

**RICK D. CHANDLER, P.E.**  
**COMMISSIONER**  
**NEW YORK CITY DEPARTMENT OF BUILDINGS**

**HEARING BEFORE THE NEW YORK CITY COUNCIL**  
**COMMITTEE ON HOUSING & BUILDINGS**  
**September 16, 2015**

Good morning Chair Williams, members of the Housing & Buildings Committee and other members of the City Council. I am Rick Chandler, Commissioner of the New York City Department of Buildings. I am joined by Assistant Commissioner of External Affairs Patrick Wehle, General Counsel Mona Sehgal, Assistant Commissioner for Financial Management Edwin Pemberton and Annette Hill, Assistant Commissioner and City Register from the Department of Finance. We are pleased to be here to offer testimony on three pieces of legislation. This includes Introductory Number 831, introduced at the request of the Administration and which provides for a more equitable fee structure, Introductory Number 49, which requires notification of New Building and Major Alteration applications, and Introductory Number 280, which requires the Department to establish a registry of restrictive covenants.

On May 14<sup>th</sup> the Department announced our vision to fundamentally reform the Buildings Department to enhance public and worksite safety, slash wait times and delays, and modernize all aspects of the Department to meet the needs of the largest and most complex city in America. We call this plan *Building One City*, and I have appreciated the opportunity to meet with many of the members of this Committee to discuss this plan in detail.

One of the proposals contained in this plan and detailed in Intro. 831 is to provide for a more equitable fee structure. Broadly speaking this legislation serves two purposes. First, is to reduce by half the fees paid by 1, 2 and 3 family homeowners for New Building and Major Alteration

applications. Second, is to increase New Building and Major Alteration application fees for what we refer to as major developments. These include buildings seven stories or greater or 100,000 square feet or greater.

Fees for New Building applications are determined based on the square footage of the proposed new building. For 1, 2 and 3 family homes, the Department proposes reducing the per square foot fee from \$0.12 per square foot to \$0.06 per square foot. Major developments would see a fee increase from \$0.26 per square foot to \$0.45 per square foot.

Fees for Major Alteration applications are determined based on the estimated cost of work provided by the applicant. For 1, 2 and 3 family homes, the Department proposes reducing the estimated cost of work fee from \$5.15 per \$1,000 of work in excess of \$5,000, to \$2.60 per \$1,000 of work in excess of \$5,000. Major developments would see a fee increase from what is essentially \$10.30 per \$1,000 of work in excess of \$5,000, to \$17.75 per \$1,000 in work in excess of 5,000.

For those fees that are increased, the increase is based on applying the consumer price index since the fee was last adjusted in 1991.

The decision to increase fees for any of our applicants is not one we make lightly. However, after much thought and deliberation we feel an increase is necessary and appropriate. Due in large part to advances in technology and expertise, in recent years we have seen construction grow significantly in scale and complexity. One only needs to step outside this building and look up to see numerous examples of this fact and it can be seen throughout the City. Ensuring this construction is safe and Code compliant requires significant resources from the Department,

from plan review through permitting and inspections. And as this development grows in scale and complexity, it requires a greater proportion of Department resources to ensure it complies with the law and is safe for occupancy. Through *Building One City*, and due to the support of the Administration and City Council, the Department is committing significant resources to dramatically improve the services provided to the filing community and fees should be commensurate with the enhanced level of service provided. And as mentioned above, these fees have not been adjusted in twenty-four years.

Finally, this legislation grants the Department the authority to adjust these fees going forward through rulemaking. This will give the Department the opportunity to realign fees as needed to continue to support the services we provide.

The Department would appreciate this Committee's swift consideration and approval of this legislation.

I will now discuss Intro. 49. This legislation requires the Department to send copies of completed New Building and Major Alteration applications to the City Council member and community board where the application is located within five days of receipt. If these applications are rejected, or what we refer to as disapproved, notices of disapproval are to be shared in the same fashion.

