

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

-----X

December 13, 2012
Start: 10:21 a.m.
Recess: 11:58 a.m.

HELD AT: 250 Broadway
Committee Room, 14th Floor

B E F O R E:

ERIK MARTIN DILAN
Chairperson

COUNCIL MEMBERS:

Lewis A. Fidler
James S. Oddo
Gale A. Brewer
Joel Rivera
Leroy G. Comrie, Jr.
Vincent Ignizio
Rosie Mendez
Brad Lander
Robert Jackson
Elizabeth Crowley
Jumaane D. Williams
James F. Gennaro
Melissa Mark-Viverito

A P P E A R A N C E S

COUNCIL MEMBERS:

Letitia James

Eric Ulrich

A P P E A R A N C E S (CONTINUED)

Vito Mustaciuolo
Deputy Commissioner of Enforcement and Neighborhood
Services
Department of Housing Preservation and Development

AnnMarie Santiago
Chief of Staff
Department of Housing Preservation and Development

Christopher Gonzalez
Assistant Commissioner for Government Affairs and
Research
Department of Housing Preservation and Development

Vincent Grippo
Chief of Staff
Department of Buildings

Mona Sehgal
General Counsel
Department of Buildings

Alexandra Hanson
New York State Association for Affordable Housing

Philippe Danielides
Legal Fellow, Community Development Project
Urban Justice Center

Emily Goldstein
Coordinator of Preservation Organizing and Policy
New York State Tenants and Neighbors Information
Service
New York State Tenants and Neighbors Coalition

Jonathan Levy
Deputy Director of the Housing Unit
Bronx Legal Services NYC

Kerri White
Co-director of Organizing and Policy Department
Urban Homesteading Assistance Board

A P P E A R A N C E S (CONTINUED)

Sylvester Giustino
Director of Legislative Affairs
Building Owners and Managers Association of Greater
New York

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER FIDLER: Ready?

We're good?

[Crosstalk]

COUNCIL MEMBER ODDO: I know Erik Dilan, you're no Erik Dilan.

COUNCIL MEMBER FIDLER: Are we ready back there? Okay. Good morning everybody. As Minority Leader Oddo has so aptly pointed out, I am not Erik Dilan, I am Lew Fidler and Erik is running a little bit late and rather than keep everybody waiting, he asked that I convene this hearing of the Housing and Buildings Committee.

Today, the committee will consider two bills: Intro 967 in relation to the issuance of orders for repairs to buildings and Intro 977 in relation to waiving certain permits and inspection fees for the demolition or alteration, building, and repair of certain buildings and systems damaged by Hurricane Sandy.

Intro 967, sponsored by Council Member Brewer, would address concerns that the underlying causes of housing violations often go unidentified or unresolved, which can lead to repeat violations of the same kind. The bill

1
2 would allow the Department of Housing Preservation
3 and Development to issue an order to property
4 owners to correct an underlying condition which
5 has caused or is causing a violation of the
6 Housing Maintenance Code, the Multiple Dwelling
7 law, or other applicable laws.

8 Under the bill, owners would have
9 four months after an underlying condition order is
10 issued to submit documentation or demonstrate
11 compliance with the order. HPD may grant owners
12 an additional two-months extension to complete the
13 work. If an owner fails to comply with an order
14 issued, the department may complete the work on
15 its own and seek civil penalties for lack of
16 compliance. The civil penalty would range for
17 failure to comply with these orders would be--let
18 me start that again. The civil penalty would
19 range from \$1,000 per dwelling unit affected by
20 the order or a minimum--maximum--I'm sorry,
21 minimum of \$5,000. All expenses incurred by HPD
22 under the bill that remain unpaid by an owner
23 could constitute a debt recoverable from the owner
24 and a lien on the building and lot.

25 The next bill, Intro 977, sponsored

1
2 by Council Member Ignizio in conjunction with the
3 Mayor. Intro 977 would waive until October 31st,
4 2014, Department of Buildings' fees for work on
5 buildings that were severely damaged or destroyed
6 in Hurricane Sandy and would waive until January
7 31st, 2013, electrical and plumbing fees for all
8 other buildings that require such work as a result
9 of the storm. The purpose of this bill is to aid
10 communities in the recovery efforts and encourage
11 the repairs and reconstructions of buildings
12 damaged by the storm.

13 On November 12th, Mayor Bloomberg
14 issued Executive Order 172, suspending certain DOB
15 fees for properties affected by Sandy. The
16 executive order waived all fees for all severely
17 damaged buildings and with red placards issued by
18 the department related to demolition applications
19 and permits, alteration one, two, and three
20 applications, and permits to renovate and repair
21 damaged structures, and new building applications
22 and permits to rebuild structures that were
23 completely destroyed. For all other buildings
24 that were damaged by the storm, fees related to
25 electrical and plumbing work were waived so long

1
2 as a master plumber or electrician certified to
3 the department that such damage was Sandy-related.
4 Since November 12th, the mayor has reissued this
5 executive order a number of times to continue the
6 same fee waivers set forth in the original order.

7 Intro 977 takes into account the
8 Mayor's executive order by continuing the waiver
9 of all DOB fees for owners of buildings that were
10 severely damaged or destroyed as indicated by a
11 red placard or a notation in the department's
12 records. In order to be eligible for the waiver
13 of all fees, building owners must submit their
14 applications for construction documents approval
15 or a permit before October 31st, 2014. The bill
16 also extends the fee waivers for buildings that
17 require electrical or plumbing work as a result of
18 Sandy damage as long as applications are submitted
19 before January 31st, 2013.

20 A bit of housekeeping. I should
21 explain that because we have two different
22 agencies testifying today, we will hear from HPD
23 first on Intro 967, followed by questions from
24 members of the committee, and we'll then move on
25 to testimony from DOB on Intro 977. After that

1
2 time, we will hear public testimony. If you'd
3 like to testify but you haven't signed up with the
4 Sergeant-at-Arms, please do so at this time.

5 And we've been joined by Council
6 Member Oddo and Council Member Brewer, who is the
7 sponsor of the bill. Council Member, you'd like
8 to say a few words?

9 COUNCIL MEMBER BREWER: Thank you,
10 Council Member Fidler, and I certainly concur. I
11 do want to thank committee staff Baaba Halm, Laura
12 Rogers, Ed Atkin, and Ben Goodman.

13 I have over the years, and I have
14 two here just this week, of individuals living in
15 apartments that have this problem, perhaps not as
16 systemic as this bill would address, meaning that
17 these people may not have had tons and tons of
18 years of complaints, but the fact of the matter is
19 they have leaks that are not addressed. And I
20 think one thing that this storm has showed those
21 of us, those people who are not aware of mold,
22 that mold is a huge issue.

23 We get in our district office
24 popular pamphlets and I will tell you that mold is
25 a very popular pamphlet and I want to thank the

1
2 HPD and Department of Health for putting out a
3 pamphlet that is very substantive and that does
4 address some issues. But I think everyone who has
5 experienced either the hurricane itself or the
6 awesome, horrific photographs can tell that mold
7 is a huge issue, and that's one of the issues that
8 I hope this legislation will address.

9 And I want to thank HPD for all of
10 their years, along with the other agencies, of
11 responding to some of these problems and I hope
12 that this legislation will help them to address
13 the concerns that so many New Yorkers have in
14 their units.

15 Thank you very much.

16 [Pause]

17 COUNCIL MEMBER FIDLER: Thank you,
18 Council Member Brewer. And Vito Mustaciuolo, I
19 got that right?

20 VITO MUSTACIUOLO: Yeah.

21 COUNCIL MEMBER FIDLER: [Off mic]
22 You and, you know, please introduce the folks with
23 you and turn the mic over to you.

24 [Pause]

25 VITO MUSTACIUOLO: Is it on? Good

1
2 morning. Good morning, members of the Housing and
3 Buildings Committee, my name is Vito Mustaciuolo
4 and I am the Deputy Commissioner of Enforcement
5 and Neighborhood Services at the Department of
6 Housing Preservation and Development. Sitting
7 next to me are AnnMarie Santiago, my Chief of
8 Staff, and Christopher Gonzalez, Assistant
9 Commissioner for Government Affairs and Research.
10 Thank you for the opportunity to discuss Intro
11 967, the underlying conditions bill sponsored by
12 Council Member Brewer. HPD supports this measure
13 as it provides HPD with another enforcement tool
14 to ensure residential units in New York City
15 remain safe and habitable.

16 With the strong leadership and
17 support of the administration and the City Council
18 over the past few years, HPD has become more
19 proactive in identifying buildings and focusing
20 resources on buildings which are either in
21 distress or showing early signs of distress. In
22 2007, the Alternative Enforcement Program, or AEP,
23 was created under Local Law 29. AEP identifies
24 the 200 most distressed buildings each year and
25 gave HPD new tools, including fees, increased

1
2 penalties, and additional enforcement authority
3 with which to address those buildings. In 2011,
4 Local Law 7, AEP, and it was enhanced by
5 specifically including mold and vermin remediation
6 as part of the program. Round 6 will begin at the
7 end of this January and we will have assessed
8 1,200 buildings through the program. In January
9 of 2011, the administration and the City Council
10 announced the creation of the Proactive
11 Preservation Initiative. This program is a
12 comprehensive approach that identifies and tries
13 to preemptively address deteriorating physical
14 conditions in multifamily buildings across the
15 city. We have surveyed over 1,000 buildings over
16 the last two years and referred appropriate
17 buildings to the Proactive Enforcement Bureau for
18 further inspection and enforcement to our
19 litigation division, or to our Division of
20 Neighborhood Preservation for follow up.

21 The proposal before you today,
22 Intro 967, will enhance HPD's existing authority
23 under the Housing Maintenance Code to issue an
24 order to correct by, one, specifically allowing
25 HPD to order correction of an underlying building

1
2 condition, primarily water leaks, to property
3 owners; two, to identify the criteria for the
4 implementation of the program in rules. Setting
5 criteria through rulemaking will be a tremendous
6 asset to the agency because HPD will be able to
7 modify the program over time to enhance its
8 effectiveness.

9 Three, authorizing HPD to seek
10 civil penalties for failure to comply with the
11 order to correct, as well as for individual
12 violations on which the order is based. The
13 proposed civil penalty is \$1,000 per unit covered
14 by the order to correct, but not less than \$5,000
15 per building. And lastly, requiring that an order
16 filed in the office of the county clerk be
17 rescinded timely once complied with by the owner.

