

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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December 15, 2010

Start: 1:30 pm

Recess: 3:50 pm

HELD AT: Committee Room  
250 Broadway, 16th Floor

B E F O R E: ERIK MARTIN DILAN  
Chairperson

COUNCIL MEMBERS:  
Erik Martin Dilan  
Gale Brewer  
Elizabeth Crowley  
Lewis A. Fidler  
James F. Gennaro  
Robert Jackson  
Letitia James  
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Melissa Mark-Viverito  
Rosie Mendez  
Joel Rivera  
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## A P P E A R A N C E S

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Vito Mustaciuolo  
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Sarah Hovde  
Director of Research and Policy  
New York City Program of the Local Initiatives Support  
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Matthew Chachere  
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CHAIRPERSON DILAN: Good morning everyone. I am Council Member Erik Martin Dilan and I am the chair of the City Council's Housing and Buildings Committee. Today, the committee will conduct an initial hearing on Intro 436. At the conclusion of the hearing, for the benefit of the members, this item will be laid aside and is not scheduled for a vote today.

Intro 436 is a Local Law to amend the Administrative Code of the City of New York in relation to our Alternative Enforcement Program. This bill would amend Local Law 29 for the year 2007, or the Safe Housing Act which was sponsored by my colleague, Council Member James, who is here.

In May of '07, the City Council passed the Safe Housing Act, which was Intro 561-A and a Local Law 29 created the Alternative Enforcement Program, which is the subject of today's hearing. This program was intended to improve the Department of Housing Preservation and Development's code enforcement program.

This bill would revise the AEP program in certain respects, such as by increasing

1  
2 the number of rental units that the program  
3 affects and requiring the program to explicitly  
4 address mold and vermin conditions in buildings  
5 and should help some buildings that have met  
6 critical repair and compliance issues with the AEP  
7 program to more easily exit the program.

8 Today, the committee expects to  
9 hear testimony regarding this legislation from the  
10 Department of Housing Preservation and Development  
11 as well as tenants, housing advocates and members  
12 of the real estate industry.

13 I'm just going to take the liberty  
14 to introduce some of the members of the committee  
15 where are here. To the far right, the Majority  
16 Leader, Council Member Joel Rivera; the Republican  
17 Leader, Council Member Jimmy Oddo; Council Member  
18 James in the far corner; Council Member Jackson of  
19 Manhattan. At this time I'd like to turn to the  
20 bill's sponsor for a brief opening: Council Member  
21 Mendez of Manhattan.

22 COUNCIL MEMBER MENDEZ: Thank you,  
23 Mr. Chair.

24 CHAIRPERSON DILAN: I'm sorry;  
25 Council Member Lander is also with us as well.

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Council Member Mendez?

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COUNCIL MEMBER MENDEZ: Thank you, Mr. Chair. Intro 436, changes to the Alternative Enforcement Program, or as I like to call it, the Safe Housing Act with Asthma Triggers, was introduced in April 2008. It was then Intro 750 and it was known as the Asthma-Free Housing Act. I introduced it with the then Public Advocate Betsy Gotbaum. Then I reintroduced it in January of this year.

The Asthma-Free Housing Act was an elaborate and detailed structure that codified violations and increased fines pertaining to mold and pest infestation as well as codified a structure for the removal of mold. During these hard economic times, it is incumbent on us as legislators to introduce legislation that's financially responsible.

While we want to limit fiscal impact, we by no means want to compromise the health and safety of New Yorkers irrespective of fiscal consequences. That's why this bill makes so much sense, because it limits the city's financial impact, but brings about much needed

1  
2 relief to the tenants residing in dilapidated  
3 buildings that have asthma triggers.

4 Council Member Tish James' Safe  
5 Housing Act, known as Local Law 29, became law in  
6 May of 2007. It as codified from Council Member  
7 Brewer's council initiative that mandated  
8 inspections and repairs in dilapidated housing.  
9 Through Local Law 29, we improved the timeframe  
10 and the quality of repairs by landlords from roof  
11 to cellar, through HPD's Code Enforcement.

12 Today, by having this hearing to  
13 propose the expansion of the existing legislation,  
14 we include asthma triggers and we acknowledge that  
15 mold and rodent infestation are housing violations  
16 that make a major contribution to the asthma  
17 epidemic here in New York City and that they are  
18 just as serious as any other housing violation.

19 I am pleased that we will work  
20 toward expanding the Safe Housing Act to include  
21 these asthma triggers and that we can better  
22 understand the real impact on families that live  
23 in substandard housing.

24 I want to thank the chairman of  
25 this committee, Dilan, for the work on this

1  
2 legislation, my co-introducer of this bill,  
3 Council Member James, and my Speaker for working  
4 with the Administration to reach consensus on how  
5 we could have a good bill that's financially  
6 responsible. Thank you very much.

7 CHAIRPERSON DILAN: So with that,  
8 we'll turn to HPD. We have the commissioner with  
9 us today. Why don't you introduce yourself in  
10 your own voice, and we'd be happy to hear your  
11 position on today's item.

12 RAFAEL CESTERO: Great. Thank you,  
13 and good afternoon Chairman Dilan and members of  
14 the Housing and Buildings Committee. My name is  
15 Rafael Cestero and I am Commissioner of the  
16 Department of Housing Preservation and  
17 Development. Sitting next to me is Vito  
18 Mustaciuolo, who is Deputy Commissioner of  
19 Enforcement and Neighborhood Services at HPD.  
20 Thank you for the opportunity to discuss the  
21 amendments to Local Law 29 of 2007, also known as,  
22 the Alternative Enforcement Program that are  
23 proposed in Intro 436.

24 Signed into law in June of 2007 as  
25 part of the Safe Housing Act, AEP was established

1  
2 as a means for HPD to apply a whole-building  
3 approach to address the conditions in some of the  
4 City's most distressed residential buildings.  
5 Each year, 200 buildings are selected using  
6 criteria that include Housing Maintenance Code  
7 violations and amount of emergency repair program  
8 charges that are in arrears.

9           Through the authority to impose  
10 inspection fees and order correction of system  
11 replacements the Alternative Enforcement Program  
12 has increased the pressure on the owners of the  
13 600 buildings selected for the program over the  
14 past three years. When the owners of these  
15 buildings did not comply, HPD intervened to make  
16 the necessary building-wide repairs and ultimately  
17 lien the cost of the repairs against the property.

18           Over the past three years HPD has  
19 been successful in improving the housing  
20 conditions in the worst buildings in the City with  
21 the removal of over 95,000 code violations. These  
22 violation removals include such things as roof  
23 replacements, pointing, and replacement of  
24 domestic water supply and waste lines.

25           In the past year, with the



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2 increasing distress in neighborhoods, new  
3 challenges in the multi-family housing stock, and  
4 the overall economic downturn, HPD had looked  
5 across the agency to rethink and reposition our  
6 programs to address these new challenges.

7           Earlier this year, the Mayor  
8 announced a revision of the New Housing  
9 Marketplace Plan amending the program to focus  
10 more on preservation to mirror the slow real  
11 estate market. In the same vein, we also took a  
12 closer look at the AEP program to ensure it was  
13 truly capturing the most distressed buildings in  
14 the City.

15           Through our evaluation, in  
16 conjunction with all of you in the New York City  
17 Council, we arrived at a variety of amendments  
18 that will improve the effectiveness of the  
19 program, while expanding its impact on the City's  
20 distressed housing stock. The bill before you  
21 proposes to make these four amendments.

22           There are four major amendments in  
23 Intro 436 that I would like to discuss today.  
24 Currently, the criteria set out in AEP require HPD  
25 to annually select 200 buildings that have

1  
2 demonstrated a consistent history of serious code  
3 violations as well as expenditures through HPD's  
4 ERP program. The statutory criteria for the first  
5 two years of the program included: a ratio of at  
6 least five hazardous and immediately hazardous  
7 violations per unit over the previous 2 years; a  
8 ratio of \$100 of unpaid ERP charges per unit over  
9 the last 2 years; and 27 open B and C violations  
10 that were issued within the last 2 years. The  
11 criteria for the third and most recent round of  
12 AEP included conditions 1 and 2, but amended the  
13 third to require only 25 open B and C violations.

14 After reviewing the 600 buildings  
15 included in the AEP program over the first three  
16 rounds, we noticed that the statutory criteria  
17 produced buildings that tended to be smaller. On  
18 average, the AEP buildings in rounds one through  
19 three were approximately six to seven units. In  
20 reevaluating the program for Round 4, we thought  
21 it essential to create a better cross section of  
22 building sizes to ensure the program produces  
23 maximum results city-wide.

24 Accordingly, Intro 436 proposes an  
25 amendment to the existing criteria that will allow

1  
2 a better representation of higher unit buildings  
3 into the program. The proposal includes specific  
4 selection criteria for buildings of 3-19 units  
5 requiring a ratio of 5 or more B and C violations  
6 per unit, and at least \$2,500 or more of paid or  
7 unpaid ERP charges, both in the previous 2 years.

8 It also provides for separate  
9 selection criteria for buildings with 20 or more  
10 units, requiring a ratio of 3 or more B and C  
11 violations per unit and at least \$5,000 or more of  
12 paid and unpaid ERP charges in the previous two  
13 years.

14 Under the revised criteria, we  
15 estimate that the average building size for round  
16 4 will increase from 6-7 units to approximately  
17 17-18 units, an increase of almost 2,000 units in  
18 total from Round 3 to Round 4.

19 The second change in Intro 436  
20 allows HPD to amend the AEP selection criteria  
21 through rulemaking for Rounds 6 and beyond. This  
22 will allow HPD to monitor and assess the progress  
23 of Rounds 4 and 5 and make adjustments as  
24 necessary to ensure buildings selected in  
25 subsequent rounds are representative of the most

1  
2 distressed buildings in New York City.

3 Another significant change to the  
4 AEP program included in Intro 436 is to  
5 specifically designate asthma triggers, including  
6 mold conditions and vermin infestation, as  
7 conditions mandating correction within the  
8 program. In consultation with the Department of  
9 Health and Mental Hygiene, the bill includes work  
10 practices for the removal of mold and vermin  
11 infestation for buildings selected for AEP.

12 Almost 95 percent of the buildings  
13 selected for AEP contain code violations for mold  
14 and vermin infestation in the overall violation  
15 count. Including these specific asthma triggers  
16 in the program will ensure that these violations  
17 are corrected in a timely fashion, and more  
18 importantly, according to a standard protocol.

19 Intro 436 also amends the means by  
20 which AEP buildings might be discharged from the  
21 program. Currently, HPD may discharge a building  
22 from AEP after the owner has substantially  
23 corrected all of the open B and C violations on  
24 the property, including the underlying conditions,  
25 and has fully paid all outstanding ERP and AEP

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2 charges and fees associated with HPD completing  
3 the necessary work, including liens, and the owner  
4 has registered the buildings with HPD.

5 Intro 436 proposes to include the  
6 acceptance of a payment agreement as another means  
7 of discharge from the program. Experience over  
8 the past the rounds has shown that the requirement  
9 of full payment for program discharge has caused a  
10 significant amount of buildings to remain in the  
11 program even after the corrective work has already  
12 been completed. Allowing the payment agreement  
13 option will allow building owners to begin to  
14 payoff their debt without accumulating additional  
15 AEP fees for work that has already been completed.

16 We think this new option will be a  
17 welcome change for smaller buildings in the  
18 program that might have had difficulty paying off  
19 the full amount all at once. Furthermore, easier  
20 discharge will ensure that the department's  
21 resources are focused on the buildings in the most  
22 need.

23 The success of the Alternative  
24 Enforcement Program has been a collaborative  
25 effort from the very beginning with the New York

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2 City Council. The proposed amendments before us  
3 evidence the continuation of that effort. As you  
4 all know, AEP is vital to HPD's mission to ensure  
5 that all New Yorkers are afforded the opportunity  
6 to live in residences that are safe and in a state  
7 of good repair.

8 The amendments proposed in Intro  
9 436 not only improve the functionality of the  
10 program, but also thoughtfully expand the scope to  
11 mitigate dangerous public health hazards that  
12 disproportionately take place in physically  
13 distressed buildings like those in AEP.

14 We thank you for your efforts in  
15 pursuing these amendments and for the opportunity  
16 to testify in favor of this legislation. I'd be  
17 happy to answer any follow-up questions that you  
18 may have.

19 CHAIRPERSON DILAN: Thank you,  
20 Commissioner. Before we get to questions, I've  
21 just got to do a little housekeeping. We've been  
22 joined by Council Member Melissa Mark-Viverito of  
23 Manhattan as well as Council Member Gale Brewer of  
24 Manhattan.

25 I'll lead off and I'll be followed

1  
2 by Council Member Mark-Viverito and after that the  
3 list is open. If members want to get some  
4 questions in just please get the attention of  
5 counsel.

