



**Department of
Housing Preservation
& Development**

**Testimony of the Department of Housing Preservation and
Development
to the New York City Council Committee on Housing and Buildings
Hearing: Int. No. 722-A, in relation to minimum temperatures
required to be maintained in dwellings**

Good afternoon Chairman Williams and members of the Housing and Buildings Committee. My name is Vito Mustaciuolo, and I am HPD's Deputy Commissioner for Enforcement and Neighborhood Services. I am joined by our Associate Commissioner for Enforcement and Neighborhood Services, AnnMarie Santiago. We appreciate the opportunity to testify regarding Int. No. 722-A, related to the minimum temperatures required to be maintained in dwellings.

HPD supports modification of the Housing Maintenance Code related to the provision of heat. As you know, HPD is the City agency charged with enforcing the current code provisions related to the provision of heat in residential buildings. HPD received 208,000 complaints and issued 4,484 violations regarding heat during the 2014-2015 heat season and has received almost 100,000 complaints and issued 1,066 violations regarding heat between October 1 and January 12th. Our Housing Litigation Division seeks civil penalties in response to almost all violations for lack of heat. When owners fail to correct, we utilize our

Emergency Repair Program to restore services to tenants. Last heat season, the Emergency Repair program spent \$2.2 million making repairs and providing utility services to ensure adequate heat. Legislation in recent years has supported HPD's enforcement through increased civil penalties and inspection fees against properties which consistently fail to provide adequate heat. Although this enforcement effort is significant, the fact is that most properties throughout the City provide heat to their residents as required by the current code regulations. The extraordinary number of complaints received as compared to the number of violations issued is noteworthy and is impacted by two issues. One, people still feel cold even when heat is being provided as required by the code. And two, because the provision of heat is based on the outdoor temperature at the time of the inspection, it may be the case that heat is both required and not required within the same day, making enforcement difficult.

During Heat Season (October 1 through May 31st), HPD's current inspection procedure requires a Housing Inspector to take a temperature reading before entering any building recording that temperature and then taking another temperature inside a dwelling unit if the outdoor temperature falls below 55 degrees during the day or 40 degrees between 10 PM and 6 AM. If the temperature outside is 55 degrees or above during the day or 40 degrees or above at night, the Inspector **cannot** issue a violation. This is a difficult conversation to have with a tenant, when it is quite possible that an hour later the temperature might dip below the outdoor temperature threshold and heat will be required. As we all know, temperature fluctuations during the day and at night are common. These situations also require HPD to expend additional resources on the same condition, because it is likely that the tenant will call 311 again once the temperature goes below 55 degrees or 40 degrees

and our inspectors have to go out again to check the temperatures. The outside temperature factor can also work against landlords, as heating systems might not be producing sufficient heat at the time when the temperature outside dips from 57 to 52, for example, and an inspection is done before the heating system has time to adequately raise the indoor temperature. While researching the issue of how other cities deal with this type of challenge, we found that other cities, such as Chicago, Boston and Newark, have minimum temperature requirements defined only by the dates, not dependent on the outdoor temperature.

Intro 722-A would eliminate the outside temperature as a determinant for the provision of a minimum indoor temperature. HPD strongly supports this modification, because the outside temperature requirement presents enforcement challenges; removing it would simplify the temperature regulation for both tenants and owners and would require consistent temperatures regardless of minor outside temperature changes.

Intro 722-A also proposes an increase in the required minimum indoor temperature. Consulting with our sister agency, the Department of Health and Mental Hygiene, there is no particular scientific evidence to support any specific indoor temperature, only a general understanding that the provision of heat at a comfortable temperature is required to support good health. We have heard numerous complaints from tenants and tenant advocates that the 55 degrees requirement is too low for most people, who still feel cold at that temperature. Feeling cold may lead to less healthy options for increasing the temperature inside individual apartments, including turning on stoves or ovens or using space heaters or electric blankets which can pose dangers, especially to seniors or sick individuals, if not properly used. We therefore, support an increase in

the required minimum indoor nighttime temperature. While HPD is advocating for an increase in the nighttime heat requirement, we also believe that owners can take the proper measures to ensure that their buildings are energy efficient and maintain adequate internal temperatures. Many buildings in New York City suffer from inadequate air sealing or poor insulation and heat distributions systems, which do not properly serve a building's units. Improving insulation and air sealing will reduce heat lost and maintain warmer indoor temperatures for longer periods of time, reducing the amount of fuel needed to meet minimum temperature requirements, and minimizing heating costs for landlords and tenants. Better insulation will also improve temperature resiliency by maintaining longer periods of stable indoor temperatures in the event of power losses or system failures. New York City is helping owners to address these issues through the NYC Retrofit Accelerator, a one-stop, free service that can guide owners through an energy retrofit project such as boiler upgrades, envelope sealing, and HVAC improvements. HPD supports the elimination of an outdoor temperature trigger for the provision of heat and higher nighttime temperatures. We believe that these changes can improve the quality of life for the residents of New York City.

Thank you again for the invitation to testify today, we look forward to working with the Council to further refine this bill. I would be happy to answer any questions from the Committee.



**Commission on
Human Rights**

Testimony of Dana Sussman
Special Counsel to the Commissioner/Chair
New York City Commission on Human Rights
Before the Committee on Housing and Buildings
January 14, 2016

Int. No. 871 – A Local Law To Amend the New York City Plumbing Code, New York City Building Code and Administrative Code of the City of New York, in Relation to Gender-Neutral Single-Occupant Bathrooms

Good afternoon, Chair Williams, Council Member Dromm, and members of the Committee on Housing and Buildings, and thank you for convening today's hearing on Intro. No. 871. I am Dana Sussman, Special Counsel to the Commissioner and Chair at the New York City Commission on Human Rights. The Commission does not regularly appear before this Committee, but is happy to testify here today with our partners at DOB, as this bill aligns with the work the Commission is doing to make the City a more inclusive place for transgender and gender non-conforming people.

Intro. 871 amends the New York City plumbing and construction codes to require that all single-occupant bathrooms are available to individuals of any sex or gender, and further amends the plumbing and building codes to ensure that bathroom signage requirements are consistent with this new requirement.

Protections against discrimination on the basis of gender identity and expression have existed in the New York City Human Rights Law since 2002. A few weeks ago, in December 2015, the Commission published its Legal Enforcement Guidance on Discrimination on the

Basis of Gender Identity or Expression to provide clear guidance to business owners, employers, housing providers, and members of the public on what exactly is considered discrimination on the basis of gender identity and expression under the City Human Rights Law, and how such discrimination works to marginalize transgender and gender non-conforming people. The Legal Enforcement Guidance specifically articulates violations of the City Human Rights Law, which include: denying someone access to the single-sex facility, such as a bathroom or locker room, or program that aligns with their gender identity; refusing to use someone's preferred name or pronoun; requiring dress codes or uniforms, or applying grooming or appearance standards, that impose different requirements for individuals based on sex or gender; or *forcing* a transgender or gender non-conforming individual to use a single-occupant facility. It is our goal in creating the guidance to provide needed transparency and clarity to New Yorkers on their rights and obligations under the City Human Rights Law.

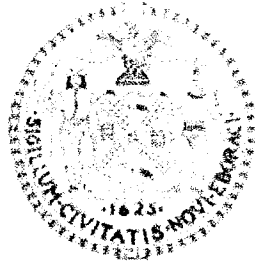
Consistent with our guidance, the Commission strongly supports efforts to make access to bathrooms safer and easier for transgender and gender non-conforming New Yorkers. Access to bathrooms for transgender and gender non-conforming people is a fundamental health and safety issue, and requiring single-occupant facilities to be gender-neutral will eliminate additional barriers transgender and gender non-conforming New Yorkers face when accessing bathrooms. Transgender individuals frequently face harassment, intimidation, and violence when they attempt to access a bathroom associated with their gender identity or gender expression. The availability of single-occupant bathrooms for all members of the public minimizes any likelihood of such unwarranted scrutiny. Also, requiring single-occupant bathrooms to be designated as gender-neutral obviates the need for gender non-conforming, gender-queer, and/or non-binary individuals to choose facilities that may not align with their

gender identity and/or gender expression. This goal aligns well with the work the Administration has been doing to ensure that all New Yorkers, including transgender and gender non-conforming New Yorkers, have safe and equal access to bathrooms. As further evidence of this Administration's commitment to issues of gender equity and transgender equality, in June of 2015, the Mayor announced creation of the Commission on Gender Equality, with the goal of leveraging every power of city government to expand and increase opportunity for all New Yorkers – regardless of sex, gender, or sexual orientation – and build a city that is safe and free of discrimination. This bill is consistent with that commitment to taking a thoughtful, progressive approach to gender issues in New York City.

We thank Council Member Dromm for introducing this important piece of legislation and Chair Williams and members of the Committee for holding this hearing. We look forward to working with the Council and our partners in the Administration to further our shared goal of dignity and respect for all.

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Thank you for convening today's hearing. We are thankful for DOB's support today, as we partner to answer questions you may have.



**THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER**

**TESTIMONY OF NEW YORK CITY COMPTROLLER
SCOTT M. STRINGER
IN SUPPORT OF INTRO 871**

**BEFORE MEMBERS OF THE
COMMITTEE ON HOUSING AND BUILDINGS
OF THE NEW YORK CITY COUNCIL**

JANUARY 14, 2016

Thank you to Chairperson Williams for holding this hearing today and to Councilmember Dromm for working with my office to introduce this critical piece of legislation.

And thank you to the advocates who have worked for years to protect, defend, and expand the rights of transgender New Yorkers, including the Transgender Legal Defense and Education Fund, Lambda Legal, and the Lesbian, Gay, Bisexual & Transgender Community Center.

As detailed in my *Restrooms for All* report last year, expanding the use of gender-neutral restrooms in the City of New York will make our City safer and more welcoming for all.

As a result, I urge the Council to pass Intro. 871.

In 2002, this Council passed the Transgender Rights Bill to expand the scope of protections guaranteed under the New York City Human Rights Law to people whose “gender and self-image do not fully accord with the legal sex assigned to them at birth.”¹ As a result, New York City has one of the strongest human rights laws in the nation.

Just last month, the City Commission on Human Rights issued new, detailed guidance confirming the scope of these protections, including the fact that individuals must be allowed to use bathrooms or locker rooms and participate in single-sex programs, consistent with their gender, regardless of their sex assigned at birth.²

However, the guidance also made clear that the existing Human Rights Law does *not* require entities to make existing bathrooms gender-neutral, even those that are single occupancy.

This is a serious problem, because it is the very nature of bathrooms as “sex-segregated” facilities that leads to harassment in the first place. As the Transgender Legal Defense and Education Fund has reported, individuals across the country—including here in the five boroughs—have been barred from using the bathroom that corresponds to their gender identity or attacked for doing so.

Indeed, nationwide, 70 percent of transgender individuals have reported denial of access to facilities, verbal harassment, or physical assault when they sought access to gender-segregated public restrooms, and over a quarter of transgender students have been excluded from accessing the bathroom at school.³

As a result of the harassment and humiliation that can accompany the use of sex-segregated facilities, many transgender Americans avoid public restrooms all together, a phenomenon that the Occupational Safety and Health Administration has found can lead to injury and/or illness.⁴

Many institutions, universities, and businesses in New York City have already taken steps to address these concerns by expanding access to gender neutral facilities, including the Whitney and Guggenheim Museums, Barnard College, the New School, and Etsy.

Despite this trend, New York City’s plumbing and building codes are stuck in the 20th century, requiring separate facilities for each sex.

It's time to bring our restroom policies into the 21st century to ensure that all New Yorkers, regardless of their gender identity or expression, can access a safe restroom in every corner of our City.

Intro 871 can achieve that goal in a smart, efficient way, by:

- Requiring existing single-occupancy, publically-accessible restrooms to become gender-neutral, in both public and private buildings; and
- Changing City codes to give more building owners the opportunity to create new gender-neutral restrooms as they see fit.

Sometimes a small change goes a long way. By adopting gender-neutral signage on existing single-occupancy restrooms throughout New York City, we will join cities across the country—from Washington, D.C. and Philadelphia to Austin and West Hollywood—that have implemented simple and cost-effective proposals that provide safe restrooms for all.

Thank you.

¹ Local Law No. 3 (2002); N.Y.C Admin. Code § 8-102(23).

² http://www.nyc.gov/html/cchr/downloads/pdf/publications/GenderID_InterpretiveGuide_2015.pdf.

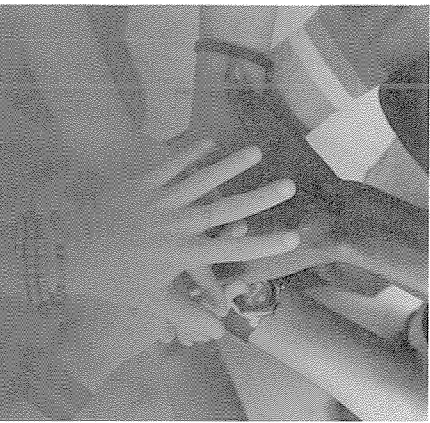
³ http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf;
<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Gendered-Restrooms-and-Minority-Stress-June-2013.pdf>.

⁴ <http://www.dol.gov/asp/policy-development/TransgenderBathroomAccessBestPractices.pdf>.



Restrooms for All: A Plan to Expand Gender Neutral Restrooms in NYC

Office of the New York City Comptroller
Scott M. Stringer



BUREAU OF POLICY & RESEARCH

JUNE 2015

Transgender individuals and people who are gender non-conforming—or perceived as such—face significant discrimination.¹ A recent survey found that 90 percent of transgender individuals² have experienced harassment, mistreatment, or discrimination on the job, or have been forced to take actions, such as hiding who they are, in order to feel safe at their place of employment.²

In that same survey, nearly 50 percent of transgender people said they have experienced an adverse job outcome—such as a denied promotion—because of their gender identity, with over half of these people reporting that they had lost a job because of it.³

Earlier this month, the New York State Assembly passed the Gender Expression Non-Discrimination Act (GENDA) for the *eighth* time—a law that would bar, once and for all, discrimination on the basis of gender identity and expression in big cities and small towns throughout the Empire State.

However, the State Senate has refused to bring GENDA to the floor, let alone pass this historic legislation that would bring New York law in line with 19 states, the District of Columbia, and Puerto Rico in protecting the rights of transgender New Yorkers.

New York City must not continue to wait for Albany to act. The City's Human Rights Law

already offers protection against discrimination on the basis of gender identity and expression, but more can be done to make the five boroughs more welcoming to all New Yorkers.

In addition to outright discrimination in employment and housing, transgender, gender non-conforming, and questioning individuals can endure damaging prejudice around something as simple and necessary as using a restroom.

Indeed, many transgender New Yorkers are forced to choose between using a space that matches either their gender identity or the sex they were assigned at birth. The Chelsea-based Transgender Legal Defense and Education Fund has fielded calls from individuals across





the country—including in New York City—who were either barred from using the bathroom appropriate to their gender identity or attacked for doing so.⁴

This mirrors the findings of a 2011 survey by the National Center for Transgender Equality and the National Gay and Lesbian Task Force, which found that 26 percent of transgender students had been denied restroom access in educational settings, and 22 percent of transgender employees reported being denied restroom access at work.⁵

Because transgender and gender non-conforming individuals are so often met with vocal or physical resistance in their attempts to access gender-appropriate restroom facilities, it is important to provide non-gender-specific restrooms where practical. Whatever the circumstances, restroom access is a necessity for everyone, and lack of accessible restroom facilities can lead to injury and/or illness.

The U.S. Occupational Safety and Health Administration (OSHA) recently took action on this issue by releasing new guidance forbidding employers from placing “unreasonable” restrictions on restroom access and urging employers to provide single-occupancy, gender-neutral facilities.⁶

While many entities—from the White House⁷ to many of New York’s great universities⁸—have adopted gender-neutral bathrooms, New York City itself has done little to advance the cause.

Comptroller Scott M. Stringer is proposing City Council legislation that takes a pragmatic approach to providing access to gender-neutral bathrooms by:

- **Requiring existing single-occupancy, publically-accessible restrooms to become gender-neutral, in both public and private buildings; and**
- **Changing City codes to give more building owners the opportunity to designate gender-neutral bathrooms.**

This critical legislation reflects efforts that have been undertaken in cities across the country and will help ensure that all New Yorkers have access to a safe restroom.⁹

GENDER-NEUTRAL LEGISLATION ACROSS THE COUNTRY

From Washington, D.C. and Philadelphia to Austin and West Hollywood—cities have shown how simple and cost-effective proposals regarding restroom access can help provide safe spaces for all persons.

Washington, D.C. led the way in 2006, with a broad non-discrimination bill that included a mandate for businesses within the District of Columbia to mark existing single-stall restrooms as gender-neutral and required new construction to also include them.¹⁰ Similar laws went into effect in Austin and West Hollywood earlier this year.¹¹

These models are designed to impose a minimal financial burden on cities and private building owners and businesses, rather than mandating a third set of bathrooms to existing buildings.