18 Buildings against which the agency
19 is already pursuing enhanced enforcement action,
20 such as those in the Alternative Enforcement
21 Program, buildings that have open comprehensive
22 litigation, or are in the Third Party Transfer
23 Program or with a 7A administrator, will be
24 excluded from this pool of buildings for this
25 program. HPD will begin the program by

1
2 identifying buildings with a significant number of
3 water leak or mold conditions based on the
4 issuance of open violations and/or violations
5 corrected by HPD in multiple apartments. As you
6 may know, HPD code inspectors currently respond to
7 311 complaints for issues relating to mold,
8 damaged plaster, and cascading water. Code
9 inspectors can issue a violation to the owner and
10 require that repairs to the dwelling unit are made
11 in a timely fashion. An owner should properly
12 address the cause of the condition rather than
13 just replacing sheetrock or cleaning mold, and, in
14 fact, many owners just do just that. However,
15 buildings where the symptom is treated without the
16 treating of the cause typically have systemic
17 leaks or water penetration and the same conditions
18 occur and reoccur in multiple apartments. These
19 latter buildings are the types of buildings HPD
20 seeks to address using the enhanced enforcement
21 tool outlined in this legislation.

22 Once an order to correct has been
23 issued, the owner will be notified and will have
24 four months to comply. The department may extend
25 that timeframe by up to two months if the owner

1
2 can demonstrate that work is in progress. If the
3 owner fails to comply with the order to correct,
4 HPD will seek relief in Housing Court where
5 appropriate or utilize other enforcement powers
6 available.

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

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

1
2 CHAIRPERSON DILAN: Okay. Thank
3 you, Mr. Mustaciuolo, and it is good to see you,
4 and I see former Commissioner Rosenberg in
5 attendance, and it's I almost thought he was still
6 with the agency, I know he's not with the agency
7 no longer, so I want to wish you good luck in your
8 new endeavor.

9 Just some housekeeping, there's
10 been some members who have joined beside myself
11 since this hearing has been open. Council Member
12 Rivera of the Bronx, Council Member Comrie of
13 Queens, Council Member Ignizio of Staten Island
14 who is a prime sponsor of one of the pieces of
15 legislation before the committee today, and
16 Council Member Oddo was here at the start of the
17 committee hearing.

18 I'm going to defer to the bill
19 sponsor to lead off with the questioning, but
20 before I do, I do want to acknowledge that the
21 policy analyst for this committee, Mr. Benjamin
22 Goodman, who has been with me since my first day
23 as chairman, will be leaving at the end of the
24 year, these will be the last set of bills that he
25 will work on. And I just want to say publicly to

1
2 Mr. Goodman, it's been a pleasure working with
3 you. And he said to me as a sidebar, he says, yes
4 and I actually like the two bills before us today,
5 so I have to find out, of all the hundreds of
6 pieces of legislation that we worked on, which
7 ones he didn't like. So but we'll talk about that
8 later.

9 We've also been joined by Council
10 Member Rosie Mendez of Manhattan.

11 Council Member Brewer.

12 COUNCIL MEMBER BREWER: Thank you
13 very much, Mr. Chair, and I certainly concur with
14 your respect for Mr. Goodman. I hope he survives
15 his next job, that's another story. He'll be
16 great.

17 My question is this: Can you help
18 me to indicate once an underlying condition is
19 identified, what the steps are to address it under
20 this legislation? And the reason I ask that is
21 that it is perhaps the number one problem, at
22 least in many neighborhoods, and certainly mine,
23 once you identify a leak and the enormous amount
24 of time it takes, I've got four constituents right
25 here with long e-mails, to get the problem

1
2 resolved because it is not like an electrical
3 issue where maybe you can see it or the boiler
4 problem and heats on or heats off. Do you take
5 the wall down, what kinds of measures does HPD use
6 to identify it and then try to get the problem
7 fixed, and how do you--how does this bill change
8 this current very lengthy process? Which, to be
9 honest with you, often doesn't result in a
10 positive solution because the leak seems to
11 continue and continue, that's where the e-mails
12 come in. So how would this bill address this very
13 endless issue with leaks, which does seem to go on
14 sometimes for years and years and years?

15 VITO MUSTACIUOLO: Thank you. So,
16 you know, as mentioned in my testimony, these
17 orders will be issued to buildings where we have
18 seen a repeat offense where there have been
19 recurring conditions that, for all practical
20 purposes, were addressed through cosmetic repairs.

21 COUNCIL MEMBER BREWER: Correct.

22 VITO MUSTACIUOLO: I think that
23 what's critical and what I mentioned in my
24 testimony with respect to the issuance of this
25 order, is before this order can be rescinded, we

1
2 expect not only an affidavit from the property
3 owner that conditions were corrected, but we also
4 receive an affidavit from either a professional
5 engineer, a registered architect, or a licensed
6 plumber citing that they have inspected the
7 building and that they have addressed the
8 underlying conditions.

9 COUNCIL MEMBER BREWER: Okay. And
10 do you have any sense will there have to be extra
11 rulemaking or will the bill suffice in terms of
12 what the--how the operation will be carried out?
13 Will have to be rulemaking or will this bill be
14 sufficient in terms of what the inspections will
15 entail and what the process will be?

16 VITO MUSTACIUOLO: Right, the intro
17 does give us the additional authority to issue an
18 order specifically for underlying conditions and
19 we will address the criteria for selection and the
20 remedy for the order through rules.

21 COUNCIL MEMBER BREWER: Okay. And
22 do you have some notion as to how many buildings
23 might fall under such legislation?

24 VITO MUSTACIUOLO: For the first
25 year what we're hoping to do is to identify

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

approximately 100 buildings.

COUNCIL MEMBER BREWER: Okay. All right. And the other question is--I know this is a strange question, but Rosie Mendez is sitting here--the number one issue that I get from NYCHA is mold and forget the hurricane, way before the hurricane, do you ever give advice to NYCHA that this might be something they might want to look at? You can't answer that, right? Well that's on the record because--

VITO MUSTACIUOLO: [Interposing] We do work collaboratively with NYCHA so--and I know the health department does as well.

COUNCIL MEMBER BREWER: Okay. Do you know how long--going back to the rules--it will take to promulgate the rules that would be relevant to this legislation?

VITO MUSTACIUOLO: Yeah, I would say approximately six months.

COUNCIL MEMBER BREWER: Okay.

VITO MUSTACIUOLO: Yeah.

COUNCIL MEMBER BREWER: And then finally, does this--do you feel that with this legislation--I know this is probably yes, but it's

1
2 helpful to have on the record--that we would be
3 able to address more of these underlying
4 conditions so that they're not recurring? In
5 other words, I think with the APAB [phonetic]
6 programs, you have been able to address and,
7 hopefully, get buildings more online and habitable
8 and more affordable housing, do you think that
9 this legislation will have the same result?

10 VITO MUSTACIUOLO: Yes, I do.

11 COUNCIL MEMBER BREWER: Okay.

12 VITO MUSTACIUOLO: Yes.

13 COUNCIL MEMBER BREWER: And
14 finally, one last question, do you need different
15 kinds of training for your inspectors? Because,
16 again, it's my experience just finding the leak,
17 finding the individual who's home upstairs,
18 dealing with the underlying conditions sometimes
19 mean pulling back walls and plaster, again,
20 different than looking at the boiler. Do you
21 think there'll be different training needed to be
22 able to accomplish the goals of this legislation?

23 VITO MUSTACIUOLO: I think the
24 training programs that we already have for our
25 inspectors are sufficient. We do, again, work

1
2 collaboratively with sister agencies such as the
3 health department. And our intent with respect to
4 the buildings identified for this program are to
5 use the workforce from the Alternative Enforcement
6 Program who are already well-versed in these
7 issues.

8 COUNCIL MEMBER BREWER: All right,
9 thank you very much, Mr. Chair.

10 CHAIRPERSON DILAN: Thank you,
11 Council Member Brewer. And I will jump in along a
12 similar line of questioning there because I think
13 the bill intentionally is very broad in scope but
14 it sounds, by your testimony, you have a limited
15 scope which you hope to identify within the
16 rulemaking process. So we'll certainly take a
17 look at that very closely because with six months
18 to promulgate rules, there'll probably be six
19 months left in the term of this chairman at least,
20 so my main concern is to protect against future
21 administrations who may not have the same intent
22 that the current administration has. Now
23 obviously, some of the people who will be writing
24 the rules will survive the next term and some
25 won't and we hope that most of them do, but as we

1
2 look at the legislation, that is what I certainly
3 will keep in mind.

4 You mentioned in your testimony
5 that you expected the profile of buildings to be
6 approximately 100, making the program similar to
7 that of AEP. You also mentioned that you'd use
8 pretty much the same field staff to look at
9 underlying conditions. Can you tell me the types
10 of conditions that they will be looking at and
11 what sets these buildings apart from the buildings
12 that are currently in AEP?

13 VITO MUSTACIUOLO: Sure. So the
14 approximately 100 buildings that I mentioned,
15 those would be the universe of buildings that we
16 would send inspectors out to do a full thorough
17 inspection, a cellar to roof inspection. Not all
18 100 buildings that we will go out to inspect will
19 necessarily qualify for the issuance of an order.
20 What we will be looking at is a history of open
21 violations or violations corrected by HPD
22 specifically with regard to water leaks and/or
23 mold conditions.

24 CHAIRPERSON DILAN: So it's quite
25 possible that a building could end up in the AEP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

program and get hit with the--and also be put in this program as well?

VITO MUSTACIUOLO: No, no, we would exclude buildings in the AEP program--

CHAIRPERSON DILAN: Oh.

VITO MUSTACIUOLO: --we are already addressing underlying conditions in that program. I think the major difference between the two buildings, the Alternative Enforcement Program really addresses buildings that are severely distressed even beyond underlying conditions--

CHAIRPERSON DILAN: [Interposing]

So what type of--

[Crosstalk]

VITO MUSTACIUOLO: --mold and water leaks.

CHAIRPERSON DILAN: Yeah, but can you get into that a little bit, what type of underlying conditions will the agency be focused on when it conducts its enforcement of these buildings?

VITO MUSTACIUOLO: Sure. Again, for this again the focus will really be on water leaks, whether it be leaks from the roof or from a

1
2 domestic water supply line, and mold. So there
3 are a handful of very specific violations that we
4 issue that will be focused on for the purpose of
5 this program.

