC ADVOCATE: So they have to
13 have the stove on, which I assume is also not the
14 safest--

15 GLADYS PUGLIA: Yeah, and some,
16 some little small heaters, which is very
17 dangerous. Which I have, I have bought one, and
18 since it burned out, I didn't buy no more.

19 [laughs]

20 PUBLIC ADVOCATE: Do you think that
21 it's more likely that kids get sick when there's
22 not heat at night? Have you seen that?

23 GLADYS PUGLIA: Yes. Everybody was
24 coughing last month, we were all sick with
25 coughing, everybody was like every night, at 12:00

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2 o'clock, you would hear everybody coughing in
3 their apartments.

4 PUBLIC ADVOCATE: And when you say
5 to the landlord, "This is, you know, affecting
6 kids, it's affecting seniors," what does the
7 landlord say?

8 GLADYS PUGLIA: Nothing. What
9 could he say?

10 PUBLIC ADVOCATE: No, no response.

11 GLADYS PUGLIA: No, we all have
12 told him, "Look, I mean, we just, we don't want
13 the heat that you give us during the day, we're
14 not there. We just want a little bit of heat at
15 night."

16 PUBLIC ADVOCATE: Right.

17 GLADYS PUGLIA: That's all we
18 asking, because that's where we sleeping, and
19 that's where we get colder, at night. We're there
20 at night, not during the day. Kids are not there
21 during the day, because they're in school. We are
22 working. So nobody's there during the day, so
23 they give this heat like trying to warm up the
24 apartments, so it could last it through the night,
25 probably, that's what they think.

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2 PUBLIC ADVOCATE: But you, final,
3 just final point, so you say to him, "Look it,
4 people are sick, you had a senior citizen couldn't
5 even stay there is was so bad." Is the landlord
6 ever willing to change his ways? Is he ever
7 willing to acknowledge that this is causing some
8 real suffering to people?

9 GLADYS PUGLIA: No.

10 PUBLIC ADVOCATE: Not at all.

11 GLADYS PUGLIA: No.

12 PUBLIC ADVOCATE: Thank you. Thank
13 you, Mr. Chair.

14 CHAIRPERSON DILAN: Thank you, Mr.
15 de Blasio. Council Member Viverito.

16 COUNCIL MEMBER MARK-VIVERITO: [off
17 mic] Just a quest--Mr. Whitlow, I'm assuming that
18 you're familiar with this building. How many
19 times has that landlord been taken to court for
20 that, for this issue?

21 JOHN WHITLOW: We haven't sued him
22 in an HP action. He--if I can say [background
23 comment]

24 GLADYS PUGLIA: Yeah.

25 JOHN WHITLOW: We're, she's

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2 currently in court with him in a nonpayment
3 proceeding.

4 COUNCIL MEMBER MARK-VIVERITO: And
5 how, how many violations has HPD issued to this
6 landlord?

7 GLADYS PUGLIA: Well, I have some,
8 really the, for what I heard from my third floor
9 girl, because I haven't spoke to an inspector yet.
10 I mean, like I tell you, they come during the time
11 that I'm not there. But they say he has probably
12 150 violations. But I mean, he just can fix one
13 or two, and then the rest is forgotten. So, then,
14 they don't enforce it.

15 COUNCIL MEMBER MARK-VIVERITO: But
16 this is a, primarily would you say those
17 violations are all about heat? Primarily?

18 GLADYS PUGLIA: Most, most, not,
19 not really, - -

20 COUNCIL MEMBER MARK-VIVERITO: No,
21 there's repairs issues, as well.

22 GLADYS PUGLIA: Repair issues, too.

23 COUNCIL MEMBER MARK-VIVERITO:
24 Okay, 'cause I guess the, the issue that was
25 raised, also, by, was in terms of when these

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inspections happen, I guess that's an issue.

GLADYS PUGLIA: Yes.

COUNCIL MEMBER MARK-VIVERITO: In terms of, of your understanding for either of the other two, what is, I mean, are inspectors going out late at night to find out if the heat at night is--

GLADYS PUGLIA: No, that's the problems that we don't have inspector going after 6:00 o'clock. That's why I told every inspector that I've had come there--

COUNCIL MEMBER MARK-VIVERITO:
That's--

GLADYS PUGLIA: --I tell 'me, you come before 6:00 o'clock. The problem is after 6:00 o'clock.

COUNCIL MEMBER MARK-VIVERITO:
Correct.

GLADYS PUGLIA: So that's what is going on.

JOHN WHITLOW: Can I make just a comment about that. I mean, this is one of those real common sense things.

COUNCIL MEMBER MARK-VIVERITO:

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Correct.

JOHN WHITLOW: In that tenants really actually usually know when they're getting heat and not getting heat. 'Cause as I had a person come up here, too, who I hope will be able to speak later, a tenant, tenant leader from Met Council on Housing that's also facing not no heat, but predictably low heat where it comes on at times of the day that you really can clock, comes on for 30 minutes at 6:00 in the morning; comes on for 30 minutes at noon; and it comes on for 30 minutes at 6:00 p.m. And that's it for the night. And in most cases, a tenant could tell a 311 inspector, "This is the time of day I always don't get heat." And then an inspector could come out at that time of the day. Unfortunately, they don't do that, that's not the way the system works. There's a lot of room for dramatic improvement in the 311 inspection system, that I think should be acknowledged on all ends. The easiest one would be for a tenant to give a general, kind of like the cable people will be here in the morning, or will be here in the afternoon. That simple kind of a system would

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2 help HPD inspectors actually be there at the times
3 not only that the tenant is going to be home, or
4 can make arrangements for somebody to be home, on
5 that day; and, and for the heat in particular, for
6 the inspector to be there at the time of day when
7 there's isn't heat. And so I'm not necessarily
8 saying 10:45 strict appointment time, but for the
9 tenant to be able to know what day. I've heard of
10 tenants calling us saying, "I don't know what to
11 do. I called 311, I took a couple days off of
12 work, and they came on a Sunday."

13 CHAIRPERSON DILAN: I need to--

14 JOHN WHITLOW: "And I was at
15 church."

16 CHAIRPERSON DILAN: I need to--

17 JOHN WHITLOW: And so that's the
18 problem I think they were speaking about.

19 COUNCIL MEMBER MARK-VIVERITO:

20 Well, thank you for the testimony. I think this
21 is raising other issues, obviously, you know,
22 beyond what the immediate scope of the bill, which
23 I'm glad you're supportive of. And hopefully
24 we'll follow it up at some future--You're making
25 good recommendations also about how the system can

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be kind of overhauled in a bit.

CHAIRPERSON DILAN: The timing of resources is an issue we need to explore with HPD. And that's fine, that sounds like a thermostat issue, and it sounds like there's a lot of games going on in that particular case. Council Member Williams, we've been joined by. And I understand he has a question for the panel.

COUNCIL MEMBER WILLIAMS: Thank you, Mr. Chair. Thank you for the testimony. And as you know, former tenant organizer, I understand this all too well. I was very, very happy to sign onto this bill. I know it did, there are some shortcomings. And I wanted to ask if, if and how it would help you in dealing with the, the ten-- the landlords. Because, you know, the problem I have is they don't pay, so I'm happy that we're doubling it, and hopefully we can get 'em to pay. But how does it, in the real world, going to assist you when you're dealing with the ten--with the landlords? Maybe if they're going to bargain down, maybe they'll have at least more to bargain down from. But I'd just like to hear that a little bit.

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2 JOHN WHITLOW: I, I think it would
3 certainly help to increase the fine amount and/or
4 increase the, the look back period, which this
5 bill does. However, there's also the problems
6 which I referred to in my testimony, which is
7 that, you know, when you're, when we're in court
8 with a landlord on a tenant initiated housing part
9 action, HPD is a respondent or a defendant in that
10 action. And so, we're trying to get the repairs
11 made, and then somewhere along the line,
12 presumably HPD is settling the case with regard to
13 the civil penalties. There's, my experience has
14 been that there's not a lot of room for us to take
15 part in that negotiation between HP and the
16 landlord. But what I've seen is that those, those
17 penalties get settled for an amount that strikes
18 me as being very low, relative to the laws on the
19 books, and also relative what the tenants are
20 having to deal with in their apartments. So, you
21 know, I'm not, I'm not sure how to, how to bring
22 that into, into action, but it strikes me that
23 there's money being left on the table, and it
24 land--the civil penalties are not serving as an
25 adequate deterrent because these are settled for a

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small fraction of the total amount.

COUNCIL MEMBER WILLIAMS: So it would help during the settling period, when they're settling out the, the bills?

JOHN WHITLOW: Well, I--I mean, my, obviously I'm speaking on behalf of, of tenant advocates, but I think it would make tenants and, and us--

COUNCIL MEMBER WILLIAMS: Me, too.

JOHN WHITLOW: --much, much happier if we saw, you know, landlords who have been fined thousands of dollars, actually have to pay something very close to the amount that they've been fined. So, I really applaud the, the Council for, or the Committee, for, you know, holding a hearing on this bill. But it also seems like there's a piece of this, which is enforcing the laws already on the books, which can really be an important tool, as well.

COUNCIL MEMBER WILLIAMS: Thank you, and thank you to the Public Advocate for your foresight on the bill.

PUBLIC ADVOCATE: Thank you.

CHAIRPERSON DILAN: Okay, thank you

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2 all, for your time and for your testimony. So I'm
3 going to call up Mary Ann Rothman, Larry Jason and
4 Frank Ricci, if you could testify in that order.
5 And I understand it's, it's--[background noise]
6 And if I could ask the Sergeant-at-Arms to take
7 that, and if we could bring up one extra chair, if
8 that's possible. Okay, and then the next panel
9 will be Kathleen Brennan, Jon Furlong, and Sateesh
10 Nos--Noshi [phonetic]. That'll be the, the next
11 panel.

12 [pause, background noise]

13 MARY ANN ROTHMAN: Good morning,
14 Chairman Dilan, and Members of the Committee. My
15 name is Mary Ann Rothman, and I'm the Executive
16 Director of the Council of New York Cooperatives
17 and Condominiums, which is a membership
18 organization comprised of housing cooperatives and
19 condominiums located throughout the five boroughs
20 of New York City. They are the homes of more than
21 170,000 New York families. I'm here to address
22 Intro 439 today. Our organization seeks
23 consistently to have the homeowner status of our
24 members recognized in legislation, in regulation
25 and in practices. There are instances, of course,

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2 where multiple dwelling laws are appropriately
3 applied to cooperatives and condominiums, such as
4 when the Code affects the public areas of these
5 buildings, or rental units that are owned directly
6 by the cooperative or condominium. However, the
7 individual shareholders of cooperatives and the
8 unit owners of condominiums, bear full
9 responsibility for the interiors of their units.
10 For this reason, we ask the cooperatives and
11 condominiums be exempted from the, the
12 requirements of Intro 439. Clearly, Intro 439 is
13 well intentioned. Thermometers in every living
14 room could help confrontational situations between
15 rental tenants and the owners of their buildings.
16 Thermometers can be useful in promoting energy
17 conservation while ensuring that the requirements
18 of the law are met. However, in cooperatives and
19 condominiums, it's the owners who live in the
20 building and they share a common interest in
21 ensuring that the heating system works efficiently
22 and effectively. Furthermore, these homeowners
23 may or may not want thermometers in their rooms
24 and it's their right to make this choice. There's
25 ample precedent for recognizing the special

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2 ownership nature of cooperatives and condominium
3 living. For example, the law requiring the fire
4 safety information be posted on the inside of the
5 front door of rental units, requires simply that
6 cooperatives and condominiums distribute this
7 information to the shareholders and unit owners.
8 CNYC respectfully requests similar exemptions in
9 Intro 439, sorry. Thank you.