The Department takes a great deal of pride in the enormous amount of information we make available to the public. The Department opposes this legislation because the information it seeks is largely available on the Department's website and can be accessed in a couple of different

ways. For example, each week the Department posts on its website several reports, including a report that provides a wealth of information on the jobs filed with the Department during the prior week. This report can be filtered by community board district to provide the information sought after in this legislation. This report does not include disapprovals but it can be added.

Additionally the Department has a Building on My Block tool on our website where this information can also be viewed. Using this tool, the user can view New Building and Major Alteration applications along with other application types within a specific community board. Alternatively the user can enter a specific address to receive information on that location.

Finally I would like to discuss Intro. 280, which requires the Department to maintain a registry of deeds with restrictive covenants and make them available to the public during normal business hours. This legislation permits restrictive covenants to be filed with the Department by either an owner of a property that has a restrictive covenant or an organization that represents the geographic area covered by the covenant.

A restrictive covenant is a private or public contract that runs with the land and is related to a deed that requires the owner of a property to either take or abstain from a specific action. At the outset I would like to inform the Council that restrictive covenants are filed with the Department of Finance and are available for public viewing. Furthermore, the Department of Buildings has no authority to enforce covenant restrictions that do not relate to compliance with the Construction Codes or zoning. The resolution of such restrictive covenants is essentially a civil matter.

Upon purchasing a property, through a title search the owner receives a copy of the deed and any recorded restriction on the property and is therefore made aware of any covenant restrictions. The Department opposes this legislation because owners are aware if a covenant restriction exists on their property, this information is already available to the public, the Department of Buildings has no authority to enforce most covenant restrictions, and we have no ability to determine their legality or accuracy.

Thank you for your attention and the opportunity to testify before you today. I welcome any questions you may have.

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**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. 783, In relation to the Interest Rate applied by  
the Department of Finance to unpaid charges for emergency repairs  
performed by the Department of Housing Preservation and  
Development**

Good morning 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. 783, related to the Interest Rate applied by the Department of Finance to unpaid charges for emergency repairs.

HPD strongly supports this bill. In Fiscal Year 2014, HPD conducted emergency repairs and demolition through our Emergency Repair Program, our Alternative Enforcement Program and our Demolition Program in almost 9,500 residential properties. HPD conducts this work when the property owner has failed to timely correct a condition which poses an immediately hazardous situation and HPD has had to

expend resources to address the condition. This work keeps tenants and the public safe and in many cases restores the habitability of the entire building. An example of the types of work performed under the program includes restoring heat or hot water services and hiring professionals to address electrical or plumbing issues so that tenants can continue to live in their homes. This work would not be necessary if owners maintained their buildings and timely addressed safety and habitability conditions that may arise. As you know, although a vast majority of owners are responsible and keep their buildings in good repair not all owners act responsibly and at times HPD must take on this work. Once the agency incurs a cost to hire a private vendor or to assign agency staff to correct a condition that an owner has not addressed, that cost is charged back to the property through the Department of Finance. Under current law, once that charge has passed its due and payable date, a lien is placed on the property and interest begins to accrue. In FY 14, almost \$30 million was billed for ERP, AEP and demolition charges. \$5 million was paid timely by the owner with no interest accruing. An additional \$14 million was paid after a lien was placed on the property, which includes approximately \$1 million in interest.

Almost \$12.5 million remains pending from approximately 1,800 properties citywide. Those unpaid charges currently accrue interest at an annual rate of only 7%. This interest rate has not changed since it was set through local law in 1974. The current interest rate is less than the interest rate for unpaid property taxes. We believe, that the rate does not provide a strong enough incentive for property owners to either conduct the repairs themselves and notify HPD of the correction or to repay the costs in a timely manner.