6 [Crosstalk]

7 CHAIRPERSON DILAN: --like heat and
8 hot water issues and boilers and those--

9 VITO MUSTACIUOLO: [Interposing]

10 No, we--

11 CHAIRPERSON DILAN: --type of
12 mechanical systems?

13 VITO MUSTACIUOLO: --would normally
14 do that through our normal course of business.

15 CHAIRPERSON DILAN: Okay. And have
16 you--for your first 100 buildings, does the agency
17 have an idea of where the problems are citywide
18 and where these 100 buildings are?

19 VITO MUSTACIUOLO: We really have
20 not run a report and when we start to identify the
21 buildings, similar to AEP, our intent is really to
22 identify a good mix of buildings by size.

23 CHAIRPERSON DILAN: Okay. And when
24 you promulgate these rules, and I believe that
25 leads into my question, what types of buildings

1
2 are you going to look at? Are you going to look
3 at large multi-families, are you going to look at
4 all types of--do you have an idea of the type of
5 building that you'll be looking at?

6 VITO MUSTACIUOLO: Sure, again, the
7 intent is really to look at all multiple dwellings
8 with a focus on larger buildings.

9 CHAIRPERSON DILAN: Okay. Okay.
10 We've also been joined by Council Members Lander
11 of Brooklyn and Council Member Jackson of
12 Manhattan.

13 The inspectors that are generally
14 trained to assess and identify when a violation
15 may be caused that also may be really caused by an
16 underlying condition that needs to be corrected,
17 is the training sufficient for these inspectors
18 to--

19 [Crosstalk]

20 VITO MUSTACIUOLO: [Interposing] I
21 believe it is, yes.

22 CHAIRPERSON DILAN: Okay. And in
23 terms of correction of these conditions, what will
24 be the process for a owner to be able to certify
25 that the underlying condition has been corrected

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

and repaired?

VITO MUSTACIUOLO: So, again, after the conditions have been corrected, we will have an affidavit that will be signed by the owner, similar to the correction of a notice of violation. But also with respect to the issuance of the order, we're also seeking to have an affidavit from a professional, whether it be a registered architect, a professional engineer, or a licensed plumber, that they have identified the source of the water, the leak, of the underlying condition and that it has been addressed appropriately.

CHAIRPERSON DILAN: Okay. How would the agency handle noncompliant owners? Would they seek enforcement orders? Would the agency conduct the repairs under the Emergency Repair program? And would they inform the--would there be a lien placed on the building as a result?

VITO MUSTACIUOLO: Sure, so we will use any and all enforcement tools that we have available to us. You know, primarily, we will initiate litigation in Housing Court against the

1
2 owner seeking an order to correct. The Emergency
3 Repair program is certainly not ruled out here, so
4 we could very well step in with emergency repairs.
5 If we do make repairs, the owner has an
6 opportunity to pay the bill through the Department
7 of Finance. If they don't pay, then it becomes a
8 tax lien.

9 CHAIRPERSON DILAN: All right, but
10 we obviously would give the owner every
11 opportunity to cure--

12 VITO MUSTACIUOLO: [Interposing]
13 Absolutely.

14 CHAIRPERSON DILAN: Okay. We've
15 been joined by Council Member Crowley of Queens.
16 I have Council Member Lander, then I have an open
17 list. I want members to get, if they could, right
18 into a question with a short lead because we have
19 another agency that wants to testify and we have a
20 lot of people from the public that want to testify
21 on two separate issues. Council Member Lander.

22 COUNCIL MEMBER LANDER: Thank you
23 very much, Mr. Chairman. Thank you for you being
24 here, and thanks to Council Member Brewer, and ask
25 staff to add me on as a sponsor to it.

1
2 I just want to understand the
3 narrowing a little bit and what's programmatic
4 focus and what you anticipate being in the rules.
5 Maybe you answered this in response before I got
6 here to Council Member Brewer, but it looks to me
7 like the law--the bill would establish the ability
8 to address underlying conditions broadly, leave it
9 to rule writing. You're saying, and I think it
10 makes sense, you intend to focus on a set of
11 buildings essentially in a program, in a program-
12 like fashion, but I guess I don't know that it
13 would make sense to write the rules in a way that
14 would exclude your ability to do that in other
15 cases because I could imagine an inspector outside
16 of the program coming upon a condition that made a
17 lot of sense to address this way. So maybe you
18 haven't gotten this far, but I like the idea of
19 having a program to focus on, but leaving the
20 rules giving this power relatively broadly to the
21 agency to be used in other circumstances that
22 might make sense where inspectors would just see
23 it even if it weren't specifically in the program
24 already.

25 VITO MUSTACIUOLO: And, I'm sorry,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the question was?

MALE VOICE: Yeah, yeah.

COUNCIL MEMBER LANDER: Do you anticipate, you know, do you anticipate the rules narrowing your authority to a sort of--

VITO MUSTACIUOLO: Right.

COUNCIL MEMBER LANDER: -- programmatic set of buildings or do you--

VITO MUSTACIUOLO: I'm sorry.

COUNCIL MEMBER LANDER: -- anticipate writing a somewhat broader set of rules and then programmatically focusing on a universe of buildings?

VITO MUSTACIUOLO: Right, we do want to focus on a narrow universe of buildings. Again, what we're looking for are the buildings that have shown repeat offenses, where the owner has historically not corrected violations. So in order to qualify for the issuance of the order in this program, a building will have had to had issued numerous violations over the course of a year and that have gone uncorrected or corrected through AEP, I'm sorry, through ERP where the owner is just ignoring the violations that were

1
2 served on them. You know, realizing that when an
3 owner is served with a notice of violation, they
4 have a correction period and once it surpasses
5 that, then it may qualify for the program.

6 COUNCIL MEMBER LANDER: So maybe
7 it's not so much that you will be targeting a
8 universe of buildings as that the rules will
9 identify criteria and that buildings that meet
10 those criteria of repeat violations--

11 VITO MUSTACIUOLO: Right.

12 COUNCIL MEMBER LANDER: --or
13 evidence of underlying conditions emerges, that's
14 where these provisions will be applied.

15 VITO MUSTACIUOLO: Right, very--

16 COUNCIL MEMBER LANDER: Okay.
17 That's helpful.

18 VITO MUSTACIUOLO: --very similar
19 to the Alternative Enforcement Program.

20 COUNCIL MEMBER LANDER: Okay. All
21 right, thank you, Mr. Chairman.

22 CHAIRPERSON DILAN: Thank you,
23 Council Member Lander. Council Member Fidler.

24 COUNCIL MEMBER FIDLER: I have a
25 copy of some testimony that was either submitted

1
2 or is going to be given later today that opposes
3 Intro 967 and the testimony--

4 CHAIRPERSON DILAN: [Interposing]
5 Council Member Fidler, if you could do me a favor,
6 if you could just identify that testimony for the
7 record it'd save--

8 COUNCIL MEMBER FIDLER:
9 [Interposing] Yeah, it's--

10 CHAIRPERSON DILAN: --some trouble
11 later--

12 [Crosstalk]

13 COUNCIL MEMBER FIDLER: --the
14 testimony the Queens and Bronx Building
15 Association and the Building Industry Association
16 of New York City. And the testimony says that the
17 bill is assuming the existence--that the existence
18 of the violation is the fault of the owner and
19 doesn't put the onus on the tenant in control of
20 the area in which the violation has occurred. Now
21 I don't know that I agree that that's even a
22 relevant comment, but it does raise the question
23 in my mind that, you know, on some occasions a
24 landlord might be frustrated in making a repair by
25 a tenant denying access or whatnot. Is there any

1
2 provision in this bill that would allow an owner
3 to raise that as a defense if they're unable to
4 cure the violation--the order--or satisfy the
5 order within four months?

6 VITO MUSTACIUOLO: So I do want to
7 start by, again, focusing on the fact that these
8 are violations that have been issued over the
9 course of at least a year's period of time that
10 have gone unaddressed. So these are violations
11 that were timely served to an owner, hopefully an
12 owner who has been registered validly with the
13 agency, and these are violations that were
14 ignored. If there were issues of access, the
15 owner could have raised those issues. We're
16 taking action to gain access during the correction
17 period for the violations.

18 But at the point where we issue
19 this order, if an owner approaches the agency and
20 is still having difficulty with respect to access,
21 we will handle that the way we do with the
22 issuance of violations and with the issuance of
23 orders for the Alternative Enforcement Program,
24 namely, if an owner demonstrates to us that--and
25 documents attempts to gain access to correct a

1
2 condition, we're not going to take enforcement
3 action against that owner, and we will work with
4 that owner to gain access. We have staff who will
5 go out, meet with a tenant, explain to the tenant
6 that the owner has a legal obligation to correct
7 the violations and the conditions. And in some
8 cases, we actually have staff who will be present
9 during the time that the work is conducted by the
10 owner. And a lot of tenants feel more comfortable
11 with the representative of the city agency being
12 present when the work is done. So the intent is
13 to work with owners to correct and not to take
14 punitive action where an owner has made every
15 effort to do the same.

16 I would question whether or not any
17 of the conditions that we're talking about that
18 would qualify for the issuance of this order would
19 be tenant-caused. I mean, we're really talking
20 about leaks from the roof, from domestic water
21 supplies, pointing, I don't see how a tenant could
22 have caused any of those conditions.

23 COUNCIL MEMBER FIDLER: Well I tend
24 to agree, I just wanted to get, you know,
25 sometimes we have an agency testify, they leave,

1
2 and then someone raises a question after you're
3 gone, and, you know, I think your response was
4 perfectly reasonable, I just--I guess my question
5 only would be is there anything in this bill that
6 codifies that practice or is that codified
7 someplace else? You know, I just want to be sure
8 that if these folks come up and testify, they have
9 heard and they're understanding that in the rare
10 occasion that that is a fact, you know, that the
11 tenant is denying access, whether they caused the
12 condition or their access is necessary for the
13 repair, that the agency has a policy that will not
14 punish the owner. I just want to be sure--

15 VITO MUSTACIUOLO: Right.

16 COUNCIL MEMBER FIDLER: --is that
17 in the bill or is it someplace else in the law?

18 VITO MUSTACIUOLO: It's not
19 codified. Again, it's a longstanding practice
20 that we have had and I think it's been a
21 successful practice and it has worked extremely
22 well with the Alternative Enforcement Program. I
23 think it would be difficult to codify how the
24 agency should work with a landlord. You know,
25 there are remedies for a landlord already in the

1
2 Housing Maintenance Code if they are refused
3 access and owners can avail themselves of those
4 remedies, but to codify the relationship between
5 the agency and an owner who is having difficulty
6 in gaining access, I don't know that that would
7 really make sense.