In 2013, Philadelphia passed legislation requiring new or renovated city-owned buildings to include gender-neutral bathrooms in addition to men’s and women’s restrooms.¹² Other states have undertaken similar initiatives to promote gender-neutral bathrooms.



Delaware’s human resource guidance states that, whenever practical, a single stall or gender-neutral restroom may be provided, which all employees may use.¹³

Similarly, both Washington State and the New York City Commission on Human Rights recommend that where single-occupancy restrooms are available, they should be designated gender-neutral.¹⁴

In addition to state and city reform, over 150 college and universities across the nation have incorporated gender-neutral bathrooms into their institutions.¹⁵

While the aforementioned series of laws passed in recent years to protect the transgender community is encouraging, many states and cities are going in the opposite direction.

Opponents of transgender equality in Arizona, Texas, Florida, and Kentucky have supported measures that criminalize the use of single-sex public facilities designated for or restricted to persons of other biological sex. These measures are often introduced under the guise of protecting people against sexual predators.¹⁶

In New York, our values of equality and opportunity for all dictate another path, one that welcomes all people.

The Comptroller’s proposal is designed to do just that.

COMPTROLLER STRINGER’S PROPOSAL

The Comptroller’s proposed legislation consists of two parts:

- 1. A requirement that existing single-occupancy, publically-accessible**

restrooms become gender-neutral, in both public and private buildings; and

- 2. A series of amendments to existing codes to give more building owners the opportunity to designate gender-neutral bathrooms.**

The first component is similar to legislation in Washington D.C. and elsewhere, requiring public buildings and private businesses within the five boroughs (with certain exceptions) to designate single-occupancy restrooms as gender-neutral. Beyond the nominal cost of signage, this change would not impose any additional burden on businesses.

The second component of the Comptroller’s plan could have even longer-lasting effects on availability of gender-neutral bathrooms in New York.

Thirteen years ago, Mayor Michael Bloomberg signed a law eliminating gender-based terminology in all documents, materials and laws generated by the City of New York. However, even today, City rules continue to mandate sex-specific bathrooms throughout the five boroughs.¹⁷

For example, the Plumbing Code states that “[w]here plumbing fixtures are required, **separate** facilities shall be provided for each sex.”¹⁸ Similarly, the code governing employment agencies states that, “Where both males and females are employed or dealt with in such agency, **separate** facilities shall be provided for each sex.”¹⁹

These provisions should be replaced with gender-neutral language stating that facilities must be provided for all individuals, regardless of their gender identity or expression—thereby



giving private building owners the **option** of designating gender-neutral bathrooms instead of, or in addition to, sex-specific facilities—something most are now prohibited from doing.²⁰

Indeed, under the existing building code, as updated in 2012, only restaurants and coffee shops with a total occupancy of 30 or fewer with just two bathrooms are allowed to make those facilities gender-neutral. Larger businesses or businesses with more bathrooms

are still required to provide sex-specific facilities.²¹

CONCLUSION

By promoting the creation of gender-neutral bathrooms, New York City can speed the advancing tide of embracing diversity and equality for the over 25,000 transgender individuals who call the five boroughs home and the millions more who seek to live in a city where all feel welcome and safe.²²



ENDNOTES

¹ http://transequality.org/federal_gov.html

² http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_summary.pdf.

³ http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_summary.pdf.

⁴ <http://www.dnainfo.com/new-york/20121001/greenwich-village/transgender-new-yorkers-face-scorn-violence-using-public-restrooms>.

⁵ http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf;

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Gendered-Restrooms-and-Minority-Stress-June-2013.pdf>; A 2013 survey by the Williams Institute at the University of California-Los Angeles School of Law found that 70 percent of transgender individuals reported denial of access to facilities, verbal harassment, or physical assault when they sought access to gender-segregated public restrooms.

⁶ <http://www.dol.gov/asp/policy-development/TransgenderBathroomAccessBestPractices.pdf>.

⁷ <http://www.politico.com/story/2015/04/white-house-gender-neutral-bathroom-116779.html>.

⁸ <http://www.nyu.edu/life/student-life/student-diversity/lesbian-gay-bisexual-transgender-and-queer-student-center/restroom-list.html>; <http://www.newschoolfreepress.com/2012/03/30/gender-inclusive-bathrooms-arrive-at-the-new-school/>; <http://jstop.jjay.cuny.edu/lgbtq/>.

⁹ While beyond the scope of this report, it is important to note that the concept of gender neutrality goes far beyond bathrooms. Indeed, the very paradigm of the two-gender society is being much more carefully scrutinized. For example, many universities have begun to recognize “neutral” as a gender for the purpose of demographic data. *See*: <http://www.nytimes.com/2015/02/08/education/edlife/a-university-recognizes-a-third-gender-neutral.html>.

¹⁰ Rule 4-802 of the D.C. Municipal Regulations (available:

<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=4-802>).

¹¹ <http://kxan.com/2015/01/16/austins-gender-neutral-bathroom-rules-go-into-effect/>;

<http://www.latimes.com/local/lanow/la-me-ln-weho-gender-neutral-restroom-20150113-story.html>.

¹² <http://www.nbcp Philadelphia.com/news/local/LGBT-Gender-Neutral-Restrooms-206932591.html>.

¹³ <http://www.delawarepersonnel.com/policies/documents/sod-eeoc-guide.pdf>.

¹⁴ <http://www.hum.wa.gov/Documents/Guidance/GuideSO20140703.pdf>

<http://www.nyc.gov/html/imm/downloads/pdf/ROM-2013Update.pdf>.

¹⁵ <http://www.newyorklawjournal.com/home/id=1202725244319/Addressing-Sex-and-Gender-in-the-Changing-Workplace?mcode=1202615326010&curindex=1>.

¹⁶ <http://aiclegal.org/i-really-have-to-go/>.

¹⁷ Local Law 42 of 2002, available:

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=437048&GUID=88A3AB81-FFC7-4A57-A1CF-66354854A828&Options=ID|Text|Search=0027>.

¹⁸ NYC Administrative Code SECTION PC 403.2 (emphasis added); These facilities must be designated “by a legible sign for each sex.” *Id.* at 403.7.

¹⁹ 6 RCNY 5-245; *see also* 24 RCNY 167.39(b)(2) (“All bathing beach facilities shall be provided with an adequate number of toilets and handwashing facilities... Separate toilet facilities shall be provided for each sex”).

²⁰ Implementing this change will necessitate other revisions to the code, including but not limited to, addressing sex-specific ratios outlined in the Plumbing Code. *See* NYC Administrative Code SECTION PC 403.1.1.

²¹ NYC Administrative Code SECTION PC 403.2 [see exceptions].

²² The Williams Institute published a report in 2011 estimating the total transgender population as being 0.3 percent of the U.S. population. If this estimate is used for New York City’s estimated population (8.4 million in 2013), that suggests just over 25,000 New Yorkers identify as transgender.



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Gale A. Brewer, Borough President

Testimony of Gale A. Brewer, Manhattan Borough President
On Intro 722-A in Relation to Minimum Temperatures
Required to be Maintained in Dwellings
January 14, 2016

My name is Gale A. Brewer and I am the Manhattan Borough President. Thank you to Chair Williams and to the Members on the Committee on Housing and Buildings for the opportunity to testify.

I am proud to have co-introduced Intro 722-A with Councilmembers Williams and Levine. It's my understanding that it is the position of the City's Department of Housing Preservation and Development (HPD) as well as Council Legislative Affairs that as per Section 79 of the Multiple Dwelling Law, the City is pre-empted from changing the daytime temperature for residential buildings. Therefore, I will focus my comments on the areas of the bill that are within our legislative purview. Intro 722-A would amend the minimum required overnight temperature for residential buildings from 55 degrees to 65 degrees between 10pm and 6am during the City's heating season. In addition, the bill would require buildings to maintain this overnight temperature throughout the heating season, as opposed to being triggered by an outside temperature point.

During last year's heating season, between October 1, 2014 and May 31, 2015, the City's 311 system registered 232,086 complaints of inadequate heat citywide; 52,957 of these complaints were made in Manhattan. Over the course of this current heating season, there have been 94,428 heat complaints; 23,418 complaints came from Manhattan. Last Tuesday, January 5, as many New Yorkers woke up to temperatures in the low teens that didn't rise above freezing, the City's 311 system fielded the highest single day complaint volume for this heating season with 5,052 complaints of inadequate heating.

While it's likely that not all of these complaints resulted in violations, it's essential that our residential buildings are heated properly and that HPD and its inspectors have the needed tools at their disposal to enforce the law. Under the current system, outdoor and indoor readings are taken during inspections for violations, often days after the initial complaint. Reliance on an outside temperature trigger – in an environment that can fluctuate over the course of the

day - leads to confusion for tenants and responsible landlords alike. Removing the outside temperature requirement is a common sense simplification of the code that will establish a consistent indoor temperature – to the benefit of both owners and tenants. It will also add clarity and efficiency to the agency’s enforcement efforts.

The primary impetus for this proposal is improving the health and safety of all New Yorkers in their dwellings during the frigid months. While this change would benefit many New Yorkers, it embodies the goals of Age Friendly New York City, as it would particularly help our older residents and young children who are more susceptible to health complications due to lower overnight temperatures.

When buildings are not heated adequately though, residents may turn to additional heat sources like space heaters and cooking ovens, the usage of which can be expensive, inefficient and even dangerous - especially in cramped apartments with few electrical outlets. My Northern Manhattan storefront office has received several complaints of inadequate heat from constituents living in rental buildings and NYCHA developments, whereby they have resorted to using space heaters. On November 10, 2015 unsafe usage of space heaters resulted in serious fires; firefighters removed a Bronx resident in critical condition and a Queens resident sadly died from his injuries.

These two proposed changes are reasonable and well within the range of residential heating regulations in cities like Chicago and Boston, which have similar weather conditions to our city. In neither city are heating regulations triggered by outside temperatures. Also, their current minimum overnight indoor temperatures are consistent with the proposal to move New York City to 65 degrees: Chicago requires at or above 66 degrees and Boston requires at or above 64 degrees.

Thank you for the opportunity to testify before you today. My thanks to the legal services providers who are voicing their support here, as well as LiveOn NY who submitted testimony in support yesterday. I am honored to have introduced this common sense public safety measure with my colleagues in government and I urge all City Council Members to vote in favor of Intro 722-A.



NEW YORK STATE ASSOCIATION FOR AFFORDABLE HOUSING

Testimony before the New York City Council Committee on Housing and Buildings
January 14th, 2016

Introduction 722-A - in relation to minimum temperatures required to be maintained in dwellings

My name is Alexandra Hanson, Policy Director for the New York State Association for Affordable Housing (NYSFAH). As the trade association for New York's affordable housing industry, our 375 members include developers, lenders, investors, attorneys, architects and others active in the financing, construction, and operation of affordable housing. On behalf of NYSFAH, I would like to thank Chair Williams and members of the Committee on Housing and Buildings for the opportunity to submit comments on Int. 722-A.

Int. 722-A would increase the minimum temperature requirements for residential buildings during the months of October through May. The proposed temperature between the hours of 6am and 10pm would increase from 68 degrees to 72 degrees. The proposed temperature between the hours of 10pm and 6am would increase from 55 degrees to 65 degrees.

NYSFAH recognizes the Council's intent to ensure a comfortable living environment for all New Yorkers. However, NYSFAH is opposed to the minimum temperature requirements as currently proposed in this legislation. NYSFAH does not oppose increasing the 55 degree minimum nighttime temperature, but the ten degree increase proposed in Int. 722-A is too great. The daytime temperature should not be changed.

Heating throughout buildings can often be inconsistent and vary depending on the area of the building. In some buildings, this variation can be considerable. Building owners often heat above the existing minimums to ensure the entire building meets minimum standards. In order to ensure that all apartments meet the minimum 72 degree daytime standard, Int. 722-A would raise temperatures in many apartments to uncomfortable levels. Furthermore, residents may respond to the increased temperatures by opening windows to cool apartments, which stresses building systems, heating budgets, and sustainability goals.

NYSFAH and its members are deeply committed to building affordable housing that meets high energy efficiency standards. New construction and significant rehabilitation projects receiving funding from the New York City Department of Housing Preservation and Development (HPD) are required to meet Enterprise Green Community Criteria. Such efficiency is important for the environment but also to ensuring the financial stability of affordable buildings. The dramatic increase in minimum temperatures proposed by Int. 722-A would significantly harm these energy efficiency efforts.

Affordable housing operates on fixed revenue with limited margins. There is very little room to absorb added costs. The dramatic spike in energy costs that would be seen under the increased

minimum temperatures proposed in Int. 722-A would place a significant financial burden on the City's affordable housing stock.

Additionally, the City has put forward an aggressive plan to reduce greenhouse gas emissions 80 percent by the year 2050. In *One City Built to Last*, the City's plan to transform our buildings for a low-carbon future, the Mayor highlights that "our buildings are responsible for the overwhelming share of our emissions. The energy we use in our homes, schools, workplaces, stores, and public facilities account for nearly three-quarters of our contribution to climate change." The City Council has enacted numerous pieces of legislation to reduce the emissions from the City's residential and commercial building stock. The proposed legislation takes a major step backwards on the work done thus far and the ambitious 80 x 50 goals given the increased energy (and greenhouse gas emissions) expended by the City's residential buildings as a result of this legislation.

As written, Int. 722-A will add to the environmental and fiscal challenges of serving the affordable housing needs of New York City's residents. To this end, NYSFAFH opposes this legislation as drafted. NYSFAFH looks forward to working with Council and other stakeholders to ensure the comfort of New York City's residents, while also realizing the environmental and affordable housing goals we all share. Thank you for your consideration of NYSFAFH's comments.

Contact: Alexandra Hanson, Policy Director Alexandra@nysafah.org (646) 473-1209

**New York City Council
Committee on Housing and Buildings
The Honorable Jumaane Williams, Chair
Hearing on Proposed Intro. No. 722-A
January 14, 2016**

LiveOn NY thanks Council Member Jumaane Williams, Chair, Committee on Housing and Buildings, and cosponsors for their support on this important issue. LiveOn NY also thanks Manhattan Borough President Gale Brewer for her leadership on this legislation that affects public safety and the health and welfare of our city's older adults.

LiveOn NY is dedicated to making New York a better place to age. At the core of our mission is to allow all New Yorkers age with confidence, grace and vitality. LiveOn NY advocates for meaningful policy that promotes livable communities, allowing older adults to safely age in place.

LiveOn NY supports Intro. 722-A because it offers common sense changes to existing law to make buildings safer for older adults. Intro. 722-A adjusts the nighttime (between 10:00pm to 6:00am) minimum temperature during colder months (October 1 through May 31) to be maintained to at least 65 degrees Fahrenheit. The current law only requires the temperature to be maintained during these hours at 55 degrees Fahrenheit, which is extremely low. This low temperature poses a health hazard, particularly to older adults with health conditions.

Intro. 722-A also removes the "triggering" outside temperature from the code. This reasonable simplification would make enforcement of the code much more straight-forward and efficient. It also ensures the building is maintained at a consistent temperature during the cold months, particularly at night when temperatures typically drop.

The suggested changes to the minimum temperatures in Intro. 722-A are also reasonable and consistent with laws governing minimum nighttime temperatures in cities that experience comparable weather conditions, such as Boston and Chicago. Neither of these cities have the outside temperature "triggering" requirement either.

By passing Intro. 722-A, City Council can also support the goals of Age Friendly New York City, which aims to create opportunities for older New Yorkers to live richer, fuller lives and make New York City a great place to grow old. This bill is one way the city can help create a city more inclusive of older adults and be more sensitive to their needs. Intro. 722-A also supports caregivers, as they can be assured that the older adult is safe in the home.

In order to ensure the bill is effective, LiveOn NY suggests that City Council ensures that residents are aware of this requirement, and how they can report any issues if their building is not following the new changes.

LiveOn NY Urges the City to Support an Aggressive SCRIE Public Awareness, Outreach and Enrollment Campaign

Intro. 722-A is an example of how the City can continue to support the ability of older adults to safely age in place. Another good example is the Senior Citizens Rent Increase Exemption

(SCRIE) program. There is a tremendous leadership opportunity for City Council to reach upwards of 70,000 eligible but unenrolled older adult households to help build a wall of protection around seniors to remain in their homes. As noted in the *Freeze Your Rent* Report, the Department of Finance's goal is to better focus outreach efforts to reach every qualifying tenant to increase the low utilization rate, and fostering community partnerships is a key component of that goal. This will take funding and a strategic plan, and a good comparison is the success of the city's current well-orchestrated Pre-K public awareness campaign.

Currently, HRA is running a public awareness campaign on mass transit on the rent guidelines board rent freeze. LiveOn NY has requested several times that the City include a statement on SCRIE and instructions to call 311 within this campaign on the posters on trains and in other places, but unfortunately to date, the city has ignored this requested. While it is important to raise awareness on the rent board freeze guidelines, it is a missed opportunity to educate older adults, their families and neighbors about SCRIE.