6 During the first three rounds of  
7 the program, what was the average size of the  
8 buildings and the average number of outstanding  
9 violations on buildings that have been included in  
10 the program?

11 RAFAEL CESTERO: The average size  
12 in the first three rounds of the program was  
13 buildings that had six to seven units in the  
14 building. The total number of violations in the  
15 first three rounds roughly averaged about 20  
16 violations per unit. Total violation counts range  
17 from 27,000 violations in Round 3 to 40,000  
18 violations in Round 1.

19 CHAIRPERSON DILAN: How many of the  
20 600 buildings in all three rounds included in the  
21 program have been discharged because they've come  
22 into compliance?

23 RAFAEL CESTERO: Of the 600, 193  
24 buildings have been discharged that entered the  
25 program, which is about 32 percent. Of those, 125

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2 were discharged before even entering the program  
3 because the conditions were correct, and 68 were  
4 discharged after the orders to correct were  
5 issued.

6 CHAIRPERSON DILAN: So what's your  
7 opinion on why a little more than two-thirds of  
8 the buildings remain in the program?

9 RAFAEL CESTERO: I think there are  
10 a couple of things that go into that. I think the  
11 first is that the requirement to pay the charges  
12 in full at the time of discharge has proven to be  
13 a particularly onerous requirement, particularly  
14 for smaller building owners. So the work is  
15 corrected, some of the work done by the owners,  
16 some of the work done by the City, but the volume  
17 of charges are too much for them to be able to pay  
18 them off all at once.

19 So even though the work is  
20 corrected, the conditions in the buildings are  
21 improved, the way the program works today, they  
22 have to pay all of their charges in full before  
23 leaving the program. That's why we believe the  
24 amendment in Intro 436 to create the payments  
25 plans will significantly improve our ability to



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2 discharge owners that have responded in taking  
3 care of the conditions in their buildings. So I  
4 think that's the primary reason why so many  
5 buildings have stayed in.

6           There are also just a significant  
7 number of buildings with owners that have just  
8 been unresponsive to our attempts to work with  
9 them. Therefore, we've done the work and we've  
10 liened the buildings and they stay in the program  
11 because they are not coming to clear those liens  
12 and be discharged from the program.

13           CHAIRPERSON DILAN: We've been  
14 joined by Council Member Elizabeth Crowley of  
15 Queens.

16           So for the buildings that were  
17 successful in being discharged from the program,  
18 on average how many months did it take for an  
19 owner to be discharged from AEP?

20           RAFAEL CESTERO: So, 125 of 193  
21 were discharged in the first four months because  
22 the program allows for a four-month period for  
23 owners to correct and then they can be discharged  
24 before ever actually begin to do emergency repair  
25 work. So the majority of them were discharged

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during that four-month period.

The balance was discharged over time, after we had issued the orders to correct and the work had been done.

CHAIRPERSON DILAN: What was the number again, in the first four months?

RAFAEL CESTERO: 129 of the 193 were in the first four months.

CHAIRPERSON DILAN: You mentioned in your testimony some of the obstacles that owners that have been entered into this program face. How do you believe this legislation before us addresses those issues?

RAFAEL CESTERO: I think there are a couple of things the legislation does. I think the first thing is what we talked about before, which is allows us to structure payment plans with owners so that they can exit the program. Again, to be clear, right the program requires that they pay up not just charges incurred after the entered the program but all previous ERP or other charges that had accrued on properties. So I think the payment plan is a significant change that will help owners be discharged from the program. It's

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probably the major change in the bill.

CHAIRPERSON DILAN: So that leads me into my next question. How much in emergency repairs has the department spent on buildings in the program? Could you give us some examples of the type of work that has been done in these buildings? To date, how much of these charges have been recovered by the department?

RAFAEL CESTERO: Sure. Through Round 3, we have awarded about \$23.5 million worth of contracts to correct conditions in buildings. \$17 million of that \$23 million has actually been spent on major systems replacement and emergency repairs. Things that I touched in my testimony: roof replacements, exterior pointing and sealing of the shell of buildings from water penetration, replacement of the domestic water supply and waste lines in buildings which cause significant damage in the wet areas in apartments when those systems are problematic. So \$17 million has been spent on repairs like that.

We have collected a total of \$8.3 million from owners through the program. \$2.8 million of it is of charges that were incurred.

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2 It's part of the \$17 million that was incurred  
3 through the program. \$1.1 million of it was in  
4 fees and fines assessed through the program. \$4.5  
5 million was for past charges that were incurred  
6 prior to the buildings entering the program.

7 CHAIRPERSON DILAN: Why does the  
8 calculation of ERP charges in the proposed bill  
9 include not only unpaid but paid as well? What's  
10 the rationale for including the paid ERP charges?

11 RAFAEL CESTERO: Well, the  
12 rationale is for criteria of how we determine  
13 which buildings should be in the program. If we  
14 have spent a significant amount of ERP in the  
15 program but it's been on a recurring basis. We  
16 have buildings in the city that we use ERP to make  
17 repairs on a regular basis and the owner may,  
18 indeed, have either refinanced or even sold a  
19 building and paid off the ERP lien. But then the  
20 next year we go back in and have to do additional  
21 emergency repairs on the building.

22 So we felt like it was important to  
23 not just look at what was unpaid but to look at  
24 the complete history of emergency repair work in a  
25 particular building when looking at the distress

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2 that exists in a particular building.

3 CHAIRPERSON DILAN: So what impact  
4 do you believe the proposed amendments will have  
5 on the type of buildings selected in the program?  
6 How do you think that the timing on the discharge  
7 of buildings in the program will be affected? Do  
8 you think the time period will be shorter or  
9 longer? Would the bill increase the number of  
10 total units in the program?

11 RAFAEL CESTERO: We believe that  
12 the bill absolutely would increase the total  
13 number of units in the program. In fact, in  
14 looking at a comparison of what we would pull in  
15 buildings if Round 4 of the program went ahead as  
16 originally constructed versus what the proposed  
17 Round 4 would look like under Intro 436, the unit  
18 count goes up from about 1,000 units in the  
19 current structure, but under Intro 436 we would  
20 capture about 3,000 units in the program.

21 I also think that when you look  
22 across multiple different criteria, the new  
23 program as currently designed with all of the  
24 changes that we talked about, by almost any  
25 measure you look at, will capture buildings that

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2 are more severely distressed and in more distress  
3 than would have under the original program.

4 Just to take a couple of  
5 statistics: total violation counts, if we  
6 selected Round 4 today as the statute currently  
7 reads, would be 22,000 violations. Under the  
8 proposed changes to the program, the buildings  
9 that we select would have almost 37,000  
10 violations. So we think that by making these  
11 changes, we're going to capture the buildings that  
12 are most in need and most at risk across the city.

13 CHAIRPERSON DILAN: Do you believe  
14 this increase would have an impact on the  
15 program's budget? If it does, do you have the  
16 funds to cover the necessary, or avoid a potential  
17 increase in the program's budget?

18 RAFAEL CESTERO: We have looked  
19 extensively at that and have estimated that with  
20 the changes to the legislation as proposed that  
21 the AEP budget would go up only slightly, by about  
22 a million dollars. We do have the ability to  
23 handle that increase internal to the agency.

24 The reason that the cost increase,  
25 despite the fact its units has gone up is a number

1  
2 of factors. The first is that we're doing systems  
3 replacement work. By and large, the cost of that  
4 is not exponentially higher in a 15-unit building  
5 than it is in an 8-unit building.

6 Secondly, and perhaps more  
7 importantly is that as we capture larger  
8 buildings, our experience to date would tell us  
9 that owners of larger buildings are more likely to  
10 be able to self-correct the orders and do the work  
11 on their own. Therefore, the program has the  
12 effect of forcing owners to make the repairs but  
13 not requiring the city to have to expend more  
14 money to be able to do that.

15 CHAIRPERSON DILAN: One of the  
16 major changes in the program is now the inclusion  
17 of mold and vermin as now items that will be  
18 captured by the program. The bill states that HPD  
19 will provide owners with information about best  
20 practices to deal with mold and vermin, but  
21 provides later that HPD is supposed to determine  
22 over time whether these best practices are  
23 effective. Why should owners be required to use  
24 these best practices if they're still in formation  
25 and may not exactly be the best practices at this

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2 current time?

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RAFAEL CESTERO: We have a set of practices that are standards right now. We will work with owners to be sure that those protocols are used in correcting the mold and vermin violations. But we have also begun and will begin with this bill, a two-year study period with the Department of Health to really understand the impact of those corrections and those protocols. We will adjust and update the protocol at the end of that period based on what we learned. We think this is the best way to go about it so that we learn as we're doing it and we will modify the protocols as necessary going forward.

CHAIRPERSON DILAN: All right. You see my concern there, because some owners may use your current practices and then work off those current practices upon passage of the bill and then have a two-year period where they do the work. Then when you complete your study with the Department of Health, the practices may be entirely different. So that could cause some confusion on behalf of the owners, unless you don't expect them to be significantly different.



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2                   RAFAEL CESTERO: I don't think we  
3 do expect them to be significantly different. As  
4 we do on many of our programs, we would obviously  
5 work with both the Council and owners to be sure  
6 that any changes to protocol were clearly  
7 identified. And those owners that corrected  
8 problems under the original protocol are not  
9 unduly penalized by a change in the protocol.

10                   CHAIRPERSON DILAN: How does HPD  
11 currently issue mold or vermin violations? What  
12 are the standards for determining if a violation  
13 exists? How does an inspector differentiate  
14 between a Class B or C mold or vermin violation?

15                   RAFAEL CESTERO: With your  
16 permission, Mr. Chairman, I'd ask Vito to answer  
17 that.

18                   CHAIRPERSON DILAN: Sure. He just  
19 has to identify himself in his own voice. Check  
20 your mike.

21                   VITO MUSTACIUOLO: Sorry. Vito  
22 Mustaciuolo, Deputy Commissioner for Enforcement  
23 and Neighborhood Services. So currently we can  
24 write mold violations as a Class A, B or C,  
25 depending on the severity of the condition. How

1  
2 that's determined is based on the square footage  
3 within a room and within an apartment. So if an  
4 apartment has 100-square feet of mold or more  
5 within the unit, or 25-square feet or more within  
6 a room, it's issued as a Class C violation. It  
7 it's less than that standard, it's issued as a  
8 Class B violation. If it was observed on ceramic  
9 tiles in a bathroom it would be issued as either  
10 an A or B.

11 CHAIRPERSON DILAN: I guess, as  
12 best as you could provide, maybe the last couple  
13 of fiscal years, how many mold or vermin  
14 violations have been issued by the department?  
15 I'll be summing up soon and then we'll go to  
16 Council Member Mark-Viverito.

17 RAFAEL CESTERO: Mr. Chairman, the  
18 only data that I have in front of me right now is  
19 the number of open mold and vermin violations  
20 related to buildings that would be captured in the  
21 proposed new Round 4. So I can give you that,  
22 which is not exactly an answer to your question.

23 CHAIRPERSON DILAN: We can take  
24 that, and then you can get back to us.

25 RAFAEL CESTERO: We can get back to

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2 you with the overall. In the top 200 buildings,  
3 as proposed in Round 4, there are currently 3,000  
4 open mold and vermin violations in those buildings  
5 to date. We will get back to you with the overall  
6 citywide numbers.

7 CHAIRPERSON DILAN: I want to just  
8 touch on something that you mentioned in your  
9 testimony. That was the rulemaking. If I  
10 understand correctly, in the sixth year of the  
11 program, the ability to, by rule, change the  
12 building selection criteria and the ratio of the  
13 violations and the amount of the ERP charges which  
14 exist for a building to qualify. Is that accurate  
15 that those are the only two areas you are allowed  
16 to make changes in the legislation and no other  
17 areas are you allowed to propose rules?

18 RAFAEL CESTERO: That's correct.

19 VITO MUSTACIUOLO: That's correct.

20 CHAIRPERSON DILAN: Why do you view  
21 this new rulemaking authority important for the  
22 selection of buildings in this program?

23 RAFAEL CESTERO: I think the major  
24 reason is that it allows us, through the public  
25 rulemaking process, to adjust the programs as

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2 conditions change on the ground in the city so  
3 that we can be responsive to the conditions that  
4 are happening out there and the kinds of buildings  
5 that need our help and that are in distress.

6 That's the intent of it. It's a process that both  
7 allows us to get the appropriate input from both  
8 the City Council and also the public at large but  
9 allows us to adjust the criteria as conditions  
10 change more quickly than going through a complete  
11 new piece of legislation.

12 CHAIRPERSON DILAN: So two  
13 questions and then we'll go to Council Member  
14 Viverito. How, if at all, does HPD address  
15 situations where HPD cannot obtain access to  
16 verify that a violation has been corrected?

17 RAFAEL CESTERO: Vito, you want to  
18 answer that?

19 VITO MUSTACIUOLO: Sure. If we are  
20 refused access by a landlord or an agent of the  
21 landlord, we seek an access warrant in Housing  
22 Court. That's currently the policy. It's also  
23 enforced within the AEP buildings as well.