10 CHAIRPERSON DILAN: Mr. Jason.

11 LARRY JASON: Good morning,
12 Chairman Dilan, Members of the Committee, my name
13 is Larry Jason, and I'm the Executive Director of
14 Brooklyn Housing and Family Services and have been
15 with the organization for 32 years. When I first
16 met with Councilman Dilan last year and we
17 discussed issues that we thought might be of
18 benefit to tenants, one of our longtime concerns
19 at Brooklyn Housing and Family Services is the way
20 heat complaints are reported to 311, HPD,
21 community groups, landlords and elected officials.
22 On most occasions during my 30 plus years, when
23 the tenants call, we hear, "I have no heat," or
24 "My apartment is cold," or "My radiators are ice
25 cold." This does not address a most important

1 factor, "How many degrees is your, is your
2 apartment? And is it at legal levels by New York
3 City Code?" We all know that 68 degrees between
4 6:00 in the morning and 10:00 at night, and 55
5 between 10:00 at night and 6:00 in the morning,
6 can be brutally cold if you are elderly, sick,
7 frail or a child. Those however are the laws and
8 parameters in which we must work. Maybe that law
9 needs change, but I guess that will be for another
10 day. The thought of tenants actually having
11 thermometers to be able to give an accurate
12 reading made an awful lot of sense. After
13 receiving a copy of Intro 439 on Wednesday, I had
14 an opportunity to speak to John Lansden,
15 Supervising Judge in Kings County Housing Court.
16 We had discussed a broad variety of topics
17 regarding Intro 439. From the standpoint of the
18 Judge, some concerns were what type of thermometer
19 would be used? The thermometers really should be
20 approved or recommended by HPD, maybe three or
21 four different types to choose from. Where will
22 the installation be in the room? Certainly not
23 near a window, not near a radiator or standing
24 pipe, not on a wall directly behind the kitchen
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2 stove. Are they going to be installed in all
3 living areas, bedrooms, den, kitchen? Or just
4 living rooms? How accurate are the thermometers?
5 What if a tenant's thermometer reads 64 degrees,
6 and the superintendent brings his more expensive
7 and HPD approved thermometer, which reads 70
8 degrees? Whose thermometer is accurate? If a
9 tenant has a temperature reading of less than 68
10 degrees on his thermometer, calls 311, an
11 inspector come to the apartment, and when he gets
12 there his reading is 68 or more, can he write a
13 violation? No, he cannot. This could easily
14 frustrate the tenants that we are trying to help.
15 If a tenant is in court, for lack of heat, on
16 either an HP action or rent withholding, and has a
17 record or a chart of heat readings that he or she
18 has kept, that are below the legal guidelines, but
19 the landlord brings in computer readings from the
20 census that are now in tens of thousands of
21 apartments citywide, who does the judge believe?
22 And what about artificial heat? Because I've
23 heard that mentioned. And artificial heat to me
24 is, is a very simple thing. My wife is in the
25 apartment, our thermometer reads 64 degrees.

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2 She's freezing. She puts on the heater, she puts
3 on the gas, and she puts on the oven, so that 64
4 degrees probably now becomes 68 or 70 degrees,
5 which is the actual now reading of the apartment,
6 but that six or eight degrees that it's been
7 brought up, has brought, been brought up by
8 artificial ways and methods. I believe that the
9 thermometer idea is a good one, that is needed to
10 protect the tenants of our City. There are still
11 owners out there who will choose not to provide
12 heat, and make a larger profit without concern for
13 the people that will be affected. There are,
14 however, many questions that should be addressed.
15 I truly believe that a small group should be
16 empaneled. It should include some tenant
17 advocates, maybe some legal aid people, building
18 owners or RSA, HPD representatives, and judges in
19 Housing Court; maybe eight to twelve people to
20 iron out the kinks of 439. It can be done
21 quickly, fairly and with give and take from both
22 sides, a compromise bill will come that not only
23 makes sense, but is one that will accomplish
24 everything that you want it to. Thank you for
25 your patience and for taking the time to try to

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help the tenants of our City.

CHAIRPERSON DILAN: Thank you, Mr. Jason. Mr. Ricci?

FRANK RICCI: Thank you, Mr. Chairman, members of the Committee. My name's Frank Ricci, I'm the Director of Government Affairs at the Rent Stabilization Association. I'm joined on my right by Mitch Posilkin, who is the General Counsel to RSA. I'm going to be very brief. I, I just want to start off by echoing what I heard Councilman Fidler say, Public Advocate de Blasio and others. Most owners in the City are doing a good job, they're complying with the law. There is a band, a small band of owners who don't comply. They give us all a bad name. We are not here today to protect them any way, or make excuses for them. But with regard to Intro 291, our--we support the intent of it. There has to be a way to get at those owners who aren't doing the job they're supposed to do, and this bill, I believe, takes a step in that direction. Our only concern with the bill is that you may have owners, there are owners who do get heat violations because they have mechanical things in

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2 their buildings. Earlier, Councilman Rodriguez
3 kept pointing out how many of the buildings in his
4 district are 100 years old. I'm not going to get
5 into a debate on rent regulation, but when you're
6 limiting the income of buildings over, you know,
7 60 of those years, upgrades and repairs don't
8 always get made because of cash flow. Having said
9 that, I--we're concerned that, that mechanical
10 things do break, and boilers break, boilers get,
11 oil tanks get clogged up, there are legitimate
12 reasons why an owner may get a heat violation.
13 And it may be his only violation for one year, and
14 out of a ten year period. But if that repair
15 isn't done properly, if a mechanic misreads,
16 misdiagnosis what the repair is, and that, that
17 breakdown reoccurs again within a four month or
18 six month period, we think that the increased
19 fines that, that are the subject of this bill,
20 would be better spent trying to fix the problem in
21 the building, going back into the building, rather
22 than into a fine. So, we have had some
23 discussions with the Public Advocate's staff, on
24 maybe a way to address that one very narrow issue
25 for that, that narrow group of owners who might

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2 get caught up in this, who we believe are acting
3 responsibly. And at this point in time, we'd like
4 to, to keep the door open to those discussions. I
5 know this is only the first hearing on this bill,
6 and that's our position on it at this time. But
7 in its current form, we can't support it. On
8 Intro 439, once again, our position is we think
9 that, that the idea of it is, is a pretty good
10 idea. For all the, the reasons that Mr. Jason
11 enumerated, though, there's a lot of practical
12 issues as to why it might not work at this time.
13 But once again, you know, I think I would like to,
14 I know RSA would like to, to be part of that
15 group, and sit down and figure out some ways that
16 we may be able to overcome some of those
17 obstacles, and you know, I know that my
18 Councilwoman, Gale Brewer here, who used to Chair
19 the Technology Committee, I think there might be
20 some technological ways to get around this issue.
21 And it's not something that, that I can go into in
22 detail now, because I'd really need to talk to
23 some owners about it. But there might be a large
24 group of buildings in this City, as Mr. Jason
25 pointed out, that have many buildings now of

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2 numerous sensors throughout the building. And I
3 don't know, there might be a way to really
4 overcome some of these other obstacles, with
5 further discussion.

6 CHAIRPERSON DILAN: Okay, I'll
7 defer to the Public Advocate, if he chooses to so
8 go first, and then I'll follow.

9 PUBLIC ADVOCATE: No, just a very
10 simple statement. I--wait a minute, let me go to
11 the other microphone. Here's a better microphone.
12 Mr. Chairman, thank you. I appreciate Mr. Ricci's
13 comments. We do look forward to continuing the
14 conversation. Obviously the goal here is to focus
15 on landlords who are not dealing with an
16 exceptional situation and are unfortunately, as
17 we've said, gaming the system purposefully. And I
18 want to, in the same spirit thank you for your
19 acknowledgement at the beginning, I think common
20 ground, we all believe, most landlords are doing
21 the right thing. We all agree there are bad
22 apples, bad apples are bad for the City of New
23 York, they're bad for your industry. The ones who
24 are gaming the system need to experience these
25 kind of penalties and others, I believe. The ones

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2 who are dealing with a legitimate technical
3 problem, we're not trying to undermine them, and
4 we want to work with you to figure out the right
5 wording to acknowledge that reality. Thank you.

6 CHAIRPERSON DILAN: Okay, thank
7 you. And I'll start with Ms. Rothman, thank you
8 for your testimony, and I'll say, frankly, I--you
9 might be speaking on an unintended consequence of
10 the legislation. I don't think we, in drafting
11 the bill, took, you know, co-ops and condos into
12 consideration. So your testimony will be noted.
13 And as I said in the outset, you know, I see this
14 bill as a work in progress. I know this bill's
15 not ready for primetime, so I don't want to
16 unnecessarily scare anybody. Just for lack of a
17 better word. But I do think that there's
18 something there, because you see the spirit of
19 cooperation between the tenant side and the owner
20 side, and from the City agency who acknowledges
21 that 35 percent of their calls are, are
22 unwarranted calls. So, I think it's an
23 opportunity, and this is Mr. Jason's idea to, to
24 get some sort of taskforce together. I don't have
25 a problem being a member of that taskforce, if

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2 Council Member Brewer in her old hat as the
3 Council's onetime Technology Guru. I know the
4 hats change, but the experience never goes away.
5 If she's interested, you know, I'd be happy to,
6 happy to have her. But I think we need to have
7 more discussion in and around how we, how we
8 attack this problem, and I think there's something
9 there, we can just put minds together. For Mr.
10 Ricci, you know, what I'll say is, I appreciate
11 the work that you and the, the Public Advocate
12 have been doing. And I know the, the--we're
13 hearing the original bill, I know a compromise
14 bill or an amended bill, not a compromise bill,
15 but an amended bill is not before this Committee
16 at this time, but I think it's the intention of
17 everybody on this Committee to, to protect the
18 responsible owner. And, and really to go after
19 the, the bad owner. And I want to make sure that
20 our final product reflects that. I know that
21 sometimes systems break, and I think we can allow
22 for that with particular language in the
23 legislation. I do want to ask about what owners
24 are experiencing, and I know it's semi-related,
25 and I'll, you know, I do this to all my Committee

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2 Members, so I have to stick to my own rule, but as
3 it relates to the fuel costs and some
4 administrative changes that the Administration has
5 made with, with fuel oil, what, what is, what are
6 the problems some of the responsible owners are
7 facing in terms of heating their buildings, as it
8 relates to fuel costs?