LiveOn NY strongly encourages the City to support a SCRIE public awareness campaign. By strengthening the SCRIE program, along with enacting legislation such as Intro. 722-A, the City can continue to allow seniors to age in place in their communities.

LiveOn NY supports Intro. 722-A and these efforts to promote livable communities and to allow older adults to safely age in place, and thanks City Council for their leadership on this issue.

About LiveOn NY: LiveOn NY is dedicated to making New York a better place to age. Founded in 1979, with a membership base of more than 100 organizations ranging from individual community-based centers to large multi-service organizations, LiveOn NY is recognized as a leader in aging. LiveOn NY's membership serves over 300,000 older New Yorkers annually and is comprised of organizations providing an array of community based services including elder abuse prevention and victims' services, case management for homebound seniors, multi-service senior centers, congregate and home-delivered meals, affordable senior housing with services, transportation, NORCs and other services intended to support older New Yorkers. LiveOn NY connects resources, advocates for positive change, and builds, supports and fosters innovation. Our goal is to help all New Yorkers age with confidence, grace and vitality.



**LEGAL
SERVICES**

INCORPORATED

**TESTIMONY
IN SUPPORT OF**

**PROPOSED INT. NO 722-A: TO AMEND THE
ADMINISTRATIVE CODE IN RELATION TO MINIMUM
TEMPERATURE REQUIRED TO BE MAINTAINED IN
BUILDINGS**

PRESENTED BEFORE:

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

PRESENTED BY:

**DAVID BILLINGSLEY
POVERTY JUSTICE SOLUTIONS FELLOW
MFY LEGAL SERVICES, INC.**

JANUARY 14, 2016

MFY LEGAL SERVICES, INC., 299 Broadway, New York, NY 10007
212-417-3700 www.mfy.org

I. Introduction

MFY Legal Services, Inc. envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for over 50 years MFY has provided free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform and policy advocacy. We provide advice and representation to more than 10,000 poor and working poor New Yorkers each year benefitting over 20,000 individuals.

MFY annually serves more than 3,600 tenants, over 2,000 of whom are at least 60 years old and approximately 50% of whom are people with disabilities. MFY is committed to working with the City Council to protect the safety and affordability of housing for all low-income New Yorkers so they can continue to be an integral part of New York City communities.

MFY Legal Services supports Int. 722A proposed at the request of Manhattan Borough President Brewer to raise the overnight¹ minimum temperature from 55 to 65 degrees and remove the exterior temperature requirement triggering the provision of heat. These amendments will provide significant health and safety benefits to the most vulnerable New Yorkers.

II. Health

MFY serves many elderly, poor, disabled and other vulnerable people who would benefit from increased overnight temperatures in their homes. Elderly people and young children are especially susceptible to hypothermia and cold-related complications of diseases and disabilities.² The natural aging process reduces the ability to detect change in temperature and reduces the body's natural ability to regulate its temperature against the cold.³ Many chronic medical conditions, such as vascular, cardiovascular, and respiratory disease are complicated or worsened by cold temperatures and sustained cold temperatures are associated with higher rates of death from stroke and heart attack.⁴ As a result, older age groups even show excess rates of mortality in the winter as compared to younger age groups.⁵

Poor nutrition and a lack of access to appropriate winter clothing, which are more likely to affect poor people and families who have little other means to protect themselves from cold

¹ It is our understanding that the City is preempted from changing the daytime temperature so, while MFY would be supportive of such an amendment, we will not focus our testimony on this portion of the proposed legislation.

² National Institute on Aging, *Stay Safe In Cold Weather*, <https://d2cauhfh6h4x0p.cloudfront.net/s3fs-public/stay-safe-in-cold-weather.pdf>

³ <http://www.ncbi.nlm.nih.gov/pubmed/11842354>

⁴ Mayo Clinic, *Hypothermia Risk Factors*, June 18, 2014, Available at: <http://www.mayoclinic.org/diseases-conditions/hypothermia/basics/risk-factors/con-20020453>

⁵ Slate, Kim Iskyan, *The Killer Season*, September 16, 2003, Available at: http://www.slate.com/articles/news_and_politics/hey_wait_a_minute/2003/09/the_killer_season.html.

temperatures, exacerbate all of these health issues. Mental health issues can also prevent a person from taking appropriate steps to stay warm.

III. Safety

When the temperature is too low, people often resort to the use of space heaters to heat their apartments. The U.S. Consumer Product Safety Commission estimates that more than 25,000 residential fires every year are associated with the use of space heaters that result in more than 300 deaths and over 6000 emergency room visits due to burns from contact with the surface of a space heater.⁶ Fires pose an especially large risk in a densely-populated area like New York City where fires can spread to other apartments in a multiple dwelling in a matter of minutes, endangering the lives of tenants in the building as well as adjacent buildings.

Another common solution to a cold apartment that tenants resort to in order to stay warm is turning on the stove or oven. The extended use of stoves or ovens for heating exposes tenants and their neighbors to carbon monoxide poisoning. Carbon monoxide causes fatigue, chest pain in people with heart disease, reduced brain function, impaired vision and coordination, dizziness, confusion, nausea and death.⁷ An estimated 430 deaths per year occurred around the United States from 1999 to 2010 due to carbon monoxide poisoning.⁸ In addition to the very serious risks of carbon monoxide poisoning, the open flame of a stove being used for heat poses a fire hazard.

IV. Enforcement

Removing the triggering exterior temperature requirement for the provision of heat will streamline enforcement by the Department of Housing Preservation and Development (HPD) and make it more effective. Too often, a tenant makes a heat complaint to 311 for insufficient heat, or no heat at all, only for an HPD inspector to arrive several days later when the exterior temperature is above the triggering temperature legally required to provide heat, yet the interior temperature is still below the legal requirement *when* heat must be provided. The lag in response time by HPD is understandable given the number of heat complaints the City receives on any given day. However, as a result, HPD is not able to issue timely violations for lack of heat, which delays the resolution of the problem and too many landlords escape enforcement. Why should the exterior temperature be a factor if the interior temperature is below what is legally required regardless of the exterior temperature?

⁶ Energy.gov, *Energy Saver, Portable Heaters*, Available at: <http://energy.gov/energysaver/portable-heaters>.

⁷ U.S. Environmental Protection Agency, Indoor Air Quality, *Carbon Monoxide's Impact on Indoor Air Quality*, Available at: <http://www.epa.gov/indoor-air-quality-iaq/carbon-monoxides-impact-indoor-air-quality>.

⁸ Centers for Disease Control and Prevention, *QuickStats: Average Annual Number of Deaths and Death Rates from Unintentional, Non-Fire-Related Carbon Monoxide Poisoning by Sex and Age Group — United States, 1999–2010*, Available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6303a6.htm>.

Further complicating matters is the discrepancy in reading the exterior temperature. On any given day the temperature outside can vary widely depending on where one is in the City and the time of day. Given the potential range in outdoor temperatures during the day, even a reasonable landlord might not be able to provide the legally required heat once the outdoor temperature triggers the heat requirement because it can take time to heat an entire building, especially depending on its size. Eliminating the outdoor heating requirement would establish consistency in enforcement and reliability for both landlords and tenants. As a comparison, heat regulations in other large cities with similar weather, both Chicago and Boston have straight interior temperature requirements without any exterior temperature trigger.

V. Costs and Environmental Concern

Increasing the minimum overnight temperature to 65 degrees would have enormous health and safety benefits for our most vulnerable New Yorkers. The health and safety risks faced by tenants trying to keep warm far outweigh any negligible increase in fuel costs for landlords. Landlords have a responsibility to provide living spaces that are safe and conducive to the health of their tenants. With fuel prices for natural gas and heating oil at their lowest in six years,⁹ the cost of the minimal increase in temperature during the limited overnight hours should hardly be noticeable.

In addition, any argument that increasing the overnight temperature would increase greenhouse gas output is short-sighted. Raising the minimum overnight temperature requirement would be minimal as it is only during the limited hours of 10 pm to 6 am.

IV. Conclusion

MFY Legal Services strongly supports Int. 722-A. This legislation is an essential step towards protecting the health and safety of the most vulnerable New Yorkers.

⁹ U.S. Energy Information Agency, *Household heating costs are expected to be lower than previous two winters*, October 6, 2015, Available at: <http://www.eia.gov/todayinenergy/detail.cfm?id=23232>.

Introduction

Good Afternoon. My name is Abbey Brown, and I am the New York City Clean Energy Project Manager for Environmental Defense Fund's NY Clean Energy Program. I respectfully submit the following testimony regarding Intro. No. 722A, a proposed Local Law to amend the administrative code of the city of New York, in relation to minimum temperatures required to be maintained in dwellings.

Environmental Defense Fund (EDF), is a not-for-profit, non-partisan, international environmental organization with headquarters in New York City. With over 700,000 members, more than 35,000 of which are residents of NYC, we work to advance market-based policy to address the world's greatest environmental challenges.

EDF has a long history of working with the City Council and the City of New York, most recently with the NYC Clean Heat and Retrofit Accelerator programs. After supporting legislation to phase out heavy heating oil in New York City, EDF acted as program manager for NYC Clean Heat. Through our partnership with the Mayor's Office of Sustainability, the NYC Department of Environmental Protection, and other partners, NYC Clean Heat helped nearly 6,000 buildings convert to cleaner fuels between 2012 and 2015, dramatically improving air quality for all New Yorkers. Thanks in large part to NYC Clean Heat, New York State met National Ambient Air Quality Standards. Building on the success of NYC Clean Heat, EDF helped in developing the NYC Retrofit Accelerator. We have also worked closely with the New York City Housing Authority to analyze the potential for using technology to provide consistent, comfortable temperatures to residents while saving both energy and money.

In my nearly five years of working with EDF, I have worked closely with the Mayor's Office of Sustainability on the NYC Clean Heat program, helping to coordinate with key stakeholders and ensure the successful implementation of the program. This work gave me an inside look into how buildings manage their heating, and the complex nature of energy use in this city. Based on this experience, I am here to provide testimony today to highlight a few concerns with the proposed changes in Intro. No. 722A.

Concerns with Intro. No. 722A

The current heating requirements, as established in the NYC Administrative Code, Article 8, Section 27-2029, have not been changed in decades. The proposed change establishing a minimum daytime indoor temperature of 72 degrees Fahrenheit would give NYC the dubious distinction of having the highest indoor temperature requirement among any area in the Northeast U.S. Cities like Boston and Chicago set 68 degrees as their minimum. It's clear that the intent of this proposal is to ensure that all New Yorkers receive adequate heat, and can be comfortable during the coldest days of the year. However, simply

raising the heat is unlikely to address the underlying cause of many of the heat complaints. It is important to consider all the potential impacts resulting from the change. A few such potential impacts include:

1. **Increased Costs:** This new requirement will increase operating costs for building owners, and these costs are likely to be passed through to residents in the form of a rise in rent. This is a particularly sensitive issue for low- and moderate-income New Yorkers and, in an environment where affordability is a key concern, the Council should be careful to ensure that such a drastic change in operating requirements will not increase costs to NY's most sensitive residents.
2. **Inconsistent with Existing Policy:** Many federal, state and city goals are seeking to address climate change by creating regulations to reduce energy use and greenhouse gas (GHG) emissions. For example, in September 2014, Mayor Bill de Blasio announced New York City's commitment to reducing GHG emissions by 80% of 2005 levels by 2050 through his "One City, Built to Last: Transforming New York City's Buildings for a Low-Carbon Future". According to the Mayor's September 14th, 2014 announcement which unveiled the program:

"Nearly three quarters of New York City's greenhouse gas emissions come from energy used to heat, cool, and power buildings, making building retrofits a central component of any plan to dramatically reduce emissions."

Additionally, "One City, Built to Last" committed NYC to reducing greenhouse gas emissions from buildings by 20% by 2025 – that's within the next 10 years.

Governor Cuomo's NY State Energy Plan (SEP), released in June of 2015, established an emissions reduction goal of 40% by 2030, which reinforced the existing 80% by 2050 emissions reduction goal already in place. The SEP went a step further and directly called for a 23% reduction in building energy use by 2030. This new requirement would increase building energy use, potentially making these ambitious goals more difficult to meet.

3. **Operational Impacts:** It will require building owners to operate heating systems more frequently and at a greater intensity. Increasing both the temperatures for which landlords must provide heat, and the frequency they must provide it, means higher heating bills for residents in addition to more operation and maintenance costs for building owners, and could shorten the useful life of heating equipment.

This proposal will lead to greater energy use and is at odds with these and other existing environmental goals. As mentioned before, no other major metropolitan area or state in the Northeast United States requires that apartments be heated in excess of 68 degrees Fahrenheit.

Also, based on figures from the U.S. Department of Energy, the proposed change in minimum indoor temperature would increase heating bills by at least 18%. The additional requirement would not only be a significant burden on all New Yorkers, but the escalation in energy use would lead to corresponding increases in emissions that would impede our ability to achieve State, City and Federal emissions reduction targets.

We understand the need to ensure that NYC residents can be comfortable in their homes, but the proposed change to the NYC Heating Regulations will ultimately be a bad deal for all New Yorkers, and will likely not lead to significant improvements in quality of life for those affected by inadequate heat. Many New Yorkers currently suffer from overheating in their apartments, and while some do not have their heating needs met, there must be a more efficient way to rectify this situation.

Alternative Options

Increasing the minimum required indoor temperature will not guarantee residents comfortable living spaces. Building owners can take many actions to improve the performance of their heating system, which would increase resident comfort and reduce heating complaints without significantly increasing energy use.

Some examples include better weatherization, such as caulking or replacing windows, improving the operating efficiency of radiators, eliminating drafts from doors, and sealing spaces around window air conditioning units. Integrating controls in buildings can improve how heating is provided to buildings and aid building managers in quickly identifying problems and developing solutions. These measures aren't without cost, but once the work is done the building is more energy efficient in addition to saving money over the long-term.

Implementing this proposed change without integrating these and similar measures that will improve tenant conditions, would have the perverse effect of wasting even more energy on heat than we do today, and ultimately would not improve tenant comfort.

Global climate change is likely to give us more extreme weather, including more extreme cold. The City Council is right in aiming to address this issue and protect New Yorkers, but there are solutions to the problem that are more effective and more innovative than simply raising the required minimum temperature.

To more effectively address the issue of indoor heating in NYC, we propose the creation of a working group with members of the City Council, Department of Buildings, and other relevant City Agencies. Through this group, NYC would develop a path forward that will improve the quality and consistency of the heat received by the residents of NYC, while also reducing energy use and emissions. This would improve both the building conditions and New Yorkers' well-being, as well as highlight New York's commitment to achieving the previously committed energy and emissions reductions targets.

EDF's recommendations include:

1. Allow New Yorkers to report excessive heat during the heating season
2. Set a maximum indoor temperature
3. Set a minimum indoor temperature, regardless of the outdoor temperature
4. Mandate better weatherization and insulation

Together, we can show the world that NYC doesn't need to turn up the heat to fix its problems.

Int. No. 722

By Council Members Williams, Levine, Arroyo, Rose and Rosenthal (by request of the Manhattan Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to minimum temperatures required to be maintained in dwellings

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 27-2029 of the administrative code of the city of New York is amended to read as follows:

- a. During the period from October first through May thirty-first, centrally-supplied heat, in any dwelling in which such heat is required to be provided, shall be furnished so as to maintain, in every portion of such dwelling used or occupied for living purposes:

(1) between the hours of six a. m. and ten p. m., a temperature of at least [sixty-eight] 72 degrees Fahrenheit whenever the outside temperature falls below [fifty-five] 58 degrees; and

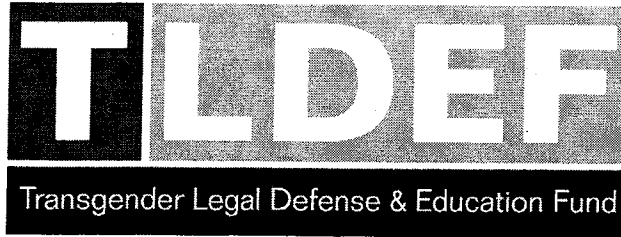
(2) between the hours of ten p. m. and six a. m., a temperature of at least [fifty-five] 65 degrees Fahrenheit whenever the outside temperature falls below [forty] 49 degrees.

§ 2. This local law shall take effect immediately.

wcj

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Testimony before the New York City Council
Committee on Housing and Buildings
Concerning Introduction 0871-2015
January 14, 2016

Good afternoon. My name is Ethan Rice and I am a Staff Attorney at Transgender Legal Defense and Education Fund. I will be providing testimony on behalf of our organization in support of Introduction 871 – legislation that would require single-occupant bathrooms to be usable by persons of any sex. Thank you Chairman Williams for your attention to this important piece of legislation, and thank you Council Member Dromm for your leadership in protecting the rights and dignity of transgender and gender non-conforming people.

