



**Department of
Housing Preservation
& Development**

**Testimony of the Department of Housing Preservation and Development to the
New York City Council Committee on Housing and Buildings**

Introduction 967

Thursday, December 13th 2012 – 10am

Good morning, Chairman Dilan and members of the Housing and Buildings Committee. My name is Vito Mustaciuolo and I am the Deputy Commissioner of the Office of Enforcement and Neighborhood Services (OENS) at the Department of Housing Preservation and Development. Sitting next to me are AnnMarie Santiago, my Chief of Staff and Christopher Gonzalez, Assistant Commissioner for Government Affairs and Research.

Thank you for the opportunity to discuss Intro 967, the underlying conditions bill sponsored by Council Member Brewer. HPD supports this measure, as it provides HPD with another enforcement tool to ensure residential units in New York City remain safe and habitable.

With the strong leadership and support of the Administration and the City Council, over the past few years HPD has become more proactive in identifying buildings and focusing resources on buildings which are either in distress or showing early signs of distress. In 2007, the Alternative Enforcement Program (AEP) was created under Local Law #29. AEP identifies the 200 most distressed buildings each year and gave HPD new tools, including fees, increased penalties and additional enforcement authority with which to address those buildings. In 2011 (Local Law #7), AEP was enhanced by specifically including mold and vermin remediation as part of the program. Round 6 will begin at the end of January 2013 and we will have assessed 1200 buildings. In January 2011, the Administration and the City Council announced the creation of the Proactive Preservation Initiative. This program is a comprehensive approach that identifies and tries to preemptively address deteriorating physical conditions in multifamily buildings across the City. We have surveyed over 1,000 buildings over the last two years and referred appropriate buildings to the Proactive Enforcement Bureau for further inspection and enforcement, to our Housing Litigation Division, or to our Division of Neighborhood Preservation for follow up.

The proposal before you today, Intro 967, will enhance HPD's existing authority under the Housing Maintenance Code to issue an Order to Correct by:

- Specifically allowing HPD to order correction of an underlying building condition, primarily water leaks, to property owners.
- Identifying the criteria for the implementation of this program in rules. Setting criteria through rulemaking will be a tremendous asset to the agency because HPD will be able to modify this program over time to enhance its effectiveness.
- Authorizing HPD to seek civil penalties for failure to comply with the Order to Correct, as well as for the individual violations on which the order is based. The proposed civil penalty is \$1000 per unit that is covered by the order to correct but not less than \$5000 per building.
- Requiring that any Order filed in the office of the county clerk be rescinded timely once complied with by the owner.

Buildings against which the agency is already pursuing enhanced enforcement action, such as those in the Alternative Enforcement Program (AEP), buildings that have open comprehensive litigation, are in the Third Party Transfer Program and buildings with a 7A Administrator, will be excluded from the pool of buildings for this program.

HPD will begin the program by identifying buildings with a significant number of water leak or mold conditions, based on the issuance of open violations and or violations corrected by HPD in multiple apartments. As you may know, HPD Code Inspectors currently respond to 311 complaints for issues relating to mold, damaged plaster, and cascading water. Code Inspectors can issue a violation to the owner and require that repairs to the dwelling unit are made in a timely fashion. An owner should properly address the cause of these conditions rather than just replacing sheetrock or cleaning mold, and many owners do. However, buildings where the symptom is treated without treating the cause typically have systemic leaks or water penetration and the same conditions occur and reoccur in multiple apartments. These latter buildings are the types of buildings HPD seeks to address using the enhanced enforcement tool outlined in this legislation.

Once an Order to Correct has been issued, the owner will be notified and will have four months to comply. The Department may extend that timeframe by up to two months if the owner can demonstrate that work is in progress. If the owner fails to comply with the order to correct, HPD will seek relief in Housing Court where appropriate or utilize other enforcement powers available.

When the owner corrects the underlying condition, he/she must submit appropriate documentation from an architect, engineer or plumber that the condition was corrected. HPD will then re-inspect the property and rescind the order and remove the violations from the record.

HPD supports Introduction 967 as a means of ensuring residential units in New York City are well maintained and habitable. We are hopeful that this new initiative will better focus enforcement resources on properties which fail to treat repairs in a serious and holistic way. We thank Speaker Quinn, Chairman Dilan, Council Member Brewer as bill sponsor, and the rest of the committee members for your leadership on housing issues. Thank you for the opportunity to testify and we welcome any follow-up questions you might have.

**Testimony of the Department of Buildings
New York City Council
Committee on Housing and Buildings
Introduction 977
December 13, 2012**

Good morning Chairman Dilan, and members of the Committee. I am Vincent Grippo, Chief of Staff at the Department of Buildings, and have with me; General Counsel Mona Sehgal, and other members of the Department. Thank you for allowing me the opportunity to testify in support of this important legislation, which will allow New Yorkers to continue the recovery from Hurricane Sandy.