9 FRANK RICCI: Well, there's been a
10 dramatic jump in the cost of fuel, not just in the
11 last year, but over the last five years, there's
12 been a continuing march in terms of higher oil
13 prices, in terms of higher natural gas prices.
14 And now, I mean, there's, I will tell you that
15 it's not the, it's not an issue that'll be in this
16 Committee, but you know, there is a scare going
17 through the real estate industry now, that a lot
18 of the lower income buildings now, DEP has
19 proposed a regulation to basically phase out
20 number six oil. The Council, Councilman Gennaro's
21 Committee last summer passed a bill that changed
22 the sulfur standard on number four oil, which has
23 caused a dramatic price increase on number four
24 now. So that is putting economic pressure on
25 buildings. And, and I understand, you know, when

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2 these bills are passed there's economic
3 justification is given that, that, well, you know,
4 many people will suffer possibly less health
5 issues, but the reality is that's not money that's
6 going back to provide heat in that building.

7 That's a big problem. Conversion costs to go to a
8 cleaner number two or gas is also off the charts,
9 it could be in the hundreds of thousands if not
10 millions of dollars, to convert a building, if
11 there's even a cleaner fuel available. So, all
12 these things are really putting economic pressure
13 on buildings. Because of the three year phase out
14 that H--that DEP is talking about on number six
15 oil, that's not a lot of time for some of these
16 buildings with cash flow problems to actually
17 start budgeting now, if they have to do a
18 conversion over the next few years. So, I don't
19 know what, what's happening with the co-ops and
20 condos, but that's, that's what's happening now.
21 And of course, it's been a brutal winter. I mean,
22 just the number of degree days where you've had
23 the temperature, you know, below 32, in the month
24 of January, is probably I think one of the worst
25 in memory, so that's put a lot of pressure on

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buildings, also.

CHAIRPERSON DILAN: All right, and I, I also understand and, and appreciate your comments that you said at the outset, that you're not here to defend or make excuses for any owner that's not providing heat and hot water, which you acknowledge is a responsibility of responsible ownership, so I appreciate those comments. Any questions from my colleagues? Council Member Williams. Oh, and I have to, before Council Member Williams, we've been joined by Council Member James, Council Member Lander and Council Member Gennaro. And then after Williams, we actually have Brewer and then Viverito. Oh, I'm sorry, Brewer and then Lander.

COUNCIL MEMBER WILLIAMS: Thank you, Mr. Chair. Thank you, everyone, for the testimony. First, Mr. Ricci, I would just, there's two things I wanted to point out. Not to my question, but you had mentioned, you know, about rent regulation. But I always like to say, "No one is forcing a landlord to purchase a rent regulated building or a rent controlled building." So, I always take that into account when we're

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2 talking about rent regulation. And we were just
3 talking about economic pressures. I just want to
4 be careful, 'cause I know we're going to go into
5 RGB season, and there's been no time when there's
6 economic pressures or not economic pressures, that
7 I've seen landlords say that we don't need a rent
8 increase. So, sometimes they don't move me as
9 much, because when it's on the other side, we
10 don't get it back anyway. But my question was,
11 and I do appreciate both of your statements, but
12 my, my question, I wasn't clear and maybe I didn't
13 hear, but what was the sort of compromise that, or
14 the amendment that you thought would make the bill
15 stronger?

16 FRANK RICCI: We're, on Intro 291,
17 you're talking about?

18 COUNCIL MEMBER WILLIAMS: Yes.

19 FRANK RICCI: We're looking for an
20 amendment, or a change in language, that would at
21 least give some level of protection to an owner
22 who receives a heat violation because of a
23 breakdown of, a mechanical breakdown in the
24 building, and then actually repairs it, but then
25 because the repair wasn't done right, or maybe the

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2 repair was misdiagnosed, if he receives another
3 violation within that, that timeframe, that two
4 year window, that if he can give some
5 documentation or some proof in some way to show
6 that he did the right thing immediately, we don't
7 think that person should be subject to the higher
8 fine. And that that money would be better of
9 being put back into the building.

10 COUNCIL MEMBER WILLIAMS: So you're
11 saying a waiver basically for an owner who has
12 identified, who somehow identified there's a heat
13 problem, they fixed it, but it wasn't fixed well?
14 Is that right?

15 FRANK RICCI: I wouldn't
16 characterize it as a waiver, I mean, all of these
17 fines we're talking about are really, are subject
18 to the, to a judge, it's a judge who's--so we're
19 just, actually just simply looking for a mechanism
20 where that, that information or evidence can be
21 put before the judge, and let the judge make the
22 decision whether the owner is being responsible,
23 or if it's, you know, if it's an owner that, that
24 this judge happens to be seeing every month in
25 that courtroom in that borough, you know,

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2 obviously that may not be a good defense. But at
3 least have it in the, in the, entered as defense.

4 COUNCIL MEMBER WILLIAMS: I
5 understand, 'cause I don't, I also want to make
6 sure good owners are not punished here, and just
7 the bad owners. But as one owner can always
8 affect hundreds and hundreds of tenants, so I want
9 to make sure there, something there for the
10 tenants, for whatever time period didn't have the
11 heat. Mr. Jason, I have one question. I also
12 share some of the reservations you had, but my
13 question was, because you know, just being a
14 tenant organizer, when you get that call about
15 heat and hot water, your first question is,
16 "What's the temperature?" And usually most
17 tenants can't tell you what the temperature is.
18 So, is it just having it as a point of reference
19 helpful? Because you may have a swing, they may
20 tell you it's 20 degrees below, then you know that
21 at least there's an issue.

22 LARRY JASON: We're going to
23 respond, our response is going to be the same,
24 that we're going to get the information, we're
25 going to then call the landlord no matter what

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2 happens. That's going to be the next call. But
3 it certainly would be helpful to know if there is
4 some sort of accurate reading, because we actually
5 do also get calls from people who say, "My
6 apartment is freezing," and they then say, we'll
7 ask if they have a thermometer, and there are
8 occasions that people say, "Yes," and we'll ask
9 them to take a look and they'll say it's 69 or 70,
10 but I'm cold anyway. Then on unfortunate--Well,
11 it's not unfortunate--

12 CHAIRPERSON DILAN: I'm sorry, Mr.
13 Jason, could you speak more directly into the
14 microphone.

15 LARRY JASON: Oh, I'm sorry. At
16 that point, you can call the landlord and ask him
17 to put up a little more heat, but again by law, he
18 will not be legally required, because he's at that
19 68. When the tenant doesn't have the thermometer,
20 it's harder, it's harder to, to know factually.
21 But that first call is still going to be made to
22 the landlord regardless.

23 COUNCIL MEMBER WILLIAMS: But, but
24 it would be helpful to just at least have a point
25 of reference.

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LARRY JASON: Oh, absolutely.

COUNCIL MEMBER WILLIAMS: Thank
you.

LARRY JASON: Absolutely.

CHAIRPERSON DILAN: Council Member
Brewer.

COUNCIL MEMBER BREWER: Thank you
very much. Thank you, Frank Ricci, for your nice
comments about technology. But when HPD was here,
they said about 607 buildings have three or more
heat violations. And that's quite a lot.
Obviously there are many more that just have one,
and they were mostly talking about that large
number. Just, do you think that any of these
pieces of legislation will help bring down that
number? Or is there something else that you think
would be more supportive of that, of a decrease?
'Cause you're on the same path, with trying to get
rid of those that do not legitimately apply heat.
There are some that have, you know, breakdowns,
and notify tenants, and so on. And those are not
the bad actors.

FRANK RICCI: It's a difficult
question to answer. I mean, a lot of this is

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2 anecdotal that you get. This is a, this is a step
3 in that direction, though. So, at this point, you
4 know, I, I'd have to think about it, maybe do a
5 little bit more research, but I can't really give
6 you a quantified answer at this point in time.

7 COUNCIL MEMBER BREWER: Thank you.

8 COUNCIL MEMBER

9 COUNCIL MEMBER LANDER: Thank you,
10 really, I'm thanking the sponsors for introducing
11 the bill and giving a shout out to my constituent,
12 Larry Jason, both who is, who lives in and runs a
13 wonderful not-for-profit that's in my district.
14 And thank you for all, thanks to all of the
15 panelists, but thanks to you especially for your
16 work helping tenants, and finding ways to enable
17 both tenants and landlords to work together and
18 comply with the law. So, thank you, that's all.

19 COUNCIL MEMBER MARK-VIVERITO:

20 Council Member James.

21 COUNCIL MEMBER JAMES: So, Mr.

22 Jason, you've worked in my district, particularly
23 as it relates to Ebbets Field, which is, which
24 continues to be a problem. Do you think that if
25 these bills were in effect, it would address the

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conditions at Ebbets Field?

LARRY JASON: I think that they, again, in terms of 49--491? I'm sorry, 439, anything that, that gives a more accurate reading to where somebody's problem is, and if, if there's more of an awareness of it, I think that certainly would be something beneficial to everybody, and it certainly would help. And I also think that if the landlords, you know, when you spend enough time in Housing Court, you really do see the same landlords month-in, month-out, and year-in, year-out, during the, during the winter months.

COUNCIL MEMBER JAMES: So these--

LARRY JASON: And, and what you see is, that it's my understanding that the records at the end of one year are cut off, in terms of heat. So, if you had a landlord who didn't provide heat at all last winter, then it's like he gets a free crack at it again this winter, because HPD can't bring his prior records. So to move it to two years, would be fine; to move it to longer than two years, would be fine--because you do have the same bad people who are coming in on a regular basis into Housing Court.

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2 COUNCIL MEMBER JAMES: So as it
3 relates to Ebbets Field, the answer would be yes.

4 LARRY JASON: Yes, to Ebbets Field
5 and any other building, yes.

6 CHAIRPERSON DILAN: Okay, so again
7 I'd like to thank you all and please excuse me for
8 all the ins and outs that I had. But thank you
9 all for your time and testimony. And I'll call
10 the next panel, which is Kathleen Brennan, Jon
11 Furlong and Sateesh Noshi. And they'll be
12 followed by Katie Taylor, Skip Roseboro and
13 Caroline Simon. [pause, background noise] Okay,
14 so you can begin in the order that, order that I
15 called you up.

