



TESTIMONY OF THE RENT STABILIZATION ASSOCIATION,
RELATING TO INTRO. 1042 AND THE ABATEMENT OF GRAFFITI
ON COMMERCIAL AND RESIDENTIAL BUILDINGS

September 10, 2009

The Rent Stabilization Association represents 25,000 members of RSA who own or manage approximately one million apartments in New York City.

Intro.1042 would amend the City's graffiti law enacted in 2006 to provide that the City will act to abate graffiti on an owner's property unless the owner does so or informs the City that the owner consents to the presence of the graffiti. The bill contains several provisions which we believe require further review by the City Council.

First, the bill provides that the procedures for the notification of property owners by the City will be predicated upon ownership information contained in the records of the Department of Finance. We are concerned that these notifications may, in many circumstances, be sent to financial institutions or to other third parties but not the owner itself. We propose as an alternative that at least for residential properties affected by this legislation, the City should rely upon the multiple dwelling registration information maintained by the Department of Housing Preservation and Development. These registrations, which contain detailed ownership and management information, are required to be updated annually by owners of all buildings with three or more units, as well as by owners of non-owner-occupied one-family and two-family homes.

Second, Intro.1042 proposes to reduce the amount of time in which an owner has to act from 60 to 35 days. We urge the Council to consider alternatives to that change. Given the possibility that there can be circumstances beyond an owner's control and ability to act timely, owners should be provided with the opportunity to seek an extension of a reasonable period of time. Further, the timeframe and the ability to obtain extensions need to take into account the reality that certain types of chemically-based graffiti cleansers must be applied in temperatures above 45 degrees Fahrenheit. This affects the ability of an owner to abate the graffiti during the winter months.

Third, Intro.1042 states that "the city shall not be liable for any property damage arising from the performance of graffiti removal services." We do not believe that the City can insulate itself from liability arising from damage caused to the owner's property as the result of actions taken by the City or that it should attempt to do so, regardless of its legality.

Lastly, Intro.1042 should be clarified to specify the areas of a property to which this bill will apply. It has always been understood that ground-level graffiti is of the greatest concern. However, as vividly illustrated by a picture in the Metropolitan Section of the

New York Times on September 9th, it is certainly not uncommon for graffiti to occur on a building's parapets, both on the exterior as well as the interior, as well as areas adjacent to a building's fire escapes. Obtaining access to these and other such areas by the City raise questions regarding how that access can be obtained and under what circumstances, as well as questions relating to potential property damage and risk of personal injury. Intro.1042 should be clear that the only areas intended to be affected by this legislation are those at or near ground-level.

We look forward to working with the Council to improve Intro.1042 in these and any other respects.

**Graffiti Legislation
Administration Testimony
September 10, 2009**

Good afternoon Chairperson Vallone Jr. and members of the Public Safety Committee. My name is Carole Post and I am the Director of Agency Services in the Mayor's Office of Operations. I am joined here today by colleagues from the Office of Operations, the Department of Sanitation and the Mayor's Office of Community Affairs.

As you all know, nationwide, and especially in New York City, graffiti is a serious problem. The City has been working to tackle this problem for many years, in partnership with the Council and various community groups.

Since 1999, the City has provided free graffiti removal services to New Yorkers through the Graffiti Free NYC program. Graffiti Free NYC is a joint effort between the Economic Development Corporation, the Department of Sanitation and the Mayor's Office of Community Affairs. To date this year, Graffiti Free NYC has already cleaned 5,758 properties throughout the five boroughs.

Our fight against graffiti has been possible because of the original Graffiti Free bill. That legislation helped the City establish a program to affirmatively and aggressively address the problem. And as the number of reported incidents has increased, we have sought to keep improving the program – to stay one step ahead.

During 2007, staying one step ahead became even more challenging. It was during this time that the number of reported graffiti conditions appeared to jump by nearly 60%. This rise in reported conditions is largely attributed to the introduction of the Street Condition Observation Unit (SCOUT).