We strongly support this bill, with the intention of incentivizing owners to take the responsibility of providing safe and livable housing more seriously. At the current time, this bill would mean an increase in the interest rate on unpaid emergency repairs for properties by 2%-11%. The rate would increase from 7% to 9% for properties assessed up to \$250,000 and to 18% for properties which are assessed at over \$250,000. Revenue increases as a result of this change are difficult to predict, but if the ERP expenditures remain the same and the average time to pay remains the same, an overall increase in revenue to the City would be approximately \$350,000 annually. Again, I would like to stress that the intention of this bill is to change the behavior of property owners to encourage prompt repairs and to not rely on the City to do this work. We expect that this change would result in a decline in number of emergency repairs HPD will have to perform. Any increase in revenue would be applied to the CDBG budget, which is used to support ERP and AEP among a host of other NYC programs and agencies, or to the general fund where tax levy dollars were spent.

I also want to take this opportunity to thank the Council for continuing to work closely with HPD on legislation which supports the agency's mission to ensure that all New Yorkers live in safe and decent housing. From the recent legislation authorizing HPD to impose inspection fees on properties where we conduct multiple inspections and continue to issue class B and class C violations, to the continued work on improving AEP with new amendments which give HPD the flexibility it needs to make the program more effective, to the ability for HPD liens to qualify a property to be included in the Tax Lien Sale, HPD and the Council continue to work hand-in-hand to seek solutions.



As previously stated HPD strongly supports Intro 783 and looks forward to its implementation. Thank you again for the invitation to testify today. I would be happy to answer any questions from the Committee.



The City of New York

## Queens Community Board 11

Serving the Communities of Auburndale, Bayside, Douglaston, Hollis Hills  
Little Neck and Oakland Gardens

**Christine L. Haider** Chairperson / **Susan Seinfeld** District Manager

September 11, 2015

Hon. Jumaane Williams  
Chair  
Committee on Housing and Buildings  
NYC Council  
250 Broadway  
New York, NY 10007


Dear Mr. Williams:

On Tuesday, September 8, 2015, Community Board 11 voted to support Int. No. 49, "in relation to the provision of notice to council members and community boards of applications filed with the department of buildings."

The Board Members support this legislation since it will provide the Board office with the information it needs to assist with inquiries from the public and provide information regarding housing and zoning density changes occurring in the district. The process for obtaining this information has always been difficult because the staff has to be constantly proactive in order to search for information about construction in the neighborhood from the Dept. of Buildings website and through our liaison.

We, therefore, urge the City Council to consider passing this legislation. Thank you.

Sincerely,

  
Christine L. Haider  
Chair

**Testimony before the Committee on Housing and Buildings  
of the New York City Council  
By Ryan J. S. Baxter, Assistant Vice President  
Real Estate Board of New York  
September 16, 2015**

Good morning Chairperson Williams and members of the Committee on Housing and Buildings. The Real Estate Board of New York, representing almost 17,000 owners, developers, managers, and brokers of real property in New York City, thanks you for the opportunity to testify on proposals regarding the Departments of Buildings and Housing Preservation and Development.

We have engaged in discussions with our membership to help ensure that the proposed regulations efficiently and effectively meet the goals established by these bills. Although we support the intent of the proposals, we have a few concerns with one of the four on today's agenda.

We agree that the Department of Buildings should explore new filing fees to facilitate the City's stated goals, and because it has been more than two decades since the last fee increase. Please find below our comments on Int. No. 831:

Int. No. 831-2015 – Permit filing fees for new buildings and alterations.

- While we agree with the goal of this proposal, we believe fees should reflect the services provided.
- The bill would increase the new building work permit application fee for a 1.5M square foot building by almost \$300,000; such an increase in fees should provide clear benefits to the permitting process.
- Given that the Department of Buildings' present annual budget surplus is in excess of almost \$100M, it is unclear if reducing fees for some projects necessitates increasing them for others.
- It is important to note that our membership would welcome increased fees if they were tied to improved service, such as guaranteed departmental response times.
- Additionally, we would encourage the Council to consider further increasing the annual budget of the Department of Buildings alongside any fee increase to facilitate meeting the goals of the *Building One City* plan and to improve service more generally.

For these reasons, we oppose this proposal. Thank you again for the opportunity to comment. We believe that effective legislation can be crafted to achieve the Council's goals while addressing the concerns listed above.

We look forward to continuing our conversations with the Council to continue improving these introductions.