8 COUNCIL MEMBER FIDLER: Thank you.

9 CHAIRPERSON DILAN: Okay. Thank
10 you. We've also been joined by Council Member
11 Jumaane Williams of Brooklyn. Do any of my
12 colleagues have any questions? For a quick
13 question.

14 COUNCIL MEMBER BREWER: Very quick
15 question is 311. Sometimes when you call 311
16 about water leaks and mold, it goes to DEP, I
17 think just the word water. So my question is,
18 will you work extensively with 311 to continue to
19 explain that underlying conditions, water leaks
20 and so on go to HPD? Is that the right place for
21 it to go?

22 VITO MUSTACIUOLO: If it's within
23 an apartment, I mean, it depends on how the call
24 comes into 311. If they're talking about a water
25 leak in the basement or cellar, you know, that may

1
2 very well be because of a service line break, but
3 we will certainly talk to--

4 [Crosstalk]

5 COUNCIL MEMBER BREWER:

6 [Interposing] I just think in general, and then
7 you have commercial buildings that have mold
8 conditions which I'm also getting. I know that's
9 not you, but I just want to say that I think calls
10 to 311 or coordination could be improved.

11 VITO MUSTACIUOLO: Absolutely. And
12 we also have a very good working relationship with
13 DEP, so if they were to receive a complaint that
14 should come to us, they're very quick--

15 COUNCIL MEMBER BREWER: Okay.

16 VITO MUSTACIUOLO: --to give us a
17 call and refer it over to us.

18 COUNCIL MEMBER BREWER: Okay.

19 Thank you very much, Mr. Chair.

20 CHAIRPERSON DILAN: Okay. Thank
21 you. And finally, I'd like to just ask, what are
22 the budget implications of the bill? Do you think
23 you can get this task done within your existing CD
24 budget or do you expect it to require additional
25 funds?

1
2 VITO MUSTACIUOLO: No, I believe
3 that we can do whatever is necessary to correct
4 these conditions through our existing budget.

5 CHAIRPERSON DILAN: Okay. Thank
6 you, HPD; thank you, Mr. Mustaciuolo; and thank
7 you for my colleagues to getting directly to the
8 point with your questions.

9 We will now call up the Buildings
10 department to provide testimony on the other item
11 on today's agenda, which is Intro 977, sponsored
12 by Council Member Ignizio. And as the agencies
13 get settled in, we'll take a quick break, and if
14 Council Member Ignizio wants to make a brief
15 statement on his bill, I would permit him to do so
16 once the agencies get settled in.

17 Yeah, and for the benefit of the
18 members, both items will be laid aside at the
19 conclusion of this hearing for possible
20 disposition at a future date.

21 Okay. So with us, we have Mr.
22 Vincent Grippo, Chief of Staff to Commissioner
23 LiMandri, as Mona Sehgal, the general counsel of
24 the Buildings department. I know I have
25 introduced you guys, but if you could introduce

1
2 yourselves on your own voice, and then you can
3 begin your testimony.

4 VINCENT GRIPPO: Good morning
5 Chairman Dilan, and members of the committee. I
6 am Vincent Grippo, Chief of Staff--

7 CHAIRPERSON DILAN: [Interposing]
8 I'm sorry, I do have to stop you. I did promise
9 Council Member Ignizio--

10 VINCENT GRIPPO: Yes.

11 CHAIRPERSON DILAN: --a chance to
12 say a brief word, I almost forgot about that.
13 Council Member Ignizio.

14 COUNCIL MEMBER IGNIZIO: It's okay,
15 Chairman.

16 CHAIRPERSON DILAN: Yeah.

17 COUNCIL MEMBER IGNIZIO: Thank you
18 very much and I just wanted to thank the committee
19 and Council and the Speaker and really everybody
20 who was involved in working on this legislation.
21 This will provide some sorely needed relief for
22 the victims in my community and throughout this
23 city that are dealing with Sandy recovery.

24 Very often we had heard, and I know
25 the Mayor had heard, Council Member Oddo, myself,

1
2 Council Member Ulrich's concerns that the--we were
3 saying we'll do whatever we can to help and part
4 and parcel of that is helping people get back on
5 their feet and we all agreed that then to turn
6 around and ask for fees for Department of
7 Buildings permits wasn't a way to go and we as a
8 city, it was in our interest to absorb those fees
9 and to help people get back on their feet just a
10 little bit. If everybody did just a little bit
11 within their jurisdiction, we can help people get
12 back that much quicker. So I wanted to thank
13 Commissioner LiMandri, the Speaker, and my
14 colleagues here for working through and getting
15 this bill waived--passed.

16 It should be noted that this
17 currently is the rule and that there's an
18 executive order currently in place which does this
19 and we will codify this in the coming days and
20 weeks ahead, but some of my colleagues who were
21 affected by hurricanes asked me to be on this bill
22 and, since we actually had a--we're rushing this
23 through because we wanted to get it before this
24 committee, I would ask if Council Member Ulrich,
25 Council Member Oddo, and some others would be able

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to join on and cosponsor this as well.

CHAIRPERSON DILAN: Yes, we have the prerogative to do that if--

COUNCIL MEMBER IGNIZIO: Yeah.

CHAIRPERSON DILAN: --they so wish.

COUNCIL MEMBER IGNIZIO: Thank you, Mr. Chairman, thank you.

CHAIRPERSON DILAN: And really to the members of the Staten Island delegation, especially the ones that are here, you know, certainly the entire city's hearts go out to you and your constituents and what you've done. And I know that both of you gentlemen in normal circumstances are workaholics so I know you guys have it in overdrive and the people of Staten Island couldn't have better representatives.

MALE VOICE: Thank you--

[Off mic]

CHAIRPERSON DILAN: The Buildings department.

VINCENT GRIPPO: Thank you. Good morning, Chairman Dilan and members of the Housing and Buildings Committee. I am Vincent Grippo, Chief of Staff at the Department of Buildings, and

1
2 I have with me our general counsel, Mona Sehgal.
3 Thank you for allowing me the opportunity to
4 testify in support of this important legislation,
5 which will allow New Yorkers to continue to
6 recover from Superstorm Sandy.

7 We are here today in support of
8 Intro 977, which will amend the Administrative
9 Code of the City of New York in relation to
10 waiving fees associated with applications,
11 permits, and inspections for the demolition,
12 alteration, rebuilding, or repair of certain
13 buildings and systems damaged by the severe storm
14 that occurred on October 29th and 30th of 2012.

15 This bill would add a new section,
16 28-112.10, to the Administrative Code to give the
17 commissioner of the department the authority to
18 waive fees associated with applications, permits,
19 and inspections for work on buildings or systems
20 that suffered severe damage arising out of the
21 storm that occurred, again, October 29th and 30th
22 of 2012. The commissioner would be authorized to
23 waive these fees in connection with demolition,
24 alteration, or reconstruction of buildings that
25 were damaged and unsafe to occupy or that have

1
2 been completely demolished and, in some cases,
3 washed away from the storm. These homes are
4 commonly referred to as Red Tagged structures,
5 which I can explain later, in our records.

6 Currently, the department has 1,040
7 properties that have been issued a Red Tag. The
8 fees would be waived for jobs where an application
9 for construction document approval or where
10 construction documents are not required, an
11 application for permit is submitted on those
12 properties before October 31st of 2014.

13 In addition, for other buildings
14 with storm damage, fees would be waived for
15 electrical and plumbing permits where a licensed
16 master plumber, licensed master fire suppression
17 piping contractor, or a licensed master
18 electrician has certified that the proposed work
19 is related to storm damage. Licensees can submit
20 these applications for work with their
21 certification electronically to the department and
22 obtain the permits virtually immediately. The
23 cutoff date for those fee waivers is January 31st,
24 2013. However, the permit itself will be valid
25 for one year after the date of issuance.

1
2 In addition, as a part of the
3 ongoing recovery and assistance operations, the
4 Mayor has issued parallel emergency executive
5 orders to waive application and permit fees that
6 would otherwise be applicable for applications,
7 permits, and inspections related to work on
8 buildings with significant structural damage in
9 need of demolition, alterations, or
10 reconstruction. This Local Law will give the
11 Commissioner of Buildings the authority to
12 continue waiving such fees when the Mayoral
13 emergency executive order powers no longer exist.

14 Thank you. We urge your support
15 and an expeditious vote on this bill. I'd be
16 happy to take any questions that you have.

17 CHAIRPERSON DILAN: If Council
18 Member Ignizio wants to take the lead, I certainly
19 give--Council Member Oddo, you want to--

20 [background noise]

21 COUNCIL MEMBER IGNIZIO: Okay.
22 Thank you very much and I just--I guess we could
23 walk through the application process as it
24 pertains to non-Red Tags. You still have the
25 ability to waive permit fees and the authorization

1
2 under this bill to waive permit fees for those
3 that aren't Red Tags.

4 VINCENT GRIPPO: That's right.

5 COUNCIL MEMBER IGNIZIO: That's
6 something that has come up and can you walk us
7 through that a little--

8 [Crosstalk]

9 VINCENT GRIPPO: [Interposing]

10 Sure. So one of the things we were concerned
11 about with this storm, of course, is the number of
12 homes impacted, it went far beyond what we would
13 even consider Zone A. And so when we looked at
14 where we saw significant flooding, it really
15 didn't map to flood map and even our tagging
16 system of red, yellow, green isn't an exact
17 science for determining whether or not the home
18 had flooding in the basement that may have
19 compromised either the electrical equipment in the
20 home or plumbing, whether it's gas lines or water
21 lines that lead to critical infrastructure like
22 water heaters, boilers. And so what we're doing
23 is we're waiving all of the, what we call, minor
24 electrical and plumbing permits that would be
25 associated with repairing. It can be electrical

1
2 outlets on the lower levels of the basement, it
3 can be the actual circuit board, the power board
4 that needs to be replaced because salt water went
5 above that level, or, again, it could be your
6 boiler, your water heater, et cetera. All those
7 fees are waived.

8 And the process for filing for
9 electrical permits, for example, is very simple.
10 We have an online application. Right now, in the
11 electrical community 95--in a normal environment,
12 95 plus percent of our electrical permits are
13 handled online, so there's very little in the way
14 of walk-in traffic. A licensed electrician would
15 go online on to the Buildings' website, would fill
16 out a very brief application, they put in their
17 license number for verification that they're a
18 licensed electrician, and they get an approval and
19 a permit.