The SCOUT team, as we call it, is a group of 15 City inspectors who drive every City street once per month. They look for and report on quality of life conditions to our 311 customer call center. SCOUT enables us to proactively identify graffiti markings in the City – across all 5 boroughs – once a month. As a result, the number of graffiti-related reports increased rapidly once SCOUT started its patrols. This increase prompted a review of the city's graffiti cleaning program to ensure we could continue to be responsive.

The review led to a number of changes to our internal operations including upgrading the technology used to provide customers the status of a graffiti complaint. These changes resulted in a dramatic increase in the number of sites cleaned since 2007 and a 50% decrease in the amount of time it takes the City to respond to a cleaning request.

But we think we can do even more to erase graffiti from the City streets. Intro. 1042, proposes several key amendments to the original Graffiti Free bill which will make the program even more efficient, expedient and cost-effective.

These amendments will make it easier for property owners to get graffiti cleaned and allow us to be more aggressive in our efforts to stay one step ahead. The proposed changes focus on two key areas.

First is efficiency. The City's current graffiti cleaning program creates an administrative process that can sometimes impede a property owner from getting the help they need. Under the current program, a property owner who is the victim of graffiti may request that the City clean or remove the markings. However, the owner must first submit a legal "waiver" form to grant the cleaning crew access for cleaning. While we have made this form available online, and it may be submitted electronically, it is still a step that for many is seen as a hassle. And in cases where property owners are not aware of the free cleaning services, they are left to perform an often expensive and difficult cleaning process or simply must live with the markings.

The second is productivity. As you well know, graffiti tags don't recognize property lines. A marking can often scrawl across multiple properties or storefronts. Because we can only clean properties where waivers have been submitted, the cleaning crews are routinely faced with an inefficient process of assembling equipment, prepping the area and then cleaning and detailing a surface – but only for the property or storefront which has submitted a waiver.

The administration is proposing an alternative approach that will streamline the current process and make it more efficient, more productive and more customer-friendly. We're proposing to eliminate the waiver requirement, and instead make removing graffiti the default option for the property owner. Of course, the property owner can opt out of the free cleaning service if the marking is intentional artwork and not vandalism, or if they simply prefer to remove the graffiti themselves.

And while we pride ourselves on trying to be innovative, we are not the first jurisdiction to implement this opt-out concept. Cities like Los Angeles, St. Louis and Chicago tackle their graffiti in much the same way. Here's how it would work.

Once graffiti is identified – whether from the SCOUT monthly patrol or from a property owner or neighbor reporting it to 311, the City would log the report and immediately send out a notice to the property owner alerting them of the City's intent to clean or remove the graffiti. That's not so different from today, but what is different is the message.

The notice to the property owner would inform the owner that the City offers graffiti-cleaning services at no cost. And if the owner wants the City to clean it for them, the owner doesn't have to do anything.

However, if the owner wants to opt-out – for any reason or no reason at all – they have 35 days to notify the City and the property will not be added to the cleaning list. For example, if the property owner wants to keep the graffiti – or if they specifically commissioned it to be painted - they have the right to keep it there. And of course, if the owner prefers to clean it themselves, they may do so as long as it is done within 35 days.

The idea is to shift the burden from the property or business owners to the City -- the proactive, customer friendly model of city services, where the City should always be expected to do the right thing first. We think this bill accomplishes that goal.

In addition, I would like to speak briefly about three changes to the proposed new process that have been suggested by the City Council since the bill was introduced.

The first is the addition of a 15-day extension to the opt-out waiting period. While our goal is to get to graffiti conditions as quickly as our resources permit, we recognize the need to ensure that property owners have sufficient time to receive notice, determine whether they want to opt-out or not and to actually clean the graffiti themselves should that be their choice. For that reason, we have agreed to add language to the bill to enable a property owner to contact the City within the 35-day opt-out period and request an additional 15 days be added to the waiting period. It should be a simple process -- no forms and no approval required. They simply have to make the request before the 35 days expires.