We are here today in support of Intro 977, which will amend the administrative code of the city of New York, in relation to waiving fees associated with applications, permits and inspections for the demolition, alteration, rebuilding or repair of certain buildings and systems damaged by the severe storm that occurred on October 29 and 30, 2012.

This bill would add a new section 28-112.10 to the administrative code to give the Commissioner of the Department the authority to waive fees associated with applications, permits and inspections for work on certain buildings and systems that suffered serious damage arising out of the storm that occurred on October 29 and 30, 2012. The Commissioner would be authorized to waive these fees in connection with demolition, alteration or reconstruction of buildings that were seriously damaged and unsafe to occupy or that have been completely demolished and/or washed away, as noted in post storm inspections, commonly referred to as "Red Tagged", or in Department records. Currently, the Department is tracking 1040 properties that have Red Tags. These fees would be waived for jobs where an application for construction document approval or, where construction documents are not required, an application for permit is submitted before October 31, 2014.

For all other buildings with storm damage, fees would be waived only for work on electrical and plumbing permits where a licensed master plumber, licensed master fire suppression piping contractor, or licensed master electrician has certified that the proposed work is related to such storm damage. Licensees can submit applications for this work together with their certifications electronically to the Department and obtain permits immediately. The cutoff date for these fee waivers is January 31, 2013. However, the permit itself would be valid for a full year after that date.

In addition, as a part of the ongoing recovery and assistance operations, the Mayor has issued parallel emergency executive orders to waive application and permit fees that would otherwise be applicable for applications, permits and inspections related to work on buildings with significant structural damage in need of demolition, alterations or reconstruction. This local law will give the Commissioner of Buildings the authority to continue waiving such fees when Mayoral emergency executive orders are no longer issued.

Thank you. We urge your support and an expeditious vote on this bill. I would be happy to answer any questions you may have.



FOR THE RECORD

TESTIMONY OF TERENCE O'BRIEN BEFORE THE
ENVIRONMENTAL PROTECTION COMMITTEE OF
THE NEW YORK CITY COUNCIL ON
DECEMBER 13, 2012 FOR INTRO. 977

My name is Terence O'Brien; Deputy Director of the Plumbing Foundation of the City of New York, Inc. which is a clearinghouse and educational forum for the plumbing industry. The Plumbing Foundation is a nonprofit association of licensed contracting firms, engineering associations, manufacturers, and suppliers whose mission is to ensure the public health through the enactment and enforcement of safe plumbing codes. The Foundation wishes to testify in support of Intro. 977, which will lessen the financial burden on those building owners, especially the single family homeowners that were impacted by Hurricane Sandy by allowing the Department of Buildings (DOB) to waive certain filing fees.

The plumbing industry is in support of whatever legal and Code compliant methods the City establishes to help expedite the return of people to their homes and to have heat, hot water, and electricity in their homes as soon as

possible. However, we strongly recommend that this proposed sentence from Section 28-112.10.2 be amended. “Applicants must submit certification by a licensed master electrician or a licensed master plumber or fire suppression piping contractor that the proposed work is related to such storm damage” (emphasis added). How would a licensee, who may not visit the home until weeks or months after the storm, know what caused the need for repair? A licensee could potentially jeopardize their license/their business if they are found to have submitted a false statement stating that the damage was caused Hurricane Sandy when, in fact, the licensee has no knowledge of what actually triggered the need to file construction permits with DOB. Rather, the certification must be from the **owner** and submitted to DOB stating that the damage occurred as a result of Hurricane Sandy, not the licensee. We feel sorry for everyone who was affected by the impact of Hurricane Sandy. NY licensed plumbing firms will continue to repair boilers, hot water heaters, gas lines, and drinking water lines until all New Yorkers have these services restored to their homes.



*For the
Records*

**Testimony of Jason Chan
Director, Chinatown Tenants Union, CAAAV
December 13, 2012
Submitted to New York City Council Hearing on Int. No. 967**

My name is Jason Chan and I am an organizer with the Chinatown Tenants Union of CAAAV whose mission is to fight gentrification and displacement in our community. We are a community that is often neglected when it comes to housing issues. Landlords do not hide the fact that they want us out. Many landlords purposefully do not make repairs to the apartments in order to push out low-income tenants and bring in new tenants who can pay 3-4 times more than what the previous rent was.

As a tenant organizer, we have deep relationships with the tenants we meet. We know our members and go into their homes often. And we see the same problems come up over and over again. Many of the buildings in our community are tenement buildings, and they are old. When there are leaks, landlords generally just plaster a layer of paint and the next year the leak happens in the same place. When an inspector comes and sees the leak, our tenants tell them that the situation has been going on for years, but what gets recorded down is that the problem was just a leak and another paint job is done.