24 CHAIRPERSON DILAN: Finally, when  
25 will Round 4 notices be sent out to owners?

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2 VITO MUSTACIUOLO: I believe the  
3 legislation says that Round 4 will begin on  
4 January 31st.

5 CHAIRPERSON DILAN: That's the  
6 effective date?

7 VITO MUSTACIUOLO: Right. So the  
8 notices will be sent out that day or the day  
9 after.

10 CHAIRPERSON DILAN: Council Member  
11 Viverito, followed by Brewer.

12 COUNCIL MEMBER MARK-VIVERITO:  
13 Thank you, Mr. Chair. Good to see you,  
14 Commissioner. I wanted to focus, and when I was  
15 hearing your testimony, I kind of shot up when I  
16 heard about the discharging people from the list.  
17 So let me understand this a little bit. What are  
18 the implications in keeping someone on the list?  
19 What does that mean if they're not discharged from  
20 the program?

21 You're asking for people to be  
22 discharged more quickly if they have a payment  
23 plan with the city, but what are the implications  
24 for the owner if they are kept on the discharge  
25 list? What does that mean? Are you going to keep

1  
2 monitoring them? I mean, what are the  
3 implications of keeping them on a list?

4           RAFAEL CESTERO: From our  
5 perspective, there are two major implications.  
6 The first is it's a manpower and work issue  
7 because there are more extensive requirements in  
8 terms of our activity in the buildings.

9           The second is that we have  
10 buildings that have completed the repairs, have  
11 corrected the work that are in the program and  
12 we're not recouping the cost of the work that we  
13 had to do because they're sitting in the program  
14 and they can't get out because they don't have the  
15 financial wherewithal to pay off all the charges.

16           So we see this as an opportunity to  
17 ensure that we're able to focus our attention on  
18 the buildings that are in the most distress.  
19 Also, that we begin to increase the collections to  
20 the city of the work that we've done by entering  
21 into payment plans with owners and allowing them  
22 to be discharged from the program through that  
23 method.

24           COUNCIL MEMBER MARK-VIVERITO:  
25 Right. But are there any other implications for

1  
2 the owners? Is it like a black mark in some way?

3           RAFAEL CESTERO: The other point  
4 that Vito pointed out is that they're also at that  
5 time accruing charges and fees based on the  
6 outstanding balances. So the balances in those  
7 buildings are growing significantly because  
8 they're still in the program because of the change  
9 in the fee structure. We feel like that's not a  
10 fair representation for many owners who have  
11 actually done the work or where we've done work  
12 that could get out of the program and pay it off  
13 over some period of time.

14           COUNCIL MEMBER MARK-VIVERITO:

15 Right. The reason I'm asking this question is I  
16 think there was an article recently that said that  
17 the City was not recouping a lot of the money that  
18 it was putting up for repairs, if I'm not  
19 mistaken, emergency repairs that were happening.

20           I think that if an owner has been  
21 negligent, if an owner has not been providing good  
22 living conditions for their tenants, if the city  
23 has to come in and pay to make those repairs  
24 because they refuse to do so on their own, then  
25 they shouldn't be discharged from the list until

1  
2 they pay fully to the City of New York. That's  
3 kind of my wanting to understand a little bit more  
4 about these emergency repairs.

5 On an average, in a year to year,  
6 how much of any amount that you dish out is, in  
7 fact, outstanding, that you're not able to recoup?  
8 Are there any amounts that you write off on a  
9 yearly basis? Is this considered outstanding  
10 liabilities or money that you expect to regain?

11 RAFAEL CESTERO: These are liens  
12 against the property. They're not written off.  
13 They're repaid on sale or refinancing of the  
14 property. That's true of AEP-related liens. It's  
15 true of any emergency repair lien. So we collect  
16 money on an annual basis, on an ongoing basis,  
17 based on buildings that are being sold or being  
18 refinanced. We have to be paid off, because they  
19 can't get clean title without paying off our lien.

20 So from the perspective of the  
21 Alternative Enforcement Program, the reason that  
22 we believe payment plans are in order is because  
23 the world is not as simple as these are bad owners  
24 and we had to make the repairs and therefore they  
25 should have to pay us back in full, or they did



1  
2 all the work themselves and then never entered the  
3 program.

4           It's more nuanced than that, and in  
5 particular, in an environment where you're dealing  
6 with smaller owners, who have made a number of the  
7 repairs on their own, and don't have the financial  
8 wherewithal, perhaps, to make all of the repairs.  
9 We've made some of the repairs. The conditions  
10 are corrected and they're willing to enter into a  
11 payment plan with us to repay those violations and  
12 try to get their buildings back on a stable  
13 footing. We feel like that's good for the city,  
14 it's good for the owners and it's good for the  
15 buildings to be able to do that and to have the  
16 ability to do that.

17           COUNCIL MEMBER MARK-VIVERITO: Is  
18 that something that happens, outside of this  
19 program is that something that happens, meaning  
20 payment plans for violations? Is that something  
21 that happens outside of this program already? Or  
22 is the expectation that the owners have to pay in  
23 full and they accrue fees and penalties if they  
24 don't?

25           RAFAEL CESTERO: The fee and

1  
2 penalty structure, and Vito can talk more  
3 specifically about the details, but the fee and  
4 penalty structure for just a regular ERP charge  
5 versus AEP are significantly different and how  
6 those fees are accrued are different. That's part  
7 of the driver behind wanting to be able to enter  
8 into payment plans to lessen that burden.

9 COUNCIL MEMBER MARK-VIVERITO: I  
10 mean, entering into a payment plan sounds like a  
11 reasonable thing because obviously you want people  
12 to pay back. Obviously the repairs are critical.  
13 But just in terms of the amounts that you were  
14 citing earlier about how much money has been  
15 spent, you've contracted \$17 million for emergency  
16 repairs and you've only recouped \$8 million. Is  
17 that what you said?

18 RAFAEL CESTERO: I wouldn't  
19 characterize it as only \$8 million. We've  
20 recouped \$8 million and have expended \$17 million.

21 COUNCIL MEMBER MARK-VIVERITO: On  
22 an average, in a year, of the amount that you  
23 spend on emergency repairs, how much does HPD get  
24 back on average in a year? Let's say percentage.  
25 Is it 50 percent?

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2                   RAFAEL CESTERO: I don't have the  
3 specific data in front of me but I can get back to  
4 you with that percentage.

5                   COUNCIL MEMBER MARK-VIVERITO: I  
6 mean I think it would be good to see what the  
7 trend is in terms of whether or not, maybe in the  
8 past three years, what the city has spent on  
9 emergency repairs and what, in fact, have we  
10 gotten back.

11                  RAFAEL CESTERO: Yes, we have that  
12 data. I just don't have it in front of me.

13                  COUNCIL MEMBER MARK-VIVERITO:  
14 That's fine. I think, again, even in a payment  
15 plan structure, I mean I think that there has to  
16 be some level of accountability in terms of the  
17 landlords.

18                  RAFAEL CESTERO: Absolutely.

19                  COUNCIL MEMBER MARK-VIVERITO: I  
20 think, and again, I'm not immersed in the details  
21 of the legislation, that's just something that  
22 popped up at me, but I'd like to look at it more.  
23 But I think that until a payment is made in full  
24 on those repairs, even if the repairs have been  
25 made, that probably they shouldn't be discharged.

1  
2 I understand it poses some sort of problem on your  
3 end.

4 Just the last question is of the  
5 portfolio in the past rounds of all the buildings  
6 and all the repairs that have been made, what  
7 percentage of those repairs had to be done by the  
8 city as opposed to the owners?

9 RAFAEL CESTERO: One second, I'll  
10 see if we have that specific data.

11 COUNCIL MEMBER MARK-VIVERITO:  
12 Sure.

13 CHAIRPERSON DILAN: While we wait,  
14 I'm just going to do a little housekeeping. We've  
15 been joined by Council Member Fidler, briefly by  
16 Council Member Ulrich, Council Member Williams and  
17 the newest member of the committee, Council Member  
18 Jim Gennaro.

19 RAFAEL CESTERO: Council Member, I  
20 don't have that exact data in front of me, so I'll  
21 have to get back to you with that one as well.  
22 What I do have is that of the 407 buildings that  
23 are active in the program, 128 of them are  
24 buildings that we've done system replacement work:  
25 roofs and things like that. So there are a

1  
2 significant number that have either done that work  
3 on their own or didn't need that level of work as  
4 well. But I'll get back to you with a specific  
5 answer to your question about the ratio of  
6 violations that were removed by HPD doing the work  
7 versus owners doing the work themselves.

8 COUNCIL MEMBER MARK-VIVERITO: I  
9 appreciate the testimony and the recommendations.  
10 Again, I think on that aspect of it, of being  
11 discharged from the list, I would like us to look  
12 a little more closely. I think there might be  
13 some room for further discussion on that. Thank  
14 you very much.

15 CHAIRPERSON DILAN: Council Member  
16 Brewer followed by Mendez.

17 COUNCIL MEMBER BREWER: Thank you.  
18 I'm not going to ask about what you think I'm  
19 going to ask about. You know what that is. My  
20 question is how long does it take to get something  
21 repaired? In other words, with the buildings that  
22 you mentioned that were able to be fixed, there  
23 were 68 I think that after the four months were  
24 fixed, et cetera, out of that 125. Obviously the  
25 125 might have been faster. What's the kind of

1  
2 average time either when you do it or when a  
3 landlord does it to get something fixed? If it's  
4 a big system it's going to take longer. But is  
5 there some average time between when the roof to  
6 cellar inspection is done and whatever the  
7 inspectors do to when the problem is attended to?  
8 Vito knows the answers to everything.

9 RAFAEL CESTERO: Yes, he does.

10 COUNCIL MEMBER BREWER: I know.

11 More than you even, more than any of us. Go  
12 ahead. He's the best.

13 RAFAEL CESTERO: Way more than me.

14 VITO MUSTACIUOLO: I don't know  
15 about that.

16 COUNCIL MEMBER BREWER: He's the  
17 best. Go ahead.

18 VITO MUSTACIUOLO: On average, it  
19 takes approximately six to nine months after the  
20 order has been issued. In some cases, there are,  
21 as the Chair had indicated, we may have some  
22 challenges with respect to access, so we're  
23 presently in court on a number of these buildings.  
24 So access is pending on a warrant issued by the  
25 judge. But on average, work begins within six to

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nine months.

We try to schedule the work based on season. So if we're doing roof replacement work, we like to do it when it's not in the rainy season. But there are still buildings that are being discharged where work is being conducted by the owners today that were in Round 1. Then we're still actively monitoring those.

COUNCIL MEMBER BREWER: The mold issue, when I know mold and it's often a system problem, right, it's not just wall. Of course, if we don't have HPD involve, often the owners will do a slapstick job and the mold continues. So how, either through training, or through other means do you figure out where the problem comes from? Mold comes back, often, if it's not correctly addressed. Anybody with asthma is going to get it or any other chronic condition because of it. Mold, as I understand, is more complicated than even vermin in some cases, although they go together. So how are you going to do a different assessment of mold? How are we going to increase getting rid of it, et cetera? Is it a more complicated issue or am I wrong about that?

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2 VITO MUSTACIUOLO: No, you're not  
3 wrong. It is a complicated issue. Certainly, the  
4 proposed language does speak to that issue. Using  
5 best practices which were taken from the  
6 Department of Health and Mental Hygiene's  
7 guidelines will certainly get us closer to that  
8 goal. The fact that we're addressing systems  
9 replacement work: the roofs, the pointings, the  
10 domestic water supply, the waste lines, those are  
11 all contributing factors. Those are the  
12 underlying causes of mold, and in most cases,  
13 vermin infestation as well.

14 There is also some additional  
15 language that's in the current proposal that would  
16 really put the burden on the owner to further  
17 identify the source and to basically provide us  
18 with a affidavit that they have corrected the  
19 underlying condition.

20 COUNCIL MEMBER BREWER: So you  
21 would inspect? Because sometimes a mold is  
22 covered over and then it's harder to inspect.  
23 That's my experience. That's why you sometimes  
24 have to worry about the owner identifying the  
25 source. Is there anything new about how to do



1  
2 that? That's my experience. I'll give the owner  
3 the benefit of the doubt. Maybe they think they  
4 fixed it but how do you make sure?

5 VITO MUSTACIUOLO: I think the  
6 benefit here of this program is that we are  
7 conducting building wide inspections. So we're  
8 not just addressing a specific condition with a  
9 unit. So we're actually doing a cellar to roof  
10 inspection, we're checking everything from the  
11 roof. As the commissioner indicated, it's  
12 probably the biggest system replacement that we  
13 have seen in the last three years of roof  
14 replacements.