**Written Testimony of the Broadway-Flushing Homeowners' Association, Inc. submitted to  
the New York City Council's Housing & Buildings Committee  
Subject: City Council Intro 280**

**Date:** September 16, 2015

**To:** New York City Council - Housing & Buildings Committee

**From:** Broadway-Flushing Homeowners' Association, P.O. Box 580031, Flushing, NY 11358

On behalf of the members of the Broadway-Flushing Homeowners' Association, we are pleased to submit this Statement regarding District #19, Councilmember Paul Vallone's proposed legislation, Intro 280, a Bill requiring the Department of Buildings to maintain a publicly available Registry of Restrictive Covenants contained in certain property deeds.

The neighborhood of Broadway-Flushing, located in the northeast corner of Queens County, New York, comprises more than 1,300 homes, and approximately one-half of them have a restrictive deed that runs in perpetuity with the property, known as the Rickert-Finlay Covenant of 1906. The Association's boundaries can be found at: [www.broadwayflushing.org](http://www.broadwayflushing.org). They extend from Northern Boulevard on the south, to 29<sup>th</sup> Avenue on the north, from 155 Street on the west to 170 Street on the east.

Intro 280 is a simple and inexpensive measure that will be of great value to residents of Broadway-Flushing and similar communities, and also to developers and others who propose residential or commercial construction within these communities.

The City of New York and its Department of Buildings (DOB) are not legally authorized to administer or enforce our Rickert-Finlay Covenant – only private legal action initiated by an individual or organization representing the neighborhood can enforce a covenant. Under the terms of Intro 280, however, DOB would maintain a publicly available Registry providing notification that these specific parcels are subject to covenants in the deeds. That notification will be of great value to prospective developers as well as individual homeowners, reminding them to inform themselves about these covenants before finalizing their building plans. Intro 280 is an important first step in bringing attention to restrictive deeds.

This simple step will **raise awareness** of restrictive covenants and **begin to improve** communication between prospective builders and homeowners, save months or years of delay, and the huge costs associated with such delays. It is a first step to help the Broadway-Flushing Homeowners' Association, funded by membership dues and voluntary contributions, from the enormous effort, cost and time consuming litigation to enforce the terms of our Covenant against those who elect to ignore them, or who assert they were unaware of the existence of the covenants.

The community of Broadway-Flushing, like our sister neighborhoods of Westmoreland and Douglas Manor, was developed, in whole or in part, by the Rickert-Finlay Realty Company in the first two decades of the 20<sup>th</sup> century. At that time there were no municipal zoning rules in effect. The Rickert-Finlay company made the farsighted decision to incorporate covenants in the deeds of the properties it was offering for sale, recognizing that these would enhance and protect the character and value of the communities. We are extremely proud to say that the Rickert-Finlay Covenant of 1906 is still valid and enforceable in Broadway-Flushing in 2015, and was upheld recently by a Decision of the Appellate Division, 2<sup>nd</sup> Department of NYS Court of Appeals which declined to disturb the Appellate Division's findings.

The covenant was designed to ensure that our community would maintain a welcoming and "open" and "green" ambiance. This was achieved by establishing a minimum 20-foot setback requirement for all residential properties, and also prohibiting the construction of fences or walls within the first 20 feet of the front property line, and the side property line for corner properties (hedges and shrubbery are permitted).

These covenants run with the land – that is, they are incorporated in the property deeds and pass from owner to owner. They are applicable to all owners in the chain of title. A competent title search will always identify the covenants.

Nevertheless, with troubling frequency, unscrupulous builders elect to tear down, commence construction, or attempt to subdivide property in knowing violation of a covenant. They may be able to do so in accordance with zoning regulations, and since there is no current Registry, the DOB will sign off on a building permit. It then becomes a private legal matter to enforce the Rickert-Finlay Covenant. Because of this simple lack of communication when a permit is issued by the DOB, our Association must assume the financial responsibility of enforcing the Covenant in court. Although our Association has been serving the community for more than fifty years and has been successful each time in enforcing the Covenant, an enormous amount of time and expense on both sides is unnecessarily expended.