In low-income neighborhoods where tenants are fighting to stay in their homes and following procedures by calling HPD, landlords respond by doing the bare minimum, if even that. For many immigrant residents, calling HPD with basic complaints is an ordeal in itself. When an inspector comes out, and they are not able to address the core issues of the problems, it really is a waste of energy and city resources to not address problems more proactively and effectively.

Giving inspectors more power to correct underlying conditions is a small step that can go a long way in helping individual tenants. All New Yorkers should live in safe and healthy homes, no matter what area they are in or what their income is, and this change in the administrative code can be helpful.

DECLASSIFIED

**JOINT TESTIMONY OF THE QUEENS & BRONX BUILDING ASSOCIATION
AND THE BUILDING INDUSTRY ASSOCIATION OF NEW YORK CITY, INC.
DECEMBER 13, 2012**

My name is Robert Altman and I am the legislative consultant to the Queens & Bronx Building Association and the Building Industry Association of New York City, Inc., both of which are chapters of the New York State Builders Association and the National Association of Home Builders. I am here to testify in opposition to Intro. 967.

Our opposition to this legislation is very simple. It is unnecessary, over-broad and prone to misuse and potential corruption.

This bill seeks to force building owners to correct violations of the Administrative Code, the multiple dwelling law or any other state or local law requirements on dwellings.

Generally speaking, the City should not be using its scarce resources to correct violations that do not meet exigent circumstances. There are already laws to address this issue and the City engages in emergency repairs and it is certainly understandable that it should (although I understand that some Council Members feel it does a poor job in this area). But when the City begins to exercise that power in a non-emergency situation, it is inviting a multitude of issues including: (i) overtaxing its resources; (ii) taking away resources from true emergency situations; (iii) giving a bureaucrat tremendous discretion on which building it decides an order, despite the fact that the condition is not an emergency condition; and (iv) putting such bureaucrat in a position to extort the building owner (and also whatever building owner it wants).

Moreover, once again, the Council assumes that the existence of the violation is the fault of the owner. It never puts the onus of the Tenant in control of the area in which the violation has occurred. This is not the first piece of legislation where the Council puts the obligation to clear a violation on the owner, despite the fact that the source of the violation may be the tenant itself. This is problematic, because it demonstrates the Council's predisposition to assuming that the issue at hand is the fault of the Landlord and not the Tenant (or cooperator or condominium owner). And so the Council should not be surprised when our Associations view such legislation, and even the Council, as intentionally hostile to their interests. And this predisposition still occurs despite the fact that we have testified in the past about the need to include tenant violators in this type of legislation.

Since most violations have penalties attached to them, it seems superfluous that the City would add another penalty on top of a penalty for repairs that are not an emergency and which might be caused by the tenants themselves. Moreover, it is even more striking that with all the buildings that have the need for emergency repairs, that the Council would now focus on non-emergency repairs. It would seem to make more sense to focus on buildings that have emergency needs first and get that right, rather than focus on lesser violations.

For the foregoing reasons, the two Associations oppose Intro. 967.



FOR THE RECORD

Testimony before the Committee on Housing and Buildings of the New York City Council on Int. No. ___

By Angela Sung Pinsky

Senior Vice President, Management Services and Government Affairs

Real Estate Board of New York

December 12, 2012

Good afternoon Chairperson Dilan and members of the Committee on Housing and Buildings. The Real Estate Board of New York, representing over 13,000 owners, developers, managers and brokers of real property in New York City, thanks you for the opportunity to testify about this bill regarding the waiving of certain permit and inspection fees associated with Hurricane Sandy damage. We also appreciate that the New York City Council has been proactive in seeking our comments and in collaborating with building owners.

In light of the devastation of the storm, REBNY fully supports this bill. We believe that it will greatly assist buildings that were damaged in their efforts to fully return to operation as quickly as possible. It is important that the City do everything in its power to facilitate the revitalization of one its most vital neighborhoods. In addition to buildings outlined in the draft bill, we believe that more buildings should benefit from this proposal. Eligible buildings should not be limited to Lower Manhattan, instead the entire City should be provided aid as needed.

The Real Estate Board has been actively engaged in discussions with our membership regarding the recovery efforts of Lower Manhattan. In surveying our members, we found that some of the buildings outside of Zone A were damaged by the storm. Similarly, several buildings that did not receive a red placard within Zone A required significant alterations and repairs following Hurricane Sandy. Therefore, we would appreciate if the scope of the legislation were broadened to allow for more eligible buildings.

Thank you again for the opportunity to comment. We look forward to continuing our conversation with the Administration and the City Council to create legislation that benefits both the City and its inhabitants in this time of need.



FOR THE RECORD

National Elevator Industry, Inc.