15 COUNCIL MEMBER BREWER: In the  
16 paper, because everybody has their list, de Blasio  
17 has a list, the Village Voice has their list,  
18 thanks to many reporters who are no longer with us  
19 and some who are, et cetera. So these larger  
20 buildings are often the ones in the papers, how do  
21 they end up in these horrible situations in that  
22 we have this roof to cellar? Do they not have  
23 enough C violations to put them into the program?  
24 I'm just trying to figure out how, because you're  
25 working best efforts. I got that. I believe it.

1  
2 But we still end up with a lot of challenging, and  
3 I'm using a nice word, situations. How do we get  
4 to those?

5                   RAFAEL CESTERO: The single biggest  
6 issue that we face in really being able to  
7 document the conditions in buildings is that we  
8 don't know about the condition unless we get a  
9 call and a complaint. I was out myself touring  
10 some buildings in the Bronx not so long ago and  
11 the conditions in those buildings were really  
12 atrocious. In meeting with the tenants and  
13 talking with the tenants in those buildings, many  
14 of them had never called to complain about the  
15 condition in their building.

16                   COUNCIL MEMBER BREWER: There are  
17 probably reasons for that.

18                   RAFAEL CESTERO: Absolutely, there  
19 are reasons for that. I think working together  
20 we've tried to do things to ensure that more  
21 people are calling and complaining. But Vito, if  
22 you have anything else to add, but from my  
23 perspective that's the single biggest reason why  
24 we don't necessarily know about the conditions in  
25 buildings until they've gotten severely

1  
2 deteriorated because we're not getting the  
3 complaints. The tenants are not calling.

4 COUNCIL MEMBER BREWER: So you know  
5 that when there's some pattern, you pay attention?  
6 In other words, I hate to say, but there are some  
7 owners who are responsible and there are some  
8 owners who are not. So you are looking, perhaps  
9 proactively--

10 RAFAEL CESTERO: [interposing]  
11 Absolutely.

12 COUNCIL MEMBER BREWER: --to those  
13 who might have a pattern of past performance.  
14 That might have been the situation but, you know,  
15 who knows in the Bronx. Obviously that's one way  
16 to look at it. Because people aren't going to  
17 complain for a lot of reasons, then some kind of a  
18 proactive response would be something to consider.

19 RAFAEL CESTERO: Look, we're  
20 looking at every single way in which we can more  
21 accurately and aggressively determine which  
22 buildings are in the most distress. That's the  
23 driver behind the changes in the criteria.

24 COUNCIL MEMBER BREWER: So the  
25 message is in any language whatsoever, call 311 if

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you have conditions that warrant inspection.

RAFAEL CESTERO: Absolutely, that's right.

COUNCIL MEMBER BREWER: Thank you very much.

RAFAEL CESTERO: Sure.

CHAIRPERSON DILAN: We have Council Member Mendez, followed by Williams.

COUNCIL MEMBER MENDEZ: Thank you, Mr. Chair. Commissioner, in your testimony earlier, you mentioned order to correct. I'm assuming that means you've gone to Housing Court and a judge has signed off on an order, or are you talking about something else?

VITO MUSTACIUOLO: No. These are actually the AEP orders. So after we do a building-wide inspection, we will actually issue an order that's not through Housing Court, but we have the authority under the legislation to issue orders for systems replacement work.

RAFAEL CESTERO: So it's more than just a violation. We're issuing an order to correct. We were given that authority, as Vito pointed out, under the original legislation. That

1  
2 order is to not just correct to the violation but  
3 to correct the underlying system issue that has  
4 caused the violation.

5 COUNCIL MEMBER MENDEZ: Thank you  
6 for clarifying that for me. I don't know if it  
7 was in your testimony, I think it was in your  
8 questions and answers with Chair Dilan, you said  
9 that there were a lot of unresponsive owners and  
10 then the owners who can't make payment in full  
11 because they own small buildings as opposed to  
12 being small owners.

13 RAFAEL CESTERO: Right. It's not a  
14 small owner issue. You're right.

15 COUNCIL MEMBER MENDEZ: That  
16 currently there were 33 percent that were being  
17 discharged. So of the remaining 67 percent, what  
18 percentage is unresponsive owners and what  
19 percentage is owners who can't make the payment in  
20 full?

21 RAFAEL CESTERO: It breaks down,  
22 roughly, a third-a third-a third. So a third of  
23 the buildings have been discharged, as we've  
24 talked about today. A third of the buildings are  
25 with owners that we have been working with where

1  
2 they've made some of the repairs and we've made  
3 some of the repairs and the conditions have been  
4 corrected but they have yet to be able to pay off  
5 the outstanding balances. And a third of the  
6 properties are properties where we've made the  
7 repairs and we have not been able to sort of get  
8 the owners to respond or cooperate.

9 COUNCIL MEMBER MENDEZ: Thank you.  
10 I guess there may be others besides small building  
11 owners, but predominately small building owners,  
12 who can't make payment in full, how many of them,  
13 once we pass this legislation, are ready to sign  
14 an agreement for some kind of installment plan?  
15 What kind of money or percentage of money from  
16 what they owe can we expect will be retrieved  
17 immediately from an installment plan agreement?

18 RAFAEL CESTERO: It's a hard  
19 question to put an exact number on, because  
20 conditions change, owner's situations change, but  
21 what we do know, and Vito can talk about this more  
22 specifically, is we have a group of owners right  
23 now that we've been working with who we believe  
24 would enter into these kinds of payment plans and  
25 exit the system. It's an ever-changing and moving

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kind of target.

VITO MUSTACIUOLO: Absolutely.

There are a number of buildings currently that for lack of paying off 100 percent of the outstanding balances would have met all the criteria for discharge. So we have buildings that have exceeded the 80 percent of correction, of the outstanding B and C violations, have validly registered with us and just for the lack of not having the resources to pay off the full amount of the ERP are still in the program. So there are probably about 15 or 20 buildings right now that would be in that category.

COUNCIL MEMBER MENDEZ: Of the buildings that have been in the program in the last three rounds, what percentage of them had mold violations?

RAFAEL CESTERO: I think this was a similar question that the chair asked. What I have is the number of open vermin and mold violations for buildings that would be captured in the proposed Round 4. I don't have the data on what the violation counts were specifically for mold and vermin for the previous three rounds.

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2 COUNCIL MEMBER MENDEZ: But you  
3 have it together, not separated out? Could you  
4 get us that information separated out?

5 RAFAEL CESTERO: Absolutely, we can  
6 get you that information. I have the total  
7 numbers of B and C violations for the first three  
8 rounds, but I don't have it broken out by the  
9 specific condition. We can get it for you; I just  
10 don't have it right now in front of me.

11 COUNCIL MEMBER MENDEZ: Through the  
12 expansion of this legislation, do we have an idea  
13 of how many more buildings would be captured that  
14 have mold violations?

15 RAFAEL CESTERO: You're asking do  
16 we know whether the percentage of mold or vermin  
17 conditions existing in the 200 buildings would go  
18 up?

19 COUNCIL MEMBER MENDEZ: Correct.

20 RAFAEL CESTERO: In Round 4. So  
21 what I do know is that in Round 4, if we were to  
22 pull the list today, of the 200 buildings, 189  
23 would have mold or vermin conditions in the  
24 buildings. So, of the 200, only 11 would not have  
25 existing open violations for mold and vermin.



1  
2 COUNCIL MEMBER MENDEZ: Can you get  
3 to the committee an even further breakdown of  
4 those 189, how many is actually mold? I'm  
5 assuming we're going to have vermin infestation in  
6 more buildings than we're going to have mold.

7 RAFAEL CESTERO: I'm sorry. It's  
8 right in front of me if I would just look at it.  
9 Of the 189, 133 of them have mold and 181 of them  
10 have vermin. There's overlap, right. A lot of  
11 them have both.

12 COUNCIL MEMBER MENDEZ: I wanted to  
13 ask about vacant buildings because vacant  
14 buildings are currently not captured here. But I  
15 know from working with a lot of buildings in my  
16 community and from working with housing advocates  
17 that sometimes some owners are not doing what they  
18 have to do to remove the vacate order because  
19 basically they don't want to get into this  
20 program. They want to maybe speculate or stay  
21 vacant for as long as they can.

22 Is there a way that we can work at  
23 looking at some of those vacant buildings? During  
24 this housing crisis, we need to get tenants back  
25 into place and to see if some of these buildings

1  
2 we might be able to get them into the program  
3 because we can determine at some point and they  
4 have been in previous litigation that there has  
5 been an attempt to keep it off the market.

6           RAFAEL CESTERO: I guess I would  
7 answer the question a couple of ways. First is I  
8 think the intent of the Alternative Enforcement  
9 Program is to focus on buildings that are  
10 currently occupied and have tenants living in  
11 conditions that they really shouldn't be living in  
12 and to address the immediate health and safety  
13 issues in those buildings. So I'm not sure that  
14 AEP would be the right vehicle to try to figure  
15 out how to deal with buildings that have been  
16 vacated for whatever reason, that they have been  
17 vacated.

18           Obviously, vacant buildings that  
19 pose immediate emergency conditions for the  
20 surrounding neighborhood are things that are dealt  
21 with through a partnership with the Fire  
22 Department, the Department of Buildings and HPD.  
23 We're dealing with those kinds of buildings all  
24 the time. As always, we're happy to sit down and  
25 talk to you about other kinds of buildings that

1  
2 you're interested in. But I don't think that the  
3 Alternative Enforcement Program is necessarily the  
4 right vehicle for buildings that are vacant.

5 COUNCIL MEMBER MENDEZ: Can we sit  
6 and talk about that in more detail? When I was a  
7 tenant organizer, there was a building with a  
8 termite infestation and there was an order to  
9 correct in Housing Court. However, the  
10 infestation, while bad, the work could be done  
11 with the tenants in place and the owner tried to  
12 vacate the building. We were able to stop that.  
13 Had we not been on top of things, they would have  
14 gotten a vacate order and 20 families would have  
15 been displaced. I think where we can make best  
16 efforts to put someone in a program or to get them  
17 back into a program to get tenants back into  
18 place; I think it's something we really need to  
19 work at.

20 RAFAEL CESTERO: Sure. We're happy  
21 to sit down and talk to you more about it.

22 COUNCIL MEMBER MENDEZ: Thank you,  
23 Mr. Commissioner. Thank you, Mr. Chair.

24 CHAIRPERSON DILAN: We have Council  
25 Member Williams, followed by Council Member

1  
2 Fidler.

3 COUNCIL MEMBER WILLIAMS: Thank  
4 you, Mr. Chair. Thank you, Commissioner. I'm  
5 sorry I came late; I missed a lot of the  
6 testimony. But I do want to say that Vito  
7 Mustaciuolo, and I always pronounce his name  
8 wrong, is a gem in HPD and he's worked really well  
9 with my office.

10 VITO MUSTACIUOLO: Thank you.

11 COUNCIL MEMBER WILLIAMS: I'm  
12 really glad that he's a part of the team. We'd  
13 love to have you over at Vanderveer aka Flatbush  
14 Gardens sometime soon. I know we've been in  
15 talks. I think they said maybe April. That's a  
16 long time. Hopefully we can see you there a  
17 little sooner than that. That would be great.

18 RAFAEL CESTERO: Well I know staff  
19 has been out there a bunch.

20 COUNCIL MEMBER WILLIAMS: They have  
21 and we'd love to see you down there. I had a  
22 couple of questions. One I know was asked, but I  
23 just want to ask it again. I apologize for the  
24 repetition. Why are so many buildings still in  
25 the program as opposed to leaving?

1  
2           RAFAEL CESTERO: There are a number  
3 of reasons why there are a lot of buildings in the  
4 program. The first is that there is still work  
5 getting done in buildings and conditions are being  
6 corrected.

7           The second is that, as we have  
8 talked about at length, we have buildings where  
9 more than 80 percent of the conditions have been  
10 corrected, which is the criterion for discharge.  
11 They've registered the buildings with us. The  
12 owners are known to us and we are working with  
13 them, but they're unable to pay off all of the  
14 charges that have accrued during the course of  
15 time in their buildings.

16           Then the third is a category of  
17 buildings where we have made the repairs that were  
18 necessary. We've improved the conditions but we  
19 don't have owners that are responsive or  
20 responding to the other discharge requirements,  
21 meaning registering the building with HPD and  
22 repayment.

23           Those are the primary reasons,  
24 unless Vito, you want to add anything to that.  
25 But those are the primary three reasons.

1  
2 COUNCIL MEMBER WILLIAMS: Thank  
3 you. Have we figured out ways to address those  
4 three primary reasons to get them off?

5 RAFAEL CESTERO: I mean the first  
6 on is work is getting done. So we're always going  
7 to have some buildings where work is in progress.  
8 One of the major changes Intro 436, as we've  
9 talked about, is entering into repayment plans  
10 with owners that have completed the violations and  
11 have registered their buildings with us and are  
12 working with us, allowing them to enter into  
13 repayment plans so that they can be discharged  
14 from the program and excessive fees are not  
15 charged to their buildings.