16 KATHLEEN BRENNAN: Good, good
17 morning, or good afternoon, Chairman Dilan and
18 City Council Members, thank you for this
19 opportunity. My name is Kathleen Brennan, I'm
20 here on behalf of the Legal Aid Society. The
21 Legal Aid Society is the oldest and largest
22 provider of legal assistance to low income
23 families and individuals in the United States.
24 The Society practice operates 14 neighborhood
25 offices in citywide units serving residents of all

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2 five boroughs. We appreciate this opportunity to
3 testify before the Committee on Housing and
4 Buildings. This proposed legislation is an
5 important step towards ensuring that tenants and
6 their families in New York City receive basic
7 services that the law requires in regard to, in
8 regard to provision of heat, residential heat and
9 hot water. This brutally cold winter that we are
10 now experiencing graphically demonstrates the
11 vital importance of providing adequate heat. For
12 most of us, the thought of enduring this winter
13 without adequate heat is unimaginable.

14 Tragically, it is a recurring theme that for many
15 thousands of people whom the Legal Aid Society
16 represents, living for brief or even extended
17 periods of time with inadequate heat or even no
18 heat at all is the reality. Between October 1st
19 and May 31st, a period designated as heat season,
20 buildings owners are required to provide tenants
21 with heat under the following conditions: between
22 6:00 a.m. and 10:00 p.m., if the temperature falls
23 below 55 degrees, the inside temperature must be
24 at least 68; between the hours of 10:00 p.m. and
25 6:00 a.m., if the temperature outside falls below

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2 40 degrees, the inside temperature is required to
3 be at least 55. However, without an indoor
4 thermometer, which few low income tenants possess,
5 it is often impossible for tenants to prove in
6 court that she or he has been denied adequate
7 heat. The provision of an indoor thermometer
8 would allow tenants to document the temperature in
9 their apartment and confirm violations of the
10 warrant of habitability. Those documented
11 violations could then form the basis for relief to
12 be sought in Housing Court by tenants or their
13 advocates. As legal advocates, we have found that
14 when tenants are able to keep a heat log of indoor
15 temperatures, in conjunction with available
16 outdoor temperatures, it is an invaluable tool for
17 enforcing the heat requirements and obtaining
18 necessary repairs in court. If it is possible to
19 amend the bill, we believe this important
20 legislation would be strengthened if landlords
21 with previous heat violations were required to
22 provide their tenants with thermometers at no
23 cost. Most landlords attempt to maintain their
24 buildings and provide adequate heat and hot water
25 to their tenants. Unfortunately, in our practice,

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2 every year we see some landlords who regard
3 Housing Maintenance Code violations as the cost of
4 doing business. These landlords are see again and
5 again in Housing Court in the HP Parts dedicated
6 to resolving affirmative tenant complaints. For
7 landlords who do not see provision of heat and hot
8 water as both responsible and legally mandated,
9 the current law offers a loophole that restarts
10 the clock each year. This proposed legislation
11 would--increasing--the proposed legislation
12 increasing the fines and, for the extending the
13 increased fines for another year, would discourage
14 landlords from repeatedly violating their most
15 fundamental obligation to provide heat and hot
16 water. Thank you again for the opportunity to
17 testify before the Committee.

18 CHAIRPERSON DILAN: Thank you, Ms.
19 Brennan. Mr. Furlong?

20 JON FURLONG: Yes, good morning.
21 Thanks for the opportunity to testify today. My
22 name is Jon Furlong and I am a tenant organizer
23 with the Pratt Area Community Council.

24 COUNCIL MEMBER JAMES: [off mic]
25 Yay.

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2 JON FURLONG: Thanks, Council
3 Member James. [laughs] PACC is a 45 year old
4 community based, nonprofit organization, committed
5 to working with residents of the Brooklyn
6 neighborhoods of Fort Greene, Clinton Hill,
7 Bedford-Stuyvesant, Crown Heights, many others.
8 Our mission is to maintain neighborhood diversity
9 and stability. We take a comprehensive approach
10 to safeguarding our neighborhoods by improving
11 distressed properties, preventing unwanted
12 evictions, stopping foreclosures, creating
13 homeownership opportunities, and preserving,
14 creating and managing affordable housing. I'm
15 here to give testimony on Intro 291. The
16 community organizing department at PACC is
17 currently working in, with tenants in nearly 25
18 buildings throughout Central Brooklyn, and during
19 the course of the year, as we meet with tenants in
20 their buildings, or through counseling done in a
21 walk-in basis, one of the chief complaints we hear
22 from all tenants, is that landlords are not
23 providing adequate heat or hot water. Those
24 tenants that do know their basic rights call 311
25 time and again to have heat come on briefly, and

1
2 then have it go back out. In two buildings we're
3 working in, particularly 1490 Bedford Avenue and
4 950 St. Marks Avenue, tenants have struggled with
5 this issue since the fall. The majority of the
6 tenants in each of these buildings, though they
7 are small buildings, are children and senior
8 citizens, and as we've heard from previous
9 testimony, when tenants, you know, are forced to
10 provide heat for themselves, they typically turn
11 on the oven and open the door, or have, you know,
12 resort to having space heaters in each room. And
13 this is not only costly but creates a fire hazard.
14 With regard to the 311 calls, again, getting
15 access to an inspector and issuing a violation is,
16 is an arduous process. So, many, many, many calls
17 are made, and I don't think nearly the number of
18 violations are on the books that there really
19 should be. As we have heard under the Intro 291,
20 repeat offenders would no longer have their fines
21 reset; after the first violation, landlords would
22 continue to pay escalated fines for a full two
23 years. This would hopefully help stop landlords
24 from repeating this offense while generating
25 revenue for the City. And for the residents of

1
2 1490 Bedford Avenue, this would mean heftier fines
3 for a landlord who has provided poor heat or
4 inadequate heat since about 2006. PACC is
5 extremely supportive of this legislation and hopes
6 that its passage will mean an improved level of
7 enforcement against landlords who repeatedly do
8 not provide heat or hot water. We'd also like to
9 suggest that, as an alternative, instead of
10 levying fines against a particular landlord, maybe
11 penalties could be assessed as a lien against the
12 property, and you know, kind of circumvent that
13 ERP step. I think landlords pay, you know, are
14 sort of--pay closer attention when there's
15 numerous liens on their property, rather than just
16 fines, which are more difficult to, to collect.
17 In any case, small fines and open violations are
18 not solving these chronic problems. This is a
19 quality of life and, and a wellbeing issue that
20 must be addressed. The increased duration of the
21 period for finding subsequent violations, you
22 know, we hope will incentivize landlords to make
23 substantial improvements to their heating and hot
24 water systems, rather than finding temporary
25 solutions to ongoing problems. Thank you.

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2 CHAIRPERSON DILAN: Okay, and if I
3 pronounced your name wrong, please correct me.

4 [laughs

5 SATEESH NORI: No problem, thank
6 you very much. Good morning, or should I say good
7 afternoon. My name is Sateesh Nori, I submit this
8 testimony on behalf of Legal Services NYC. Legal
9 Services NYC thanks the City Council for holding
10 this hearing, and for the leadership of the City
11 Council, and the Public Advocate in continuing to
12 address important issues of Housing Code
13 enforcement. We strongly urge the Council to pass
14 Intro 291, which would amend the Administrative
15 Code to punish repeat offenders of the requirement
16 to provide adequate heat and hot water to
17 residential tenants in New York City. Legal
18 Services NYC is the nation's largest provider of
19 free legal services to the poor. For nearly 40
20 years, Legal Services NYC has provided critical
21 legal help to low income residents of New York
22 City. The 18 neighborhood offices of Legal
23 Services NYC operate in diverse communities
24 throughout the City, representing thousands of low
25 income tenants annually in disputes involving

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2 their rights to maintain their homes, to remain in
3 their homes, including their right to decent
4 housing conditions. Bedford-Stuyvesant Community
5 Legal Services, a program of Legal Services NYC,
6 is a legal services provider with deep roots in
7 the culturally diverse and low income communities
8 that encompass the neighborhoods of Central
9 Brooklyn. Bedford-Stuyvesant Community Legal
10 Services provides critical legal services to
11 individuals on a wide range of legal matters, and
12 engages in community education projects to educate
13 and inform residents of Central Brooklyn of their
14 legal rights. The Housing Practice of Bed-Stuy
15 represents and advises hundreds of tenants yearly,
16 on their rights as tenants, including their rights
17 to safe, healthy and habitable apartments.
18 Central to safe, healthy and habitable apartments
19 is the provision by landlords of adequate heat and
20 hot water to tenants and their families. Indeed,
21 adequate heat and hot water are fundamental to
22 decent housing in a civilized society such as
23 ours. And the absence of these services
24 represents the denial of basic human dignity to
25 New York City residents. Unfortunately, many

1
2 landlords in Central Brooklyn, as well as
3 throughout New York City, are failing to maintain
4 adequate heat and hot water for their tenants.
5 According to the Department of Housing
6 Preservation and Development, between July 2009
7 and June 2010, there were 4,325 heat and hot water
8 complaints in the Flatbush section of Brooklyn
9 alone. To put this in human terms, 4,325 families
10 were deprived of the basic services of heat and
11 hot water in just one area of Brooklyn.
12 Undoubtedly, thousands of other families suffer
13 daily without heat and hot water throughout
14 Brooklyn, and many thousands more suffer without
15 these essential services throughout New York City.
16 More troubling is the disregard by many Brooklyn
17 landlords of the existing code enforcement
18 mechanisms. In a list published just last week by
19 HPD, of the 200 buildings in its Alternative
20 Enforcement Program, which comprises the most
21 distressed buildings in the City, 99 of the
22 buildings are located in Brooklyn. Fortunately,
23 the Alternative Enforcement Program was created by
24 a law passed by this Council in 2007, with the aim
25 of increasing pressure on landlords to comply with

1 housing codes. But more needs to be done. Bed-
2 Stuy is presently representing tenants and their
3 families who have been denied heat and hot water
4 during this brutal winter season. In one recent
5 case, a family in Bushwick was forced to rely on
6 heat from the burners on their stove, to heat
7 their apartment, because their landlord had
8 ignored their pleas for adequate heat. This
9 practice, which is unfortunately quite common
10 among tenants in our City, presents a dangerous
11 fire hazard to the entire building, because the
12 open flames are left burning overnight. This
13 family has repeatedly called 311, the City's
14 general complaint telephone number, but to no
15 avail. Our office has also obtained court orders
16 in Housing Court to get the landlord to provide
17 heat. But this method is time consuming and
18 proved frustrating for our client, who had to take
19 days off from work to attend numerous court
20 hearings. Legal Services New York City strongly
21 believes that strict enforcement of the Housing
22 Maintenance Code, buttressed by stiffer penalties
23 for landlords' failure to comply with the law,
24 such as the accruing penalties proposed by Intro
25

1
2 291, would help protect thousands of families who
3 are being denied the basic human right of living
4 in homes with heat and hot water in New York City.

5 Under current law, landlords can be fined up to
6 \$500 per day for their first heat and hot water
7 violation; for subsequent violations within the
8 same calendar year, penalties range from \$500 to
9 \$1,000 per day. Fines are then reset to lower
10 levels at the beginning of each calendar year.