GOVERNMENT AFFAIRS OFFICE

5537 SW Urish Road • Topeka, Kansas 66610 • Office: 785.286.7599 • Cell: 785.580.5070 • Fax: 785.408.5796

www.neii.org • e-mail: ajblankenbiller@neii.org

December 12, 2012

SENT VIA EMAIL

BGoodman@council.nyc.gov

Benjamin J. Goodman
Senior Legislative Policy Analyst
New York City Council
Infrastructure Division
250 Broadway, 14th Floor
New York, NY 10007

RE: Hurricane Sandy Fee Waivers - SUPPORT WITH MODIFICATION TO INCLUDE ELEVATORS

Dear Mr. Goodman:

On behalf of the National Elevator Industry, Inc. (NEII®), I would like to offer comments on the proposed legislation (Attachment 1) to amend the administrative code of the city of New York in relation to waiving certain permit and inspection fees for the demolition, alteration, rebuilding or repair of buildings and systems damaged by the severe storm that occurred on October 29 and 30, 2012, commonly referred to as "Hurricane Sandy." I understand that this item has been added to the agenda for the December 13th City Council Housing and Buildings Committee hearing.

NEII® appreciates and shares the New York City Council's strong interest to facilitate fast and safe repairs to damaged infrastructure as a result of Hurricane Sandy. With this proposed bill, the City is recognizing that it makes no sense penalize selected key industry contractors and their customers who are working diligently to restore basic functionality when they cannot meet established timeframes, which were originally intended for non-emergency situations. We support your efforts, but argue that this bill should be amended to include the elevator industry as well.

Building transportation, in the same fashion as plumbing and electricity, is a core function of any multi-story building. All three are interdependent. In fact, access to elevators by trade personnel are the predicate condition for the Sandy-related repair work to even be performed. Without elevators, electrical and plumbing workers and material for the repairs cannot be moved, at all or easily, inside the building from floor to floor to restore damaged plumbing and electrical systems.

For tenants, elevators provide the primary and essential form of egress and ingress for high rise offices and residential buildings. In addition, without elevators and/or functioning fireman's service operation, emergency personnel cannot effectively, or in some cases at all, respond to medical and crisis situations or conduct efficient evacuations. Elevators are a vital component of basic public safety in multi story buildings.

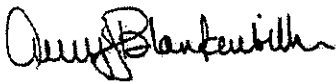
In addition to the industry's request that the proposed legislation be amended to apply the elevators as well, NEII® would also recommended that the Council amend the emergency permitting provisions under New York City's existing law (Attachment 2). Clearly, the city recognizes that there are situations where permit submission requirements need to be waived or altered to address a hazard or other urgent need such as Hurricane Sandy. While this provision of law is not on the hearing agenda, NEII® strongly recommends that §28-105.4.1 pertaining to the permitting of emergency work also be amended to include elevators.

Thank you for your consideration of these important comments. NEII® and its member companies are eager to assist New York City in its efforts to repair the damage left in the wake of Hurricane Sandy and request that, as a core building function, elevators are provided the same fee relief and emergency work without an advance permit in limited circumstances as granted to similar critical and basic building functions.

Please feel free to contact me if you need additional information at 785-286-7599 or via e-mail at ajblankenbiller@neii.org. I am available, along with elevator company representatives, to meet with you to discuss these proposals as needed.

Thank you for your consideration of the industry's comments.

Sincerely,



Amy J. Blankenbiller

National Elevator Industry, Inc. (NEII)

NEII® is the outgrowth of the Elevator Manufacturers' Association established in 1914. NEII® promotes safe building transportation for new and existing products and technologies, and works with various organizations on the formation, adoption and enforcement of the latest building transportation codes and standards. NEII® is the premier national trade association representing the interest of firms that install, maintain and/or manufacture elevators, escalators, moving walks and other building transportation products, including parts or components. Its membership includes the major elevator companies in the United States, if not the world, as well as smaller and independent companies. NEII® members report more than eighty percent of the hours worked within the industry.

Fee Waiver bill

Int. No.

By Council Member Ignizio (in conjunction with the Mayor)

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to waiving certain permit and inspection fees for the demolition, alteration, rebuilding or repair of certain buildings and systems damaged by the severe storm that occurred on October 29 and 30, 2012, commonly referred to as "Hurricane Sandy".

Be it enacted by the Council as follows:

Section 1. The administrative code of the city of New York is amended by adding a new section 28-112.10 to read as follows:

§28-112.10 Waiver of application, permit and inspection fees for certain work arising out of the storm that occurred on October 29 and 30, 2012. The commissioner shall waive the fees that would otherwise be required to be paid by this code, the electrical code or the rules of the department for applications, permits and inspections for certain work arising out of the storm that occurred on October 29 and 30, 2012 as provided in sections 28-112.10.1 and 28-112.10.2.