20 COUNCIL MEMBER IGNIZIO: Thank you.
21 And just so people have some context, the fees for
22 this on the most extensive fee structure would be
23 roughly from where to where?

24 VINCENT GRIPPO: Yeah. So for
25 electrical, we see anywhere from a \$40 fee up to

1
2 approximately \$200 fee, depending on the size of
3 the job. For what we call LAA, or minor plumbing,
4 that's a \$100 fee up to \$155 fee. And then for
5 some of the other--the--

6 COUNCIL MEMBER IGNIZIO:

7 [Interposing] Major, like an Alt 1 or--

8 VINCENT GRIPPO: [Interposing]

9 Right. So there it could range anywhere from
10 \$1,500 to \$4,000, demolitions are anywhere from
11 400 to \$550, an Alt 1 would be anywhere from \$650
12 to almost \$3,000.

13 COUNCIL MEMBER IGNIZIO: Yeah, so,

14 Mr. Chairman, I mean, I think it's--it does help,
15 this is something where people are asking in our
16 communities, Council Member Oddo and mine, saying
17 it's been difficult just to get really back on
18 their feet, and when you're telling people that
19 we're going to remove the burden of potentially
20 thousands of dollars in fees, it does go a long
21 way, so I think this Council and the
22 administration is working really hard to make sure
23 that people get back on their feet as soon as
24 possible with less of a burden. So thank you very
25 much, and I hope we move forward on this

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

legislation soon.

CHAIRPERSON DILAN: Thank you very much. Okay. So just very quickly, I'm glad that we are looking at codifying the Mayor's executive order in the very near future. To this date, how many waivers of the permitting fees under the executive order have been granted?

VINCENT GRIPPO: For electrical applications, there are 2,466 jobs for which people have filed as fee exempt related to the storm, which is really encouraging. So it does appear that the--on the electrical side, significant number of jobs, which is what we expect, and the numbers are there so people are filing. Smaller numbers for plumbing, it's about 200 jobs from minor plumbing that have been filed, and approximately 72 jobs are alterations. That could be a mix of what's more like a major plumbing job for a non-red tagged building that would come in above the limit for what we call an LAA, or in some instances, it's homeowners who have come in to file for either demolition or to make repairs to their red tagged homes.

CHAIRPERSON DILAN: What's with the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

acronym, what's the LAA?

VINCENT GRIPPO: Sorry. Limited Alteration Application, and that's really an acronym, the bottom line is it's a minor plumbing job. So for a regular sized boiler in a one, two, three family home, you would typically file what we call an LAA. If you go over a certain BTU level, that can become an alteration three.

CHAIRPERSON DILAN: Okay. And just in terms of the time frame of how long people will be able to apply under the legislation and the executive order, I believe that individuals have up until the end of January to apply for electrical and plumbing especially, do you think this is sufficient time frame for all the damaged buildings to get their applications in?

VINCENT GRIPPO: Yeah, so we recognize that in the months following the storm, certainly there were issues with shortages of electricians. This was codified in the executive order approximately November 13th. From that point on, we have been publicizing it in a number of different ways, so we've sent out a notice to the licensed community and to the people who have

1
2 signed up with us on our website to get
3 information to inform them of this.

4 In addition to that, we're at the
5 restoration centers and we've trained our people
6 to provide this information to the homeowners who
7 come in. And our inspectors, as you know, are
8 doing inspections of all of the yellow and red
9 tagged homes, they also have this information, and
10 when they know that they see conditions where you
11 have to--where they know that electrical repair
12 work has to be made, they have been trained to
13 notify the owner of this incentive. So we do feel
14 notification was key, the notification had started
15 to occur on November 13th, that's going to give
16 people approximately 2 1/2 months.

17 And, again, the key here is you
18 need to assess that you have damage, you need to
19 speak to an electrician, that electrician can file
20 the application in literally minutes, and then
21 that permit's valid for up to a year. So we also
22 think that that gives time in the event that the
23 electrician can't secure parts or that the work
24 itself is delayed. As long as they file with us
25 online and pull the permit, they have a year to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

complete the work.

CHAIRPERSON DILAN: So if the time frames were extended by a few months, would the department have any objection? 'Cause it's good listening to all the licensed professionals, but at the end of the day, they're there to work. What I want to hear from my colleagues is what is on the mind of their constituents and have all their constituents had enough time to get the actual permits filed. So I would like to know if there's objection 'cause I for one certainly don't see the harm in extending the deadline and the time limit by a month or two.

VINCENT GRIPPO: Yeah, I mean, I think we can--I don't think that we're strongly opposed to that.

CHAIRPERSON DILAN: Okay. I just wanted to get the sense and the sentiment of the delegation.

In terms of revenue on this--

VINCENT GRIPPO: Yeah.

CHAIRPERSON DILAN: --items, I would expect that the department should see a shortfall in its revenue as a result. Do you have

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

any projections?

VINCENT GRIPPO: So we view this as a revenue certainly that we could have gotten, but we view this as revenue that would have been above any plan or projected revenue because, certainly, we feel that the vast majority of the people who will file with us are going to be filing simply because of the nature of what occurred, they never would have come in and filed with us, and so we're not viewing it as lost revenue. We've done some projections, it certainly looks like approximately 2 million, that's a--you know, it's very difficult to project this stuff out 'cause you really don't know what will come in, but we look at it as something, you know, where you could be in the range of 2 plus million in revenues that, yes, the City would have obtained above and beyond what we had projected, but I think we all agree that, in this instance, that's really not what we want to be doing.

CHAIRPERSON DILAN: Okay. So in terms of landmark structures, does the department have any knowledge as to how many landmark structures were severely damaged? And the

1
2 Landmarks Preservation Commission bases its fees
3 that it requires for permit applicants to pay,
4 they're payable to the Buildings department under
5 the code. If this bill would have waived certain
6 fees for owners affected by Sandy, what impact
7 would this have on landmarked buildings who also
8 must see LPC permits to complete work?

9 VINCENT GRIPPO: Okay. I,
10 unfortunately, I don't know the number of
11 landmarked buildings impacted, we can certainly
12 get that for you, Chairman, as soon as means [off
13 mic]. Do you want to mention the landmark fees?

14 CHAIRPERSON DILAN: Just identify--

15 MONA SEHGAL: Yeah, I--

16 CHAIRPERSON DILAN: --yourself for
17 the record.

18 MONA SEHGAL: Mona Sehgal,
19 Department of Buildings.

20 CHAIRPERSON DILAN: [Interposing]
21 I'm sorry, one more time.

22 MONA SEHGAL: Mona Sehgal,
23 Department of Buildings, General Counsel.
24 Chairman, we could not waive landmarks fees
25 through this legislation, that would be up to

1
2 Landmarks, but to the extent of numbers, yeah, we
3 have not gotten specific numbers of--and I think
4 just anecdotally, the sense is there are not many,
5 not many at all from what I've heard, but not
6 specific numbers.

7 CHAIRPERSON DILAN: Okay. I think
8 it's a good thing to look into because even though
9 the department can't waive fees, we can. And if
10 it turns out to be a major issue, I think we
11 should consider it. I think if there are one or
12 two landmark buildings throughout the city that
13 were affected, I would think that some sort of
14 agreement between the city and those buildings
15 should suffice, so that's something that we should
16 look into.

17 I may have some more questions, I
18 believe, do any of my colleagues have any?
19 Council Member Fidler, followed by Jackson, and I
20 might come back towards the end.

21 COUNCIL MEMBER FIDLER: Thank you,
22 Mr. Chairman, and I'm going to go to the issue
23 that you raised about extending the deadline in a
24 moment, but I do want to say that as the Council
25 representative from Gerritsen Beach, Canarsie,

1
2 Sheepshead Bay, and Mill Basin, that I would be
3 remiss if I didn't ask counsel to add my name as a
4 cosponsor of this bill. All those communities
5 were very severely impacted along the Brooklyn--
6 southern Brooklyn waterfront.

7 I was stunned, Mr. Grippo, at the
8 number of exemptions and waivers that had been
9 granted thus far as being too few. Twenty-four
10 hundred and change, I have 2,500 customers in
11 Gerritsen Beach alone, every one of whom is going
12 to be replacing their electrical panel, so I'm
13 surprised at--given the urgency of making
14 electrical repairs first, that that number isn't
15 way higher. So my first question would be, when
16 repairs are made pursuant to the Rapid Repairs
17 program, which hasn't proved to be all that rapid,
18 are they filing for electrical permits as well and
19 are they being--are they included in that waiver
20 number?

21 VINCENT GRIPPO: My understanding
22 is they are required to file with us. Whether
23 they would be in this number, I don't know if
24 they've actually initiated those filings and I
25 don't know how many homes they've actually gotten

1
2 to. I mean, certainly if, you know, feeling the
3 number is low, I mean, there are always some
4 percentage of people who will do the work and not
5 file, and that's--

6 COUNCIL MEMBER FIDLER:

7 [Interposing] Well through the Rapid Repairs
8 program--

9 [Crosstalk]

10 VINCENT GRIPPO: [Interposing] No,
11 no, no, no, putting that aside.

12 COUNCIL MEMBER FIDLER: Oh, so
13 earlier this week, Rapid Repairs was out in
14 Sheepshead Bay at a town hall and Ms. Mallon, I
15 think who runs the program, told the folks
16 gathered that they had been to, I think, 9,000
17 homes, they completed 3,000 repairs. I mean, how
18 could they have completed 3,000 repairs if only
19 2,400 fees have been waived?

20 VINCENT GRIPPO: Yeah, I don't
21 think they would be in this number. They
22 certainly will have to file the work with us, but
23 I believe, because of the nature of the program,
24 the City is essentially conducting the repair, I
25 think they would be fee exempt under a separate

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

provision.

COUNCIL MEMBER FIDLER: Under a separate provision, all right, well that makes a little sense, but it still strikes me that, Rapid Repairs aside, that 24, 2,500 waivers is extremely low considering the inordinate number of people who are making electrical repairs. And, you know, I mentioned Gerritsen Beach, this is a single community that I am sure there'll be 2,500 waivers; Canarsie, which had 4,000 customers a week after the storm without electricity just south of Flatlands Avenue. And it would seem to me that, you know, the first thing I'm going to fix in my house is the electricity--

[Crosstalk]

COUNCIL MEMBER FIDLER: -- apparently that's not happening, all right? Because if it were happening, that number would be way higher. And despite the fact that it's somewhat counterintuitive to me, that, you know, that all of these, you know, all of these waivers would be in by the end of December because I'm not waiting until January to get my electric back, apparently that's not the case. And so the

1
2 chairman was asking for feedback from members of
3 the committee as to what's going on on the ground,
4 my comment would be, Mr. Chairman, that based upon
5 the number that had been granted, there are many,
6 many, many more that are coming and if they are
7 not--I mean, I would hate for someone to--who
8 finally got around to it on February 10th not to
9 get that waiver, and I think that the idea, your
10 thought of extending the deadline for a couple of
11 months after that is absolutely necessary, given
12 the numbers that Mr. Grippo has testified to.