11 The Heat Enforcement for All Tenants Act, Intro
12 291, amends Section 272115 of the New York City
13 Administrative Code so that repeat offenders would
14 no longer have their fines reset. After the first
15 violation, landlords would continue to pay
16 escalated fines for full, for a full two years.

17 This change in the law would provide an important
18 incentive for landlords to provide adequate heat
19 and hot water to their tenants, and to make
20 lasting improvements to their heating systems,
21 rather than providing temporary solutions to
22 ongoing problems. At the same time, the bill
23 would generate additional revenue from the City,
24 for the City, at a time of fiscal austerity. The
25 Public Advocate and City Council Members are

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2 recommending a targeted solution to the problem of
3 repeat violators of the requirement to provide
4 heat and hot water. By maintaining the penalties
5 for initial and subsequent violations at the same
6 level, Intro 291 ensures that only the longer term
7 and continuous violators are negatively affected.

8 Thank you.

9 CHAIRPERSON DILAN: Thank you all.

10 And are there any questions from any members of
11 the panel. If not, I'd like to thank you all for
12 your time and testimony. I just have one comment
13 on something that you said, Mr. Furlong, it's
14 something that I'm not, it's a suggestion that you
15 made, that I'm maybe not ready to give up, in that
16 you made a comment about foregoing the ERP
17 process. And I would say that could potentially
18 be dangerous, because some tenants, as you may
19 know through your experience, without that ERP
20 process coming into play, they would probably not
21 ever get heat or hot water in some, some of the
22 worst cases. So while I, I understand your, your,
23 or maybe I'm misunderstanding what you're trying
24 to say.

25 JON FURLONG: I'm not suggesting we

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forego the ERP process.

CHAIRPERSON DILAN: Oh, okay, I
that's what was--

JON FURLONG: I think I just, if
the fines themselves were levied as liens, rather
than violations, you know--

CHAIRPERSON DILAN: Well, they,
they do at some point--

JON FURLONG: Yeah.

CHAIRPERSON DILAN: --get turned
into liens, as--

JON FURLONG: At some point.

[laughs]

CHAIRPERSON DILAN: Yeah, yeah.
Okay. We'll take that into considera--I just
wanted to make sure I was clear on what you were
suggesting, and I'm glad that I wasn't. [laughs]
Thank you all for your time and testimony.

SATEESH NORI: Thank you.

CHAIRPERSON DILAN: Okay, next we
have Katie Taylor, Skip Roseboro and Caroline
Simon. And the final panel, oh not the final
panel, okay. And they'll be followed by Marlene
Whitehead, James, looks like Wechsler, and correct

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me if I get a name wrong.

JAMES WECHSLER: Wechsler.

CHAIRPERSON DILAN: Wechsler.

Anna, and Anna Martins. That'll be the next, next group. Okay, Ms. Simon?

CAROLINE SIMON: I will speak quickly on this issue, in order to expedite time. But New York City housing is needed to create stability in a poor economy.

CHAIRPERSON DILAN: All right, Ms. Si--I do need to stop you. You need--

CAROLINE SIMON: Uh-huh?

CHAIRPERSON DILAN: You need to identify, even though I introduced you, you need to identify--

CAROLINE SIMON: Right.

CHAIRPERSON DILAN: --yourself in your own voice for the record.

CAROLINE SIMON: Okay, well my name is Carol Simon, I'm originally from Texas, and I've just traveled here, I would say a little over a month now, and I'm enjoying New York City, and I'm basically in search of my husband, Christopher Stevenson, but upon doing so, I've come into--

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CHAIRPERSON DILAN: I'm not--

CAROLINE SIMON: --yes?

CHAIRPERSON DILAN: Now we need to stay on the subject. [laughs]

CAROLINE SIMON: Well, correct, correct.

CHAIRPERSON DILAN: Okay.

CAROLINE SIMON: Christopher Stevenson is my subject. But anyways, like I said, I will speak quickly on this issue, in order to expedite this time. New York City housing is needed to create stability in a poor economy. And being a welfare state, all citizens should be treated, well, fair. Discrimination that exists primarily because there's a lack of concern for the individual. That's prevalent here. As well as the wise son of God that once stated, and I do agree wholeheartedly, "Hot begot cold and cold becomes hot." And these are determining factors not only that refers to climate change, but the cold, harsh reality that remains large and at hand. There's nothing that should determine that anyone should go without heat in this type of weather, in any borough. I'm encouraging all to

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2 be more proactive in the community and speak on
3 issues that greatly concern humanity and God
4 himself. Since I've been here, I've actually been
5 here, like I said, like a month and several days.
6 But upon coming, I missed my family members. And
7 upon doing so, I've been forced to live in
8 homeless shelter. And I was also in homeless
9 shelter in Texas, but I came here to meet my
10 family members and make contact indefinitely. But
11 since I've, I've been in this homeless shelter,
12 I've lived at 116 Williams Avenue, off of Liberty.
13 And I can't complain about the heat, but it's the
14 scalding hot water that, that's in the showers,
15 and basically it can burn your skin type of
16 contact that, that should be avoided. And I feel
17 as if everyone is deserving to live as humane as
18 possible. And there are certain conditions that,
19 that are overwhelming. Not only to the skin,
20 because of hot water, but it's wintertime, and
21 there, there's also people that, that live without
22 comfort. And I just feel like that's something
23 that someone should speak about, not necessarily
24 my homeless situation, but if anyone is living in
25 uncomfortable, that it is wise to discuss this

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2 immediately and find out something that a solution
3 to any problem for, for someone. And, and Karen
4 [phonetic] faces this, and someone who's not
5 living foolishly, and fraudulent, but someone
6 who's able to come and converse with a board, as
7 the City Council is set up that there should be a
8 discussion amongst peers and some common solution
9 brought about that say, "Hey, we're going to help
10 someone out." As well as I've seen other people
11 come with complaints and everything, but I'm not
12 going to complain on my personal situation, but I
13 did see most definitely something that coincides
14 that says, "Hey, you know, heat in this
15 wintertime, it's horrible for anyone, including
16 homeless people, and those with a home should most
17 definitely have heating." That's all I wanted to
18 say.

19 COUNCIL MEMBER JAMES: [off mic]

20 Thank you.

21 CHAIRPERSON DILAN: Thank you,
22 thank you very much. Ms., Ms. Taylor?

23 KATIE TAYLOR: Yeah. Hello. My
24 name is Katie Taylor, I'm one of only two rent
25 stabilized tenants left in my building in

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2 Brooklyn, that was turned into a co-op. My
3 landlord tried to empty the house decades ago by
4 not providing heat or hot water. I suffered this
5 condition, this condition for an entire fall and
6 winter. I would not be moved. The landlord
7 decided not to register the house as a rent
8 controlled building; therefore, he was not
9 entitled to any rent increases. That brings us to
10 our present day of Ken's Law [phonetic], in which
11 the co-op president of this building is allowed to
12 manipulate the heat as he sees fit. We are
13 presently experiencing heat that comes up four
14 times a day for one hour. That leaves 20 hours
15 with no heat. The apartment is so cold during
16 this time, that my poor kitty-cats, Serengeti and
17 Africa, force themselves into my bed with me. I
18 have posted the HPD regulations on the bulletin
19 board on the first floor, for all to read. Ken
20 chooses to ignore these regulations. The reason
21 for this, the reason for this lack of providing
22 heat, proper heat, is an attempt to save money on
23 fuel. And he realizes that the penalty for not
24 providing regulated heat is so small, he's willing
25 to take the chance he get through the winter with

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no problems.

CHAIRPERSON DILAN: Okay, we have now Mr. Skip Roseboro.

SKIP ROSEBORO: Thank you. Hello, my name is Skip Roseboro, and I'm a leader with New York Community for Change. Before I begin, I'd like to thank the Council for allowing me to speak on such a critical issue, and I'd also like to commend the Public Advocate for taking proactive steps in fighting this very serious problem. The moral 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 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 keep people, 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

1
2 landlords' feet to the fire when they are leaving
3 tenants out in the cold. Many members of our
4 organization fight through the winter by wearing
5 jackets, hats, gloves, and gloves inside their own
6 homes, and by illegally heating their apartments
7 with their ovens or running up their electric
8 bills with dangerous space heaters. They are not
9 alone, you hear this about New York struggling,
10 about New Yorkers struggling without heat every,
11 every year in the news. It is time for it to
12 stop. It is so dangerous for landlords to deprive
13 the residents of heat and hot water. The problem
14 that arises, the problems that arise range from
15 discomfort to actual survival. The elderly,
16 babies, small children and people stricken with
17 illness are all put in, at a grave risk, when
18 forced to live in freezing temperatures. And for
19 those who aren't sick, it's much easier to develop
20 illness when you are constantly lacking heat.
21 This bill puts screws, this bill puts the screws
22 to repeat offenders who don't deserve any mercy.
23 They'll--no longer should landlords look at the
24 small fines that they are charged with for not
25 providing heat as simply the cost of doing

1
2 business. The Heat Act truly disincentivizes such
3 abhorrent behavior and we strongly urge and look
4 forward towards its passage. Thank you again for
5 your time on this crucial issue.

6 CHAIRPERSON DILAN: Okay, thank you
7 very much, Mr. Roseboro. Do any of my colleagues
8 have a comment or a question for the panel? If
9 not, thank you all for your time and testimony
10 today. Okay, next we have Anna Martins, James
11 Wechsler, and Marlene Whithead.

12 MARLENE WHITEHEAD: Whitehead.

13 CHAIRPERSON DILAN: Whitehead, I'm
14 sorry. And they'll be followed by Shi Quin Zen
15 [phonetic], and please correct me if I pronounce
16 that wrong, and Mr. Steven, Steven Ludsin.

17 STEVEN LUDSIN: Ludsin.

18 CHAIRPERSON DILAN: Ludsin. I need
19 one more. That's it, we're done. So that'll be
20 the final, the final panel. [pause, background
21 noise] Okay, we can begin in the order that I
22 called you guys up.

23 ANNA MARTINS: Good morning all, my
24 name is Anna Martins, and I'm a tenant at 1890 7th
25 Avenue in Central Harlem.

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2 CHAIRPERSON DILAN: Okay, and if
3 you could just bring the mic a little bit closer
4 so that we could, so we could hear you for the
5 record.