The second is a clarification regarding access to property. We agree to add language to clarify that it is not our intention -- nor our practice -- to access dwelling units in order to clean or remove markings.

Finally, we will be proposing language to clarify the process for notifying property owners of the opt-out program. We agree that it is crucial that we take the appropriate steps to ensure that a property owner is duly notified and we will be identifying the appropriate data sources available to the City to ensure that we take all necessary steps to accomplish that.

We think the bill, with these proposed changes, will advance the way the City addresses this critical problem, build upon the framework that has been set for us by the original graffiti free bill and optimize the efforts of the graffiti free team.

Thank you for your consideration. We will now take questions.

COMMUNITY TARNISHED BY TAGGER

Say Vandal Hit Close To Home



Suspected graffiti vandal Matthew Young was escorted out of the 104th Precinct's Ridgewood stationhouse on Tuesday, Oct. 7 by Detectives Lisa Hansen and Andrew Arias of the NYPD Transit Bureau Special Investigations Unit.

by Robert Pozarycki

Following a lengthy investigation by detectives, an alleged graffiti vandal from Glendale was arrested on Tuesday, Oct. 7 for scrawling his tag all over public and private properties blocks from his home over the last several months, it was announced.

The suspect was identified by NYPD Transit Bureau Special Investigations Unit under the supervision of Sgt. Kevin Cooper. Based on information obtained by detectives during their probe, law enforcement agents reportedly linked Young to several acts of vandalism that occurred in the Glendale area between March and August of this year in which a 65th Street home, a Myrtle Avenue property and a railroad trestle along Central Avenue were marked with the same tag.

According to police, the suspect has been arrested on nine other occasions since 2004 for allegedly painting graffiti at locations within the confines of the 104th Precinct.

The drawing was also found on the upper floors of numerous commercial properties along Myrtle Avenue near Fresh Pond Road, said a source with knowledge of the investigation. Many of the tags were made on the upper floors of each structure, making them difficult to remove by conventional means.

"These are locations that we can't get to without a bucket truck," the source said.

According to law enforcement sources, the first graffiti incident was reported to police between 3:30 and 3:35 p.m. on the afternoon of Mar. 1 at the northwest corner of Myrtle and Central avenues.

It was determined that Young allegedly spray-painted the tag onto the bridge that carries the Long Island Rail Road Bay Ridge branch above Myrtle Avenue.

The following day, authorities said, the suspect allegedly scrawled the same drawing on the front of an apartment building on 65th Street near Central Avenue between 11:30 and 11:35 a.m. on Mar. 2.

Using spray paint, according to information provided by the Queens District Attorney's office, the suspect marked a wall on the second floor of the structure with his tag.

Young was also charged with marking his tag on the front of a building on Myrtle Avenue near 66th Place. The vandalism was discovered between 7 and 7:05 a.m. on the morning of Aug. 18, it was reported.

The suspect was charged with multiple counts of criminal mischief in the fourth degree and making graffiti, said a spokesperson for Queens District Attorney Richard A. Brown.

Greater Ridgewood Restoration Corporation

"Community stabilization and redevelopment through Community participation and cooperation"

Good afternoon, my name is Theodore Renz, Executive Director of the Myrtle Avenue Business Improvement District.

Let me give you the attitude of one of the criminal judges in Queens on graffiti. Matthew Young, a resident of Glendale, was arrested around Christmas time. He was accused of vandalizing the second stories of multiple properties in the Business Improvement District, plus the railroad trestle. It is common knowledge amongst graffitists that neither the City nor community agencies like the Greater Ridgewood Restoration Corporation can remove graffiti from the second floor.

A copy of the newspaper article on this arrest is attached to my testimony.