§28-112.10.1 Eligible buildings. For the purposes of this article, eligible buildings are those buildings that, following the storm and pursuant to an inspection program established by the department under an emergency order of the Mayor, are designated by the department after inspection through a notation on the department's

records and/or by the posting of a red placard warning on the building or premises as seriously damaged and unsafe to enter or occupy or completely demolished and/or washed away. With respect to eligible buildings, fees associated with applications, permits and inspections shall be waived for alteration work, demolition work, construction of new buildings and associated work, including but not limited to associated electrical and plumbing work. The commissioner may request the applicant to submit additional information relating to the damage. Waiver of such fees pursuant to this section shall be applicable for jobs where the initial application for construction document approval or, if no construction documents are required, application for permit is submitted on or after October 30, 2012 and before October 31, 2014.

§28-112.10.2 Storm related damage to electrical and plumbing systems. In buildings other than eligible buildings, fees shall be waived only for applications, permits and inspections for work related to plumbing and electrical systems damaged by such storm. Applicants must submit certification by a licensed master electrician or a licensed master plumber or fire suppression piping contractor that the proposed work is related to such storm damage. The commissioner may request the applicant to submit additional information relating to the damage. Waiver of such fees pursuant to this section shall be applicable for jobs where the initial application for construction

Attachment 1
NEII® Comments
December 13, 2012

document approval or, if no construction documents are required, application for permit is submitted on or after October 30, 2012 and before January 31, 2013.

§2. This local law shall take effect immediately.

§28-105.4.1 Emergency work. Work that would otherwise require a permit may be performed without a permit to the extent necessary to relieve an emergency condition. An application for a permit shall be submitted within 2 business days after the commencement of the emergency work and shall include written description of the emergency condition and the measures undertaken to mitigate the hazard. Emergency work may include but shall not be limited to:

1. Erection of sidewalk sheds, fences, or other similar structures to protect the public from an unsafe condition.
2. Stabilization of unsafe structural conditions.
3. Repair of gas leaks.
4. Repair or replacement of heating or hot water equipment servicing residential occupancies during the heating season as established by the New York city housing maintenance code.
5. Replacement of parts required for the operation of a combined standpipe or sprinkler system.

NYS^{FAH}

NEW YORK STATE ASSOCIATION FOR AFFORDABLE HOUSING
242 W 36th Street 3rd Floor • New York, New York 10018
Phone: 646-473-1205 • info@nysafah.org • www.nysafah.org

NYSFAFH Testimony on Intro 967 Amending the administrative code of the city of New York, in relation to the issuance of orders for repairs to buildings December 13, 2012

Good morning. My name is Alexandra Hanson and I am here representing the New York State Association for Affordable Housing (NYSFAFH), the trade association for New York's affordable housing industry statewide. I would like to thank Chair Dilan and the members of the Committee on Housing and Buildings for the opportunity to testify today on Intro 967. NYSFAFH commends the Council's efforts to ensure the safety and wellbeing of housing for New York City residents by enhancing the tools HPD has to deal with negligent owners with multiple, repeat offenses. However, NYSFAFH is concerned about the unintended consequences that Intro 967 could have on the affordable housing community if the intent of the legislation is not clarified.

NYSFAFH is concerned that Intro 967 will increase costs to building owners by imposing a fines for unresolved violations without providing sufficient recourse to address issues such as incorrectly issued violations or situations that may inhibit landlords from remedying violations. This is particularly troublesome for affordable housing developments that serve low, moderate and middle income households and operate on thin margins. NYSFAFH requests that the City Council clarify the intent of the bill by amending the language of the legislation to protect responsible owners that have shown good faith efforts to remedy violations or are in the process of contesting or clearing violations.

- (1) *Contesting Violations:* Under the current language, Intro 967 does not provide any recourse for building owners who believe that they have been incorrectly issued a violation. Challenging violations can be a lengthy process. The bill should suspend all remedial work and fines until judgments about contested violations are reached, with the exception of violations that pose an imminent threat to the health and safety of the tenants. The City already has the authority to remedy Class-C emergency violations if building owners have not corrected them within 24 hours.
- (2) *Timeframe:* Prior to allowing the City to complete repairs, Intro 967 should extend the timeframe for all non-hazardous violations to twelve months from the time the violation is issued to allow for a more reasonable window for the completion of work to remedy violations prior to intervention by the City. In addition, owners of newly purchased buildings can sometimes face hundreds of violations that they need to clear. A provision for granting extensions should be made for situations in which responsible new owners are in the process of clearing lengthy lists of violations, instead of penalizing them for the indiscretions of previous owners.