6 ANNA MARTINS: I am also a member
7 of a coalition called Harlem Tenants Against Tahl-
8 Propp and I am a member of the Predatory Equity
9 Working Group, organized by the Tenant Advocates,
10 Tenant Neighbor Organization. I am speaking on
11 behalf of a 28 unit building in Harlem, and for
12 the span of over a decade of experiencing a
13 deficient service of heat and hot water. This in
14 the larger context of a callous disregard and
15 continued disrespect for our rights as tenants,
16 our human right of having a roof, and of human
17 dignity, quality of life. As early as January of
18 this year, HPD has taken our landlord, Tahl-Propp
19 Equities and Manhattan North Management, to court,
20 based on one violation of no heat or hot water,
21 hot water, registered of, in my apartment,
22 December 20th of 2010. And with outside
23 temperature of 32 degrees Fahrenheit. Since the
24 heat season started in October of 2010, our
25 building experienced over 40 on and off days and a

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2 period of 60 continued hours over the New Year
3 weekend, without heat or hot water. Last year, it
4 occurred during the Christmas weekend over 50
5 hours. Despite some supposed repairs to the
6 boiler, and even if we had increments of longer
7 periods of sustained service of heat and hot water
8 since, we continue to date as recent as last night
9 without the guarantee of such a basic service.
10 Proportionately, we continue going to court over
11 and over again, only to realize that the
12 substantial reasons at the origin of over 40 on
13 and off days of no heat or hot water, become a
14 negligible incident, because only one violation is
15 recorded. This one violation corresponds to the
16 lottery, the privilege of having an inspector come
17 at all, or come and write up a, the violation in
18 question. Only one violation is thus counted as
19 evidence when the very complaint system that HPD
20 has created is not taken into account in a
21 courtroom, judging an action initiated by HPD
22 itself. Also, sorry, and so it goes, the
23 carousel, reminding the board game like feeling of
24 returning to the - - position. All the more so
25 when we still remember the last time HPD took our

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2 very same landlord to court, nine years ago, for
3 no heat or no hot water. Moral of the story, or
4 better moral of the testimony, what are we
5 perpetuating? Impunity. We are allowing and
6 consenting abuse of the already existing laws that
7 protect tenants, and this is an ancient story, the
8 one of power and greed. What is new are the
9 levels of delusion of sustainability of such a
10 system. I am in favor of the Heat Act, as I
11 believe it's just, it achieves some real goals to
12 protect tenants, and appreciate the Public
13 Advocate for his initiative, and together with all
14 the Council Members involved. Thank you for your
15 time.

16 CHAIRPERSON DILAN: Thank you, Ms.
17 Martins. Mr. Wechsler, I believe was next.

18 JAMES WECHSLER: Thank you, good
19 morning. My name is James Wechsler. I've been
20 living a 77 East 7th Street in Manhattan for
21 nearly 20 years. My wife and I have a three year
22 old son who, ever since he was born has had to
23 brave every winter with inadequate heat, because
24 our landlord does not provide adequate heat or hot
25 water. For example, we spent two months last

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2 winter without heat. There were weekends we did
3 not have hot water or electricity. And this, this
4 trend has expanded to sometimes turning off the
5 heat as soon as it gets dark for the entire night.
6 Sometimes after dinner, when it's time for us to
7 do the dishes or to give our son a bath, we've
8 found that the water has been turned off and the
9 heat has stopped. My son often tells us he is
10 freezing. To this day, he has not been able to
11 sleep in a crib, much less his own room, because
12 the room is so cold. It would be cruel for him to
13 be there, so we've had to co-sleep to ensure that
14 he's warm and healthy. On many occasions, our
15 landlord who occupies three units in the building,
16 has sent inspectors away claiming to be a tenant.
17 And will spend the entire weekends away from the
18 building so as not to provide access to
19 inspections in the basement, the boilers, or calls
20 to, that the 311 operators has forwarded to 911
21 because they consider it a police matter. When
22 this happens, the water often, as well as the
23 heat, are turned off from Friday night until
24 Monday morning, when he returns. HPD has issued
25 over 100 violations against this landlord with

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2 little results. The building where we live is
3 divided into rent stabilized units, and market
4 value apartments. The only apartments that have
5 violations issued to them, and who regularly go
6 without heat, with sufficient heat or hot water,
7 or any water, are those that are rent stabilized.
8 My family and I have been fortunate enough to have
9 a friend, a neighbor, who lives in a different
10 water line in the apartment, who has provided us
11 with access to water so we can flush our toilet
12 and wash our dishes and bathe our son. Clearly,
13 there is a current, currently no incentive for the
14 landlord to obey the law. That's why I'm asking
15 you to publicly support the Heat Act, pass it
16 quickly and send all landlords a strong message,
17 that there is no immunity for them cutting
18 necessary services to tenants. This way we won't
19 have to hear our son say he's freezing, and we
20 won't have to dread the winters and we can enjoy
21 them as we would any other season. Thank you.

22 CHAIRPERSON DILAN: Thank you, Mr.
23 Wechsler. Ms. Whitehead.

24 MARLENE WHITEHEAD: Good morning.
25 My name is Marlene Whitehead. I live at 26-16

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2 95th Street, East Elmhurst. My husband and I have
3 lived in this basement apartment for over seven
4 years. I suffer from asthma and bronchitis. And
5 the cold has made these conditions worse. Our
6 landlord turns off the heat to save money, leaving
7 my husband and I to seek heat in different ways.
8 We have found, we have been forced to turn on the
9 stove and boil water to keep warm. We, we sleep
10 with wrapped blankets and we wake up to a cold
11 apartment. And sometimes it feel like I am
12 outdoors. Unfortunately, this is not a new thing
13 in my household, because our heat problem has been
14 going on for many years. Not only is there not
15 enough heat to keep us warm, but, warm, we do not
16 even have working radiators in our apartment. We
17 have raised the issue with our property manager
18 throughout the years, but have not been, but they
19 have not been responsive. The landlords live in a
20 gated community in Baltimore, Maryland, where it's
21 plenty warm, and where he does not have to answer
22 or answer to our requests. To my landlord, is
23 giving us heat is just an expense, that is extra
24 expense that he does not have, want to deal with.
25 We have to reach out to HPD, to come to inspect

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2 our home, and has led to many violations in my
3 apartment. As you can see, from all our
4 testimonies, my situation is not an isolated case,
5 but an example of the citywide practice that
6 clearly leaves thousands of tenants to suffer
7 through the cold months, while landlords continue
8 to make profits from our suffering. I am asking
9 all Council Members to support the Heat Act, and
10 send landlords this powerful message. If it is
11 money the landlords are worried about, make it so
12 expensive for them to cut our heat that they will
13 think twice before breaking and leaving tenants
14 like myself out in the cold. Thank you very much,
15 and have a blessed day.

16 CHAIRPERSON DILAN: Okay, I have a
17 question, I also understand the Public Advocate
18 may have a question. And I'm almost willing to
19 bet it's the same question. But you can--

20 PUBLIC ADVOCATE: Let's find out.

21 CHAIRPERSON DILAN: --you can, no,
22 no, no, you can proceed, Mr. Public Advocate.

23 PUBLIC ADVOCATE: No, it's
24 actually, oh, I keep doing that. Let's do this
25 one. I keep choosing the wrong microphone. Mr.

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2 Chairman, I mean, it's actually not a question,
3 it's a statement. I really, I think the testimony
4 we're hearing from tenants is very powerful and
5 very helpful in, in illustrating to the world just
6 how bad things are. So, I'm very sorry that each
7 of you has had to go through this, but I always
8 appreciate when people come forward and, you know,
9 say to their fellow New Yorkers, "Here are real
10 live human beings going through this." It's one
11 of the ways we actually change things. So, thank
12 you for putting yourself forward. I know it's not
13 always easy. But on the specifics of each case, I
14 know my office has engaged with each of you, and I
15 want to make sure you know that while we're trying
16 to get this bigger change done, we want to try and
17 solve the immediate challenges in each of your
18 buildings, as well. So please, I mean, it's just
19 astounding when you hear it, and I'm, as a parent,
20 it's particularly shocking to hear, you know, what
21 kind of landlord could know there's a three year
22 old, for example, who's cold every night and do
23 nothing about it. But we want to try and fix
24 these cases now, while we try and get bigger
25 change. Thank you.

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CHAIRPERSON DILAN: Okay, even though it was a question, it was along the same lines. I wanted to ask each of you, you're all, I guess, made your case for yourselves individually.

MARLENE WHITEHEAD: Yes.

CHAIRPERSON DILAN: But how many, I guess for each of you, I want you to ask this, how many units are in your building?

MARLENE WHITEHEAD: I live in a private house.

CHAIRPERSON DILAN: In, into the mic.

MARLENE WHITEHEAD: Oh, I live in a private house.

CHAIRPERSON DILAN: Okay, so you, you have a private home, you rent.

MARLENE WHITEHEAD: I rent the basement apartment.

CHAIRPERSON DILAN: Okay, and does the owner live--

MARLENE WHITEHEAD: No, she lives in Baltimore, Maryland.

CHAIRPERSON DILAN: Okay.

MARLENE WHITEHEAD: In a gated

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community.

CHAIRPERSON DILAN: As, as you
said.

MARLENE WHITEHEAD: Yes.

CHAIRPERSON DILAN: So, essentially
you live in, in a building that's not a rent
regulated building.

MARLENE WHITEHEAD: Yes, in a
private house.

CHAIRPERSON DILAN: The owner
doesn't live there.

MARLENE WHITEHEAD: No, she--

CHAIRPERSON DILAN: So you and
another tenant possibly.

MARLENE WHITEHEAD: Lives upstairs,
and they're older than me, they're in their 80s,
and they come out, and they shovel--My husband
used to do it. But I told him to stop doing it,
because if anything happens, then they'll say that
they didn't tell him to shovel and want to sue
him. So.

CHAIRPERSON DILAN: All right, so,
and your case is, too, what borough?

MARLENE WHITEHEAD: Queens.

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CHAIRPERSON DILAN: Queens. Okay.
Mr. Wechsler?

JAMES WECHSLER: Yes.

CHAIRPERSON DILAN: How many units,
how many tenants approximately?

JAMES WECHSLER: It's a tenement
building, about 100 years old, it's in the East
Village. I think--

CHAIRPERSON DILAN: Roughly.

JAMES WECHSLER: --15 units. The
ground floor, has no apartments in it, six floor
walkup. Three units occupied by the landlords, so
the rest are, are tenants.

CHAIRPERSON DILAN: Does the
landlord's unit have heat.

JAMES WECHSLER: Yes, yes. The
landlord's unit, they're two brothers that own the
building, live in separate apartments, and their
mother, all have heat. A 74 year old man, my
family, and another tenant, all in the C line,
suffer the water outages every weekend, until
there was a violation issued last weekend, so I
think it's going to, the water outages will stop.

CHAIRPERSON DILAN: I think so far

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2 these are two classic examples of what the Public
3 Advocate's--

4 JAMES WECHSLER: Yeah, the phone
5 calls, the 35 percent of, of warrantless phone
6 calls that Mr. Mustaciuolo mentioned, I'm probably
7 part of that. I make a call Friday night, that's
8 got, there's no water, no landlord, there's no
9 water, no heat.

10 CHAIRPERSON DILAN: Mmmmm. That's,
11 in my mind, in my mind, that's not a warrantless
12 phone call, so--

13 JAMES WECHSLER: By the time the
14 inspector comes, it's Wednesday, we have our water
15 and there's no violation issued.