16 COUNCIL MEMBER WILLIAMS: As I came  
17 in I heard something and I just want to clarify  
18 it. You said that it was more expensive to do  
19 work in the AEP as opposed to ERP?

20 RAFAEL CESTERO: AEP requires us to  
21 do much more extensive work than the Emergency  
22 Repair Program. In AEP, we're actually correcting  
23 the underlying condition to the violation. We're  
24 not just correcting the violation or dealing with  
25 heat and hot water issues, which is the bulk of

1  
2 what we do under the Emergency Repair Program. So  
3 by definition, Alternative Enforcement Program is  
4 a program that is more extensive repair work and  
5 therefore more expensive.

6 COUNCIL MEMBER WILLIAMS: So you're  
7 not saying the same work in AEP is not more  
8 expensive than the same work?

9 RAFAEL CESTERO: No, we're doing  
10 completely different work in AEP than we are in  
11 ERP.

12 COUNCIL MEMBER WILLIAMS: In the  
13 ERP then if we're doing the work anyway, why are  
14 we not addressing the underlying issues as well?

15 RAFAEL CESTERO: I mean, there are  
16 not unlimited resources for the City of New York  
17 to repair all underlying conditions in every  
18 building in the city. Owners are responsible for  
19 correcting violations. Most of what we do in the  
20 Emergency Repair Program is either remediate lead  
21 conditions or make sure that people have heat  
22 during the winter months. That's the primary  
23 focus of the Emergency Repair Program. I think  
24 that's the right focus for that program.

25 COUNCIL MEMBER WILLIAMS: That

1  
2 probably answers my next question. I've always  
3 found it very difficult to understand when HPD  
4 will come in to do the emergency repair because  
5 there have been lots of buildings I thought, when  
6 I was doing organizing work as well, that would  
7 have been able to get some emergency repairs and  
8 HPD just never came. What is the trigger to get  
9 the emergency repair? Is that off target?

10 CHAIRPERSON DILAN: Yeah. Then  
11 I'll just ask you to get back on subject.

12 COUNCIL MEMBER WILLIAMS: Can I get  
13 an answer?

14 CHAIRPERSON DILAN: After this  
15 question, get back on subject.

16 VITO MUSTACIUOLO: Most Class C  
17 violations that we issue do generate the Emergency  
18 Repair Process. Unless you have specific  
19 addressees it's really hard for me to know why we  
20 did not correct certain conditions. But we do  
21 start the process and do additional notification  
22 to owners. If the owner does not correct it, we  
23 can step in and perform the repairs.

24 COUNCIL MEMBER WILLIAMS: I'll be  
25 well mannered and get back on topic today. What



1  
2 type of training do you have for mold and vermin  
3 remediation for inspectors?

4 VITO MUSTACIUOLO: For our  
5 inspectors?

6 COUNCIL MEMBER WILLIAMS: Yeah.

7 VITO MUSTACIUOLO: We actually have  
8 been working closely with the Department of Health  
9 and Mental Hygiene. We have conducted some joint  
10 training between the agencies. We have ongoing  
11 training for all of our inspectors.

12 COUNCIL MEMBER WILLIAMS: Anything  
13 specific for mold and vermin?

14 VITO MUSTACIUOLO: We have had  
15 classes for mold and for vermin as well.

16 COUNCIL MEMBER WILLIAMS: I was  
17 reading one of the things that the RSA put in.  
18 Surprisingly, there was a question that actually  
19 made sense to me. It had to do with the best  
20 practices that are in the bill for removing mold.  
21 Are we clear on what those best practices are and  
22 that they actually work?

23 VITO MUSTACIUOLO: Again, the best  
24 practices were a result of working closely with  
25 the Department of Health and Mental Hygiene and

1  
2 Council staff and really kind of paring down the  
3 broader guidelines. We really did look at what  
4 makes sense for these buildings.

5 COUNCIL MEMBER WILLIAMS: So what  
6 are the best practices now for removing mold?

7 VITO MUSTACIUOLO: I mean I don't  
8 have the details in front of me, but we could sit  
9 down and talk about the details of the best  
10 practices for mold and for vermin infestation.

11 CHAIRPERSON DILAN: While that is  
12 on subject, I think that's more of a DOH question.  
13 I know they have a pamphlet readily available  
14 that's a guide for owners. They do have that.

15 COUNCIL MEMBER WILLIAMS: The mold  
16 keeps returning.

17 RAFAEL CESTERO: Again, I think the  
18 point that we made to Council Member Brewer was  
19 that we're, in AEP, correcting the underlying  
20 conditions in the buildings like roofs, like water  
21 supply lines that often lead to the mold  
22 infestations.

23 COUNCIL MEMBER WILLIAMS: Thank you  
24 very much.

25 CHAIRPERSON DILAN: Thank you,

1  
2 Council Member Williams. Council Member Fidler is  
3 next.

4 COUNCIL MEMBER FIDLER: Thank you,  
5 Mr. Chairman. I'm not 100 percent sure that my  
6 question is on topic. I think it's relevant.  
7 Good afternoon, Mr. Commissioner. The emergency  
8 repairs deals with symptoms; AEP deals with  
9 systems is kind of what I'm getting. I know that  
10 when you go in and do an emergency repair that  
11 becomes a lien against the property. Am I  
12 correct?

13 RAFAEL CESTERO: That's correct.

14 COUNCIL MEMBER FIDLER: Does work  
15 done under the AEP program also become a lien  
16 against the property?

17 RAFAEL CESTERO: Yes.

18 COUNCIL MEMBER FIDLER: So going  
19 back to the line of questioning that Council  
20 Member Mark-Viverito had about the collection of  
21 the money, wouldn't it be true that every penny  
22 eventually gets collected?

23 RAFAEL CESTERO: That's correct,  
24 yes.

25 COUNCIL MEMBER FIDLER: You're

1  
2 running what rate of interest on those charges  
3 from the time they're imposed until they're paid?

4 RAFAEL CESTERO: It's nine percent.

5 COUNCIL MEMBER FIDLER: So, I mean  
6 that's probably better than the city is doing on  
7 any investment it has right now. I'm not all that  
8 concerned about what your annual return is: if you  
9 did work in 2010, did you get paid in 2010. I'd  
10 be more interested in knowing over the battery of  
11 repair liens what percentage gets paid? Do they  
12 get compromised? Over a lengthy period of time  
13 what the picture is. Because it seems to me that  
14 this program, while it does require a cash outlay,  
15 does not cost the city a dime in the long term.

16 RAFAEL CESTERO: Well, I mean,  
17 look, the bottom line is that the liens are  
18 repayable when a building refinances or sells. So  
19 that could be tomorrow, it could be 50 years from  
20 now, but the lien will stay on the property. So  
21 it's a question of time, it's a question of cash  
22 outlay and when we expect to get it returned.

23 COUNCIL MEMBER FIDLER: Is there  
24 some kind of analysis that can say over the last  
25 ten years the City of New York has done x amount

1  
2 of emergency repairs and has realized x amount  
3 back? I bet it's a profit.

4 RAFAEL CESTERO: We certainly have  
5 that for emergency repair. We don't obviously  
6 have ten years of history on AEP. We just have  
7 the three rounds. I don't have it in front of me  
8 but we certainly have done that analysis.

9 COUNCIL MEMBER FIDLER: But you  
10 would expect that every penny that you've laid out  
11 in the AEP program will come back to you with 9  
12 percent interest.

13 RAFAEL CESTERO: Yes, I would  
14 expect that it would come back to us over some  
15 period of time.

16 COUNCIL MEMBER FIDLER: Of course.  
17 Can I get the numbers on emergency repairs as we  
18 just discussed that?

19 RAFAEL CESTERO: Sure.

20 COUNCIL MEMBER FIDLER: There  
21 should be no difference between the conduct.  
22 Matter of fact, I would think the AEP might even  
23 probably come back faster than an emergency repair  
24 lien. Because for a building to be in such  
25 systematic distress it would probably mean that

1  
2 the landlord was in some kind of financial  
3 distress and would be kind of desperate to unload.

4           RAFAEL CESTERO: But I think the  
5 caveat to all of that is that as the liens grow  
6 and the speed at which they grow, the lien can  
7 become larger than the actual value of the  
8 property which really inhibits the ability to sell  
9 or refinance. That poses some real challenge to  
10 our ability ultimately to collect.

11           COUNCIL MEMBER FIDLER: That makes  
12 sense as well. That's why I was asking to what  
13 degree they get compromised and to what degree do  
14 you get paid back. Do you get paid back 90  
15 percent of the time or 40 percent of the time?

16           RAFAEL CESTERO: We'd be happy to  
17 sit down and go through with you the full history  
18 of emergency repair liens and AEP liens and sort  
19 of where they stand.

20           COUNCIL MEMBER FIDLER: I'd just  
21 settle for the stats. A sit-down is always fun,  
22 but the stats would be helpful.

23           RAFAEL CESTERO: Sometimes the  
24 stats need explanation is all I'm saying.

25           COUNCIL MEMBER FIDLER: If they

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need explanation, we'll sit down.

COUNCIL MEMBER FIDLER: Thank you.

CHAIRPERSON DILAN: I believe that concludes our questioning. Council Member Brewer?

COUNCIL MEMBER BREWER: I have a very quick question. Do the insurance companies play any role in terms of reimbursement for owners, particularly on mold? The reason I ask is mold in an apartment on the west side and unfortunately for the owner the tenant was a litigator and won. The insurance company paid for all the repairs for that building, for the mold situation.

So I'm just wondering, do you have any conversations with insurance companies about mold in particular? Or is that worth something to consider to maybe get some money back? The entire project was paid by the large building's insurance company. Now it took a litigator, it took a west sider and it took somebody who was a pain in the neck. But I'm just wondering if that's something you've considered or should look at?

RAFAEL CESTERO: It's not something that we've considered. It's certainly something

1  
2 that we're happy to look at, but it's not  
3 something that we've considered.

4 COUNCIL MEMBER BREWER: All right.  
5 Could you keep the committee up to date to see how  
6 you would go about that?

7 RAFAEL CESTERO: Sure.

8 COUNCIL MEMBER BREWER: Because  
9 that entire project was paid for.

10 RAFAEL CESTERO: Okay.

11 COUNCIL MEMBER BREWER: Thank you.

12 CHAIRPERSON DILAN: Thank you.

13 Just to conclude, I think the large part of what  
14 we have before us is good. I do have some minor  
15 concerns, especially around the rulemaking, but we  
16 can sit down and flesh those out.

17 Overall, I think the payment  
18 program is a bonus. I think potentially it has  
19 the room to allow for your agency to see a faster  
20 rate of return on what you lay out. I think it  
21 also has the potential to kind of clear the amount  
22 of buildings that are in the program and allow you  
23 to potentially take a look at more buildings. So  
24 I think that's something that I do support.

25 So I want to thank you for your



1  
2 time and testimony. I know Doug Apple is sitting  
3 in the back. This is a littler personal, but I  
4 hope my Jets destroy your Steelers this weekend.  
5 We can go over those stats at some point as well.  
6 But thank you all.

7 RAFAEL CESTERO: You also hope that  
8 my Bills win, right?

9 CHAIRPERSON DILAN: Well I'm just  
10 hoping that if there's a wide receiver open in the  
11 end zone that he holds on to the ball. That  
12 happened to both teams.

13 RAFAEL CESTERO: Correct, exactly.

14 CHAIRPERSON DILAN: Thank you.

15 RAFAEL CESTERO: If we could get  
16 that, we'd be good.

17 CHAIRPERSON DILAN: Thank you for  
18 your time and testimony.

19 RAFAEL CESTERO: Thank you very  
20 much.

21 CHAIRPERSON DILAN: So we will get  
22 to some panels. We should have about three  
23 panels. The first will be John Whitlow, Martha  
24 Davila and Maria Cortes of Make the Road by  
25 Walking. They'll be followed by Sebastian

1  
2 Riccardi, Aura Mejia and it looks look like Sarah  
3 Hovde. Say that again? You can correct me again.  
4 That will be the next panel

5 [Pause]

6 CHAIRPERSON DILAN: You can begin  
7 in any order you like.

8 MARTHA DAVILA: [Foreign language].

9 MARIA CORTES: My name is Maria  
10 Cortes.

11 CHAIRPERSON DILAN: If you could  
12 start all over. Turn on the mike and speak  
13 directly into it.

14 Well, so we'll do the translation  
15 now. They'll do the translation and then we'll go  
16 with Ms. Cortes. So why don't we do that now?

17 JOHN WHITLOW: (Translating) Good  
18 afternoon. My name is Martha Davila. I'm a  
19 member of Make the Road New York. For almost ten  
20 years I lived at 37-58 81st Street in Queens.  
21 When we moved to the apartment, out of necessity,  
22 there were really bad conditions in the apartment.  
23 It wasn't painted. The floor was damaged. The  
24 bathroom was a disaster and full of mold. The  
25 apartment also had roaches and mice.