Upon his arrest, the BID and GRRC asked the assistant DA handling this case that this vandal be made to pay restitution of \$10,000 to cover the cost of removing his vandalism by a private contractor. We also asked that he be assigned a minimum of 200 hours community service since this was not his first offense. The Assistant DA, during a bench conference with the judge, supported our position for restitution and community service.

The judge said that she would probably not impose restitution because he wasn't working and couldn't afford it. As for community service, she thought that 200 hours was too severe and would not assign him to the GRRC community service detail since she thought they would be too tough on him.

This case was adjourned and is back on the calendar for September 17.



We bring this matter to the Council's attention now because this is what the police and graffiti cleaning programs like GRRC have to face when dealing with a judiciary that is thinking with its heart not its head.

Clearly, this needs your attention also. It does no good to pass laws and try to enforce them, if the judiciary ignores them and refuses to carry them out.

Greater Ridgewood Restoration Corporation

“Community stabilization and redevelopment through Community participation and cooperation”

Good afternoon, my name is Paul Kerzner, president of Greater Ridgewood Restoration Corporation.

There are two new wrinkles in our graffiti vandalism that you should be aware of: - the first is the new frontier for graffiti vandals that the City has to now address, and second has to do with the criminal courts who deal with graffiti vandals.

The new graffiti vandal frontier – If one tracks the history of graffiti vandalism in New York City, it first appeared on our subways. Once the MTA decided to aggressively eradicate it, taking several years, the vandals started to graffiti private property above ground. That started about 18 years ago when the Greater Ridgewood Restoration Corporation had to start its graffiti removal program. GRRC has been at it ever since.

As we eradicated graffiti vandalism at street level, the resourceful vandal has decided to scale up the side of buildings, el lines, and bulkheads on the roofs of buildings with his vandalism.

The proposed legislation (Intro 1042) does address these two new frontiers of graffiti vandalism. But getting access to both locations is difficult. Might we recommend that the City purchase several four-wheel hydraulic hoists that can be towed behind the City’s anti-graffiti cleaning vans so that second-story graffiti can be addressed.

On roof graffiti, another piece of legislation would be necessary that would require property owners to give access to the roof to the City or to GRRC, as one of its agents to paint over this rooftop graffiti. The access legislation can be modeled after the City’s successful “failure to give access” statute that the City’s Environmental Control Board promulgated in the early 1990’s, when owners refused to give access to DEP asbestos inspectors to check out friable asbestos



complaints. At that time owners just refused to give access. Then as a member of the City's Environment Control Board, I championed the right to know section of the DEP asbestos regulation, a failure to give access statute that fined an owner, if he refused to give a DEP inspector access to his building. The fines were very stiff, starting I believe at \$1000 for the first offense, \$5000 for a second offense, and \$10,000 for subsequent offenses. However, if the owner called DEP to schedule an inspection within 30 days of first receiving a violation and that inspection date was kept, that initial failure to gain access penalty was mitigated to a zero fine. I would recommend a similar approach to getting access from owners to paint their roofs and, if necessary, second story graffiti. It worked with asbestos access cases and there is no reason it cannot work with graffiti cleaning access cases.

The last saga on graffiti removal is dealing with the criminal courts in New York City. Ted Renz, who will be speaking after me, will cover that subject.











Greater Ridgewood Restoration Corporation

“Community stabilization and redevelopment through Community participation and cooperation”

Good afternoon. My name is Joann Schauer, representing the Greater Ridgewood Restoration Corporation.

We are pleased that the City Council is considering Intro 1042 to amend Intro 299, that we fought so strongly and successfully for, that for the first time required our City to clean graffiti off private property as has been done for years in the cities with strong municipally approved cleaning programs namely Chicago, San Francisco, Seattle and Philadelphia.