- (3) *Tenant Fault*: The proposed bill does not acknowledge or address situations in which a tenant is either at fault or is denying access to the unit to correct a violation. Situations can arise in which tenants cause damage- sometimes repeatedly- and/or routinely deny access to units, inhibiting the ability of owners to resolve the violation. Intro 967 should explicitly provide the landlord recourse for such circumstances. HPD currently provides a mechanism for documenting landlord attempts to gain access into apartments of noncompliant tenants with violations. Intro 967 should exempt landlords who have demonstrated good faith efforts to gain access to units or have repeated violations cause by the tenants themselves.
- (4) *Liens*: The lack of protection provided to responsible landlords is especially concerning in light of the ability to place liens on property for unpaid fines or work. Liens significantly jeopardize the ability of building owners to access financing, including capital financing needed for major repairs, as many lenders will not lend until liens have been cleared. A lender will often lend to a building that has an open violation provided that the owner place two or three times the cost of remedying the violation in escrow until it has been cleared. By placing a lien on the property, the City will considerably inhibit the ability of building owners to access capital to finance building renovations and maintenance. Consequences of improperly issued violations or tenant noncompliance become much more severe when they result in a lien on the property. In light of this, it is imperative that the legislation provide adequate protections for responsible owners.

Improving the quality of housing in New York City is a worthy cause, but the current version of Intro 967 does not provide adequate protections for responsible landlords. NYSAFAH requests that the Council revise the language of the bill to provide protections for the scenarios described herein. I thank you again for the opportunity to testify today and for your consideration of NYSAFAH's concerns.

NYSAFAH is the trade association for New York's affordable housing industry statewide. Our 300 members include for-profit and nonprofit developers, lenders, investors, attorneys, architects and others active in the financing, construction, and operation of affordable housing. Together, NYSAFAH's members are responsible for most of the housing built in New York State with federal, state or local subsidies.

December 13, 2012

Contact: Alexandra Hanson, Policy Associate, NYSAFAH (646) 473-1209



Testimony of Sylvester Giustino on behalf of the Building Owners and Managers Association of Greater New York Inc. (BOMA/NY)

**Council of the City of New York Committee on Housing and Buildings
Hearing in relation to Int. No. 977**

December 13, 2012

Good Morning, Chairman Dilan and members of the New York City Council Committee on Housing and Buildings. My name is Sylvester Giustino, Director of Legislative Affairs for the Building Owners and Managers Association of Greater New York, Inc. (BOMA/NY). The Building Owners and Managers Association of Greater New York, Inc. (BOMA/NY) represents more than 750 owners, property managers and building professionals who either own or manage 400 million square feet of commercial space. We're responsible for the safety of over 3 million tenants, generate more than \$1.5 billion in tax revenue and oversee annual budgets of more than \$4 billion.

The commercial real estate industry is a significant contributor to the nation's and in particular the city's economic engine. Our industry employs over 228,000 New Yorkers and contributes over \$14 Billion dollars to the Gross State Product.

We support the passage of Int. No. 977. A proposed Local Law to amend the administrative code of the city of New York, in relation to waiving certain permit and inspection fees for the demolition, alteration, rebuilding or repair of certain buildings and systems damaged by the severe storm that occurred on October 29 and 30, 2012, commonly referred to as "Hurricane Sandy". At this current time, there is up to 18 million square feet of office space that is currently unusable as a result of the Hurricane. We believe that this law would not only help bring damaged buildings back on line in a more expedited manner but more importantly bring life back to

**BUILDING OWNERS AND MANAGERS
ASSOCIATION OF GREATER NEW YORK, INC.**

11 Penn Plaza, Suite 2201
New York, New York 10001
Telephone (212) 239.3662
Facsimile (212) 268.7441
E-mail info@bomany.com
<http://www.bomany.org>

normal for our members and their tenants. The legislation gives the NYC Department Of Buildings the appropriate regulatory oversight to make sure that repairs are made in a safe and perfunctory manner.

Our association started to monitor the storm beginning on October 26, 2012. We advised our members to take all necessary precautions to prepare their buildings for the potential of flooding and wind damage. In the days before the storm to well within the recovery period, BOMA/NY sent 57 separate storm related advisories to our membership. While our members were prepared, they still encountered unforeseen challenges. A significant amount of buildings, particularly those Downtown, had to pump tens of millions of gallons of water out of their basements. Today, a number of our members are facing operational obstacles by running their buildings on generators far longer than they have expected.

In the first days after the storm passed, BOMA/NY participated in conference calls with the DOB and DEP to discuss the suspension of certain building code provisions so that recovery operations can begin in earnest. We are grateful that the City of New York took immediate action to assist our industry in their recovery efforts. We believe that the passage of Int. No. 977 will only make our member's recovery operations continue in a seamless and safe way.

During Hurricane Sandy, BOMA/NY was proud to work in partnership with NYC Office of Emergency Management, the NYC Department of Buildings, NYC Department of Environmental Protection and various state and federal agencies on our response to this devastating storm. We were especially grateful to OEM for having a specifically designated desk for our association and the real estate industry at the Emergency Operations Center. Our association shared important technical information with city agencies and we benefited from receiving important updates during the hurricane.