1  
2           When I arrived, my child, Jaritza,  
3 was one year old. At two-years-old, we both lived  
4 in this apartment. At age two, my daughter  
5 contracted asthma. I had to leave my job to  
6 attend to her. In the night she could barely  
7 breathe and she used a machine.

8           I'm sorry; I'm going to switch to  
9 the English because I was going off of the  
10 Spanish. So I'm just going to use the English  
11 now.

12           At night she had trouble breathing  
13 and had to use a machine. This weakened her lungs  
14 and she had pneumonia twice. During the winter  
15 she always got worse. In 2007, she had to stay at  
16 home from school for a month and a half. Her  
17 asthma attacks and pneumonia were chronic and she  
18 developed other complications from the medications  
19 she was taking. She began to gain weight and have  
20 heart problems.

21           My daughter is still suffering from  
22 the consequences of the academic setback from  
23 having had asthma and so many asthma attacks.  
24 Right now her asthma is treatable. She still  
25 takes medication but she doesn't have regular

1  
2 asthma attacks anymore. But this whole experience  
3 was very traumatic for my daughter and we would  
4 not have had to go through all of this if the  
5 owner of the building had complied with his  
6 responsibility and fixed the apartment.

7 I don't want any other family to go  
8 through the same suffering that we have gone  
9 through. That's why I'm here to ask the  
10 authorities to pass strong and broad legislation  
11 in the City of New York to protect tenants from  
12 the things that provoke asthma like mice,  
13 cockroaches and mold. I ask you to please pass  
14 the expansion of the Safe Housing Act. Thank you.

15 CHAIRPERSON DILAN: Press the  
16 button on the bottom of the mike.

17 MARIA CORTES: Good afternoon. My  
18 name is Maria Cortes. I'm a member of Make the  
19 Road New York and a tenant of 870 Bedford Ave,  
20 Apt. 3R in Brooklyn. I have lived in this  
21 apartment for about 12 years. The conditions in  
22 the apartment are unhealthy. There is mold and  
23 rust in the bathroom and kitchen.

24 I currently have a case in housing  
25 court and the owner has done very little, even

1  
2 though he was ordered by the court to make the  
3 repairs. Last year, I had to move my father to a  
4 nursing home because of doctor's orders because my  
5 father had respiratory problems which were  
6 aggravated by the poor conditions in my apartment.

7 I suffer from asthma and I've had  
8 to visit the doctor and go to an emergency room  
9 many times because of respiratory problems.  
10 Currently, I'm taking Prednisone and Albuterol.  
11 My husband, who's 75 years old, also suffers from  
12 a heart condition and respiratory problems which  
13 are both aggravated by the unhealthy conditions of  
14 mold, mice and roaches.

15 The owner has only fumigated twice  
16 in the 12 years that we have lived there. On two  
17 occasions I had to turn to New York City's Health  
18 Department to force the owner to clean the  
19 building's common areas. My building only has 8  
20 apartments but it has 186 open violations, 40 of  
21 which correspond to my apartment.

22 It is not fair for the tenants in  
23 this city to have to beg for healthy housing  
24 conditions or for us to suffer from asthma attacks  
25 because of the irresponsibility and lack of

1  
2 respect on the part of the owners. I would like  
3 to ask the appropriate authorities to pass this  
4 law to protect tenants from the things that cause  
5 asthma. Thank you.

6 JOHN WHITLOW: Good afternoon. My  
7 name is John Whitlow and I am a Supervising  
8 Attorney at Make the Road New York. I apologize  
9 for my poor translation skills earlier.

10 Make the Road is a nonprofit  
11 organization based in the communities of Bushwick,  
12 Brooklyn; Jackson Heights, Queens; and Port  
13 Richmond, Staten Island. We work to promote  
14 economic justice, equity and opportunity for all  
15 New Yorkers. Our organization consists of over  
16 7,000 members, most of whom are immigrants and  
17 many of whom live in substandard housing. I  
18 submit this testimony on behalf of Make the Road  
19 New York and thank the Council for the opportunity  
20 to participate in this hearing.

21 Make the Road New York supports the  
22 proposed expansion of the Alternative Enforcement  
23 Program to require, among other things, the use of  
24 comprehensive remediation techniques to combat  
25 asthma triggers such as mold and roach and rodent

1  
2 infestations. The amended program, which will  
3 identify 200 buildings around the city that have  
4 high numbers of Housing Code violations and seeks  
5 their remediation through a combination of  
6 enforcement mechanisms, is a significant step  
7 toward insuring healthier, safer homes for low-  
8 income tenants.

9           As part of the expanded program,  
10 owners of participating buildings will be required  
11 to remediate certain asthma triggering violations,  
12 such as mold and vermin, in a comprehensive manner  
13 designed to prevent recurrence.

14           With respect to mold violation  
15 remediation, owners of participating buildings  
16 must cover all exposed surfaces in the repair  
17 area, ensure that all work is done in a manner  
18 that minimizes the dispersion of dust and debris  
19 into other parts of the apartment, clean any  
20 remaining visible dust properly, and then upon  
21 completion of the work document that the moisture  
22 source was repaired and that the work was  
23 performed in accordance with the statute.

24           With respect to violations for  
25 vermin, owners must utilize an array of pest

1  
2 management techniques, document that all  
3 corrective work was done according to the  
4 requirements of the statute, and submit to a pest  
5 management plan indicating ongoing pest control  
6 measures.

7           It is our hope that these key  
8 additions to the Alternative Enforcement Program  
9 will help address the chronic and often  
10 debilitating problem of asthma faced by so many  
11 New Yorkers. Make the Road New York has been  
12 working on this issue for some time. Many of our  
13 members, principally in our Bushwick office,  
14 suffer from major environmental health problems,  
15 particularly asthma.

16           According to the 2007 Department of  
17 Health and Mental Hygiene Community Health  
18 profile, Bushwick and Williamsburg have a higher  
19 combined rate of asthma in children and adults  
20 than the Bronx or Harlem. Both Bushwick and  
21 Williamsburg have an adult asthma rate of 9  
22 percent, higher than the New York City and  
23 Brooklyn average of 5 percent.

24           A joint study conducted by Make the  
25 Road New York and Wyckoff Medical Center,



1  
2 published in 2006, found a strong correlation  
3 between incidents of asthma and poor housing  
4 conditions. More specifically, the study found  
5 that 69 percent of asthmatics had cockroaches in  
6 their homes, 47 percent had rodent infestations,  
7 and 30 percent had mold conditions.

8           As a housing attorney representing  
9 tenants struggling to get much needed repairs in  
10 their apartments, I have found that even when we  
11 are able to force landlords to remediate the  
12 conditions that lead to asthma, usually through  
13 protracted housing court litigation, these  
14 conditions often recur. This is especially true  
15 with respect to violations relating to mold, which  
16 are often dealt with by repairing the surface  
17 condition without actually addressing the  
18 underlying cause of the problem.

19           When dealing with a mold violation,  
20 landlords often paint over the surface mold, which  
21 is generally enough to have the violation cleared.  
22 But because the underlying condition has not been  
23 corrected, the mold inevitably returns, and the  
24 tenant is left in the same situation they were  
25 previously in. In short, our city's code

1  
2 enforcement system has often overlooked the  
3 correlation between housing violations and  
4 environmental health problems and has not  
5 effectively addressed underlying, structural  
6 housing conditions.

7           Through our work combating asthma,  
8 Make the Road New York has advocated for a more  
9 holistic approach to eliminating asthma-triggering  
10 conditions in our members and all New Yorkers'  
11 homes. We are pleased that the expansion of the  
12 Alternative Enforcement Program incorporates  
13 elements of this approach into its enforcement  
14 regime.

15           In conclusion, Make the Road New  
16 York urges the Council to approve the amendment to  
17 the Alternative Enforcement Program. We are  
18 hopeful that the Council and HPD will share our  
19 commitment to developing and implementing an  
20 enforcement system that will eliminate asthma-  
21 triggering and other serious housing conditions so  
22 that all New Yorkers are assured of a healthier  
23 future. Thank you.

24           CHAIRPERSON DILAN: Thank you.  
25 Council Member Fidler has a question.

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COUNCIL MEMBER FIDLER: Mr.

Whitlow, I am curious about that study that you mentioned. Is there a causative or only correlative relationship between the presence of cockroaches and rodents in an apartment and the asthma rate? Did the study go to that question?

JOHN WHITLOW: I can get you a copy of the study. I think there's a strong correlation between certain housing conditions and the high rate of asthma and specific causes.

COUNCIL MEMBER FIDLER: I'm just wondering whether it's just a correlation, the fact that in poor housing conditions you'll find those things and something is causing the high asthma rate.

JOHN WHITLOW: Right.

COUNCIL MEMBER FIDLER: I just want to know what it is, or whether that study is saying that the presence of the cockroaches, the presence of the rodents is what causes the high asthma rate. I'd like to know the answer to that if the study says that.

JOHN WHITLOW: Sure. I can get that to you. My recollection of it is that it's a

1  
2 very strong correlation and I think that's widely  
3 accepted.

4 COUNCIL MEMBER FIDLER: I do not  
5 doubt the correlation. I'm asking whether it's  
6 causative or not.

7 JOHN WHITLOW: Right, I understand.

8 COUNCIL MEMBER FIDLER: Thanks.

9 CHAIRPERSON DILAN: With that, we'd  
10 like to thank you all for your time and for your  
11 testimony today. So what we'll do is I called  
12 three names. We'll call a panel of two and two  
13 and that will be done. We only have four people  
14 left to testify. I could bring all four people up  
15 but it'd be a little bit uncomfortable.

16 So I'll call Sebastian Riccardi and  
17 Aura Mejia. They'll be part of the next panel and  
18 then the last panel will be Sarah Hovde, and  
19 please correct me again, I know I didn't get it  
20 right yet, and it looks like Matthew Chachere.  
21 That will be the final panel.

22 If anybody has a copy of their  
23 testimony, please give it to the sergeant-at-arms  
24 and the members will receive it.

25 [Pause]

1  
2 CHAIRPERSON DILAN: Mr. Riccardi,  
3 why don't you begin?

4 SEBASTIAN RICCARDI: My name is  
5 Sebastian Riccardi. I'm a staff attorney at the  
6 Legal Aid Society. The Legal Aid Society is the  
7 nation's oldest and largest nonprofit legal  
8 services organization. We represent tenants in  
9 Housing Court throughout the five boroughs.

10 The Legal Aid Society generally  
11 supports Into 436 which would expand the criteria  
12 for the Alternative Enforcement Program to skew it  
13 to include more larger buildings, which we agree  
14 is a better use of resources to focus this  
15 important program on where more tenants live.

16 The change in criteria will include  
17 a lot of the larger rent regulated buildings where  
18 we have seen many deteriorating conditions due to  
19 overleveraged mortgages from the most recent  
20 housing boom. We deal with it a lot in the Bronx.

21 We also support the requirements to  
22 add better practices for the abatement of mold and  
23 vermin problems. We see increasing problems with  
24 the failure to abate mold and vermin adequately in  
25 general. We hope that this change to the

1  
2 Alternative Enforcement Program can lead the way  
3 to more general improvements in the handling of  
4 these conditions.

5           We do have three concerns, however,  
6 with some of the provisions in this bill. The  
7 first is the amendment to Subsection N of the  
8 Alternative Enforcement Program's statute which  
9 would allow the building to exit the program if it  
10 has been vacant for a year or more. This route  
11 for exit from the program will set up perverse  
12 incentives for unscrupulous landlords.

13           I'm a staff attorney in Brooklyn  
14 and our office in Brooklyn has handled three cases  
15 with tenants in AEP buildings where the landlord's  
16 unsafe construction practices, possibly  
17 intentionally, have led to vacate orders. In one  
18 of those cases, the tenants were vacated from the  
19 building for over a year. We were able to get  
20 them, through intervention in court, to be  
21 restored to possession. But it was after more  
22 than a year of being homeless. Luckily, the  
23 building is still in the AEP program and some of  
24 the underlying building systems that still haven't  
25 been repaired will be.

1  
2                   Due to the fact that many of the  
3 landlords whose buildings have been entered into  
4 the AEP program are the worst of the worst, we  
5 believe that there is quite a risk with this  
6 perverse incentive that landlords will  
7 intentionally delay making needed repairs in the  
8 hopes that a vacate order could rid them of not  
9 only burdensome tenants but also their  
10 participation in this program. So it would also  
11 leave vacated tenants with fewer tools in which to  
12 compel their owner to make repairs.

13                   And additional change in  
14 Subdivision N would provide for another reason why  
15 an AEP building could be discharged from the  
16 program and that would be that the department has  
17 completed any work or monitoring required under  
18 Subdivision K, which is the AEP order to correct,  
19 which is usually issued approximately four months  
20 after a building has been entered into the  
21 program.