13 Thank you.

14 CHAIRPERSON DILAN: Thank you,
15 Council Member Fidler. Council Member Jackson.
16 We've also been joined by Council Member Jim
17 Gennaro of Queens.

18 COUNCIL MEMBER JACKSON: Well thank
19 you, Mr. Chair. And I was just reading the
20 testimony being submitted by various parties on
21 this particular matter and I saw in here under
22 Intro number 977 the waiver from the National
23 Elevator Industry, I don't know if you've seen
24 that, they basically agree with Intro 977, but
25 basically asking that they be incorporated in the

1
2 fee waiver and emergency also, and based on the
3 same premise like everything else. And I was just
4 curious to know whether or not, Mr. Chair, whether
5 or not that's going to be amended to include it in
6 the bill or whether or not the Department of
7 Buildings--what their feeling is about elevator
8 repair similar to all the other stuff regarding
9 977.

10 VINCENT GRIPPO: Yeah, you know,
11 again, the intention of this bill and the
12 intention of executive order is really to focus on
13 one, two, three family homes, people--you know,
14 building owners of residential homes, primary
15 residents where there was critical damage where
16 immediate repairs needed to be in order to get
17 people back in the buildings. I do think there
18 certainly are issues with getting elevators online
19 and it's something we could work with the Council
20 on, and potentially in separate legislation if you
21 feel strongly about it. But I think in this bill,
22 when we did the executive order, we were really
23 focused on these homes that really needed an
24 immediate repair.

25 COUNCIL MEMBER JACKSON: Sure, and

1
2 I can understand that, but structures that have
3 elevators, they have immediate needs also and
4 especially, you know, all of the news, we saw all
5 of the devastation, but I know also in my personal
6 experience in dealing with some of the NYCHA
7 developments and people having to walk upstairs
8 and what have you and so forth, and I don't think
9 that, you know, people that need elevators--and it
10 doesn't matter what's your age, but more
11 specifically, seniors and people in need that have
12 disabilities, that may use a wheelchair, I just
13 think that you don't need to, in my opinion, wait
14 for legislation, I mean, you could just do this, I
15 don't think you need legislation. If you're
16 telling me we do, then I would recommend that we
17 amend it to include for elevators also.

18 CHAIRPERSON DILAN: Well they
19 certainly have the authority to do it under
20 executive order the way they are doing this
21 currently under executive order.

22 MALE VOICE: Yeah.

23 CHAIRPERSON DILAN: In terms of
24 what the agencies see in terms of number of
25 buildings, especially where there are residents,

1
2 not commercial buildings, where elevators are down
3 as a result of the storm, I believe the agencies
4 at this time would have a better indicator as to
5 how much of a problem that is than I would.

6 Certainly in the NYCHA buildings, I would agree
7 with you, some of the ones in lower Manhattan had
8 some issues with the elevators, but, you know, it
9 is still on subject so if the department has any
10 idea about how many residential buildings with
11 elevators that--like how big of a problem is this?

12 VINCENT GRIPPO: Yeah, I mean, with
13 the multi-dwelling buildings that had flooding, we
14 know that those numbers are certainly in the
15 hundreds, they're not in the thousands. Again,
16 we'd have to take it back, I think it's--they're
17 certainly worthy of consideration, I just--I can't
18 say--

19 CHAIRPERSON DILAN: [Interposing]
20 If you could take it back 'cause what--

21 VINCENT GRIPPO: Absolutely.

22 CHAIRPERSON DILAN: --I'd like to
23 do, and I think that the goal that the Speaker has
24 put on me and this committee is to have this bill
25 ready to go by the next Stated Meeting, which is

1
2 in a week or so, so we would need that information
3 expeditiously and if the data it should be
4 included, then it should be included. If it says-
5 -

6 VINCENT GRIPPO: Okay.

7 CHAIRPERSON DILAN: --it doesn't
8 need to be included, then I think some sort of
9 executive order should suffice and we wouldn't
10 need to codify it via legislation, so we would,
11 you know, certainly wait to hear your feedback on
12 this issue.

13 COUNCIL MEMBER JACKSON: Mr. Chair,
14 the only points that I was raising because I
15 happen to be reviewing the documents and I saw
16 that the National Elevator Company was in favor of
17 the bill but wanted to be included in that. And
18 the bottom line that I just think that as the City
19 of New York, especially with the devastation of
20 hurricane, Superstorm Sandy, that we need to be
21 flexible--

22 CHAIRPERSON DILAN: [Interposing]
23 Again, and I don't--

24 [Crosstalk]

25 COUNCIL MEMBER JACKSON: --we need

1
2 flexibility and not rigid--not to be rigid in the
3 process.

4 CHAIRPERSON DILAN: And I agree,
5 but I think where I want to focus, and certainly
6 we have to listen to the practitioners, but what I
7 want to focus on is the needs of New Yorkers and
8 not the needs of--

9 [background noise]

10 CHAIRPERSON DILAN: --companies
11 that want to waive their fees and get around doing
12 what they're required to do by law and taking
13 advantage of a storm. So and to the extent that
14 there are buildings where people live where they
15 are hurting, I think we should consider it, but to
16 the extent that we do something to the benefit of
17 an association that just wants to be included, I
18 think we need to be a little bit vigilant and
19 careful. I mean, certainly, we listen, but if
20 people are hurting and a lot of elevators are
21 still doing, we certainly have to act.

22 COUNCIL MEMBER JACKSON: And, Mr.
23 Chair, my just final comment, I would agree with
24 you wholeheartedly, but also understanding that
25 small business has been devastated also in this

1
2 process and I just think that we as a city need to
3 be very, very flexible at this time, all things
4 considered. And that's the only point that I'm
5 raising. Thank you.

6 CHAIRPERSON DILAN: Agreed. We've
7 been joined by Council Member Viverito of
8 Manhattan and Council Member James of Brooklyn.

9 Do any of my colleagues have any
10 other questions on this issue? So, Mr. Grippo,
11 you stated in your initial testimony that there
12 were approximately 1,040 buildings--

13 VINCENT GRIPPO: Yes.

14 CHAIRPERSON DILAN: --that were red
15 tags, is this a current and active number? Have
16 some of the buildings had their red tags and was
17 this the current number?

18 VINCENT GRIPPO: No, so, to be
19 clear, the 1,040 number, if a building was ever at
20 any point red tagged, they would be eligible for a
21 waiving of permit fees, and so what we have to
22 date actually is we're down to 773 red tagged
23 properties. But, again, because a number of those
24 red tagged properties, the owners have already
25 taken some corrective action, which is why they've

1
2 been downgraded, those buildings will still be
3 eligible for the waiving of fees and that's why we
4 have the larger number of 1,040.

5 CHAIRPERSON DILAN: Okay. How did
6 the department document the 200 buildings that
7 were completely destroyed as a result of Hurricane
8 Sandy?

9 VINCENT GRIPPO: I believe it's a
10 little more than that, but, yes, the--

11 CHAIRPERSON DILAN: [Interposing]
12 If it is, could you give us the correct number, if
13 you have it?

14 VINCENT GRIPPO: Yeah, it's 200
15 and--I'm sorry, it's 222 as of our current total
16 that were demolished by the storm. So, you know,
17 the process really does vary. We went through
18 what we called Rapid Inspections where we sent
19 inspectors out to these properties to tag them
20 red, yellow, green. In instances, unfortunately,
21 where there was very little, if any, of the
22 structure remaining, our inspectors, if there was
23 a little bit of the foundation enough to tag it,
24 in many instances, would issue the red tag, and
25 the red tag really is more for a building that's

1
2 still standing but is severely structural damaged,
3 it notes that that building is unsafe for you to
4 go in and certainly unsafe for you to reoccupy.
5 We use that same red tag connotation for a
6 building that was completely destroyed; and in
7 some instances, they were actually able to put a
8 red tag physically somewhere; in other instances,
9 it was impossible but we were noting the address
10 as not being there anymore. And we have a
11 database that we store all of our red, yellow,
12 green tagged properties and in that database, we
13 note it as red, demolished by storm.

14 CHAIRPERSON DILAN: Okay. And how
15 much of this information will be available online
16 as it relates to these type of structures?

17 VINCENT GRIPPO: If you go on to
18 NYC.gov/buildings, there is a post-storm
19 information section and I can assure that there is
20 very detailed information that's been put into
21 flyers that have been distributed to these
22 communities for many, many weeks and it really
23 does lay out the--what the red, yellow, green
24 means, it also lays out what fees we are waiving,
25 it lays out corrective action for people who have

1
2 different levels of damage and have been tagged
3 red, and now we have a whole section,
4 unfortunately, again on demolition, as that's
5 another thing that we're working at over the
6 coming weeks.

7 CHAIRPERSON DILAN: I would assume
8 that the BIS [phonetic] system would have the same
9 information.

10 VINCENT GRIPPO: The BIS system has
11 a--the BIS system itself for the individual
12 property does not have a record publicly of the
13 red, yellow, green. And I think, you know, we
14 felt that from a privacy public perspective, we
15 didn't necessarily view that as something we
16 wanted to put up on the public's view of BIS for
17 the individual property. But if you go on our BIS
18 intranet, the department has a red banner for a
19 red tagged building and that ensures us that when
20 somebody comes to pull a permit or file an
21 application with us, that we know that property is
22 fee exempt.

23 CHAIRPERSON DILAN: So for privacy
24 purposes, you have it; for public purposes, you
25 don't.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VINCENT GRIPPO: Right.

CHAIRPERSON DILAN: And that's fair enough. Council Member Ignizio.

COUNCIL MEMBER IGNIZIO: Yeah, I'm sorry, I have one more thing I wanted to raise just to sort of put on the record that I did with Commissioner LiMandri a couple of days ago where I believe the department ought look into waiving the requirement for--or waiving the directive that we can no longer have rent-a-fence fencing around sites. I think the goal of not having rent-a-fence, I guess, was one that the building department agreed with, I personally didn't. But here, where we have so many homes that need to be fenced in--I have kids playing in my red tag homes because, you know, go back to your own head when you were 11 and 12 years old--

VINCENT GRIPPO: Yep.