Transgender Legal Defense and Education Fund (TLDEF) provides a comprehensive in-house legal program that brings test-case litigation with wide impact in all areas of transgender civil rights. While many victories have been won in enacting legislation that protects the rights of lesbian, gay, bisexual, and transgender individuals, many hurdles remain, especially for transgender and gender non-conforming New Yorkers. A 2011 study found that 74% of transgender New Yorkers surveyed faced discrimination in the workplace. Nineteen percent have a household income of \$10,000 or less – almost five times the poverty rate of the general population. Only 52% had employer-based health insurance, compared to 59% of the general U.S. population. 53% reported being verbally harassed or disrespected in a place of public accommodation or service. From fighting employment discrimination to ensuring equal access to health care, TLDEF works tirelessly for transgender equal rights and to reverse a culture of discrimination that has been tolerated for far too long.

Introduction 871 is sorely needed to legalize the ability of transgender and gender non-conforming New Yorkers to perform the most basic of functions – using a bathroom without fear of harassment or the threat of violence. Since 2010, TLDEF has fielded 196 calls from transgender and gender non-conforming individuals that have been harassed, attacked, or denied entry when attempting to use a public restroom, with many other instances having gone unreported. These reports have ranged from inappropriate

comments, an inability to access a facility, to physical attacks. It is of the utmost importance that transgender and gender non-conforming people have the right to access the restrooms that correspond with their gender. For some individuals a restroom open to all genders is the space that can meet that need. For others having the choice to access a restroom that is open to all genders provides safety and assuages fears that come with accessing sex-segregated facilities for many transgender individuals.

The New York City Commission on Human Rights has recently set forth legal enforcement guidance on discrimination on the basis of gender identity or expression that includes a requirement that covered entities make clear that any single occupancy restroom is open to all genders; however, without amendments to the New York city building code and administrative code, transgender and gender non-conforming New Yorkers may not be able to receive the justice warranted if they are subjected to discrimination in using single occupancy restrooms.

Following the EEOC's 2015 decision that restricting transgender individuals from accessing single sex restroom facilities consistent with who they are is sex discrimination in violation of Title VII, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) published a best practices guide to restroom access for transgender employees. This guide also urges that as part of best practices single occupancy unisex restrooms be available for transgender employees to use, if they choose to do so. Passage of Introduction 871 is necessary to ensure that the progress being made in these areas is codified and enforced in New York City.

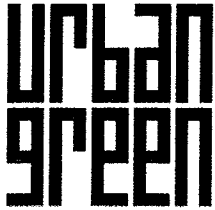
In 2014, Transgender Legal Defense and Education Fund was in search of new office space. While searching for real estate in New York City can be a daunting task for anyone, our search was further complicated simply by the need to find a space where our employees and clients could use the restroom facilities without fear. Once we moved to our new space, we had to change the signage ourselves on two single occupant restrooms before any neighbors moved on to the newly-built floor to make clear they were accessible to anyone, regardless of sex. If TLDEF, an organization of attorneys and legally savvy professionals can face difficulties in finding appropriate bathroom facilities, imagine what the average transgender New Yorker must face when needing use a restroom.

Last year TLDEF received a call from a cafeteria employee who began her transition after being employed with her company for some time. After her transition she began to use the women's locker room. Two weeks later she entered the facility to find a sign hung that read, "Get out of here, you man!" During that same year, TLDEF received a call from a gender non-binary individual who does not identify as being male or female who was facing difficulty using appropriate facilities at their local gym. While the gym's management was able to assign office space for the person to change clothing, bathroom facilities remained inaccessible due to gender designations.

In late 2012, DNAinfo.com reported an incident where a transgender woman was slashed with a straight razor on her face and body after attempting to use the women's restroom

in a fast food restaurant located on West 3rd Street in Manhattan. The same woman reported being stopped by a security guard from entering a hospital bathroom while visiting a friend. Surely, we as a city can pass legislation designed to stop needless violence and blatant harassment.

In conclusion, Transgender Legal Defense and Education Fund believes that Introduction 871 is common-sense legislation. It shows a commitment to protect basic human rights and shows the right level of sensitivity to the needs of a population that is all too often marginalized. With 26 co-sponsors, representing all five boroughs of New York City, we hope the Council will work swiftly to bring this legislation to a vote and work with the Administration to sign it into law. If TLDEF can be of service through the process, we will be happy to assist. Thank you again for the opportunity to offer testimony today.



**Testimony of Laurie Kerr, FAIA, LEED AP
Director of Policy, Urban Green Council
Before the New York City Council Committee on Housing and Buildings**

**Re: Int. No. 722-A, Minimum Temperatures Required to be Maintained in
Dwellings**

January 14, 2016

Good afternoon Chairperson Williams and members of the Committee. I am Laurie Kerr, an architect and the Director of Policy for Urban Green Council. Urban Green focuses on the health, cost, and sustainability of our city's buildings.

Urban Green strongly supports the goal of health and comfort for all New York City apartment dwellers, particularly those suffering from cold temperatures in the winter. While turning up the heat as this bill proposes is one path to achieve this goal, we believe there is a better way: addressing the common causes of cold areas in buildings by improving insulation, sealing, and building operation.

In many New York apartment buildings, as heat rises and escapes through poorly sealed windows and roofs, external air rushes in through lower floors to make up for air loss. As a result, lower-floor residents may suffer cold temperatures. Upper-floor residents are often overheated and open windows for relief, increasing drafts through the building that cause even greater heating imbalance and discomfort on lower floors.

The principal cause of cold apartments in buildings, then, is not under-heating alone. Instead, poor insulation, a lack of sealing, and uncontrolled and uneven heating throughout apartment buildings leads to both under-heating and over-heating at the same time.

Relying on increasing minimum heating temperatures to solve the problem of some residents suffering in cold apartments presents several key drawbacks:

- Many apartment dwellers already suffering from over-heating would face even hotter apartment temperatures and more discomfort;
- More open windows on higher floors because of over-heating would create even more air flow that would negatively affect lower floor temperatures;
- Increased heating would mean burning approximately one-third more heating fuel in affected buildings, driving up building operating costs, which eventually work their way back down to tenants; and

- The proposed minimum temperatures would significantly increase air pollution that contributes to childhood asthma and other health problems, as well as increase citywide carbon pollution by approximately 3 percent.

To ensure that New York City's buildings are comfortable for all residents, we recommend that City Council focus instead on addressing underlying problems in insulation, sealing, and heating-system operation. For example, passing Intro 13-A would implement efficiency training so that building operators could run steam systems with greater skill and provide more comfortable living conditions. Similarly, the City could institute requirements for improving steam systems, including sensors and controls – solutions that are often inexpensive and yield savings while alleviating the discomfort at the heart of this bill. We look forward to helping City Council develop such requirements.

Thank you for the opportunity to testify before this committee, and I am available to answer any questions you might have.

Manhattan
Legal
Services



Legal
Services NYC

**TESTIMONY OF LEGAL SERVICES NYC REGARDING AMENDMENT OF THE
MINIMUM TEMPERATURES TO BE MAINTAINED IN DWELLINGS
(INT. NOS. 722-A)**

**New York City Council
Committee on Housing and Buildings
January 14, 2016**

My name is Ami Shah, and this is my colleague Caitlin Johnson. We are staff attorneys at Manhattan Legal Services. We are speaking on behalf of Legal Services NYC, the National Organization for Legal Services Workers, and the Local 2320 of the UAW. Thank you for the opportunity to give testimony before the New York City Committee on Housing and Buildings.

Legal Services NYC is one of the largest providers of legal services for low-income people in New York City. With five borough offices and numerous outreach sites, Legal Services NYC's mission is to provide expert legal assistance that improves the lives and communities of low income New Yorkers. Legal Services NYC annually provides legal assistance to over 70,000 low-income clients throughout New York City. Currently, Legal Services NYC's largest practice area is housing.

We thank the City Council for holding this hearing pertaining to Intro 722-A. We agree that the current heating standards do not adequately meet the needs of many New Yorkers and welcome the Council's efforts to remedy this. In particular, we commend the Council for removing the outside temperature requirement that is currently present in the code, and increasing the nighttime minimum temperature requirement.

Through our work, our organization has found that the outside temperature requirement has often allowed landlords to evade providing homes with sufficient heat. Landlords have interpreted this requirement as a strict threshold, failing to heat apartments at all until the outside temperature falls below the guidelines. The current language in the code allows landlords to provide no heat to tenants when the temperature outside is above 40 degrees at night. This means that tenants can be left without any heat when the temperature outside is 41 degrees.

Additionally, the outside temperature requirement makes it more difficult for tenants to prove violations, as they must record both the inside and outside temperatures at a given time. For these reasons, we fully support the Council's effort to eliminate this requirement.

Recently, our office, along with pro bono counsel from King & Spalding, and the Public Advocate Letitia James' office, filed a group case against the city's largest landlord – the New York City Housing Authority (“NYCHA”) – for its failure to adequately provide heat to tenants. The New York City Public Housing Authority is responsible for providing and maintaining public housing for over 400,000 New Yorkers living in 317 buildings across the five boroughs.¹ On November 25, 2015, NYCHA counsel forwarded an email to our office from the NYCHA Director of Heating Services, stating that NYCHA's official policy is to shut off heat between 10 P.M. and 5 A.M. when the outside temperature is above 20 degrees. In justifying this policy, NYCHA claimed that the language of the law requires only that they “maintain” the temperature at 55 degrees between the hours of 10pm and 6am when the outside temperature is below 40 degrees and that maintaining the homes at this temperature did not require them to actually turn on the heat. NYCHA argued that if the heat was on during the day, a minimum temperature of 55 degrees could be maintained throughout the night without actually turning the heat on.

While we dispute that NYCHA ever did “maintain” the dwellings it managed at the temperature required, the language in the Code allows landlords to draw this distinction between maintaining the temperature and affirmatively providing tenants with heat. Because the language does not mandate that the heat remain on at night, it creates an opportunity for landlords to essentially engage in a guessing game when it comes to providing heat: landlords provide the amount of heat during the day that they *think* will keep the apartment at 55 degrees overnight. This calculation increases the likelihood that tenants will be without the requisite heat at night. This also puts the burden on the tenant to prove that the apartment wasn't maintained at the required temperature rather than on the landlord to show that heat was provided. While the proposed rule raises the minimum temperature that must be maintained, the revised language still allows for landlords to engage in this sort of roulette because it only mandates a minimum temperature. Thus, under the revised language, NYCHA can still argue that it can maintain the new minimum nighttime temperature without turning on the boilers, putting vulnerable, low-income New Yorkers at risk of spending cold winter nights without any heat. This goes against the public policy that this Council and the Di Blasio Administration have worked so hard to strengthen. To address this concern, we propose that the Council explore effective monitoring systems that would take the guessing out of it.

This winter, we have received reports from numerous clients that they have not had adequate heat in their apartments, or have had no heat at all. One of our clients is a disabled, homebound, senior citizen living in a NYCHA development in Manhattan. Another is a single mother with three minor children living in a NYCHA development in the Bronx. Both of these

¹ <http://www1.nyc.gov/assets/nycha/downloads/pdf/factsheet.pdf>

women have been using their stoves and ovens to heat their apartments at suitable temperatures, a safety concern not just for their families but for their entire buildings. Another client of ours and NYCHA tenant, who is a disabled stroke victim with serious health concerns, has been forced to sleep on her couch next to a space heater and near her oven because there is no heat in her bedroom at night.

While we welcome the Council's efforts to raise the nighttime heat requirement and eliminate the outside temperature standard, we respectfully request that the Council continue to monitor and seek ways to obtain increased compliance with and enforcement of the heat standards with a particular focus on NYCHA's failure to provide adequate heat. We thank the Council for its diligent efforts to improve legislation and look forward to working with the Committees to ensure adequate enforcement and protection of vulnerable low-income tenants.

Respectfully submitted,

Handwritten signatures of Ami Shah and Caitlin Johnson. The signature for Ami Shah is on the left and the signature for Caitlin Johnson is on the right.

Ami Shah & Caitlin Johnson



**Testimony of Stephanie Rudolph before the
New York City Council Committee on Housing and Buildings
Concerning Intro 722A-2015**

Thank you Council Members of the Committee on Housing and Buildings for the opportunity to testify today. My name is Stephanie Rudolph, and I am a housing Staff Attorney at the Community Development Project of the Urban Justice Center, or “CDP.” CDP’s mission is to strengthen the impact of grassroots organizations in New York City’s low-income and other excluded communities. We partner with community organizations to win legal cases, publish community-driven research reports, assist with the formation of new organizations and cooperatives, and provide technical and transactional assistance in support of their work towards social justice. As part of its work around preservation of affordable housing, CDP collaborates with its partners to advance policies that promote safe, habitable housing conditions for all New Yorkers. As part of the housing team at CDP, I work with community groups to commence group affirmative cases against harassing and negligent owners. Heat cases are a large part of our docket.

CDP enthusiastically supports Intro 722A, a bill that would dramatically improve the health of New York City’s most vulnerable tenants, including children, the elderly, and those with respiratory disabilities. Intro 722A reforms the current heating law in two important ways:

First, the bill simply increases the minimum day and night time indoor temperature requirements in rental buildings, thus creating a more comfortable environment for New York City tenants. In the “city that never sleeps,” increasing the nighttime temperature from a frosty 55 to a reasonable 65 degrees means that new parents or caretakers up at night to feed their infants, shift workers who sleep during the day, and early risers will enjoy more habitable and comfortable residential environments.

Even while wearing multiple layers, staying warm in 55 degree temperatures proves difficult for most tenants. Those who cannot withstand the cold—particularly those with disabilities, the elderly and the very young—are forced to rely on space heaters. Aside from posing a fire hazard, space heaters increase electricity bills, shifting the cost of creating a habitable living environment from the owner to the tenant.

Second, the bill eliminates the peculiar requirement that the outside temperature drop below 40 degrees at night and 55 degrees during the day in order to trigger the heating laws. Bizarrely, as of now, if the temperature outside stagnates at 41 degrees at night, the landlord is under no requirement to provide any heat *at all*. It is as if no heating law exists. The new law, by eliminating outdoor temperature requirements during heating season, would compel owners to provide adequate heat regardless of the outside temperature.

The real life application of these changes in the context of a housing case would prove extremely significant to the lives of New York City’s most vulnerable tenants. I’ll never forget my first heat case in the South Bronx: a major fire occurred in August in a 72-unit rent stabilized building and by December, the heating system was still damaged. Children were having asthma attacks nearly

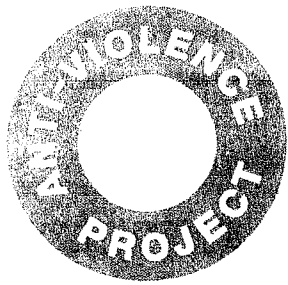
every night and missing school the next day. Parents stayed home from work to care for their children, racking up rental arrears. In one particularly sad case, the Administration for Children (ACS) threatened to remove a mother's children from the household unless she somehow "dealt with the heating issue."

After we commenced a group housing case to address the heating situation (among other problems), the judge called the tenants to the bench to explain how problematic to our case it was that HPD violations had not been recently placed. Without an HPD violation, the judge explained, the tenants could not easily prove that the owner had violated the housing code by failing to provide heat. The tenant leader told the judge that it was very cold—she could see her breath at night inside her apartment. The judge looked at the leader pointblank and said, "55 degrees is really cold. That's how cold I keep my vacation home when I'm not there in the winter just to prevent the pipes from freezing. You better believe that when I first walk in on a cold night, I can see my breath too." Because the current law does not require the heat rise above 55 degrees at night, the tenant's testimony regarding seeing her breath would prove nothing at trial.

As it stands, HPD usually responds to a heating complaint about 36 to 72 hours after the tenant calls 311. If, by the time HPD comes to the building, the outside temperature has since risen, a violation for failure to provide heat cannot be placed even if it is abundantly clear the owner is failing to provide heat. By eliminating outside temperature requirements, a violation could be placed anytime the temperature drops below legal limits inside, allowing the tenants to prove the lack of legally required heat with much greater ease.

In one group housing case in Brooklyn where tenants were intentionally deprived of adequate heat for four consecutive winters, the judge told our clients that she expected to see more heating violations than had been placed by HPD. To supplement the HPD violations, we had tenants testify about the heat logs they had maintained that year. On the log, they recorded the date, time, inside temperature, and outside temperature. During cross-examination, the owner's attorney tried to prove that the tenant's thermometer was not calibrated. To show that the tenants' outside temperature recordings were accurate, we, as the legal team, had to pour through thousands of pages of National Weather Service data—a task that proved onerous even to a legal office. An unrepresented tenant would have an even more difficult time proving her Home Depot thermometer was correctly calibrated.