We at GRRC have been cleaning over 400 buildings per year in Queens Community Board 5, covering the communities of Ridgewood, Glendale, Maspeth, Liberty Park, and Middle Village, and in the adjoining communities of Forest Hills, Bushwick, and Ozone Park. Now in our 17th year of cleaning, using hot water high-pressure washers and utilizing personnel from the DA's Alternative Sentencing Program, GRRC now has two mobile units, cleaning graffitied properties within one week of their being vandalized.

Everyone in the graffiti removal business knows that the key to ending graffiti is to remove it as quickly as possible, hence our one-week cleaning goal.

We've attached a schedule of our graffiti cleaning results over the past 17 years, and we are happy that the City of New York has finally emulated our graffiti cleaning efforts on a citywide scale.

Now intro 1042 is needed to amend 299 so that the burden is on the property owner to tell the City that graffiti should remain on a building - the new presumption under Intro 1042 that, if there is ownership silence, the graffiti will be removed. – What a wonderful presumption! We



would ask that there be one amendment to Intro 1042, that being, that language be added that New York City and its agents be allowed to assume this presumption, so designating the Greater Ridgewood Restoration Corporation as an agent for graffiti cleaning for our municipal government.

As the City has recently learned, as GRRC long ago learned, this presumption is necessary, because the few absentee owners who allow graffiti on their properties consistently ignore both the City and GRRC's requests to sign a waiver, allowing us to clean graffiti off of private property.

We have learned that better than 90 percent of the owners are cooperative. The ten percent who are not are, always absentee owners, who really don't care how their properties are maintained. This new legislation is aimed at addressing this 10 percent who are incorrigible.

We hope this committee, the full Council, and the Mayor support Intro 1042 with the amendment we have requested.