Intro 280 does not assign to the Buildings Department any responsibility to interpret, administer, apply or enforce those covenants. The Bill merely provides a mechanism to notify owners, prospective purchasers and developers of the existence of the covenants. We consider this a first step in expanding the communication and actionable steps between the DOB and those seeking building permits.

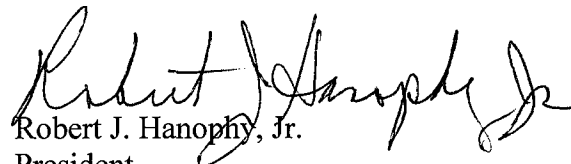
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Broadway-Flushing Homeowners' Association  
September 16, 2015

While we prefer that Intro 280 be amended to allow the Department of Buildings to search the proposed Registry prior to issuing a permit and, if any Covenant be violated, the permit request be denied, we understand the intent of Intro 280. However, it is most important that the City Council seriously consider a revision to Intro 280. It should definitely be enhanced by requiring the Department of Buildings to place a "flag" in its online database identifying parcels subject to restrictive covenants. The "flag" would simply direct users to the Registry. Further, the Broadway-Flushing Homeowners' Association is prepared to provide the Department of Buildings with the address, including block and lot of each home covered by the Rickert-Finlay Covenant, within the borders of Broadway-Flushing.

Therefore, we submit our appreciation to Councilmember Paul Vallone for proposing this legislation as a first step in raising awareness of enforceable restrictive covenants that exist to protect our neighborhoods. ***We respectfully request that the Committee on Housing and Buildings and the entire City Council support Intro 280, with the above-suggested enhancement to place a "flag" in the database.***

Very truly yours,

  
Robert J. Hanophy, Jr.  
President

cc: Councilmember Paul Vallone, New York City Council District 19  
Zoning Committee, Broadway-Flushing Homeowners' Association

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 831,47,280 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/16/15

(PLEASE PRINT)

Name: Commissioner Rick Chandle

Address: DOB

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

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 280 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/16/15

(PLEASE PRINT)

Name: Maria P. Bece

Address: 35-25 169 St, Flushing NY 11358

I represent: Broadway Flushing Homeowners Association

Address: Station A, Flushing NY 11358

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 280 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/16/15

(PLEASE PRINT)

Name: RHEA O'GORMAN

Address: 40-16 171 ST

I represent: STATION RD CIVIC ASSOC

Address: 40 SAME

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. INTAB 280 Res. No. \_\_\_\_\_

in favor  in opposition ASIS

Date: 9/16/15

(PLEASE PRINT)

Name: (EDITH) TERRI POUMARI

Address: 40-15 170 ST FLUSHING NY 11358

I represent: AUBURNDALE IMPROV ASSN

Address: US POST OFFICE  
STATION A, Box 331 FLUSHING NY 11358

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



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 783 Res. No. \_\_\_\_\_

in favor  in opposition

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

(PLEASE PRINT)

Name: Vito Mustacchio

Address: 100 Gold Street, NY, NY

I represent: NYC Department of Housing Preservation & Development

Address: 100 Development Gold Street, NY, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 783 Res. No. \_\_\_\_\_

in favor  in opposition

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

(PLEASE PRINT)

Name: Anne Marie Santiago

Address: 100 Gold Street, NY, NY

I represent: NYC Department of Housing Preservation & Development

Address: 100 Gold Street

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 280 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 8/11/15

(PLEASE PRINT)

Name: Assistant Commissioner Abraham Hill

Address: City Register / DoF

I represent: Man School

Address: DOB

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 831,497<sup>20</sup> Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/14/15

(PLEASE PRINT)

Name: General Counsel Muna Schgal

Address: A.C. Ed. DOB

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 831,497<sup>20</sup> Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/16/15

(PLEASE PRINT)

Name: A. Christel Pemberton Patrick Weik

Address: DOB

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 831,497<sup>20</sup> Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/10/15

(PLEASE PRINT)

Name: Com. Assistant Esmeralda Patrick Weik

Address: DOB

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

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

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