Given skyrocketing market rate rents around the city, some owners have gone to great lengths to make life unbearable for rent-regulated tenants. Often, bad-acting owners either provide no heat or as little heat as possible in order to compel tenants to vacate their units. The stakes are high: once a rent-regulated tenant moves, the can apartments rent for thousands of dollars more on the open market. Passing Intro 722A goes a long way towards closing loop holes in the heating laws and ensuring that bad-acting landlords no longer have the latitude to freeze out New York City's most vulnerable tenants.



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**Testimony of Beverly Tillery, Executive Director
New York City Gay and Lesbian Anti-Violence Project
To the
Housing and Buildings Committee
New York City Council
Hearing on Resolution 264
January 14th, 2016**

Good afternoon. My name is Beverly Tillery, I am the Executive Director at the New York City Gay and Lesbian Anti-Violence Project (AVP). I am here to testify about Proposed Int. No. 871-A Introduced by Council member Daniel Dromm and supported by several other Council members which is pending before the New York City Council, a Local Law to amend the New York city plumbing code, New York city building code and administrative code of the city of New York, in relation to gender neutral single-occupant bathrooms.

AVP empowers lesbian, gay, bisexual, transgender, queer (LGBTQ), and HIV-affected communities and allies to end all forms of violence through organizing and education, and support survivors through counseling and advocacy. We envision a world in which all LGBTQ and HIV-affected people are safe, respected, and live free from violence.

I thank the City Council for the opportunity to speak with you today and offer this testimony. **AVP supports the passage of Proposed Int. No. 871-A, a Local Law to amend the New York city plumbing code, New York city building code and administrative code of the city of New York, in relation to gender neutral single-occupant bathrooms.**

In working with LGBTQ and HIV-affected survivors of violence AVP hears daily stories of LGBTQ people, especially transgender and gender non-conforming people experiencing violence and harassment when accessing gendered public restrooms of their choice for their actual or perceived gender identity. For several years AVP has worked with the LGBTQ community on addressing bathroom safety and ensuring people have the resources and support they need if they have experience violence when accessing gendered public restrooms of their choice and called for the creation of gender neutral single occupant bathrooms

The passage of Proposed Intro. No. 871– A would be an important step in ensuring New York City is committed to creating a city in which all people regardless of the actual or perceived gender identity are safe and respected when accessing gender neutral single-occupant bathrooms. In addition to the passage of this important legislation AVP also asks that trainings for business and building owners who would need to comply with this law participate in mandatory trainings on the importance of adhering to regulations related to gender neutral single-occupant bathrooms as it relates to LGBTQ peoples safety and de-escalation skills that may need to be utilized when people are using the facilities. AVP is happy to be part of the planning of these trainings as an agency who has trained the NYPD for decades on adherence to the local human rights law around accessing bathrooms of one's choice. .

Thank you for your time and for your consideration of this important matter.

Very truly yours,

Beverly Tillery
Executive Director
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Testimony

of

**Carrie Davis, MSW
Chief Programs and Policy Officer
The Lesbian, Gay, Bisexual & Transgender Community Center**

In response to the

**New York City Council
Proposal for Intro. No. 00871-2015
A Local Law to amend the New York City plumbing code,
New York City building code and
administrative code of the City of New York,
in relation to gender-neutral single-occupant bathrooms**

Submitted on January 14, 2016
to the
New York City Council
Committee on Housing and Buildings
Council Chambers, City Hall
New York, NY 10007

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Testimony of Carrie Davis, Chief Programs and Policy Officer The Lesbian, Gay, Bisexual & Transgender Community Center

~~Good morning~~ ^{AFTERNOON} Mr. Chairman, Members of the Committee on Housing and Buildings and other Council Members. My name is Carrie Davis and I am the Chief Programs & Policy Officer at New York City's Lesbian, Gay, Bisexual & Transgender Community Center (The Center), where I have worked since 1998. I am grateful for the opportunity to address and support the important issues raised by Intro. 0871-2015 to "require single-occupant toilet rooms to be usable by persons of any gender."

I have been very fortunate over these last 17 years to be able to collaborate with the City of New York as it has worked, step by step, to better address the basic needs of all New Yorkers, including those who identify as lesbian, gay, bisexual and transgender (LGBT). This has taken on many forms including working directly with the City Council beginning in 1998 to amend the Human Rights Law to protect all New Yorkers from discrimination based on their gender identity and expression. After the passage of Local Law No. 3 in 2002, I worked in coalition with other advocates and with the Commission on Human Rights to develop the guidelines for that law that were issued in 2005. I have worked and continue working with the Council and numerous City agencies and departments such as the Department of Health & Mental Hygiene (DOHMH), the Human Resources Administration (HRA), the Department of Corrections (DOC), the Department of Homeless Services (DHS), the Commission on Human Rights, the Police Department (NYPD), and many others to develop new practices and amend their internal policies to better serve LGBT people.

Despite all of that, I am not sure if I am testifying today as a human services expert, or as an architect who formerly practiced in New York, Connecticut and New Jersey for 15 years, or simply as someone who just uses restrooms.

More restrooms for more people: why requiring single-occupant restrooms to be usable by any gender is needed
Most adults urinate about seven times in a 24-hour period.¹ We move our bowels from a few times daily to a few times weekly.² These can vary in response to many variables including body size, nutrition and hydration, activity, pregnancy, medical conditions and medications.

To address this, restrooms – and more specifically in the circumstances we are considering today, single occupant restrooms usually contain two permanent fixtures – a toilet or water closet and a sink or lavatory. The creation and development of these simple plumbing fixtures goes back thousands of years but the more recognizable, modern versions were developed in Victorian England in the 19th century.

Toilets don't operate according to notions of gender or sex and are instead governed by simple physics and rules of motion and gravity. They are, by their very nature, for all genders.

Despite that, we have all stood outside two identical single occupant restrooms – one with a little symbol of a stick figure in pants and the other with a stick figure in a skirt or dress. The occupied room is the one with the stick figure that best approximates our identity. The other is not in use. While waiting patiently, or impatiently, depending on the urgency of our need, you begin to wonder – what would happen if I use the **other** restroom – the one with the stick

¹ American Urological Association (2014). "Diagnosis and Treatment of Overactive Bladder (Non-Neurogenic) in Adults: AUA/SUFU Guideline" (PDF). <http://www.auanet.org/common/pdf/education/clinical-guidance/Overactive-Bladder.pdf> [Accessed: 12-Jan-2016].

² Tresca, A. (30 September 2013). "A description of Normal Bowel Movements". <http://ibdcrohns.about.com/od/dailylife/a/normalbm.htm>. [Accessed: 13-Jan-2016].

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figure symbol that does *not* vaguely approximate my identity? Since it is for one person, no one else's privacy is at issue. Are you breaking the law? Are you transgressing a social taboo? Are you a sexual deviant? Or do you just need to urinate?

The proposed legislation simply shifts the focus from who uses restrooms – because everyone does, to what we do in them. In that context, we defecate, urinate, wash our hands (hopefully), change a baby, fix our makeup and hair, and so forth. I think you all get the picture. In this way, Intro. 0871 is both absurdly simple and wonderfully elegant.

Gender-specific restrooms raise challenges for a variety of people. Families with children report difficulty taking their different-sex children (such as mothers with sons, fathers with daughters) into gender specific restrooms. People with disabilities who may also require help from an assistant or family member who is not of the same gender are often unable to access gender specific restrooms.

Intro. 0871 also conforms to best practices promulgated by the federal Occupational Safety and Health Administration (OSHA) which highlights the promulgation of “single-occupancy gender-neutral (unisex)” restrooms.³

With its common sense focus on function and utility, Intro. 0871 shifts the emphasis from what we label the restroom as, to what we do in it. The result is more available restrooms for more people.

Impact of all-gender single-occupant toilet rooms on transgender and gender non-conforming people

Like restroom usage; gender identity is a core part of each person's everyday life. For transgender and gender non-conforming people, the most significant problem that can arise in gender-segregated spaces is one of intimidation, and sometimes violence. This becomes even more significant when that gendered space is a restroom, a place that everyone should be able to safely access.

Many transgender and gender non-conforming people have had the experience of being threatened, harassed, assaulted, or questioned by authorities in sex-segregated restrooms. I have encountered that myself on numerous occasions.

A 2013 survey of transgender people living in Washington, D.C. showed that 70% of those responding reported being verbally harassed, physically assaulted and/or denied access to public restrooms. As you might easily imagine, this relentless abuse was connected with “negative effects on education, employment and participation in public life.”⁴

If a woman in a women's-only restroom is for some reason assumed to be a man, there may be real threats to her comfort and even safety. For this reason, some transgender and gender non-conforming people may go far out of their

³ Occupational Safety and Health Administration, “A Guide to Restroom Access for Transgender Workers,” 2015. [Online]. Available: <http://www.dol.gov/asp/policy-development/TransgenderBathroomAccessBestPractices.pdf>. [Accessed: 8-Jan-2016].

⁴ Herman, Jody L. “Gendered Restrooms and Minority Stress: The Public Regulation of Gender and its Impact on Transgender People's Lives.” *Journal of Public Management and Social Policy*. Spring 2013. Accessed at: <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Gendered-Restrooms-and-Minority-Stress-June-2013.pdf>. [Accessed: 8-Jan-2016].

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way to gain access to restrooms that are more private or avoid public facilities entirely. This “can lead to potentially serious physical injury or illness.”⁵

Other people may feel threatened in sex-segregated restrooms based on their perceived sexual orientation rather than gender identity. They may face anti-LGBT comments and real or implied threats of violence in these settings.

Some people may fantasize that transgender and gender non-conforming people who use restrooms are there for exploitative purposes. This has led to a wave of proposed legislation from Texas, Kentucky, Florida, Minnesota and Missouri – all primarily intended to criminalize and prevent transgender people from accessing facilities consistent with their gender identity.⁶ On January 5, 2016, Indiana joined this exceedingly dubious and ill-intentioned group with the newly introduced “Single-sex facilities Act of 2016” – SB 35, that would send someone to jail for up to a year and fine them as much as \$5,000 if they were convicted of entering a restroom or similar facility that does not match the sex or gender they were assigned at birth.⁷

The “urban myth” of transgender and gender non-conforming people as sexually exploitative appears regularly in the media and does not comport with any known reality. “Experts in 12 states – including law enforcement officials, government employees, and advocates for victims of sexual assault – have debunked the ... myth that sexual predators will exploit transgender non-discrimination laws to sneak into women’s restrooms, calling the myth baseless and ‘beyond specious.’”⁸ When responding to facts rather than prejudice, there is no data that “allowing transgender [and gender non-conforming] people to use ... restrooms, in line with their gender identity will lead to an increase in sexual harassment or abuse of the other people using the facilities.”⁹

In reality the role of victim is profoundly reversed. While most incidents of restroom harassment and assault experienced by transgender people escape public scrutiny, some do get recorded. For example, a 22-year old transgender woman named Chrissy Lee Polis was assaulted as she tried to use the restroom at a McDonalds in Rosedale, Maryland. A video of the assault was uploaded to YouTube and re-posted around the world showing two young women, ages 14 and 18, stomping and pummeling Chrissy after she refused to leave the woman’s restroom.¹⁰

Ironically, four days prior to the assault, the Maryland State Senate voted to kill a transgender non-discrimination bill in which a decision had been made earlier to remove a provision protecting transgender persons from public accommodations discrimination – including public restrooms.

⁵ Occupational Safety and Health Administration, “A Guide to Restroom Access for Transgender Workers,” 2015. [Online]. Available: <http://www.dol.gov/asp/policy-development/TransgenderBathroomAccessBestPractices.pdf>. [Accessed: 8-Jan-2016].

⁶ Wang, T., Solomon, D., Durso, L., McBride, S. & Cahill, S. (2016). State anti-transgender bathroom bills threaten transgender people’s health and participation in public life. Fenway Institute and Center for American Progress. Accessed at: http://fenwayhealth.org/wp-content/uploads/2015/12/COM-2485-Transgender-Bathroom-Bill-Brief_v8-pages.pdf. [Accessed: 8-Jan-2016].

⁷ Senate Bill 35 (5 January 2016) <http://iga.in.gov/legislative/2016/bills/senate/35#document-b2bc65f9>, [Accessed: 13-Jan-2016].

⁸ Brinker, L and Maza, C. 15 Experts Debunk Right-Wing Transgender Bathroom Myth. Media Matters. March 20, 2014. Accessed at: <http://mediamatters.org/research/2014/03/20/15-experts-debunk-right-wing-transgender-bathro/198533>. [Accessed: 8-Jan-2016].

⁹ Wang, T., Solomon, D., Durso, L., McBride, S. & Cahill, S. (2016). State anti-transgender bathroom bills threaten transgender people’s health and participation in public life. Fenway Institute and Center for American Progress. Accessed at: http://fenwayhealth.org/wp-content/uploads/2015/12/COM-2485-Transgender-Bathroom-Bill-Brief_v8-pages.pdf. [Accessed: 8-Jan-2016].

¹⁰ Siegel, A. (2011 Sept 3). Teen gets five years for attack on transgender woman at McDonald's. Baltimore Sun. Accessed at: http://articles.baltimoresun.com/2011-09-13/news/bs-md-co-mcdonalds-sentencing-20110913_1_teonna-monae-brown-chrissy-lee-polis-transgender-woman. [Accessed: 1 July 2015].

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This incident was eerily similar to what happened to Christina Sforza, a young transgender New Yorker who was beaten while trying to use the restroom after eating at McDonalds on Fifth Avenue in Manhattan.¹¹

Requiring single-occupant restrooms to be usable by any gender is another simple step we can take to help this most vulnerable group address basic health and hygiene concerns.

Conclusion

Once again, I would like to share my appreciation to the Council for your attention to this important issue. New York has an opportunity to continue to lead the way in proactively addressing and improving the health and wellbeing of all New Yorkers. The change proposed in Intro. 0871 would be helpful to fathers caring for their daughters, or mothers caring for their sons. In addition, disabled people who have a caretaker of a different gender to assist them in restrooms will gain access to more facilities. And finally, this common sense piece of legislation makes more restrooms available to transgender and gender non-conforming people.

To conclude, I will share about a phone conversation I had with an insurance underwriter last Thursday. He reached out to ask me how they should advise their clients to label gender-neutral restrooms. I suggested they focus on *what* happens in them rather than *who* uses them. For example – a sign to a restroom could be labeled with a symbol of a toilet or the initials WC (for water closet) rather than a stick figure that promoted outdated gender stereotypes. He was quiet for a moment as he considered this. When he spoke again he thanked me and replied that this simple solution would form the foundation of his recommendations to all of their clients. Like the changes proposed in Intro. 0871, it just makes sense.

Thank you for the opportunity to offer this testimony,



Carrie Davis, MSW
Chief Programs and Policy Officer
The Lesbian, Gay, Bisexual & Transgender Community Center

¹¹ Amnesty International (2007 July). USA New York Police Department – Serious allegations of abuse of transgender women (update). Accessed at: <https://www.amnesty.org/download/Documents/60000/amr511172007en.pdf>. [Accessed: 1-July-2015].

**Testimony on Intro. 0871:
A Local Law to amend the New York city plumbing code, New York city building code and
administrative code of the city of New York, in relation to gender-neutral single-occupant
bathrooms
Ezra Cukor
January 14, 2016**

Thank you to Committee Chair Williams, Council Member Dromm, and Council Member Cornegy for spearheading this bill.

My name is Ezra Cukor. I am a lawyer who has, in the past, focused on representing low-income transgender New Yorkers. Now I am an employee of the City of New York, but today I am testifying on my own behalf. I live in Council Member Cornegy's district. I am proud to live in and work for this City and know that we still have work to do to make the City safer for transgender and gender non-conforming people. Intro 871 is part of that work. I offer my testimony in strong support of the bill and to advocate for its expansion.

Intro 871 is a common sense measure. It will increase the number of single occupancy bathrooms useable by people of any sex (ie all-gender bathrooms) in the City, which expands bathroom access for everyone.

I. All-Gender Bathrooms Are Safe and Accessible to Everyone, Particularly Transgender Communities

Increased access to all-gender bathrooms is a matter of health and safety for transgender and gender non-conforming New Yorkers. Transgender people, are, unfortunately, far too often denied safe access to sex-segregated facilities. A Williams Institute survey of transgender and gender non-conforming people's experiences in bathrooms found that 70% of respondents had faced harassment, 18% had been denied access and nearly 10% reported physical assault simply for trying to use the restroom.¹ Unfortunately, these data are not an outlier. The National Transgender Discrimination Survey found that 26% of transgender students had been denied access to the bathroom at school, and 22% of transgender employees had been denied access to the bathroom at work.²

Not having easy access to bathrooms adversely impacts transgender people's lives. Avoiding use of bathrooms can lead to health problems including urinary tract infections, kidney problems, and dehydration.³ Furthermore, lack of safe access to a bathroom can make it difficult to maintain employment. Having to avoid using the restroom, leave one's worksite to use a restroom, or deal with others hostility in the restroom is mentally and physically stressful. It can increase tardiness, absenteeism, and harm job performance.⁴ Lack of restroom access also impedes access to local businesses, pursuing necessary social services and medical care. In New York State, transgender students report severe

¹ Herman, Jody, *Gendered Restrooms and Minority Stress: The Public Regulation of Gender and Its Impact on People's Lives*, Journal of Public Management and Social Policy (Spring, 2013) available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Gendered-Restrooms-and-Minority-Stress-June-2013.pdf>

² Grant, Jamie M. et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, National Center for Transgender Equality, National Gay and Lesbian Taskforce (2011) available at http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf.