22                   In our experience in the Brooklyn  
23 neighborhood office that I can speak of, I know we  
24 represent clients in about eight or ten buildings  
25 that are in the AEP program and many of these

1  
2 buildings continue to accumulate hazardous and  
3 immediately hazardous violations even after  
4 receiving an AEP order to correct.

5           It makes it such that a landlord  
6 can exit the program by only correcting the old  
7 violations and not requiring them to also correct  
8 violations that have been issued subsequent to the  
9 AEP order to correct, which is the current  
10 practice right now. It sets up another preserve  
11 incentive where owners can focus on correcting  
12 only older violations without addressing the more  
13 recent hazardous and immediately hazardous  
14 violations that still accrue due to their failure  
15 to make needed repairs.

16           The final concern that we have is  
17 the change advocated by HPD to allow buildings to  
18 exit the program without paying off all of their  
19 liens. We're not sure why HPD wants to relinquish  
20 their biggest incentive to getting landlords to  
21 pay outstanding delinquent charges rather than  
22 have them enter into payment programs, the  
23 enforceability of which is unclear.

24           These are, however, minor concerns  
25 we have with the bill as written. In general, we



1  
2 do support the passage of Intro 436 because of the  
3 important improvements that it will make to the  
4 AEP program.

5 CHAIRPERSON DILAN: Ms. Mejia?

6 AURA MEJIA: Hi. My name is Aura  
7 Mejia and I am a Tenant Advocate and Community  
8 Organizer for the Fifth Avenue Committee that's  
9 been serving since 1978.

10 I've been working there for more  
11 than seven years, and every year we see more than  
12 200 tenants that come to the office looking for  
13 help, especially with repair issues in different  
14 buildings in Sunset Park and the Park Slope area.

15 A lot of the tenants have problems  
16 with mold, roaches and mice infestation. A lot of  
17 tenants have family members that have asthma.  
18 This is a big trigger for asthma. When they go to  
19 court, usually they will only tell the tenants  
20 that they're going to clean up and remediate the  
21 issue by cleaning up the mold or they give  
22 violations to the landlords but they really don't  
23 do anything for the asthma problems.

24 A lot of tenants come with a notice  
25 from the doctor saying my son has asthma and he's

1  
2 not going to school because of this issue. But  
3 HPD doesn't see it as a big problem or the court  
4 system doesn't see it as a problem that really is  
5 affecting the community. We really want you to  
6 pass this law.

7           When I was 12-years-old, my mother  
8 had asthma for many years. She was in the  
9 emergency room for a long time. We used to live  
10 in a rent stabilized building on Brooklyn Avenue.  
11 The living room and the bedroom and the bathroom  
12 were full of mold. A lot of times we told the  
13 landlord and we went to court, but they really  
14 didn't do anything for that.

15           We moved out of that apartment and  
16 my mother's asthma is completely cured. She was  
17 full of medication and she was in the emergency  
18 room more than in the house as a mother. So since  
19 I have a little brother that was 8 and my sister  
20 that was 4, I was the one that was in charge of  
21 taking care of them. This is one of the reasons  
22 that I became a community organizer and got  
23 involved in housing, because it's a big problem in  
24 the Latino and African American community. Thank  
25 you.

1  
2 CHAIRPERSON DILAN: Thank you both.  
3 Council Member Fidler has a question.

4 COUNCIL MEMBER FIDLER: Thank you.  
5 I have just a question and a comment. Mr.  
6 Riccardi, a number of us are obviously very  
7 concerned about raising revenue in the City of New  
8 York at a time when, for example, we're leaving  
9 children homeless and sleeping on the street.

10 I would be very interested in  
11 seeing the statistics from Commissioner Cestero on  
12 the collection of lien money in general from  
13 housing liens before I agree to let them let  
14 people out of this program without paying up.  
15 That was where I was going with that. I think  
16 this program really pays for itself eventually.

17 The question is about your first  
18 complaint. Would you feel satisfied if the bill  
19 were amended to reflect that the vacancy provision  
20 not apply if the building was vacated by order?  
21 Would that solve the problem or no?

22 SEBASTIAN RICCARDI: I think it  
23 would solve the immediate problem that our office  
24 has experience and the clients that I represent in  
25 the buildings where the building has been in the

1  
2 AEP and then while it's in the AEP program the  
3 landlord creates some condition that leads to a  
4 vacate order. My understanding is that there are  
5 other cases in which landlords buy tenants out.  
6 It's a less objectionable method of removing  
7 tenants from the property.

8 I mean such an amendment would  
9 eliminate this particular concern; however, it  
10 would still create incentives for landlords to try  
11 and exit the program without making all the  
12 repairs.

13 COUNCIL MEMBER FIDLER: I think you  
14 realize that the balance here is that if there are  
15 going to be limited resources for the AEP program,  
16 we want to spend them on buildings that are  
17 inhabited as opposed to vacant. So I'm just  
18 trying to find that happy medium where a landlord  
19 who is looking to get over on us can't but yet  
20 we're not wasting valuable resources on an  
21 uninhabited building.

22 SEBASTIAN RICCARDI: I think that a  
23 change to the bill that would say that if a  
24 building is vacated by order it cannot be removed  
25 from the program due to vacancy would help

1  
2 alleviate the worst of the worst problem.

3 However, as you said, the program does pay for  
4 itself and we believe the more resources spent on  
5 it, it's the more money that's earning 9 percent  
6 for the city.

7 COUNCIL MEMBER FIDLER: But then  
8 there's the Commissioner's point which is it  
9 escalates quickly. If the building is empty, we  
10 want to get it back into a building that people  
11 can live in. There's certainly an affordable  
12 housing crisis in the City of New York. So there  
13 are different levels to this balance. I'm just  
14 trying to seek your expertise in how to strike it.

15 SEBASTIAN RICCARDI: Right. I  
16 think this program is also an affordable housing  
17 program. Many of these buildings that are in the  
18 AEP program, the buildings that our office sees  
19 tenants from are not fully rented. These are  
20 owners who have neglected their buildings such  
21 that they get on a list of the 200 worst buildings  
22 in the city. The more pressure there is on them  
23 to fix the building, the more pressure there is  
24 for them to fill up the building at affordable  
25 rents.

1  
2 If they're allowed to escape the  
3 program by removing the tenants that are currently  
4 in occupancy, what that does is it also allows  
5 them to increase the rents that they may charge to  
6 possibly take a building out of affordable  
7 housing.

8 Your proposal is certainly a better  
9 compromise than the one that is struck in the bill  
10 however.

11 COUNCIL MEMBER FIDLER: Thank you.

12 CHAIRPERSON DILAN: Council Member  
13 Mendez?

14 COUNCIL MEMBER MENDEZ: Thank you,  
15 Mr. Chair. Just to follow-up on this vacant  
16 buildings issue. In your experience and what  
17 you've seen in Brooklyn, have there been buildings  
18 that could have gone into the AEP program that did  
19 not and then a vacate order was issued then where  
20 all the tenants had to leave the building, but had  
21 HPD been a little bit more proactive we could have  
22 gotten them in the program and started getting  
23 repairs to the tenants?

24 SEBASTIAN RICCARDI: The buildings  
25 that I have dealt with primarily are buildings

1  
2 that are already in the program. If HPD had been  
3 more proactive they would never have gotten vacate  
4 orders. One building had been in the program.  
5 There had been a comprehensive order to correct  
6 that involved fixing the staircase. The owner  
7 removed the staircase without actually informing  
8 the tenants of the date in which it was going to  
9 be removed and a vacate order was placed on the  
10 building.

11 Another building that we represent  
12 tenants in, an AEP order to correct--

13 COUNCIL MEMBER MENDEZ:

14 [interposing] Can I just stop you right there? So  
15 the replacement or the repairs to the staircase  
16 was part of the order to correct through the AEP  
17 program?

18 SEBASTIAN RICCARDI: In that case,  
19 yes.

20 COUNCIL MEMBER MENDEZ: And then he  
21 removed the stairs, didn't put it back in and then  
22 they were able to get a vacate order? Is that  
23 what I understand?

24 SEBASTIAN RICCARDI: That is  
25 correct? In addition, while the building was

1  
2 vacant, DOB noticed other structural problems  
3 which were not in the AEP order to correct that  
4 required the building to be vacant for over a  
5 year.

6 COUNCIL MEMBER MENDEZ: I would  
7 love to get, not here but confidentiality reasons,  
8 if you could tell me or the committee what  
9 building that is, I'd like to look into is.

10 SEBASTIAN RICCARDI: I would be  
11 happy to do so. In terms of buildings, most of  
12 these buildings are buildings that were already in  
13 the program before they got vacated. The  
14 buildings that I've dealt with, that had vacate  
15 orders that were not in the program, I can't  
16 necessarily say there's a programmatic design that  
17 could have captured these buildings ahead of time.

18 But I do just want to point out  
19 another building that was in the program, had an  
20 AEP order to correct. The owner filed plans to  
21 reconfigure all the apartments. These were filed  
22 with DOB and so available to everyone. Ripped out  
23 all of the plumbing in the building and the  
24 tenants were vacated. Absolutely nothing happened  
25 for three months until they came into our office



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on intake.

COUNCIL MEMBER MENDEZ: Thank you.

CHAIRPERSON DILAN: Thank you both of your time and testimony today. The final panel is Sarah and Mr. Matthew Chachere. Sarah, you will correct me on your last name. We'll begin with Sarah. If you have copies of testimony, please give it to the sergeant.

MATTHEW CHACHERE: I don't have any typed testimony.

SARAH HOVDE: Is this on?

CHAIRPERSON DILAN: Yes.

SARAH HOVDE: My name is Sarah Hovde. I'm the Director of Research and Policy for the New York City program of the Local Initiative Support Corporation.

LISC is a national community development intermediary organization that helps community-based groups to transform distressed communities and neighborhoods into healthy ones by providing capital, technical assistance, training and information.

I'm just going to summarize my testimony. We're generally supportive of the

1  
2 changes proposed the AEP program, proposed in this  
3 legislation. With regards to the changes in  
4 eligibility criteria that skew admittance to the  
5 program to larger buildings, we agree that that  
6 needs to happen. The recent IBO report on AEP  
7 shows that buildings participating to date have  
8 generally been small and there are a lot of larger  
9 buildings in the city that are suffering seriously  
10 deteriorated conditions. Their number has grown  
11 with the over-financing phenomenon.

12 We also support the changes that  
13 address the special threats posed by mold and  
14 vermin, which are triggers for asthma and threaten  
15 the health and wellbeing of building residents,  
16 especially children.

17 We also recognize there's a need to  
18 move buildings more quickly out of the program in  
19 some cases. For the most part, we agree with the  
20 amendments that are intended to do this.

21 With regard to the change that  
22 would allow discharge when owners enter into an  
23 installment payment agreement, we have some  
24 worries about enforcement of those payment  
25 agreements and would like clarification regarding

1  
2 what consequences are applied when an owner  
3 defaults on that agreement. Does the building go  
4 back into AEP? We'd want to suggest maybe that a  
5 default on an AEP payment agreement would result  
6 in an automatic judgment. I'm not entirely sure  
7 if that's possible, but we worry about  
8 enforcement.

9           So, overall, we're supportive of  
10 the legislation. However, as sensible as the  
11 changes are, they won't by themselves address the  
12 lack of incentives for owners to make required  
13 repairs or to pay the costs of the city performing  
14 the repairs directly.

15           As the IBO report shows, the  
16 majority of buildings that have entered the  
17 program to date are still in the program, and the  
18 majority of AEP charges billed to owners remain  
19 unpaid. Owners need to face stronger consequences  
20 for not repairing and not paying.

21           It's our understanding that the  
22 legislation under consideration today is a first  
23 step in a more comprehensive reexamination and  
24 updating by HPD and the Council of the enforcement  
25 and incentive tools needed to ensure buildings are

1 maintained and that critical repairs get done.

2  
3 One example which we expect to hear  
4 more about in the near future would be giving the  
5 city the ability to sell or foreclose upon stand-  
6 alone ERP liens. We support such a move and  
7 recommend that AEP charges be included as well.

8 I thank you for the opportunity to  
9 testify today.

10 CHAIRPERSON DILAN: Thank you. Mr.  
11 Chachere?

12 MATTHEW CHACHERE: Good afternoon,  
13 members of the committee. My name is Matthew  
14 Chachere. I'm a staff attorney with Northern  
15 Manhattan Improvement Corporation, which is a  
16 multi-services nonprofit organization that serves  
17 clients in the Washington Heights and upper  
18 Manhattan area.

19 I have some brief remarks on Intro  
20 436. First, my agency generally supports the  
21 expansion of the Alternative Enforcement Program.  
22 It's certainly been our experience at Northern  
23 Manhattan that it's been one of the more effective  
24 programs, particularly when couple with rent  
25 strikes, which raises to us the question of why

1  
2 this is really an alternative as opposed to why  
3 doesn't HPD take such aggressive action in terms  
4 of all buildings. It is, after all, the agency's  
5 mandate to enforce the Housing Maintenance Code  
6 under the City Charter.