COUNCIL MEMBER IGNIZIO: --it's the most fun thing in the world to play in a house where nobody is and, you know, I don't know what, you know, whatever's going on is going on, but it is an attractive nuisance and we need to secure these attractive nuisance situations and the best

1
2 way to do that and the fastest way to do that and
3 the cheapest way to do that I think is to allow
4 for rent-a-fence fencing type, I don't know if
5 it's one company or if there's 20 companies, I'm
6 not that familiar with them, but you know what I'm
7 talking about--

8 VINCENT GRIPPO: Yes.

9 COUNCIL MEMBER IGNIZIO: --the
10 cyclone fencing, to be allowed for this situation,
11 at least for the next couple of months until we
12 can get on our feet and we can get workers out
13 there to build more substantial construction
14 fence. And just wanted to put on the record for
15 my colleagues that are also going through the same
16 situation, and I did raise it with the
17 commissioner, and he said he will be looking at it
18 and getting back to me.

19 VINCENT GRIPPO: Yep, we spoke
20 about it.

21 CHAIRPERSON DILAN: Okay. Thank
22 you, Council Member Ignizio. To the extent that
23 the buildings that you've identified as red tagged
24 and the numbers that you've given for red tagged
25 buildings, how many does the department anticipate

1

2 coming forward for plumbing and electrical
3 permits?

4

VINCENT GRIPPO: Well, again, sir,
5 you said red tag, I mean, the plumbing, electrical
6 permits is a wider universe than just the red
7 tagged buildings.

8

CHAIRPERSON DILAN: Okay. So then
9 give me what the department would anticipate that
10 would be coming forward for the electrical and
11 plumbing and will be eligible to come forward and
12 get it done at the waive the fee.

13

VINCENT GRIPPO: Unfortunately,
14 it's one of the challenges we have. So not to
15 give too broad an answer to this, but we really
16 don't know--we don't have a number of homes that
17 sustained flooding that would require the
18 electrical repair. And just quickly, you know, we
19 had inspectors go home to home and in certain
20 neighborhoods you have flooding in a basement five
21 feet and then the next home has flooding in the
22 basement two feet, and then the next home didn't
23 have flooding.

24

CHAIRPERSON DILAN: All right, so
25 essentially what you're doing is you're leaving it

1
2 at the discretion of the licensed professional to
3 basically certify and state that, yes, the damage
4 was indeed done as--

5 VINCENT GRIPPO: [Interposing]
6 Completely at the discretion.

7 CHAIRPERSON DILAN: So what happens
8 if--and I doubt this will happen, I sincerely
9 doubt this happens--what are the penalties for
10 somebody that falsely certifies to take advantage
11 of the fee waiver?

12 MONA SEHGAL: Right, so we are
13 relying on the licensee's seal and license to
14 state to us under certification that it was indeed
15 damaged by storm and that's why the plumbing or
16 the electrical work needs repair. Should they
17 falsify that information, I mean, at the one end,
18 it could be that they could be subject to losing
19 their license.

20 CHAIRPERSON DILAN: Yeah, I doubt
21 they would risk their license--

22 MONA SEHGAL: Yeah.

23 CHAIRPERSON DILAN: --but it's just
24 a question--

25 MONA SEHGAL: [Interposing] That

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

could be a--

CHAIRPERSON DILAN: --I feel
obliged to ask since it...

MONA SEHGAL: That's why I think
relying on their certification is very important
for us because their license, you know, is at risk
if they don't tell us the truth.

CHAIRPERSON DILAN: [Interposing]
But how would the department then determine
geographically if there's something that needs to
be looked into? Like, with something like,
obviously, water damage, obviously, water damage
would be included, but if a professional decides
to say, hey, my electric was damaged as a result
of a fall of a tree, you would give that type of a
discretion to a licensed professional?

VINCENT GRIPPO: Yes.

CHAIRPERSON DILAN: Yes.

VINCENT GRIPPO: And unless we had
absolute proof that somebody was fraudulently
certifying, we would not plan to take action.
There's just no way in this storm for us to
localize or narrow that field of homes that were
affected. I don't think anybody really knows.

1
2 CHAIRPERSON DILAN: All right, so
3 would there be any type of auditing system that
4 you would have in place for fee waivers at all?

5 VINCENT GRIPPO: We're not planning
6 one at this time.

7 MONA SEHGAL: Not for this [off
8 mic].

9 VINCENT GRIPPO: Yeah, not for--and
10 we have auditing systems for fee waivers on--to
11 catch people in other instances, but, you know, at
12 this point, as we do with all filed jobs,
13 inspectors go out after the job is filed and
14 inspect that the work was done properly, and,
15 again, if, you know, if they see clear evidence
16 that there was fraud, the department would have
17 the ability to take action.

18 CHAIRPERSON DILAN: Okay. Okay.
19 We've also been joined by Council Member Ulrich of
20 Queens. Do any of my colleagues have any
21 questions? If not, I'd like to thank the
22 Department of Buildings for coming in and
23 testifying today. Certainly, would like to thank
24 the Mayor for instituting this executive order,
25 I'm sure it'll help plenty of New Yorkers, and I'm

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

glad we're codifying it again today. Thank you.

VINCENT GRIPPO: Thank you.

CHAIRPERSON DILAN: Okay. So we have one person signed up to testify in favor of Intro 977 and six individuals on 967. We'll allow 967 to go first if he is here, I just saw him and he walked out, Sylvester Giustino. If not, he will have to wait. So the first panel will consist on 967, Alexandra Hanson, Philippe Danielides, and Emily Goldstein. And we'll take them in that order.

MALE VOICE: You'll have to go last. And these are yours. These are next, and he's in the bottom. And I will, I'll take these.

CHAIRPERSON DILAN: Okay. So I only see two individuals. Oh, okay, yeah, come on up, come on up. Okay. Ms. Hanson, why don't you begin and even though I've introduced you in your--you have to introduce yourself in your own voice--

ALEXANDRA HANSON: Sure.

CHAIRPERSON DILAN: --for the record and then you can get--

ALEXANDRA HANSON: Okay.

1
2 CHAIRPERSON DILAN: --into your
3 testimony.

4 ALEXANDRA HANSON: Good morning, my
5 name is Alexandra Hanson and I am here
6 representing the New York State Association for
7 Affordable Housing, or NYSAFAH, the trade
8 association for New York's affordable housing
9 industry statewide. I would like to thank Chair
10 Dilan and the members of the Committee on Housing
11 and Buildings for the opportunity to testify today
12 on Intro 967.

13 NYSAFAH commends the Council's
14 efforts to ensure the safety and wellbeing of
15 housing for New York City residents by enhancing
16 the tools HPD has to deal with negligent owners
17 with multiple, repeat offenses. However, NYSAFAH
18 is concerned about the unintended consequences
19 that Intro 967 could have on the affordable
20 housing community if the intent of the legislation
21 is not clarified.

22 NYSAFAH is concerned that Intro 967
23 will increase costs to building owners by imposing
24 fines for unresolved violations without providing
25 sufficient recourse to address issues, such as

1
2 incorrectly issued violations or situations that
3 may inhibit landlords from remedying violations.
4 This is particularly troublesome for affordable
5 housing developments that serve low, moderate, and
6 middle income households and operate on thin
7 margins. NYSAFAH requests that the City Council
8 clarify the intent of the bill by amending the
9 language of the legislation to protect responsible
10 owners who have shown good faith efforts to remedy
11 violations or are in the process of contesting or
12 clearing violations.

13 Under the current language, Intro
14 967 does not provide any recourse for building
15 owners who believe that they have been incorrectly
16 issued a violation. Challenging violations can be
17 a lengthy process. The bill should suspend all
18 remedial work and fines until judgments about
19 contested violations are reached, with the
20 exception of violations that pose an imminent
21 threat to the health and safety of tenants. The
22 City already has the authority to remedy Class-C
23 emergency violations if building owners have not
24 corrected them within 24 hours.

25 Prior to allowing the City to

1
2 complete repairs, Intro 967 should also extend the
3 time frame for all non-hazardous violations to 12
4 months from the time the violation is issued to
5 allow for a more reasonable window for the
6 completion of work to remedy violations prior to
7 intervention by the City. In addition, owners of
8 newly purchased buildings can sometimes face
9 hundreds of violations that they need to clear. A
10 provision for granting extensions should be made
11 for situations in which responsible new owners are
12 in the process of clearing lengthy lists of
13 violations instead of penalizing them for the
14 indiscretions of previous owners.

15 The proposed bill also does not
16 acknowledge or address situations in which a
17 tenant is either at fault or is denying access to
18 the unit to correct a violation. Situations can
19 arise in which tenants cause damage, sometimes
20 repeatedly, and/or routinely deny access to units,
21 inhibiting the ability of owners to resolve the
22 violation. Intro 967 should explicitly provide
23 the landlord recourse for such circumstances. HPD
24 currently provides a mechanism for documenting
25 landlord attempts to gain access into apartments

1
2 of noncompliant tenants with violations. And
3 Intro 967 should exempt landlords who have
4 demonstrated these good faith efforts to gain
5 access to units or have repeated violations caused
6 by the tenants themselves.

7 Improving the quality of housing in
8 New York City is a worthy cause, but the current
9 version of Intro 967 does not provide adequate
10 protections for responsible landlords. NYSAFAH
11 requests that the Council revise the language of
12 the bill to provide protections for the scenarios
13 described herein.

14 I thank you again for the
15 opportunity to testify today and for your
16 consideration of NYSAFAH's concerns.

17 CHAIRPERSON DILAN: Okay. Thank
18 you. I believe I called Ms. Goldstein. What was
19 the--oh, okay, so Mr.--

20 PHILIPPE DANIELIDES: Danielides.

21 CHAIRPERSON DILAN: --Danielides,
22 thank you. Just say your name completely for the
23 record and then you can get into your testimony as
24 well.

25 PHILIPPE DANIELIDES: Sure, my name

1
2 is Philippe Danielides and I'm a legal fellow at
3 the Community Development Project at the--is the
4 microphone on?