³ Herman, *supra* note 1.

⁴ *Id.*

problems in school, sometimes leading them to transfer or even drop out, because they cannot safely use the restroom.⁵

Sex segregated spaces are particularly invariably designated for men or for women. Not all people, however, fit into these “culturally defined mutually exclusive categories.”⁶ Some transgender people’s appearances do not conform to widely held stereotypes about how men and women should look. Not everyone is a man or a woman. According to the American Psychological Association, research demonstrates “the existence of a wide spectrum of gender identity and expression” including “people who identify as a blend of man and woman, or a unique gender identity.”⁷ For those of us who defy the gender binary, trying “to stay safe and retain dignity” while using a sex-segregated bathroom creates “a serious burden.”⁸

On a personal note, as a visibly transgender person, I have had misadventures in both the men’s and the women’s rooms that run the gamut from confusing others to hostility, to being kicked out. I consider myself lucky I haven’t had it worse. I watch my back in single-sex facilities and feel relieved whenever an all-gender bathroom is an option.

All-gender bathrooms alleviate the burden. As comptroller Stringer aptly put it: “Because transgender and gender nonconforming individuals are so often met with vocal or physical resistance in their attempts to access gender-appropriate restroom facilities, it is important to provide non-gender-specific restrooms where practical.”⁹

II. Single Occupancy All-Gender Bathrooms Are Consistent with the Human Rights Law

Intro 871 complements New York City’s Human Rights Law (HRL), which prohibits gender discrimination. First of all, segregating single-occupant restrooms by gender is facially discriminatory. Intro 0871 thus reconciles parts of the plumbing code with the HRL.

Further, both of these laws ameliorate the urgent problem of discrimination against transgender people in bathrooms in different ways. The HRL protects the right of everyone, transgender or cisgender, to use the sex-segregated facility consistent with one’s gender identity or expression.¹⁰ The importance of that right cannot be understated because many public bathrooms are multi-occupant and sex-segregated. Intro 0871 won’t change that. It would, however, create more spaces free from the gender segregation that we know foster discrimination against transgender and gender non-conforming people, though it should not as a matter of morals or law.

⁵ Mateik, Tara, *Toilet Training*, Sylvia Rivera Law Project (2003) available through www.srlp.org; New York Civil Liberties Union, *Dignity for All? Discrimination Against Transgender and Gender Nonconforming Students in New York State* (2015) available through www.nyclu.org

⁶ American Psychological Association, *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People* (2015) available at: <https://www.apa.org/practice/guidelines/transgender.pdf>

⁷ *Id.*

⁸ Spade, Dean, Letter to the Urban Justice Center, published in *Toilet Training: A Companion Guide for Activists and Educators*, Sylvia Rivera Law Project (2003) available through www.srlp.org

⁹ Stringer, Scott M., *Restrooms for All: A Plan to Expand Gender Neutral Restrooms in NYC*, Office of the New York City Comptroller, (2015) available at http://comptroller.nyc.gov/wp-content/uploads/documents/Gender_Neutral_Bathrooms.pdf.

¹⁰ See e.g., New York City Commission on Human Rights, *Legal Enforcement Guidance on Discrimination on the Basis of Gender Identity or Expression: Local Law No. 3 (2002); N.Y.C. Admin. Code § 8-102(23)*, (2015) available at: <http://www.nyc.gov/html/cchr/html/law/gender-identity-legalguidance.shtml>; *Wilson v. Phoenix House*, 978 NYS 2d 748 (N.Y. S. Ct, 2013); *Doe v. Regional School Unit 26*, 86 A3d 600 (ME, 2013).

The benefits of Intro. 871 extend beyond transgender and gender non-conforming communities. The bill will also improve bathroom access for caregivers for young children of the opposite sex, for people with limited mobility who require assistance in the bathroom, and for anyone who simply wants more privacy.

III. Precedent

A number of cities--including Philadelphia, Washington DC, Seattle, Multnomah County, OR, West Hollywood, and Austin--have adopted similar measures.¹¹ Philadelphia also requires new or renovated City buildings to include gender neutral bathrooms.¹² Last year, the White House designated a bathroom for people of all genders.¹³ I urge the Council to bring New York City in line with these jurisdictions and go further by *phasing in all gender bathrooms in City Buildings*.

IV. Conclusion

I thank the Council for the opportunity to submit testimony and hope you support this important legislation. It is crucial step to help the laws of our City support the reality of its gender diversity.

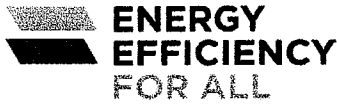
Respectfully Submitted,

Ezra Cukor
ezcukor@gmail.com

¹¹ Terruso, Julia, *Council Okays Bill to Make Single-Stall Restrooms Gender Neutral*, The Inquirer (Oct. 10, 2015) available through philly.com; D.C. Mun. Regs. Rule 4-802; Seattle Mun. Code Ch. 14.07; Ordinance No. 14-948, West Hollywood Mun. Code 9.28.090; Austin Mun. Code Ch. 4-16 Art. 1.

¹² Terruso, *supra*, note 3.

¹³ Tan, Avianne, *White House Makes 1st Gender-Neutral Bathroom Available*, ABC News, (Apr. 10, 2015) available at: <http://abcnews.go.com/US/white-house-makes-1st-gender-neutral-bathroom/story?id=30221513>.



January 14, 2016

**NYC Council, Committee on Housing and Buildings
Prop. Int. No. 722-A**

**Statement of Lindsay Robbins, Senior Advocate at the Natural Resources Defense Council on behalf of
the New York Energy Efficiency for All Coalition**

Good afternoon Chairperson Williams and Members of the Committee. My name is Lindsay Robbins and I am a Senior Advocate at the Natural Resources Defense Council, a national nonprofit environmental organization based in New York City. I am testifying on behalf of the New York Energy Efficiency for All (EEFA) Coalition, which includes the Association for Energy Affordability, Center for Working Families, Enterprise Community Partners, Green and Healthy Homes Initiative, Natural Resources Defense Council, PACE Energy and Climate Center, and WE ACT for Environmental Justice. EEFA's mission is to bring together the energy, housing, community, and environmental justice sectors to tap the benefits of energy efficiency for New Yorkers living on limited incomes.

We thank you for the opportunity to provide testimony on the legislation before the Committee today. Int. 722-A has the admirable goal of providing New York City apartment-dwellers heating services sufficient to insure health and comfort in their residences. Specifically, it would increase the existing minimum required temperatures for dwelling units during the months of October through May by four degrees Fahrenheit in the daytime and by and by ten degrees Fahrenheit at night. While EEFA fully supports the objectives of this bill and while many of our groups have worked in partnership with Manhattan Borough President Gale Brewer on many issues, we do not support the legislation as proposed.

First, the legislation is unlikely to achieve its objectives for New York City tenants, especially those represented by our Energy Efficiency for All Coalition. Increasing minimum temperature requirements for residential buildings with centrally-supplied heat will not necessarily result in increased comfort for residents and may in fact contribute to resident discomfort. Many of the heating systems in New York City apartment buildings do not provide even or efficient heat, leaving some tenants over heated while others are not receiving adequate heat. These systems need to be retrofitted in order to provide consistent temperatures. Increasing the minimum temperature requirements in these buildings without retrofitting their heating systems would likely lead to overheating in many of the units, creating discomfort for residents and forcing them to open windows to regulate their apartment's temperature.

Another contributing factor to resident discomfort is that the current minimum temperature requirements are not enforced effectively. The Department of Housing Preservation and Development (HPD) needs additional resources in order to effectively ensure all landlords are compliant with the existing standard, specifically to inspect and enforce the nighttime minimum temperature requirements.

Moreover, the proposed requirements might negatively impact the affordability of housing by contributing to energy waste and increased operating costs, which are passed onto residents through their rent. The impact on housing affordability is especially important for renters in New York, since Fifty-one percent of renter-occupied households in New York State spend thirty percent or more of their income on rent and utilities.¹

We are also concerned about the impact that the proposed changes would have on the City's carbon footprint and the increase in greenhouse gas emissions and other harmful pollutants that would likely

result from implementation of this proposal. And another factor to consider is that the urban heat island effect and our changing climate are already impacting the intensity of heat waves in the City, which have a disproportionately negative impact on the City's most vulnerable populations. Efficiently providing safe and comfortable temperatures year-round should be a priority.

EEFA and Steven Winter Associates recently released a study² on the issues with steam heating in New York City apartment buildings and strategies for addressing those issues. Seventy-six percent of large apartment buildings in the city (those with 50,000 or more square feet) have steam heating systems. Those systems are often inefficient and deliver uneven heat to residents, overheating many apartments while under heating others. The report highlights strategies that can be deployed to upgrade steam systems to deliver heat more evenly throughout the building, provide heat more efficiently, and improve the comfort of residents without requiring that the building management simply raise overall temperatures. And it concludes that the best way to create healthier, more comfortable homes for New Yorkers is to weatherize the apartment buildings they live in and upgrade their heating systems to provide more consistent, efficient and individually controllable heat.

Our Coalition recommends maintaining the current minimum temperature requirements, which are aligned with the International Building Code, and focusing instead on increased and improved enforcement of the current requirements and providing better access to programs and financing that help apartment building owners make the health, safety, and efficiency improvements necessary in order to provide healthy, comfortable, and affordable homes. Ensuring HPD has the resources and the motivation to effectively respond to complaints and apartment building owners are encouraged to take steps to improve both heating and cooling systems would be a more effective response. If any increases are made, we recommend that only the nighttime temperature be raised and only by seven degrees Fahrenheit rather than ten degrees Fahrenheit.

Another study³ released by EEFA last year highlights the tremendous amount of energy wasted in New York's affordable multifamily housing. The study concluded that New York could cost effectively reduce electricity consumption by thirty-one percent, gas consumption by eighteen percent, and fuel consumption by fifteen percent in New York's affordable multifamily housing. We strongly support increasing the programs and resources available to help both the city and state tap into that savings potential and improve the efficiency and comfort of the homes of millions of low to moderate income New Yorkers.

For these and other reasons, we encourage this Committee to set aside Int. 722-A, to instead identify strategies that address the underlying issue of energy inefficiency in our apartment building stock and to encourage upgrades that will systematically improve the health, safety and comfort of our homes.

We stand ready to work with the sponsors of Int. 722-A, the Council and Borough President Brewer on this important issue in the weeks and months to come.

¹ United States Census Table GCT2515, available for download at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_14_5YR_GCT2515.US01PR&prodType=table

² Energy Efficiency for All and Steven Winter Associates (2015). "Clanging Pipes and Open Windows: Upgrading NYC Steam Systems for the 21st Century", available for download at <http://energyefficiencyforall.org/resources/clang-pipes-and-open-windows-upgrading-nyc-steam-systems-21st-century>.

³ Energy Efficiency for All (2015). "Potential for Energy Savings in Affordable Multifamily Housing", available for download at <http://www.energyefficiencyforall.org/sites/default/files/EEFA%20Potential%20Study.pdf>

Memorandum of Opposition

Bill: Intro No 722-A

Subject: Minimum temperatures required to be maintained in dwellings

Sponsors: Williams, Levine, Rose, Rosenthal (by request of the Manhattan Borough President)

The Real Estate Board of New York ("REBNY"), representing over 17,000 owners, developers, managers and brokers of real property in New York City, is writing to voice our opposition to Introduction No 722-A.

The bill demands that between October 1 to May 31, residential building owners who are required to provide heat for their tenants must maintain certain minimum temperatures in areas of dwelling units that are used or occupied for living purposes. This bill would amend existing law to increase both the indoor minimum temperature and outside temperature that triggers the heating requirement. Between 6 a.m. and 10 p.m., the indoor temperature would have to be kept at 72 degrees or above (raised from 68) and between 10 p.m. and 6 a.m., the indoor temperature would have to be kept at 65 degrees or above (raised from 55).

Over the past two years, REBNY has been working closely with the Mayor's Office of Sustainability and other stakeholders to reduce our city's overall greenhouse gas emissions by an ambitious 80 percent by the year 2050. This task is critical as the planet becomes warmer, oceans begin to rise and every single living creature on this planet is under threat. It is estimated that 70 percent of New York City's total greenhouse gas emissions are directly attributable to the city's buildings. If enacted, this bill would only increase that share as heating and cooling constitute a significant portion of a building's total energy consumption. It is not uncommon for a multi-family building of 100-200 units to have over half of its total energy consumption dedicated to heating and up to 10% of its total operating costs on heating alone. To put it simply, if this bill is enacted, it would defeat and minimize every effort that our membership has initiated to reduce the carbon footprint and reduce overall greenhouse gas emissions.

Indeed, this bill goes above and beyond the minimum indoor dwelling heating temperatures recommended by the US Environmental Protection Agency which are less than 70 degrees during the daytime and 62 degrees during the night.

Finally, the increases in minimum indoor temperatures mandated by this bill will not only increase greenhouse gas emissions but heating costs as well. Such additional costs could legally be passed on to tenants in the form of increased rents which could significantly impact the City's affordable housing stock.

For these reasons, REBNY vehemently voices its strong opposition to Intro 722-A.



Contact:
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**Statement of Ya-Ting Liu Director, NYC Program
New York League of Conservation Voters
Committee on Housing and Buildings**

Intro. 722-A

A Local Law to amend the administrative code of the city of New York, in relation to minimum temperatures required to be maintained in dwellings.

Good afternoon. My name is Ya-Ting Liu, New York City Program Director at the New York League of Conservation Voters (NYLCV), a statewide environmental group with over 25,000 members in New York City. We are committed to advancing a sustainability agenda that will make our people, our neighborhoods and our economy healthier and more resilient. Thank you for the opportunity to testify today on Int. 722-A, a bill that would raise daytime and nighttime indoor temperatures from October to May. It is without question that all tenants must have heat, especially during cold winter months. However, we have some concerns not only regarding the potential environmental and economic impacts of this bill, but also whether raising minimum temperatures required to be maintained in buildings would solve the enforcement problem. NYLCV believes the issue is not that the current required minimum indoor temperatures are too low, but that too many buildings are not complying with the existing law.

First, New York City's current heating requirements are comparable with many other U.S. cities that face similar, if not harsher, winter months. The proposed increase of daytime indoor temperature to 72° F seems out of step with Boston or Chicago, whose average low temperature in January is 5° less than New York, yet they maintain 68° as an appropriate daytime indoor temperature.

Second, increasing minimum indoor temperatures would require buildings to consume more energy and emit more greenhouse gas (GHG) emissions, which is incongruous with the City's goal of reducing emissions 80% by 2050. Currently, buildings account for about 70% of New York City's carbon footprint so squeezing every bit of energy efficiency out of buildings is critical to achieving this ambitious goal.

Third, the proposal does not address enforcement, which begs the question: how does raising minimum indoor temperature change the behavior of buildings that do not meet the current laws? We therefore ask the Council to conduct a more in-depth analysis of how Chicago, Boston, and surrounding cities empower tenants and building owners to ensure that tenants have heat in the winter.

There should be an analysis on the enforcement challenges of existing heat requirements in buildings across the city to get a better handle on where the enforcement gaps are. The analysis should also look at best practices from comparable cities and surrounding counties. The Council should consider convening a task force of experts in this space and offer a set of recommendations that address better enforcement and compliance of current indoor heat laws.



FOR THE RECORD



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

250 West 57 Street • Suite 730 • New York, NY 10107-0700

TESTIMONY BEFORE THE COMMITTEE ON HOUSING & BUILDINGS
COMMENTING ON INT. 722

Thursday, January 14, 2016

OPPOSING MODIFICATIONS TO NYC HEATING RULES

My name is Mary Ann Rothman and I am executive director of the Council of New York Cooperatives & Condominiums, a membership organization comprised of housing cooperatives and condominiums located throughout the five boroughs of New York City and beyond. More than 170,000 New York families make their homes in our member buildings, which span the full economic spectrum from very modest housing to some very upscale dwellings.

CNYC was formed in the early 1970's when many aging buildings were being converted from rentals to cooperative and later to condominium status. The volunteer boards elected to govern their new homes members—many of whom had never owned property before — had to learn about finances, about building operations, and about dealing with their neighbors who were often less than happy with board decisions. Mistakes — often costly ones — were rampant. CNYC was literally created by board members in a dozen cooperatives determined to share their experiences — both negative and positive— to stop “reinventing the wheel”.