16 CHAIRPERSON DILAN: Yeah, that,
17 that--I realize that that will be part of, part of
18 that number, so--

19 JAMES WECHSLER: Yeah, that, that
20 number, it's a exaggerated number, if he's using
21 cases like mine.

22 MARLENE WHITEHEAD: Well, my
23 landlord doesn't even live--

24 CHAIRPERSON DILAN: I wanted to
25 give a chance for Ms., Ms. Martins to answer the

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question, then we'll come back.

ANNA MARTINS: We have 28, 28 units, six, six flights.

CHAIRPERSON DILAN: 28, six flights. Okay. And I take it, Ms. Wechsler, Mr. Wechsler and Ms. Martins both borough of Manhattan.

ANNA MARTINS: Manhattan, Harlem.

CHAIRPERSON DILAN: Harlem, okay.

ANNA MARTINS: And if I may add, for instance, this is an interesting contrast. Our landlord, who owns a number of buildings in Harlem, lives just across the street on a very similar building to ours, except bigger. Purchased the building, of course, but has taken over the whole last floor, the penthouse of the building, across the street, and has a separate heat system and water system, because of course he's the land of the lord, and he cannot be subject to the same conditions.

CHAIRPERSON DILAN: Well, that's, again, classic example. Ms. Whitehead?

MARLENE WHITEHEAD: My landlord, she doesn't live in New York, period. So it's

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2 even harder for me, because she just comes up once
3 a month. And that's the fifth of every month, to
4 rec--to collect the rent.

5 CHAIRPERSON DILAN: To collect.

6 MARLENE WHITEHEAD: And then once
7 you tell her these problems, she'll say, "Oh,
8 we're going to fix," and then by Sunday, after
9 I've come home from church, she's gone. So, and
10 then she don't answer her phone. It's, you know,
11 and I've been going through this for six years. I
12 am so tired.

13 CHAIRPERSON DILAN: Okay.

14 ANNA MARTINS: I'd like to
15 emphasize this, it's--what's happening in military
16 terms would be called - - city warfare. And--a
17 lot of these landlords just make it, just below
18 the line, where they get away with a number of
19 violations and get fined, you know the game,
20 everybody knows in this room what the game, how
21 the game goes by.

22 CHAIRPERSON DILAN: Well, I, I
23 think--

24 ANNA MARTINS: And the drainage,
25 the drainage of the people that go through, that

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endure this, and how many people have the time to go through this?

CHAIRPERSON DILAN: I think the key, the key for us is, and I think we heard it, and I think Ms., Ms. Whitehead said it directly, the key for us is to make the fine more expensive than the oil. So this way there's no incentive to skip not paying for the heat and hot water.

JAMES WECHSLER: If I can comment, I don't think--

CHAIRPERSON DILAN: Whether it's oil, gas, or whatever the--

JAMES WECHSLER: It's the apartment. They want us to move out.

MARLENE WHITEHEAD: Right.

CHAIRPERSON DILAN: Well, that's, that's, that's--

JAMES WECHSLER: They want, they want the destabilized apartment.

CHAIRPERSON DILAN: --that's a different set of laws altogether that we've passed, and that's harassment laws.

JAMES WECHSLER: Yeah, yeah. That's a different issue.

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CHAIRPERSON DILAN: We've passed

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those and that's--

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JAMES WECHSLER: It's not--

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CHAIRPERSON DILAN: Those laws are

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on the books and you guys have 'em. You have the

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power to take that up and if you need more

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information on 'em, it's not the subject of this

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hearing, but if you need more information on 'em,

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we'd be happy--

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[background comments]

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ANNA MARTINS: It is a different

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subject, but it is the same problem.

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CHAIRPERSON DILAN: It's, I

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understand it's related.

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ANNA MARTINS: If you don't look at

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it as a whole, we're just taking up--

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CHAIRPERSON DILAN: No, I

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understand it's related, but I guess my point is

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we, we gave a tool--

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ANNA MARTINS: I understand.

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CHAIRPERSON DILAN: Okay, in that

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regard. Thank you all for your time--

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MARLENE WHITEHEAD: Thank you.

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ANNA MARTINS: Thank you.

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CHAIRPERSON DILAN: --and
testimony. Oh, sorry, I'm sorry, I'm so sorry,
Council Member Williams.

COUNCIL MEMBER WILLIAMS: Thank
you, Mr. Chair. No, I just wanted to thank you
and other tenants who came and testified with your
personal stories. Particularly, ma'am, you know,
I hope you maybe spoke to an organization or
something. But as a--I'm glad that you came, and
it shows a lot of bravery, also, 'cause you don't
have the rent protections that the rent stabilized
tenants do, which is something we forget about
when we talk about rent stabilization.

MARLENE WHITEHEAD: [off mic] Yes.

COUNCIL MEMBER WILLIAMS: And then
I hope you're speaking to someone about that. And
too often, people in your situation have to decide
whether to bring these problems up and face
eviction or not. So thank you very much.

MARLENE WHITEHEAD: Yeah, that's
another thing I'm dealing with, too.

CHAIRPERSON DILAN: Yeah, and for
clarity to that point, a colleague asked me, are
one and two family homes included, or covered by

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2 the legislation? Oftentimes, they're not covered
3 by the legislation. One and two families are
4 covered by this legislation.

5 MARLENE WHITEHEAD: It's a two,
6 it's a three family home.

7 CHAIRPERSON DILAN: One, two,
8 three, all buildings are covered, all residential
9 buildings are covered.

10 MARLENE WHITEHEAD: Okay, thank
11 you.

12 CHAIRPERSON DILAN: Okay, thank you
13 all for your time.

14 MARLENE WHITEHEAD: Thank you.

15 CHAIRPERSON DILAN: For your
16 testimony. Okay, the last panel, we'll begin with
17 Zing Quin Zen [phonetic], and Steven Ludsin.

18 [pause, background noise]

19 INTERPRETER: So, I'll just be
20 interpreting for Ms. Zen.

21 CHAIRPERSON DILAN: Sure, no
22 problem. She can begin in her own language, in
23 her own - -

24 INTERPRETER: Okay.

25 DU CHING ZANG: [Chinese]

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CHAIRPERSON DILAN: Okay, I do have to ask her to bring the mic closer, more directly into the, and to say her name, I'm sorry.

DU CHING ZANG: [translated] So, hello everybody, my name is Du Ching Zang [phonetic], I live at 61 Delancey Street, and I am from CAAAV's Chinatown Tenants Union. So, I've lived 61 Delancey Street for more than ten years, and in the past we really had this problem of not having heat or hot water, but in the last ten years, especially with the last two landlords that we've had, we've had this problem all the time. In the winter, on the weekends, not having heat or hot water, having to heat, boil our own water, if we wanted to take, you know, hot, a hot shower. So, in the past year, it's just gotten worse to the point where every few days, every couple of days, we don't have heat or hot water, and my daughter used to call the landlord, but calling never worked. And so she, she started emailing him, and it's like we're not, we can't communicate at all. So we're saying one thing, the landlord's like giving all these excuses, saying things like, "Oh, it's because you have an air conditioner

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2 installed in your window. All the heat's leaving
3 your apartment that way." And then we respond by
4 saying, "But there's no heat at all coming from
5 the radiator, how can that be the case?" And
6 we'll call, you know, our, our, my daughter calls
7 311 to report the problem, but oftentimes that's
8 not even that helpful, 'cause they'll come, you
9 know, several days later, but you know, when my
10 daughter meets with them, she's pretty upset
11 because of the landlord's excuses, so we'll,
12 she'll ask the inspector, you know, "Is it because
13 we have an air conditioner in the window, that
14 there's no heat in the apartment," and the
15 inspector will say, "Of course not. You know,
16 there's no heat coming from the, the radiator."
17 And I'm just talking about my own apartment in one
18 building, but we know this is a community wide
19 problem, it's not just a small percentage of
20 landlords, but we feel it's actually the majority
21 of landlords in Chinatown. In the Chinatown
22 Tenants Union, we hear a lot of stories from
23 people who, who say they have heat and hot water
24 problems. And in a community that has so many
25 elderly residents, has so many children,

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2 oftentimes what people will do is, you know, turn
3 on the stove, like many people have said, or buy
4 electric radiators, and that's just, I mean,
5 that's just a really unsafe situation for people.
6 So, I just want to thank, thank all of you for
7 supporting tenants, especially in this kind of
8 very cold and frigid weather. We really need more
9 protections and we need the, the penalty in the
10 law to be a lot stronger. Thank you again,
11 everybody.

12 CHAIRPERSON DILAN: Thank you.

13 Okay, Mr. Ludsin?

14 STEVEN LUDSIN: Yes, good
15 afternoon. I'm representing, I guess myself, but
16 I'm representing an idea. And the idea was one of
17 27 that were accepted out of 300 submissions--

18 CHAIRPERSON DILAN: You do have to
19 state your name in your own voice for the record.

20 STEVEN LUDSIN: Oh, sorry, I'm
21 sorry. For the record. My name is Steven A.
22 Ludsin, and I'm here to discuss an idea that I
23 think will be a solution to this really terribly
24 sad problem. And I tell people I've had maybe
25 three light bulb moments in my life, and this is

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2 the third one. And I got myself into the New
3 York, NYU Polytech Incubator Program, which was
4 created, created two years ago, but went into play
5 about a year-and-a-half ago. And essentially my
6 idea is something I put in one word, which is
7 "easy escrow." And what I'm postulating or
8 proposing, is something that's consistent with the
9 Mayor's Efficiency Report last summer, July 19th,
10 in which he said they were going to collect \$100
11 million by doing enhanced, enhance enforcement
12 against delinquent debtors. And the saying is,
13 "If you can't put your idea on the back of a
14 matchbook, it's not a good idea." This is one
15 word: I'm talking about advance. And I'm a
16 lawyer by training, but I don't practice, so you
17 can either hold that against me or not. But in
18 any event, I want to credit Bill de Blasio, who
19 drew my attention, and he knows what that's like
20 when you draw my attention [laughs] but he
21 announced the worst landlords. And I said, "Yeah,
22 there are a lot of bad landlords, so what if?"
23 And I talk about something that I call a game
24 changer. We have a lot of ideas out there, but
25 specifically on the heat, 'cause I know I'm here

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2 to talk about that. It galls me, as a citizen,
3 that these people are suffering like this. It
4 absolutely galls me. And I guess the irony is
5 today there was a little glitch in my building and
6 I almost didn't come here 'cause I didn't have hot
7 water. But luckily that's not a, it's not a, it's
8 not a recurring problem. But what I'm talking
9 about, essentially is a simple question, or an
10 answer to a simple question. If tenants have to
11 put up security deposits, why shouldn't landlords?
12 Why shouldn't someone have skin in the game?
13 Meaning the following, and I ironically, I went to
14 Fordham Law, I wasn't Law Review, so I had to
15 hustle and get a job at the Attorney General's
16 office. And Louie Lefkowitz, may he rest in
17 peace, passed the law, the multi-housing family
18 law, which said that every security deposit has to
19 have interest. And then at the end, if you're
20 good, you get your money back with interest. So,
21 I'm saying, "Well, why not take that and apply it
22 across the board." My concept, I know within this
23 hearing, has to do with housing, clearly, 'cause I
24 think it's a glaring example of the fact that you
25 have landlords that are worth billions of dollars