GREATTER RIDGEWOOD RESTORATION CORPORATION

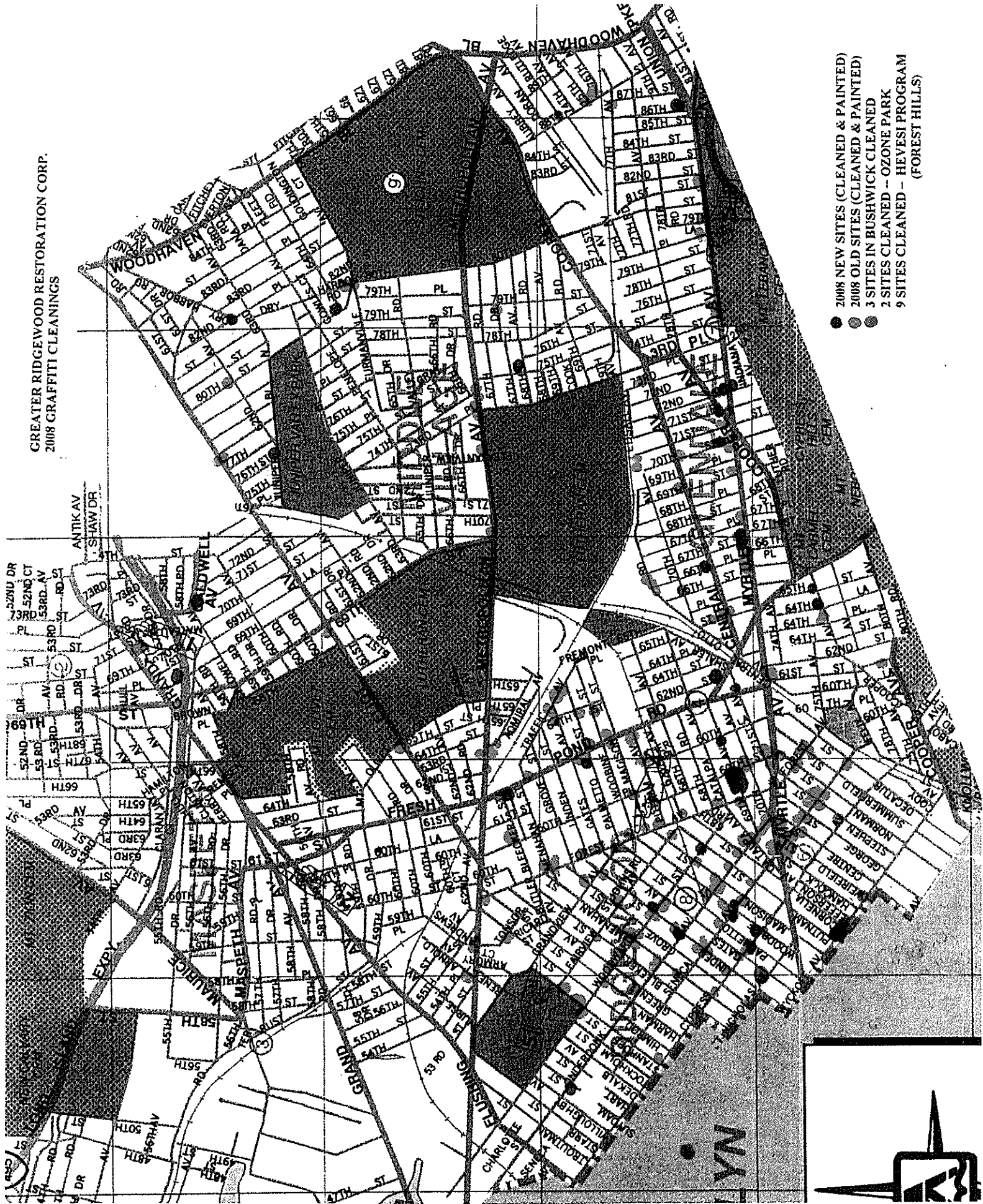
GRAFFITI CLEANING BREAKDOWN BY COMMUNITY AS OF DECEMBER 31, 2008

Year	Middle Village		Maspeth		Glendale		Ridgewood		Bushwick		Ozone Park		Kew Gardens Hills		Hevesi Program (Forest Hills)		Subtotals		Year Totals
	Redone	New	Redone	New	Redone	New	Redone	New	Redone	New	Redone	New	Redone	New	Redone	New	Redone	New	
2000	8	3	9	7	19	4	167	32	0	1	0	0	0	0	0	0	203	47	250
2001	9	9	30	4	11	4	143	21	0	0	0	0	0	0	0	0	193	38	231
2002	33	14	16	3	5	10	90	9	2	0	0	0	0	0	0	0	146	36	182
2003	15	14	43	3	11	10	133	9	0	0	0	0	0	0	0	0	202	36	238
2004	46	13	132	9	26	8	174	25	8	3	0	0	0	0	0	0	386	58	444
2005	28	1	34	2	34	15	139	29	14	1	0	1	0	25	0	0	249	74	323
2006	18	5	4	0	43	13	252	33	4	0	0	0	0	0	0	0	321	66	387
2007	34	4	17	2	41	12	229	39	3	0	0	11	0	0	1	11	325	79	404
2008	23	4	7	2	52	11	172	28	3	0	2	0	0	0	0	9	259	54	313
9 Year Subtotals	214	67	292	32	242	87	1,499	225	34	5	2	12	0	25	1	35	2,284	488	2,772
9 Year Totals*	281		324		329		1,724		39		14		25		36		2,772		

*GRRC's anti-graffiti cleaning program began in 1992, 16 years ago

CLEANINGS 1992 THROUGH 12/31/07 - GRAND TOTAL 4,669

GREATER RIDGEWOOD RESTORATION CORP.
2008 GRAFFITI CLEANINGS



- 2008 NEW SITES (CLEANED & PAINTED)
- 2008 OLD SITES (CLEANED & PAINTED)
- 3 SITES IN BUSHWICK CLEANED
- 2 SITES CLEANED - OZONE PARK
- 9 SITES CLEANED - HEVESI PROGRAM (FOREST HILLS)