Heat levels were often a point of contention: former renters, long used to a winter of overheated apartments; they simply opened windows when it got too hot. Boards soon saw how very much it cost to send fuel dollars out the window in this way. They instituted measures to mitigate this cost: weatherproofing, insulation, storm windows to keep the heat inside, followed by judicious lowering of the heat over time. Acceptance has been helped by the national focus on energy conservation and our own City's dedication to significant reduction of our carbon footprint. By now, New York cooperatives and condominiums have slowly and patiently succeeded in bringing our buildings closer to the minimums required by the City. Their budgets benefit from the fuel dollars thus saved; helping to keep carrying charges affordable to the shareholders and unit owners responsible for paying their share of often considerable cost of keeping the building in good shape, complying with all codes and rules, paying water bills, property taxes, etc.

Imagine our surprise, then, to see Intro 722-A propose a counterproductive INCREASE in minimum temperatures required in NYC buildings! Health experts tell us that the ideal indoor temperature is 68-70 degrees. Energy experts urge us to conserve. But legislating a temperature of 72 degrees in the COLDEST room in a building will bring us back to the days of chronically overheated apartments with windows flung wide all winter. Please reconsider this legislation. If its purpose is to help people in buildings that receive no heat at all, there are many ways to deal with that issue without bringing all multiple dwelling units to a boil. If it is to help people who live in building in disrepair, let's fund grants for the needed work. Legislating an increase in the required heating minimums citywide is not the best answer.

Thank you for this opportunity to comment on Intro 722-A.

I would like to first say thank you to council man Dromm for this opportunity to share and testify and also to each and every one of you for your open ears.

My name is Rocco Sanabria.

I was four years old when I tugged on my mom's shirt as she washed the dishes to let her know that I was a boy. "Mommy, what if there's a girl and there was a boy who lives inside her body." A 3 foot pawn of life declared his own identity. At that age, my innocence ignored all of the possible, and soon to be, obstacles I would face.

One of my favorite quotes from Mary Shelley's Frankenstein is when the Monster first sees his reflection:

"I had admired the perfect forms of my cottagers - their grace, beauty, and delicate complexions: but how I was terrified, when I viewed myself in a transparent pool!"

I find it so fascinating that at the time of the Monster seeing his reflection, he was still an innocent toddler. I admire this quote because it reminds me so much of myself; Being so young and having immense self awareness.

I watched the other boys and recognized the beauty of them being allowed to be themselves- the beauty of their clothes, the beauty of their toys, and the beauty of their haircuts. It felt like it was supposed to be mine as well. But I, like the monster, saw my reflection with disgust and anger.

The monster wasn't treated very well by others. One sight of him and the villagers would be overwhelmed with judgment and hate.

"I entered; but I had hardly placed my foot within the door before the children shrieked, and one of the women fainted. Some fled, some attacked me..."

It's a very upsetting moment to read this line and have to question whether this was the Monster's experience...or your own.

Despite having short, spiky hair and despite looking like a boy and despite being diagnosed with gender dysphoria, my elementary school, P.S. 58, made me identify as a girl. Using bathrooms became one of the hardest parts.

I remembered when I entered, barely placing my feet in those doors before hearing the sharp cries of all of the girls in the bathroom. They were usually older than I was and very upset that a boy was in the bathroom.

The boy was upset he was in that bathroom too.

Throughout all of elementary school, when I stepped into the girl's bathroom, I stepped into name calling, laughing, crying, yelling, pushing, crawling, hiding.

Often I'd sneak in when I knew it was empty, but then have to wait in a stall, hiding in the corner until it was empty again, which could have taken forever.

Bathrooms in elementary school became a prison. A prison where I would call for the guards at the desk in front, but my cries were left unheard, or left unanswered, I don't know.

I stopped using bathrooms entirely.

In middle school, they understood that I wasn't allowed to use girl's bathroom. No man uses the girl's bathroom, and I 100% respected their refusal to let me because it was my refusal too. But they also were not open to me using the boy's bathroom. It was a combination of ignorance and for my safety. There were students who knew that I had gender dysphoria and because of their aggressive behavior and their ignorance, I was told to steer clear from the boy's bathroom. I was told that if I needed to use the bathroom, to use the nurses bathroom.

For the two years at my middle school, no matter how much I had to use the bathroom, I held it in. I never went; holding it in was, too me, much better than having to resort to the nurse's. I didn't feel like a normal kid when I was a normal kid.

My high school now, Maspeth high school offers a much different, much better environment. I am allowed to use the boy's bathroom and no one expects me to use the girl's. I only go to the nurse if I'm sick and even if kids know of my gender dysphoria, I am a boy first. I feel much more comfortable in the boy's bathroom than I ever did in the girl's due to the acceptance I receive and also the appropriateness of me using the boy's bathroom as a boy.

Despite this, not every day is smooth sailing when it comes to being transgender and having to use the restrooms.

I walk in, and a plethora of worries and concerns begin to flood my mind.

Over the time I've used the boy's public bathroom, I clean up someone else's urine from the toilet seat every single day

Over the time I've used the boy's bathroom, I've had people question me on why I sit to pee or even make fun of the fact I do. So if a bathroom is crowded, I don't even go.

Over the time I've used the boy's bathroom, I've experienced another kid with his fists and his face hovered over me calling me a dyke and threatening me waiting me for me to go walk in the bathroom to do something because he hated the idea that I am a boy.

I couldn't use the bathroom that day. I couldn't even sleep that day.

When your transgender, and you're just figuring out your identity, bathrooms, along with other things like going to a pool and dating, is not often on the top of your mind. You don't realize the overwhelming effect it will have, which plays a huge toll on your emotional health until it happens once. But once it happens, it's constant. Every day you try and wait for an empty bathroom, everyday you try to slowly and quietly tear the toilet paper, everyday you stare at those urinals and think of how it should have been for you. We use bathrooms every single day and for any one, not just transgenders, public bathrooms are a place absorbing self confidence and insecurities. It just becomes amplified when you have gender dysphoria.

The only times I've ever felt truly comfortable in a public bathroom is when using gender neutral, single occupant bathrooms. Using a bathroom becomes about using the bathroom and not about all of your anxieties and comfort abilities. It's a bathroom where I know that I won't feel threatened by others who are inside and I don't have to be so conscious of what I do. It's a bathroom that would be available so I don't need to hold it in for hours and hours because I'm too afraid.

No child should have to spend time out of their day worrying about something like this. This is a stressful thing for a child.

It could be stressful for any child; they don't have to be transgender. This would be a bathroom for all. Everyone could feel safe and comfortable because everyone should when it comes to something like this. I mean how crazy is it that when it comes to speaking in front of all of you and using the public bathroom, I'm more scared to use a public bathroom. It doesn't make any sense.

I want to also say that

I am not a man because I'm transgender, I'm only transgender because I am a man. I knew I was a boy when I was two years old, I'm seventeen today and I've transformed into a healthy, positive man, So the one thing that was my concern was I didn't want anything to isolate me from the rest of my gender anymore than what society has already done for me with all the stigmas that are placed on the transgender community.

Being said, this bathroom would be for everyone; I would encourage anyone and everyone to use it if it's what makes them feel more comfortable.

There are times I've received negative comments or bullied in a bathroom and the guy bullying me had no clue I was transgender. And I have many friends who aren't transgender who would prefer a single stalled bathroom because it makes them feel more safe and comfortable too. And for a while I worried that using a gender neutral bathroom would make me less of a guy, but it doesn't and it should have that affect on a guy or make a women feel any less of a women. You aren't any less of who you are just because it's gender neutral, it just means the bathroom has no preference- it's an inclusive environment by what you make of it when you're using it- that's the unique power it has and it's the same type of individuality that we should be utilizing and growing. It is what you make of it.

My goal is for the future that one day that this type of bathroom, the gender neutral, single occupant bathroom will just be called a bathroom.

But for today it's important for all of us that the gender neutral bathrooms are available. No one like myself should have to hold it in for 8 hours, be bullied, or be afraid.

We need these single occupant bathrooms.



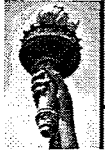
Memorandum in Opposition Intro. 722-A

The Rent Stabilization Association represents over 25,000 owners and managers of multiple dwellings in New York that collectively contain over 1 million units of residential housing. RSA is opposed to Intro. 722-A because of the detrimental effect the bill would have on the environment and building economics.

Intro. 722-A would raise the minimum heating requirements for daytime temperature from 68 to 72 degrees. Nighttime minimum temperature would go from 55 degrees to 65 degrees. Raising these minimum temperatures would effectively guarantee the city will never reach its goal of reducing greenhouse gas emissions by 80% by 2050. The increase in daytime temperatures is most troublesome and wasteful when one considers that the vast majority of units are empty in the daytime with people at work and buildings would be wasting vast amounts of energy on vacant apartments. Additionally, one doesn't have to look far to see the number of open windows throughout the city at the current temperature. The increased costs for heating these units will be an enormous cash flow burden for many buildings especially those currently struggling to make ends meet.

Finally, it should be pointed out that the increased heating requirements would be factored into the price index of operating costs (PIOC) used by the Rent Guidelines Board to calculate rent increases. The full cost of operating a building is never taken into account but even the partial increase attributable to this bill would require tenants to pay for the heating of vacant and already overheated apartments.

For all the above reasons RSA is opposed to 722-A.



NYCLU

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Testimony of the New York Civil Liberties Union
Before The New York City Council Committee on Housing and Buildings
Regarding
Legislation Relating to Single-Occupant Bathrooms (Int. No. 0871-2015)
January 14, 2016

My name is Bobby Hodgson, and I am an attorney at the New York Civil Liberties Union (the “NYCLU”). I would like to thank Councilmember Dromm and the Committee on Housing and Buildings for inviting the NYCLU to provide testimony today in support of this proposed legislation, Int. No. 0871-2015 (“the Bill”), seeking to update New York City’s building and administrative codes to require single-occupant bathrooms to be accessible to all genders.

The NYCLU, the New York State affiliate of the American Civil Liberties Union, is a not-for-profit, nonpartisan organization with eight offices across the state and 80,000 members and supporters. The NYCLU’s mission is to defend and promote the fundamental principles, rights, and constitutional values embodied in the Bill of Rights of the U.S. Constitution and the Constitution of the State of New York. This includes the rights to equality, privacy, and personal autonomy that are implicated by today’s legislation.

In light of our long history of vigorously defending the rights and liberties of transgender and gender nonconforming individuals, the NYCLU is pleased to testify in support of the Bill. Mandating that all single-occupant bathrooms be open to people of any gender is a simple and effective way to increase the number of bathrooms that are safe and accessible to all. Because other cities have recently passed similar legislation that offers lessons on how best to further the goals of the Bill, we also submit two recommendations to strengthen the protections it offers: (1) the addition of an affirmative requirement that new or renovated City buildings include single-occupant bathroom options; and (2) the addition of a clear and effective enforcement mechanism.

**Requiring Single-User Facilities to Be Open to People of Any Gender
Will Improve the Lives of Many New Yorkers, in Particular Those
Who Are Transgender and Gender Nonconforming**

This Bill represents a positive and common-sense step towards ensuring that all New Yorkers, regardless of their gender identity or expression, have safe and convenient access to bathroom facilities. Its mandate is simple—requiring nothing more of covered entities than re-labeling a door or switching out one sign for another—and it will provide a substantial benefit to countless people.

For transgender and gender nonconforming people, gender-segregated bathrooms can be unwelcoming and potentially unsafe. These spaces often become flashpoints of harassment or violence when business owners, employers, or members of the public challenge a transgender person’s right to access the facility that corresponds with their gender identity. In one study, seventy percent of transgender respondents reported experiencing either denial of access to facilities, verbal harassment, or physical harassment when attempting to access gender-segregated bathrooms.¹ Fears about encountering such behavior lead many transgender people to attempt to avoid public bathrooms altogether, either by regularly “holding it in” and potentially causing health problems or by staying away from public spaces.² For people whose gender identity or expression does not conform to stereotypical norms or who do not identify as male or female, gender-specific single-user bathrooms create a similar potential for unnecessary confrontation and confusion.

In addition to transgender and gender nonconforming New Yorkers, many others would benefit from the Bill’s guarantee of uniformity and efficiency. People with disabilities who may need a personal attendant to accompany them to the bathroom would no longer face access barriers if their companion is of a different gender. Similarly, people accompanying children of a different gender than themselves would have unambiguous access to all single-user facilities. Finally, anyone who has ever waited in line for one gender-specific bathroom while the other

¹ Jody L. Herman, *Gendered Restrooms and Minority Stress: The Public Regulation of Gender and Its Impact on Transgender People’s Lives*, 19 *Journal of Public Management & Social Policy* 65, 71 (Spring 2013) (survey of 93 transgender and gender nonconforming people in Washington, D.C.), *available at* <http://bit.ly/1SJFCf4>.

² *Id.* at 74-77.

gender-specific bathroom remained empty would benefit from the elimination of needless barriers to access.

The Bill Reflects a Growing Nationwide Consensus

The elimination of gender-specific single-user public bathrooms would bring New York City in line with large cities across the country—including Washington, D.C.,³ Seattle;⁴ Austin;⁵ and Philadelphia⁶—that have adopted similar laws or regulations in recent years. None of these actions has resulted in controversy, and each of them has been welcomed as a common-sense change that offers significant benefits to transgender and non-transgender people alike who need safe and reliable access to facilities.⁷

In fact, these other jurisdictions also offer examples of additional legal or administrative features that amplify the positive effect of their policies. In Philadelphia, the city affirmatively requires all new or renovated city-owned buildings to include a sufficient number of all-gender single-user bathrooms.⁸ In Washington, D.C., the city’s Office of Human Rights publicizes easy-to-use methods for reporting violations of the law through Twitter or online, and it has also launched a campaign—including posters and a “#safebathroomsDC” hashtag—to spread public awareness about the issue.⁹

³ D.C. Mun. Regs. tit. 4 § 802.2 (2006).

⁴ Seattle Mun. Code § 14.07 (2015).

⁵ Austin City Council Resolution No. 20140828-084 (Aug. 28, 2014) (instructing City Manager to process all necessary code amendments to require gender-neutral signage for single-occupancy restrooms); Austin City Council Press Release, *New Gender-Neutral Sign Regulations For Single Use Commercial Restrooms Are In Effect* (Jan. 15, 2015), available at <http://bit.ly/1mW7mVv>.

⁶ Philadelphia Code § 9-636 (2015).

⁷ See, e.g., Noah Smith, “Restroom Ordinance Is Just One More Sign of a City’s Acceptance,” *New York Times* (Jan. 17, 2015), available at <http://nyti.ms/1nh5ZAD>. Indeed, citing these and other laws that have been successfully implemented around the country, the New York City Comptroller recently released a report recommending that the Council follow suit. Office of the New York City Comptroller, *Restrooms for All: A Plan to Expand Gender Neutral Restrooms in NYC* (June 2015), available at <http://on.nyc.gov/1PserDz>. Similarly, the New York City Commission on Human Rights issued legal guidance recommending that, in order to comply with the anti-discrimination mandates of the New York City Human Rights Law, “[c]overed entities that have single-occupancy restrooms should make clear that they can be used by people of all genders.” Commission on Human Rights, *Legal Enforcement Guidance on Discrimination on the Basis of Gender Identity or Expression* (Dec. 2015) at 5, available at <http://on.nyc.gov/1kYSlA9>.

⁸ Philadelphia Code § 16-104 (2013).

⁹ <http://1.usa.gov/1Pc0t8s>.

This Bill represents a significant step towards making New York City a safer and more welcoming place to transgender and gender nonconforming people. In order to ensure that the City remains a committed leader in safeguarding their rights, though, the NYCLU also recommends that the Council incorporate these additional components—an affirmative requirement for new/renovated buildings and a clear enforcement protocol—into the Bill.

* * *

In conclusion, we applaud Councilmember Dromm and the Bill’s co-sponsors for their recognition of the Council’s responsibility to address the needs of New Yorkers seeking safe and equal access to bathrooms. This is a welcome step forward in fulfilling the City’s promise to treat all New Yorkers equally and to offer affirmative support to those who have long been subjected to pervasive discriminatory treatment and harassment. We respectfully submit this testimony in support of the Bill to the Committee, with the additional recommendations outlined above.



**LEGAL
SERVICES**

INCORPORATED

**TESTIMONY
IN SUPPORT OF
PROPOSED INT. NO 722-A: TO AMEND THE
ADMINISTRATIVE CODE IN RELATION TO MINIMUM
TEMPERATURE REQUIRED TO BE MAINTAINED IN
BUILDINGS**

PRESENTED BEFORE:

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

PRESENTED BY:

**DAVID BILLINGSLEY
POVERTY JUSTICE SOLUTIONS FELLOW
MFY LEGAL SERVICES, INC.**

JANUARY 14, 2016

MFY LEGAL SERVICES, INC., 299 Broadway, New York, NY 10007
212-417-3700 www.mfy.org

I. Introduction

MFY Legal Services, Inc. envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for over 50 years MFY has provided free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform and policy advocacy. We provide advice and representation to more than 10,000 poor and working poor New Yorkers each year benefitting over 20,000 individuals.