7           Unfortunately, as we all know,  
8 Housing Code violations tend to linger for years  
9 and there's really no downside for most landlords  
10 if they don't correct them timely.

11           Certainly, even when HPD brings  
12 comprehensive HP actions in Housing Court, it's  
13 certainly my observation over the years that HPD  
14 generally settles for just pennies on the dollar  
15 of the fines it could be collecting. So there's  
16 really no downside. It's just a cost of doing  
17 business.

18           Frankly, if the city, as I read  
19 recently, is going after parking scofflaws as a  
20 means to increase revenue, I'm not sure why the  
21 city isn't going after landlords with violations  
22 to actually collect them.

23           My larger concern about this bill  
24 is the limitations concerning measures to control  
25 asthma triggers for mold and vermin. As a tenant

1 attorney who's been practicing for many years  
2 around the intersection of health and housing, I  
3 can tell you that these are issues of widespread  
4 importance for the communities that we serve.  
5 Virtually every client that I've interviewed over  
6 the past five years has at least one household  
7 member with asthma.

8  
9 Invariably, they have vermin  
10 issues, they have water leaks, they have holes,  
11 and they have mold. Invariably, getting these  
12 conditions timely, safely and permanently  
13 corrected becomes an intractable problem in any  
14 form. Instead, these problems seem to come back  
15 again and again and again and again.

16 As you know, the Health Department  
17 has mold guidelines which are completely  
18 voluntary. They're considered to be state of the  
19 art throughout not only the United States but, in  
20 fact, are referred by other countries as state of  
21 the art. But unfortunately, they're not  
22 enforceable. I've rarely, in my practice, been  
23 able to get any landlord to agree to comply with  
24 them since they know that the court lacks the  
25 power to enforce them.

1  
2 For years, I've advocated that  
3 these guidelines be turned into regulations. I've  
4 also asked the Health Department to consider  
5 promulgating them as regulations and even took on  
6 the burden of drafting and provided a sample of  
7 the regulatory language to that agency, which went  
8 absolutely nowhere. As you know, the Public  
9 Advocate five years ago urged that the guidelines  
10 be turned into regulations and that never  
11 happened.

12 Likewise, legislative solutions  
13 have been elusive to this problem. In the last  
14 Council, Intro 750, which I helped to draft, would  
15 have required regulations for the safe, adequate  
16 and permanent removal of mold and vermin  
17 conditions.

18 Yet, despite obtaining, if I'm  
19 remembering correctly, co-sponsorship of more than  
20 half of the Council, it never even came up for a  
21 hearing. Yet, the state mold task force in its  
22 recent draft report that came out in August of  
23 this year, concluded that strengthening the codes  
24 and code enforcement in this area is very much  
25 needed.

1  
2 Thus, my concern is that this bill,  
3 while a start, will be also seen as a sufficient  
4 remedy and no further action will be taken at this  
5 time. Yet, according to the state mold task force  
6 report, for example, HPD had 20,000 complaints  
7 about mold in the year 2000.

8 This bill, unfortunately, will do  
9 nothing for the vast majority of these complaints.  
10 It will do nothing for probably all or nearly all  
11 of the clients that I and the other attorneys in  
12 my agency represent every day in Housing Court.  
13 Unless, and only unless they happen to be  
14 fortunate, or perhaps unfortunate, to live in one  
15 of the 200 buildings that are so bad that they  
16 fall into the Alternative Enforcement Program.

17 If the Council deems it important,  
18 for example, that Alternative Enforcement  
19 buildings, in those buildings that mold violations  
20 should be corrected using specific safe work  
21 practices, why shouldn't these safe work practices  
22 be applied for my clients with mold violations who  
23 live outside of Alternative Enforcement Program  
24 buildings? They need safe work practices in their  
25 homes too.



1  
2 If the city requires that  
3 integrated pest management measures be used in the  
4 buildings the city does and considers that  
5 necessary, why shouldn't it be necessary in  
6 private dwellings

7 In conclusion, I feel that what we  
8 don't need is an Alternative Enforcement Program,  
9 we need an enforcement program, period, giving  
10 tenants a regulatory leg to stand on in Housing  
11 Court and vigorous enforcement by HPD. Thank you.

12 CHAIRPERSON DILAN: Thank you, Mr.  
13 Chachere. I have just a quick question for Ms.  
14 Hovde. You mentioned something that hasn't been  
15 brought up and I haven't had the opportunity to  
16 read it yet, but I'll read it at the conclusion of  
17 this hearing, and that's the IBO report.

18 Just in my brief view of the IBO  
19 report, it brought out many flaws in the current  
20 program. Having read the report, how do you feel  
21 the bill before us will address any of the  
22 shortcomings highlighted by the IBO?

23 SARAH HOVDE: I think the bill  
24 under consideration now does address some of the  
25 issues brought out in the IBO report. The change

1  
2 in the eligibility criteria to include larger  
3 buildings, and we see that as a positive thing.  
4 Certainly the fact that buildings have been  
5 getting stuck in the program to a large extent,  
6 the provisions in the current bill that allow for  
7 expanding criteria for discharge do address that  
8 issue. For the most part, we're supportive with a  
9 caveat, as I said before, that we worry about  
10 enforcement of those installment payment  
11 agreements.

12 CHAIRPERSON DILAN: That led to my  
13 next question. That would be more of a Department  
14 of Finance function, not an HPD function. I think  
15 the immediate benefit with the payment agreements  
16 is that a lot of money that HPD lays out initially  
17 can be recouped a lot sooner than if they didn't  
18 have these payment agreements. I think one of the  
19 ramifications is that if they do default that that  
20 then turns into a lien. But we can seek written  
21 clarification from the Department of Finance on  
22 that and see if there is anything we can do to  
23 address that part of it.

24 SARAH HOVDE: Right. I'm actually  
25 not sure about the AEP charges that become DOF

1  
2 liens. ERP charges that become DOF liens are not  
3 currently, if standing alone, without being  
4 combined with real estate tax or water charges,  
5 they're not eligible for lien sale or foreclosure.  
6 So there's not a real strong enforcement hook  
7 there. So we would like to see that changed and  
8 would recommend that AEP liens be included as  
9 well.

10 CHAIRPERSON DILAN: I think we  
11 might be dealing with that issue in short order.  
12 I'm not sure of my position on it, but we'll have  
13 to look at it and deal with it separate and apart  
14 from what we do on AEP. Thank you.

15 SARAH HOVDE: Thank you.

16 CHAIRPERSON DILAN: Council Member  
17 Mendez?

18 COUNCIL MEMBER MENDEZ: Thank you,  
19 Mr. Chair. My question is for Mr. Chachere. In  
20 the interest of disclosure, I was a tenant  
21 organizer who worked for him as a Legal Services  
22 attorney.

23 CHAIRPERSON DILAN: So you get to  
24 grill your old boss?

25 COUNCIL MEMBER MENDEZ: Yeah.

1  
2 MATTHEW CHACHERE: That wasn't very  
3 long ago, was it?

4 COUNCIL MEMBER MENDEZ: So were  
5 like Batman and Batgirl.

6 CHAIRPERSON DILAN: I would love to  
7 grill some of my old bosses.

8 COUNCIL MEMBER MENDEZ: Mr.  
9 Chachere, I get what your frustrations are.  
10 They've been some of my frustrations. Were you  
11 here when the Commissioner talked about how many  
12 buildings were going to be captured that had mold  
13 under this program?

14 MATTHEW CHACHERE: No, I'm sorry; I  
15 wasn't able to get here on time. I missed that.

16 COUNCIL MEMBER MENDEZ: I think the  
17 number was that of the 200 buildings that they're  
18 currently looking at, because they haven't  
19 determined exactly which buildings may come in,  
20 but the buildings that they're currently looking  
21 at, I think it was 189 total that had mold and rat  
22 infestation. I think 181 had mold infestations.  
23 It will be interesting to see the numbers from the  
24 prior rounds. Just based on your experience, do  
25 you think this is going to be an increase, that

1  
2 more buildings with mold problems are being  
3 captured?

4 MATTHEW CHACHERE: Over the  
5 existing program?

6 COUNCIL MEMBER MENDEZ: Correct.

7 MATTHEW CHACHERE: I'm assuming so,  
8 yes. That's not my concern. My concern is how  
9 about all the other million units of housing that  
10 might have mold in them with people with  
11 intractable problems which this bill does nothing  
12 to address, unfortunately. That's my concern.

13 I have represented tenants in mold  
14 situations for year after year after year and the  
15 problems come back again and again and again. The  
16 approach by the landlord is throw some paint on  
17 it, throw some bleach on it which is actually the  
18 worst thing you can do because the water and the  
19 bleach goes into the sheetrock and just feeds the  
20 mold. If they don't see the problem anymore, then  
21 HPD says it's been fixed.

22 Well it hasn't been fixed. So we  
23 end up with the frustration of tenants coming to  
24 court again and again. I'm going to court again  
25 and again. HPD goes there again and again and

1  
2 again. Nothing gets fixed. Nothing happens.

3           So when I hear the testimony from  
4 the people from HPD saying we're not getting  
5 enough calls from tenants complaining, it's  
6 because the tenants say "why bother, nothing is  
7 going to happen." The problems aren't going to be  
8 fixed, and even if HPD brings a case, the landlord  
9 is probably not going to pay anything as a result.

10           We need regulations that really  
11 give tenants something that they can litigate on.  
12 Unfortunately, I can't go to court with a  
13 guideline. I can't go to court and say make them  
14 do it because it's the right thing to do. It's  
15 not enforceable. I don't understand why.

16           If the city thinks these guidelines  
17 are important, if the Health Department writes  
18 reports saying that mold and vermin are associated  
19 very strongly with asthma which the Health  
20 Department has done. If the state mold task force  
21 says we need to do something to strengthen the  
22 regulatory framework, why aren't we doing  
23 something about it?

24           The economic cost to the families  
25 of the time lost to work, for medical treatment,

1  
2 the time away from education, it's a huge burden  
3 on the city.

4 COUNCIL MEMBER MENDEZ: So you  
5 believe under the proposed legislation it's still  
6 going to be a bleach job? Because I believe we've  
7 strengthened that part that we're going to get  
8 more. Now, you're right, we're not going to get  
9 it everywhere we need it. But I'm hoping that as  
10 we start to do these, unfortunately, piecemeal, it  
11 may send a message, not to all, but to some  
12 landlords who may then be more proactive in  
13 abating this in the correct manner. You're  
14 shaking your head.

15 MATTHEW CHACHERE: I mean, I wish I  
16 could say that the first couple of years of the  
17 AEP program has struck such fear in the hearts of  
18 slumlords that they've now on their own decided to  
19 take better care of their buildings so that they  
20 don't fall into the grasp of that program. But I  
21 don't think that's really been the case.

22 I certainly think it's a good  
23 start. I think it sets the standard of care. But  
24 again, I'm not sure. What I tell my clients who  
25 have these kinds of problems in their apartment

1  
2 who don't live in AEP, you know, too bad. You're  
3 one of the unfortunate ones who don't happen to  
4 live in the 200 worst buildings in the city. So  
5 wait a few years, maybe things will deteriorate  
6 and we can actually get the problems fixed  
7 permanently. It doesn't give me anything, any  
8 tool to assist them with.

9 I commend the Council for finally  
10 putting some language in some statute someplace  
11 that says this is the appropriate measures or  
12 telling the agencies to write some regulations as  
13 to what are the appropriate measures.

14 My question is: why not require  
15 this for all housing? Again, if you think it's  
16 important to have safe work practices for dealing  
17 with mold, which I think within the field people  
18 think that's the correct thing to do, why are we  
19 leaving all the rest of the tenants out of the  
20 loop, who end up suffering from the health impacts  
21 of bad remediation. I think it's an important  
22 thing to be dealing with today.

23 COUNCIL MEMBER MENDEZ: Thank you  
24 very much.

25 CHAIRPERSON DILAN: Thank you both



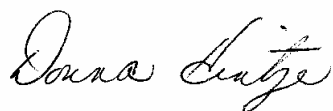
1  
2 very much for your time and testimony. That  
3 concludes the public portion of the hearing.

4 I do have testimony that was  
5 submitted for the record. Testimony from ANHD,  
6 which I believe is in support. It is in support.  
7 Testimony from: The Urban Justice Center which is  
8 also in support. We received testimony from RSA  
9 which I believe is largely in support. They do  
10 have some detail questions but I believe largely  
11 in support. That's all for the record.

12 At this time, Intro 436 will be  
13 laid aside. That will conclude this hearing.

C E R T I F I C A T E

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



Signature \_\_\_\_\_

Date January 4, 2011\_\_\_\_\_