Thank you for giving BOMA/NY the opportunity to testify on this important Bill. We urge the New York City Council to pass this legislation so that our industry and our city can continue the work of recovery from Hurricane Sandy.

####

Bronx

Legal
Services NYC

Testimony of Legal Services NYC-Bronx

on

Intro 967

To amend the administrative code of the city of New York,
in relation to issuance of orders for repairs to buildings

Presented before:

The New York City Council
Committee on Housing and Buildings

Presented by:

Jonathan Levy
Deputy Director, Housing Unit

December 13, 2012

TESTIMONY BY JONATHAN LEVY, LEGAL SERVICES NYC-BRONX
BEFORE THE CITY COUNCIL COMMITTEE ON HOUSING AND BUILDINGS
IN INTRO 967

DECEMBER 13, 2012

My name is Jonathan Levy. I am the Deputy Director of the Housing Unit in the Bronx office of Legal Services NYC, the nation's largest legal services provider. Legal Services NYC's offices have represented the civil legal services needs of low-income and elderly families and individuals for over forty years. We appreciate the opportunity to testify before the City Council's Housing and Buildings Committee. Thank you for your interest in this important issue, and your commitment to safe and decent housing

The work of Legal Services NYC's housing units spans various legal fields throughout New York City. We represent tenants in eviction and housing code enforcement proceedings; in administrative agency proceedings related to public benefits, public housing, and Section 8 administration; and in Supreme Court actions against city and state agencies and actors engaging in predatory equity throughout the City. In short, our practice spans the full purview of New York City housing topics and we have a unique view into how housing issues affect low income families and individuals. We often work with tenant groups and HPD to address conditions in deteriorating buildings.

In our work, our attorneys and the community based organizations we work with, repeatedly see tenants subjected to recurring housing code violations because the root cause of the problem is never addressed. Tenants are often forced to live with leaks that constantly come back, ceilings that collapse over and over again, and dangerous molds that come back time and again. Landlords can often lift violations by making cosmetic repairs – like repairing a collapsed ceiling – because there is no enforcement mechanism

that requires them to address the source of the problem. HPD inspectors are forced repeatedly to the same apartments to issue new violations for the same conditions. Many tenants become frustrated and defeated; they stop calling 311 or taking other measures because they believe it is futile. Buildings fall apart even as they drop off the City's radar because they have low violation counts.

Intro 967 begins to address these problems by permitting HPD to issue orders requiring landlords to address the underlying conditions that create housing code violations. Tenants will get real relief from recurring violations. And the resources of legal services providers and community based organizations, as well as the courts and HPD, will be more efficiently used because the act will decrease repetitive complaints, inspections, duplicative emergency repairs, and litigation. Working with tenants and HPD in buildings that have gone into the Alternative Enforcement Program we have seen how powerful a tool the ability to compel the correction of underlying conditions is. In one Bronx building, where the tenants had suffered through horrific conditions for years, conditions were drastically improved after a few months in AEP. In particular water penetration through the roof and pointing, which had been subjecting to tenants to leaks and related problems for years, was finally addressed and the leaks stopped. The tool should not be reserved for the worst-of-the-worst. Indeed, its early use could stop the deterioration of buildings to the point that AEP becomes necessary. We encourage passage of the act, and look forward to working with HPD to make judicious use of it.

Thank you for your time.



Urban Justice Center

123 William Street, 16th Floor, New York, NY 10038
Tel: (646) 602-5600 • Fax: (212) 533-4598
www.urbanjustice.org

Board of Directors

Mitchell A. Lowenthal, Esq.

Chairman
Partner
Cleary Gottlieb Steen Hamilton LLP

Arnold B. Peinado III, Esq.

Secretary
Partner
Milbank, Tweed, Hadley & McCloy LLP

Jeffrey D. Haroldson, Esq.

Treasurer
President
HDG Mansur Capital Group, LLC

Felipe Aransaenz

Managing Director
York Stockbrokers

Michael A. Barasch, Esq.

Partner
Barasch McGarry Salzman & Penson

Pat Budziak

Board of Trustees
Newark Academy

Marc Falcone, Esq.

Partner
Paul, Weiss, Rifkind, Wharton & Garrison LLP

Joel M. Frank

Executive Chief Operating Officer
Och-Ziff Capital Management Group

Beth L. Golden, Esq.

General Counsel, Retail Operations
Chase Bank, N.A.

Jyotin Hamid, Esq.

Partner
Debevoise & Plimpton LLP

Helen Hershkoff, Esq.

Professor
New York University School of Law

Raquiba LaBrie, Esq.

Director
Open Society Institute

Maggie Lear

President
The Frances Lear Foundation

Stephen Loffredo, Esq.

Professor
CUNY School of Law

Fred Mwangaguhunga

Founder
Mediatakeout.com

David A. Singleton, Esq.