MFY annually serves more than 3,600 tenants, over 2,000 of whom are at least 60 years old and approximately 50% of whom are people with disabilities. MFY is committed to working with the City Council to protect the safety and affordability of housing for all low-income New Yorkers so they can continue to be an integral part of New York City communities.

MFY Legal Services supports Int. 722A proposed at the request of Manhattan Borough President Brewer to raise the overnight¹ minimum temperature from 55 to 65 degrees and remove the exterior temperature requirement triggering the provision of heat. These amendments will provide significant health and safety benefits to the most vulnerable New Yorkers.

II. Health

MFY serves many elderly, poor, disabled and other vulnerable people who would benefit from increased overnight temperatures in their homes. Elderly people and young children are especially susceptible to hypothermia and cold-related complications of diseases and disabilities.² The natural aging process reduces the ability to detect change in temperature and reduces the body's natural ability to regulate its temperature against the cold.³ Many chronic medical conditions, such as vascular, cardiovascular, and respiratory disease are complicated or worsened by cold temperatures and sustained cold temperatures are associated with higher rates of death from stroke and heart attack.⁴ As a result, older age groups even show excess rates of mortality in the winter as compared to younger age groups.⁵

Poor nutrition and a lack of access to appropriate winter clothing, which are more likely to affect poor people and families who have little other means to protect themselves from cold

¹ It is our understanding that the City is preempted from changing the daytime temperature so, while MFY would be supportive of such an amendment, we will not focus our testimony on this portion of the proposed legislation.

² National Institute on Aging, *Stay Safe In Cold Weather*, <https://d2cauhfh6h4x0p.cloudfront.net/s3fs-public/stay-safe-in-cold-weather.pdf>

³ <http://www.ncbi.nlm.nih.gov/pubmed/11842354>

⁴ Mayo Clinic, *Hypothermia Risk Factors*, June 18, 2014, Available at: <http://www.mayoclinic.org/diseases-conditions/hypothermia/basics/risk-factors/con-20020453>

⁵ Slate, Kim Iskyan, *The Killer Season*, September 16, 2003, Available at:

http://www.slate.com/articles/news_and_politics/hey_wait_a_minute/2003/09/the_killer_season.html.

temperatures, exacerbate all of these health issues. Mental health issues can also prevent a person from taking appropriate steps to stay warm.

III. Safety

When the temperature is too low, people often resort to the use of space heaters to heat their apartments. The U.S. Consumer Product Safety Commission estimates that more than 25,000 residential fires every year are associated with the use of space heaters that result in more than 300 deaths and over 6000 emergency room visits due to burns from contact with the surface of a space heater.⁶ Fires pose an especially large risk in a densely-populated area like New York City where fires can spread to other apartments in a multiple dwelling in a matter of minutes, endangering the lives of tenants in the building as well as adjacent buildings.

Another common solution to a cold apartment that tenants resort to in order to stay warm is turning on the stove or oven. The extended use of stoves or ovens for heating exposes tenants and their neighbors to carbon monoxide poisoning. Carbon monoxide causes fatigue, chest pain in people with heart disease, reduced brain function, impaired vision and coordination, dizziness, confusion, nausea and death.⁷ An estimated 430 deaths per year occurred around the United States from 1999 to 2010 due to carbon monoxide poisoning.⁸ In addition to the very serious risks of carbon monoxide poisoning, the open flame of a stove being used for heat poses a fire hazard.

IV. Enforcement

Removing the triggering exterior temperature requirement for the provision of heat will streamline enforcement by the Department of Housing Preservation and Development (HPD) and make it more effective. Too often, a tenant makes a heat complaint to 311 for insufficient heat, or no heat at all, only for an HPD inspector to arrive several days later when the exterior temperature is above the triggering temperature legally required to provide heat, yet the interior temperature is still below the legal requirement *when* heat must be provided. The lag in response time by HPD is understandable given the number of heat complaints the City receives on any given day. However, as a result, HPD is not able to issue timely violations for lack of heat, which delays the resolution of the problem and too many landlords escape enforcement. Why should the exterior temperature be a factor if the interior temperature is below what is legally required regardless of the exterior temperature?

⁶ Energy.gov, *Energy Saver, Portable Heaters*, Available at: <http://energy.gov/energysaver/portable-heaters>.

⁷ U.S. Environmental Protection Agency, Indoor Air Quality, *Carbon Monoxide's Impact on Indoor Air Quality*, Available at: <http://www.epa.gov/indoor-air-quality-iaq/carbon-monoxides-impact-indoor-air-quality>.

⁸ Centers for Disease Control and Prevention, *QuickStats: Average Annual Number of Deaths and Death Rates from Unintentional, Non-Fire-Related Carbon Monoxide Poisoning by Sex and Age Group — United States, 1999–2010*, Available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6303a6.htm>.

Further complicating matters is the discrepancy in reading the exterior temperature. On any given day the temperature outside can vary widely depending on where one is in the City and the time of day. Given the potential range in outdoor temperatures during the day, even a reasonable landlord might not be able to provide the legally required heat once the outdoor temperature triggers the heat requirement because it can take time to heat an entire building, especially depending on its size. Eliminating the outdoor heating requirement would establish consistency in enforcement and reliability for both landlords and tenants. As a comparison, heat regulations in other large cities with similar weather, both Chicago and Boston have straight interior temperature requirements without any exterior temperature trigger.

V. Costs and Environmental Concern

Increasing the minimum overnight temperature to 65 degrees would have enormous health and safety benefits for our most vulnerable New Yorkers. The health and safety risks faced by tenants trying to keep warm far outweigh any negligible increase in fuel costs for landlords. Landlords have a responsibility to provide living spaces that are safe and conducive to the health of their tenants. With fuel prices for natural gas and heating oil at their lowest in six years,⁹ the cost of the minimal increase in temperature during the limited overnight hours should hardly be noticeable.

In addition, any argument that increasing the overnight temperature would increase greenhouse gas output is short-sighted. Raising the minimum overnight temperature requirement would be minimal as it is only during the limited hours of 10 pm to 6 am.

IV. Conclusion

MFY Legal Services strongly supports Int. 722-A. This legislation is an essential step towards protecting the health and safety of the most vulnerable New Yorkers.

⁹ U.S. Energy Information Agency, *Household heating costs are expected to be lower than previous two winters*, October 6, 2015, Available at: <http://www.eia.gov/todayinenergy/detail.cfm?id=23232>.



Comments by New York Legal Assistance Group (“NYLAG”)

Before the New York City Committee on Housing and Buildings regarding:

Proposed Amendments to Section 1, Subdivision a of Section 27-2029 Title 19, Chapter 52 of the Administrative Code of the City of New York, to amend the minimum temperatures required to be maintained in dwellings.

January 14, 2016

Chairperson Jumaane D. Williams, Councilmembers, and staff, good afternoon and thank you for the opportunity to speak about the proposed amendments to Section 1, Subdivision a of Section 27-2029 Title 19, Chapter 52 of the Administrative Code of the City of New York, which proposes to increase the minimum temperatures required to be maintained in dwellings. My name is Shari Mandel, and I am a Supervising Attorney at the New York Legal Assistance Group (NYLAG) in the Housing Project. NYLAG is a nonprofit law office dedicated to providing free legal services in civil law matters to low-income New Yorkers. NYLAG serves immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, persons with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free legal services.

The Housing Project at NYLAG sees countless tenants complaining of insufficient heat in their apartments. We hear stories of people wearing coats, hats, and gloves to bed. Mothers tell us of how cold their babies are at night; the elderly and infirm talk about how the cold

exacerbates preexisting conditions such as asthma, arthritis, hypothyroidism, and heart disease. Quite often, we have to give them the disheartening news that the temperature in their apartment, though cold and certainly lower than that in which any landlord would want to live, does not technically violate the law. In other cases, landlords fail or refuse to provide adequate heat as a way to induce tenants to give up their apartments; though tenants can pursue violations of the Tenant Protection Act, it is often difficult to prevail on these claims because the element of intent by the landlord to harass is often an insurmountable hurdle, leaving tenants with very few practical and immediate solutions.

According to the Department of Housing Preservation and Development, as of January 7, 2016, there have been an astounding 90,242 complaints since the beginning of “heat season” on October 1, 2015, despite the fact that it has been an unusually warm winter. According to heatseeknyc.com, in the 2014/2015 heat season there were 230,702 complaints regarding lack of heat, and this number has been steadily increasing each year.

NYLAG has been working with Richard, an elderly veteran in his eighties who lives with his elderly wife, Joyce. They have been without sufficient heat in their rent stabilized apartment for several months, and, as a result, they have been unable to remain in their apartment during the day and instead must go to a senior center for adequate heat. Their age, medical issues, and dropping temperatures make having inadequate heat even more of a critical issue. This client's story is a prime example of the health, safety, and quality of life threat seniors and other at-risk tenants face when they are forced to give up their homes due to lack of access to basic necessities like heat.

The amendments proposed by this Committee are certainly a move in the right direction. Increasing the minimum temperatures as proposed by this amendment is an excellent step in

ensuring that tenants are able to reside in a safe and suitable environment that does not negatively impact their health.

We also recommend that the Committee consider imposing an additional, increased penalty upon landlords who are found to have violated the heat law so that there is further incentive for property owners to comply. Currently, HPD will issue a Class “C” violation to a landlord who has been found to be providing insufficient heat, and the landlord is required to restore heat immediately. HPD can also repair the problem and bill the landlord as part of the Emergency Repair Program, but this can be a lengthy process. Further, HPD can seek penalties from \$250.00 to \$500.00 per day for each heat violation, and \$500.00 to \$1,000.00 per day for subsequent violations in the same building during the same and/or the following calendar year or heat season. We recommend that this Committee consider increasing these penalties across the board so as to further dissuade landlords from violating the heat laws.

We further propose that this Committee consider an amendment placing an presumptive finding of harassment on a landlord who has had multiple, separate heat violations issued for the same apartment during one heat season, and imposing the maximum fines allowable under the Tenant Protection Act in addition to those penalties discussed above. Heatseeknyc.com has found that in the 2014/2015 heat season, 64% of heat complaints that were made were repeat complaints, showing that landlords do not continuously provide heat as required by law for the entire season, regardless of past HPD violations.

Lastly, we suggest that the Committee consider making it mandatory that landlords post a notice in common areas of the building informing tenants of their rights under the heat law, including the terms of the law, how to report and enforce violations of the law, what penalties are available against the landlord, and the fact that failure to provide adequate heat may be a rent-

impairing violation under the Rules of the City of New York, Title 28, Chapter 25, Subchapter Q, Section 25-191.

We conclude by urging the City Council to continue to make steps towards protecting the vulnerable tenants of New York City, and to take into consideration the recommendations made herein. We would welcome the opportunity to further discuss or comment on these matters in the future. Thank you for the opportunity to testify today.

Respectfully submitted,

New York Legal Assistance Group

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: DANIEL HARPEN

Address: 3 Harbor Hill Drive

I represent: Huntington, NY 11743

Address: Professional Engineer

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THE CITY OF NEW YORK

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Date: 1/17/16

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Name: Stephanie Rockova

Address: 123 William Street 16th FL NY NY 10038

I represent: URBAN JUSTICE CENTER

Address: 123 William Street 16th FL NY NY 10038

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THE CITY OF NEW YORK

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Date: 1/14/16

(PLEASE PRINT)

Name: JIM LEONARD

Address: jimleonard@intech21.com

I represent: Intech 21

Address: 21 Harbor Park Drive
Perth Washington NY 11050

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(PLEASE PRINT)

Name: Ami Shah for LSNYC

Address: 1 West 125th St., NY, NY 10027

I represent: LSNYC

Address: 40 Worth St. Suite 606

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 in favor in opposition

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Name: Caitlin Johnson for LSNYC

Address: 1 W. 125th St, 2nd Fl, NY, NY 10027

I represent: LSNYC

Address: 40 Worth St, Suite 606

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Date: 1/14/2016

(PLEASE PRINT)

Name: Gale A. Brewer, Manhattan Borough Pres.

Address: 1 Centre Street, 19th fl. south

I represent: _____

Address: _____

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Date: _____

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Name: Patrick Wehle | Jason Wood

Address: Assit. Comm. DOB | Asst. Code Dev. Arch.

I represent: DOB DOB

Address: _____

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Date: 1/14/16

(PLEASE PRINT)

Name: Nebbie Meyer

Address: 217 West 136th Street

I represent: all - dyslexic people

Address: _____

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Vito Mustaciolo ; AnneMarie Santiago

Address: - Dep. Comm. Assoc. Comm.

I represent: NYC Housing Preservation and Dev.

Address: _____

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I intend to appear and speak on Int. No. 870 Res. No. _____

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Date: 1/14/16

(PLEASE PRINT)

Name: Va-Ting Liu

Address: [Handwritten]

I represent: New York League of Conservation Veterans

Address: 30 Broad St 50th Floor

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Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Beverly Tillery

Address: 351 Malcolm X Blvd., 4D, NY, NY 10027

I represent: NYC Anti-Violence Project

Address: 116 Nassau St. 3rd Fl.

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Appearance Card

I intend to appear and speak on Int. No. 871 Res. No. _____

in favor in opposition

Date: 1/14/16

(PLEASE PRINT)

Name: Andrew L. Kallach, office of NYC Comptroller

Address: 1 Centre Street, 5th Fl., NY, NY 10007

I represent: NYC Comptroller Scott M. Stringer

Address: 1 Centre Street, 5th Fl. NY, NY 10007

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Appearance Card

I intend to appear and speak on Int. No. 722-A Res. No. _____

in favor in opposition

Date: 1/14/2016

(PLEASE PRINT)

Name: DAVID BILLINGSLEY

Address: 299 BROADWAY, 4th floor, NY NY 10007

I represent: MEY LEGAL SERVICES

Address: 297 Broadway 4th floor, NY NY 10007

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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 0871-2015 Res. No. _____

in favor in opposition

Date: 1/14/2016

(PLEASE PRINT)

Name: ROBERT HODGSON

Address: 125 Broad St, NY, NY 10004

I represent: The New York Civil Liberties Union

Address: 125 Broad St, NY, NY 10004

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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 871 Res. No. _____

in favor in opposition

Date: 01-14-16

(PLEASE PRINT)

Name: Bryan Ellicott

Address: 8 Wilson Ave

I represent: _____

Address: _____

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I intend to appear and speak on Int. No. 722-A Res. No. _____

in favor in opposition

Date: 1/14/15

(PLEASE PRINT)

Name: FRANK RICCI

Address: _____

I represent: Rent Stabilizer Assoc.

Address: 123 William St.

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Appearance Card

I intend to appear and speak on Int. No. 871 Res. No. _____

in favor in opposition

Date: JAN 14, 2016

(PLEASE PRINT)

Name: ROCCO SANABRIA

Address: 4757 59th Street Woodside NY 11377

I represent: _____

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 722A Res. No. _____

in favor in opposition

Date: 1/14/2016

(PLEASE PRINT)

Name: Abbey Brown

Address: 257 Park Avenue South, 17th Fl

I represent: Environmental Defense Fund

Address: _____

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 in favor in opposition

Date: 1/14/14

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Name: Ethan Rice

Address: _____

I represent: Transgender Legal Defense & Education Fund

Address: _____

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 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Dana Sussman - Special Counsel

Address: 100 Gold St. Commission on Human Rights

I represent: Commission on Human Rights

Address: _____

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Appearance Card

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 in favor in opposition

Date: 1/14/16

(PLEASE PRINT)

Name: Erez Curcov

Address: 208 Hancock St, Apt 2 Brooklyn, NY 11216

I represent: _____

Address: _____

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I intend to appear and speak on Int. No. 722-A Res. No. _____

in favor in opposition

Date: 1/14/15

(PLEASE PRINT)

Name: LAMRIE KEPR

Address: ~~80 BROAD ST.~~ 720 GREENWICH ST - 9F

I represent: URBAN GREEN COUNCIL

Address: 80 BROAD ST.

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

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I intend to appear and speak on Int. No. 0871 Res. No. _____

in favor in opposition

Date: 1/14/16

(PLEASE PRINT)

Name: CARRIE DAVIS

Address: 10 OCEAN PKWY, 05, BROOKLYN NY 11218

I represent: LGBT COMMUNITY CENTER

Address: 208 W. 13TH ST., NY, NY 10011

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

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THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Beverly Tilley

Address: NYC Anti-Violence Project 116 Nassau St.

I represent: " Beverly Tilley

Address: 361 Malcolm X Blvd. 4th

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I intend to appear and speak on Int. No. 722 Res. No. _____

in favor in opposition

Date: 1-14-16

(PLEASE PRINT)

Name: Lindsay Robbins

Address: 40 W. 20th St. New York, NY

I represent: Natural Resources Defense Council

Address: same

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