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2 in some cases, and they just sit there and game
3 the system. And the idea that you allow this
4 administrative process to continue in effect
5 unchecked, and then at the end of the day, you
6 have a lien. And my attitude, I, I'm becoming
7 quite the phrasist [phonetic], phraseologist
8 [phonetic], whatever, branding person. You can't
9 lean on a lien. By the time you execute against
10 the lien, a) you don't have cash flow; b) trust
11 me, I had two federal contracts to sell defaulted
12 collateral online, and I made a big discovery.
13 You don't go to a--when you see a building that
14 has a lien on it, it's not in good shape. It's
15 rare that it's in good shape. Okay? And then I,
16 and there's so many statistics, and I could go on
17 and on and on, as you could tell. And I have a
18 PowerPoint, and I'm glad to come back to the
19 Committee, I'll meet with the Council, I'll meet
20 with all the Members of the City Council. And so,
21 what do, what do I propose? I try to get funding
22 for a demonstration project, and I did, I went by
23 Rule 13, and I submitted unsolicited proposals to
24 none other than, let's see, the Departments of
25 Finance, the Public Advocate's Office, the Borough

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2 President, the HPD, Buildings, TLC, Department of
3 Law, and Environmental Protection. And I realize
4 I'm just one person. But I have to tell you, with
5 some support from you folks, I believe that people
6 can look at this and say, "Why not?" And I say
7 this because when you issue violations and you
8 don't collect, you don't have results. And I
9 think another example is the repair/reimbursement
10 program. And I contacted HPD, and they said,
11 "Well, we have this emergency repair program," but
12 the, the press indicated out of \$17 million in, in
13 costs, they only recovered \$4.5 million. So you
14 ask yourself, "What if? What if the landlords had
15 money set aside?" Now people say, "Well, what
16 about the good actors?" And the answer is, I'm
17 not here to penalize good actors, I want to make
18 sure the bad actors are responsible. And I call
19 it the Responsibility Fee Fund. Meaning, that
20 over time, sort of like an insurance actuarial
21 table, we will figure out what percentage of the
22 community is bad and what percentage is good, and
23 we'll be able to have funds set aside. And just
24 to make sure that people don't get upset because
25 you can't impose fees, you can't impose taxes, you

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2 can't have insurance, this is supposed to be cost
3 free, which I think is another issue, but net-net.
4 If you're good, you get your money back with
5 interest. If you're bad, you continue to pay. We
6 all use Easy Pass, many of us do. The money's
7 there. You don't have to go screaming, "Hey, you
8 didn't pay your toll." You know, and on and on
9 and on, and I think that there, there just seems
10 to me that we are in an environment, clearly, with
11 a difficult economy, where people are trying to,
12 in effect, go even further, to further their
13 profits. It's hurting too many people. And as,
14 and to my view, this is an easy solution, and
15 that's why I call it "easy escrow." So I want to
16 thank you for your time today.

17 CHAIRPERSON DILAN: Thank you all.

18 Council Member James has a question.

19 COUNCIL MEMBER JAMES: So,
20 question. So, this escrow would be set aside at
21 the outset of the tenancy, or at the beginning of
22 the tenancy?

23 STEVEN LUDSIN: Correct.

24 COUNCIL MEMBER JAMES: And, and so
25 you petitioned all these individuals. Did you

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petition the Attorney General of the State of New York?

STEVEN LUDSIN: No, he's the only one I left out. But I did petition, I'm glad you asked, Council Member.

COUNCIL MEMBER JAMES: Okay, so, because obviously, as you know, as you indicated earlier, most of these, what you referred to is a State statute.

STEVEN LUDSIN: Right.

COUNCIL MEMBER JAMES: And so, it's an interesting idea, and I'm--it's an interesting idea, and it's something that I am, it sparked my interest, obviously as an attorney. So, I'm, and, and someone who has worked very closely with Schneiderman, Attorney General Schneiderman, very much interested in something like this.

STEVEN LUDSIN: Good. Well, let me respond by telling you I did put a call into Harlan Levy, who's his First Deputy--

COUNCIL MEMBER JAMES: Sure.

STEVEN LUDSIN: --who's a friend of mine. And number two, I did speak with the Governor's Office, the newly elected--I spoke with

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2 the old Governor's Office--and, again, used the
3 unsolicited proposal. And almost a year to the
4 day, I met with the First Deputy Director of the
5 Budget. They like the idea. And he said, "Steve,
6 I have to get it past the lawyers." So, being the
7 affable guy I am, I said, "I'm a lawyer, I'll help
8 you." But that didn't work. But more to my
9 point, I also responded to an RFP. My point is
10 the Governor's--

11 COUNCIL MEMBER JAMES: What RFP?

12 STEVEN LUDSIN: Oh, yes, thank you.
13 They were seeking a strategic source consultant.
14 And they were seeking savings for the government
15 in terms of how they procure.

16 COUNCIL MEMBER JAMES: And you say
17 "they," who's "they"?

18 STEVEN LUDSIN: Division of Budget.

19 COUNCIL MEMBER JAMES: Okay.

20 STEVEN LUDSIN: I also spoke with
21 the Office of the Controller of the Currency.

22 COUNCIL MEMBER JAMES: Mm-hmm.

23 STEVEN LUDSIN: Excuse me, yes, OC-
24 -the Comptroller of the State of the New York,
25 excuse me.

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COUNCIL MEMBER JAMES: DiNapoli?

STEVEN LUDSIN: And I--yes, that's correct. And I also spoke with the former Commissioner of the Department of Environmental Conservation, Pete Grannis--

COUNCIL MEMBER JAMES: Pete, mm-hmm.

STEVEN LUDSIN: --before he joined the Comptroller's Office, and after he left DEC, and I spent at least an hour-and-a-half with him, and he thinks it's a good idea. And what I can share with you, at the risk of sounding like it's just about me, it's not about me.

COUNCIL MEMBER JAMES: No, I understand.

STEVEN LUDSIN: What I really am excited about, and that's why I'm here, and that's why I won't quit, is that everybody I speak to says, "That's a good idea." And the irony is it's so easy, that people say, "Well, wait a minute, how can we do this?"

COUNCIL MEMBER JAMES: So let me ask you this question.

STEVEN LUDSIN: Please.

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2 COUNCIL MEMBER JAMES: Because
3 obviously security is established for the purposes
4 of returning your, your apartment in a state of
5 good repair.

6 STEVEN LUDSIN: Correct.

7 COUNCIL MEMBER JAMES: Okay. :So,
8 the, this escrow would be set aside for the
9 purposes of making sure that all the, that the
10 building, the apartment is habitable.

11 STEVEN LUDSIN: Correct.

12 COUNCIL MEMBER JAMES: And that all
13 the conditions are in order and whatever.

14 STEVEN LUDSIN: Right. And for
15 exam--I'm sorry.

16 COUNCIL MEMBER JAMES: And so, let
17 me just ask you this question.

18 STEVEN LUDSIN: [laughs]

19 COUNCIL MEMBER JAMES: Do you, I'm
20 trying to go through my head, what legal
21 objections could possibly be put forth at this
22 point?

23 STEVEN LUDSIN: Good question.

24 COUNCIL MEMBER JAMES: Thank you.

25 STEVEN LUDSIN: You're welcome.

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2 And the answer is, I don't know. And what I mean
3 by that is that there is what I would call more in
4 the nature of a cultural resistance, 'cause it
5 isn't business as usual. And what I'm saying is
6 that we are in a circumstance which demands for
7 anything but business as usual, one. Two, on the
8 legal issue, I did look at Councilman Vacca's law.
9 And I even wrote a little amendment, dusted off
10 the law degree, and I simply saw that,
11 Councilwoman, and it said that we are going to
12 hold up a permit if your violations are up to
13 \$25,000. Now, respectfully, I'd put another, just
14 one line, I said, "It's not just about holding up
15 a permit, 'cause realistically, if you don't have
16 your permit, therefore you shouldn't be in
17 business, and therefore you have less likelihood
18 to earn the money that you're going to need to pay
19 the violations."

20 COUNCIL MEMBER JAMES: Right.

21 STEVEN LUDSIN: Whereas, as they
22 say, Council, possession is nine-tenths of the
23 law. We have your money. And therefore, you're
24 going to pay attention. And therefore, maybe we
25 cut the cost of administrative hearings, and all

1
2 of the nightmarish, I can't even fathom what it
3 would be like to have to go through that pipeline.
4 But what I mean by that is that the, what's the
5 word, hubris, is a good word, is--

6 CHAIRPERSON DILAN: All right,
7 guys, I, we--

8 STEVEN LUDSIN: Oh, yeah, time's
9 up. [laughs]

10 CHAIRPERSON DILAN: We have the
11 room until 1:00.

12 COUNCIL MEMBER JAMES: There's
13 another hearing and we--

14 STEVEN LUDSIN: Oh.

15 CHAIRPERSON DILAN: WE have the
16 room until 1:00.

17 STEVEN LUDSIN: Okay, well, I, I
18 can go for ten minutes. [laughs]

19 CHAIRPERSON DILAN: No, you can't.
20 [laughs]

21 STEVEN LUDSIN: That was a--

22 COUNCIL MEMBER JAMES: You see what
23 happens when you get two lawyers in the room.

24 STEVEN LUDSIN: Anyway, comic
25 relief.

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2 CHAIRPERSON DILAN: Yeah, but you
3 guys are welcome to--

4 COUNCIL MEMBER JAMES: We will talk
5 further offline.

6 CHAIRPERSON DILAN: Yeah, have a--
7 thank you, you can stay. [laughs]

8 STEVEN LUDSIN: Thank you so much,
9 yeah, I'm, I'm here.

10 CHAIRPERSON DILAN: Okay, with
11 that, that will conclude the public portion of
12 this hearing.

13 COUNCIL MEMBER JAMES: [laughs]

14 CHAIRPERSON DILAN: Technically,
15 he's a Council Member at large, if we wanted to
16 get into the, the rules. [background noise] That
17 will conclude the testimony on Intros, 'scuze me
18 for a second, guys, 291 and 439. Those two
19 legislative items will be laid aside. We've
20 received no testimony to be submitted for the
21 record, so that will conclude this hearing.

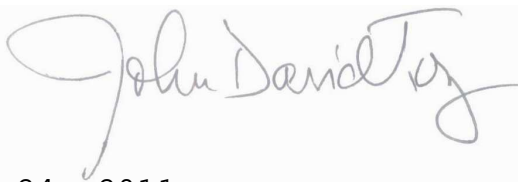
22 [gavel]

23 [background noise, then silence]

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script that reads "John David Tong". The signature is written in black ink on a light-colored background.

Date February 24, 2011