Executive Director
Ohio Justice & Policy Center

Howard Sontag

Founder & Managing Member
Sontag Advisory LLC

David Tobis, Ph.D.

Principal
Maestral International

Edward Turan, Esq.

General Counsel Litigation
Citi-Institutional Client Group

Executive Director

Douglas Lasdon, Esq.

December 13, 2012

Testimony of Philippe Danielides on behalf of the Urban Justice Center before the New York City Council Concerning Amendment to Section 27-2091 of the Housing Maintenance Code of New York City

Thank you Council members for the opportunity to give testimony today regarding the proposed amendment to Section 27-2091 of the Housing Maintenance Code (the "Amendment"). My name is Philippe Danielides, and I am a Legal Fellow at the Community Development Project of the Urban Justice Center. A significant portion of our work at the Community Development Project consists of bringing HP or repair cases against negligent NYC landlords on behalf of tenants associations in housing court.

I appear today in support of the Amendment which would give inspectors at the Division of Housing Preservation and Development the power to issue orders to correct the underlying conditions from which violations of the Code or other local laws relating to dwellings originate. We support this Amendment for several reasons.

First, this Amendment gives full effect to the chief purpose of these inspections, which is to ensure that all New Yorkers live in decent, safe and sanitary conditions. With passage of this Amendment, inspectors will finally have the ability to address the root cause of housing violations, thereby leading to meaningful

and permanent improvements rather than the superficial fixes which affect appearances but little more.

Second, on a practical level, addressing the underlying violations will generate significant time and cost-savings for all parties involved. The City will save money as this improved enforcement mechanism will reduce the need for repeated inspector visits to remediate the same problem. Not only will this save taxpayer dollars; it will also shorten the response time for complaints as inspectors will no longer be bogged down by redundant inspections. Landlords will also save time by addressing and correcting the violation once, which will then lead to cost-savings by minimizing labor-related expenditures as well as attorneys' fees relating to legal actions brought by tenants in Housing Court to correct such chronic violations. Tenants will of course also benefit by not having to resort to Housing Court, as will the Court itself which is currently overburdened and ill-equipped to accommodate the volume of incoming complaints.

Third, it is important to realize that this is not just a pocketbook issue, but also a public health issue. Prolonged exposure to mold, for example, which is often caused by non-visible water damage, has been linked to headaches and skin irritation in the short-term and permanent respiratory and central nervous system issues in the long term. Until now, inspectors were empowered only to conduct visual inspections of mold growth or water damage instead of the proper and comprehensive sampling assessments prescribed by experts. As a result, thousands of our fellow New Yorkers have been needlessly exposed to these unhealthy conditions while waiting months or even years before getting the Court to order that landlords undertake necessary remediation measures. Aside from the increased cost and strain on the City's healthcare system related to these preventable conditions, our fellow citizens deserve to live in safe, healthy homes, and this Amendment is a significant step in the right direction.

Accordingly, I strongly encourage the City Council to pass the Amendment to the Administrative Code.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 967 Res. No. _____

in favor in opposition

Date: 12/13/12

(PLEASE PRINT)

Name: Emily Goldstein

Address: 236 W. 27 St, 4th Fl, NY NY 10001

I represent: New York State Tenants + Neighbors

Address: see above

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



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

in favor in opposition

Date: 12/13/12

(PLEASE PRINT)

Name: Jason Chan

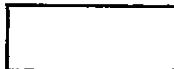
Address: 46 Hester Street

I represent: CABAV Organizing Asian Community

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



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

in favor in opposition

Date: 12/13/12

(PLEASE PRINT)

Name: Kerri White

Address: _____

I represent: UHAB

Address: 120 Wall St Fl 20 New York NY 10005

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____
 in favor in opposition

Date: 12/13/12

(PLEASE PRINT)

Name: Philippe Danielides
Address: 123 William St, 16 Fl, NY, NY 10038
I represent: Urban Justice Center
Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

Date: _____

(PLEASE PRINT)

Name: Mona Sehgal
Address: General Counsel
I represent: Dept of Buildings
Address: 280 Broadway

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

Date: _____

(PLEASE PRINT)

Name: Vincent Gappo
Address: Chief of Staff
I represent: Dept of Buildings
Address: 280 Broadway

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Vito Mustacchio

Address: 100 Gnd

I represent: HPD

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 967 Res. No. _____
 in favor in opposition

Date: 12-13-12

(PLEASE PRINT)

Name: Jonathan Lev

Address: 329 E. 149th St. Ft NY NY

I represent: Legal Services NYC - SAINT

Address: - SAME -

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 972 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sylvester Gigantino

Address: 11 Penn Plaza

I represent: BOMANY

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 9107 Res. No. _____

in favor in opposition

Date: 12/13/12

(PLEASE PRINT)

Name: Alexandra Hanson

Address: 242 W 36th St 3rd Fl. 10018

I represent: NYSAFAH

Address: same

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