5 CHAIRPERSON DILAN: If you could
6 speak more directly into the mic for recording
7 purposes.

8 PHILIPPE DANIELIDES: Not at all,
9 no. Are we on? There we go. All right, just to
10 say it again. There we go. All right, we are on
11 line. My name is Philippe Danielides and I'm a
12 legal fellow at the Community Development Project
13 of the Urban Justice Center. Thank you, Council
14 Members, for the opportunity to give testimony
15 today regarding Intro 967.

16 A significant portion of our work
17 at the Community Development Project consists of
18 bringing HP or repair cases against negligent New
19 York City landlords on behalf of tenant
20 associations in Housing Court. I appear today on
21 behalf of the Community Development Project in
22 support of this amendment, which would give
23 inspectors at the Division of Housing Preservation
24 and Development the power to issue orders to
25 correct the underlying conditions from which

1
2 violations of the Code or other laws relating to
3 dwellings originate. We support this amendment
4 for several reasons.

5 First, this amendment gives full
6 effect to the chief purpose of these inspections,
7 which is to ensure that all New Yorkers live in
8 decent, safe, and sanitary conditions. With the
9 passage of this amendment, inspectors will finally
10 have the ability to address the root cause of
11 housing violations, thereby leading to meaningful
12 and permanent improvements rather than the often
13 superficial fixes which affect appearances, but
14 little more.

15 Second, on a practical level,
16 addressing the underlying violations will generate
17 significant time and cost savings for all parties
18 involved. The City will save money, we believe,
19 as this improved enforcement mechanism will reduce
20 the need for repeated inspector visits to
21 remediate the same problem. Not only will this
22 save taxpayer dollars, it would also shorten the
23 response time for complaints, as inspectors will
24 no longer be bogged down by redundant inspections.
25 Landlords, we believe, will also save time by

1
2 addressing and correcting violations once, which
3 will also lead to cost savings both by minimizing
4 labor-related expenditures as well as, we believe,
5 attorney's fees related to legal actions brought
6 by tenants in Housing Court to correct such
7 chronic violations. Tenants will, of course, also
8 benefit by not having to resort to the courts, as
9 will the courts itself, which is currently
10 overburdened and ill-equipped to accommodate the
11 volume of incoming complaints.

12 Third, I think it's important for
13 all of us here to realize that this is not just a
14 pocketbook issue, but also a public health issue.
15 Prolonged exposure to mold, for example, which is
16 one of the principal issues that has been
17 addressed in the cause for this legislation, is
18 often caused by non-visible water damage and has
19 been linked to headaches and skin irritation in
20 the short-term and permanent respiratory and
21 central nervous system issues in the long-term.

22 Until now, inspectors were only
23 empowered to conduct visual inspections of mold
24 growth or water damage instead of the proper and
25 more comprehensive sampling assessments prescribed

1
2 by experts. As a result, many of our fellow New
3 Yorkers have been needlessly exposed to these
4 unhealthy conditions while waiting months or even
5 years before getting the court to order landlords
6 to undertake necessary remediation measures.

7 Aside from the increased cost and strain on the
8 City's health care system related to such
9 preventable conditions, we believe that our fellow
10 citizens deserve to live in safe, healthy homes,
11 and this legislation is a significant step in the
12 right direction.

13 Accordingly, the Urban Justice
14 Center strongly encourages the City Council to
15 pass this measure. And I thank you for your time.

16 CHAIRPERSON DILAN: Thank you. Ms.
17 Goldstein?

18 EMILY GOLDSTEIN: Is this one
19 working yet? Okay.

20 CHAIRPERSON DILAN: Yep, we got it
21 now.

22 EMILY GOLDSTEIN: Good morning, my
23 name is Emily Goldstein and I am the coordinator
24 of Preservation Organizing and Policy at New York
25 State Tenants and Neighbors Information Service

1
2 and New York State Tenants and Neighbors
3 Coalition, two affiliate organizations that share
4 a common mission: To build a powerful and unified
5 statewide organization that empowers and educates
6 tenants; preserves affordable housing, livable
7 neighborhoods, and diverse communities; and
8 strengthens tenant protections. I want to thank
9 the Chairman Dilan and the Committee members for
10 the opportunity to testify on this bill today.

11 The Information Service of Tenants
12 and Neighbors organizes tenants in at-risk
13 regulated and subsidized buildings, helping them
14 to preserve their homes as affordable housing and
15 organizing administrative reform campaigns. While
16 the coalition is a 501(c)(4) membership
17 organization, it does legislative organizing to
18 address the underlying causes of loss of
19 affordability. Our membership organization has
20 over 3,000 dues paying members.

21 I specifically want to speak today
22 to the experience of our information service,
23 which works frequently with individual tenants, as
24 well as tenant associations to address problems
25 related to the conditions of apartments and

1
2 buildings throughout the city. Among the most
3 common complaints when we go out to buildings or
4 when tenants call our office is lack of repairs
5 and services.

6 The situations that seem to
7 frustrate tenants the most are those in which the
8 same problems continually recur, often having gone
9 through the process of filing complaints with
10 management, calling 311, perhaps even going to
11 Housing Court in order to get repairs made,
12 tenants find themselves back in the same place
13 they started after a few months if the underlying
14 cause of a problem wasn't addressed in the
15 repairs. Tenants wind up feeling they have wasted
16 time, energy, and, in many cases, money taking
17 time off from work to go to Housing Court for
18 nothing.

19 We believe the legislation being
20 introduced today fills a serious gap in the
21 enforcement of the city's housing code--code,
22 excuse me, and is an important step towards
23 preventing the types of situations I just
24 described. It seems clear that the remedy to
25 water damage to a wall, the pipes should be fixed

1
2 in addition to having the wall re-plastered.
3 Where a problem such as water damage--sorry, where
4 this is not currently addressed by the housing
5 inspection process or by what HPD inspectors are
6 authorized to do, this legislation, we think, will
7 fill that need.

8 We're hopeful that the legislation
9 will help to ensure that the root causes of code
10 violations are properly addressed and will improve
11 overall enforcement of the housing code and, with
12 it, the quality of housing for tenants throughout
13 the city.

14 Thank you.

15 CHAIRPERSON DILAN: Okay. Thank
16 you all for your time and testimony. Just a
17 couple of quick questions for Ms. Hanson, and I
18 know that NYSFAFH does have some concerns on the
19 bill, but you had the opportunity to hear the
20 testimony from Vito Mustaciuolo and you could see
21 what this current administration's scope is and
22 the limit of that scope. Now, I know your concern
23 may be the way the bill is written and the broad
24 authority of the way that the bill is currently
25 written. HPD is the expert in this arena, we do

1
2 want to grant them some level of authority to make
3 sure that they get to what they intend to do, and
4 I believe it's the intent that you and your
5 association also agree with.

6 ALEXANDRA HANSON: Absolutely.

7 CHAIRPERSON DILAN: So we certainly
8 would like to in the very near future hear any
9 reasonable requests that you have to certainly
10 protect landlords that are doing the right thing,
11 because I know the biggest fear for any good
12 homeowner, good landlord is water damage to their
13 property and their building, and having underlying
14 water conditions persist for many months is not
15 the trait of a good owner or a good landlord. So
16 I know certainly we want to take your concerns
17 into consideration, and we will, but most present
18 and good landlords make sure they get a hold of
19 water damage immediately because it certainly
20 devalues their property and continues to cause
21 structural damage to major building components, so
22 they usually address them right away.

23 Now that was said verbally, I don't
24 know that that was in the legislation, so we'll
25 certainly work with you on that and make sure that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HPD sticks as close to the intent as possible.

ALEXANDRA HANSON: Right, and I think that that's our concern.

CHAIRPERSON DILAN: I'm sorry.

ALEXANDRA HANSON: No, I was just saying that that, yes, that echoes our concern that it was said verbally and that it's not expressed in the legislation itself.

CHAIRPERSON DILAN: Okay. And we can work on that and they did say that there will be some rulemaking that needs to be done. We do want to grant them the authority as broad as possible, but also within, you know, within reason.

To the tenant groups, you know, I am in agreement, but for the maybe 0.1% of good owners out there that may get caught into this, you know, I'm still obligated to make sure that they get a fair shot as well.

So thank you all for your time and for your testimony, and I look forward to further discussions on the legislation as we move towards its disposition.

ALEXANDRA HANSON: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EMILY GOLDSTEIN: Thank you.

PHILIPPE DANIELIDES: Thank you very much.

CHAIRPERSON DILAN: Okay. Next we will hear from Jonathan Levy from Legal Services of New York City, Kerri White of UHAB, and Jason Chan of--I can't read this--CAAV Organizing Asian Community. Okay. We only have two. Sylvester, I called you, you were out of the room, man. You were out of the room, man. I called you first.

SYLVESTER GIUSTINO: Sorry.

CHAIRPERSON DILAN: Okay. Why don't we begin--Sylvester, I'm going to hold you off because you're testifying on a separate bill--

SYLVESTER GIUSTINO: Yes.

CHAIRPERSON DILAN: --so we'll keep this--this should wrap up the testimony on this bill and then you'll have an opportunity. Why don't we begin with Mr. Levy, and then Ms. White?

JONATHAN LEVY: Good morning. I'm Jonathan Levy, the deputy director of the Housing Unit of the Bronx office of Legal Services NYC. Legal Services NYC is the nation's largest legal services provider and we represent tenants

1
2 throughout the city as--sorry, represent--we
3 provide civil legal services for the needs of low
4 income and elderly families and individuals
5 throughout the city, and we have done so for 40
6 years. I appreciate the opportunity to address
7 you this morning.

8 Now our housing units represent
9 tenants, again, throughout the city in eviction
10 defense, housing code enforcement proceedings
11 before administrative agencies and with relation
12 to public benefits, public housing, Section 8
13 administration; and in Supreme Court actions
14 against city and state agencies and actors engaged
15 in things like predatory equity. In short, our
16 practice spans the full purview of the New York
17 City housing topics and we have a unique view into
18 how housing issues affect low income families and
19 individuals.

20 Along the way, we often work with
21 tenant groups and HPD to address conditions in
22 deteriorating buildings. One of the things our
23 attorneys and the community-based organizations we
24 work with see repeatedly are tenants who are
25 plagued with recurring housing code violations

1
2 because the root cause of those problems is never
3 addressed. Tenants are forced to live with leaks
4 and mold that constantly comes back, ceilings that
5 collapse over and over again. Landlords often
6 lift the violations by making cosmetic repairs
7 like repairing a collapsed ceiling, but, because
8 there is no enforcement mechanism that requires
9 them to address the source of the problem, it
10 recurs. HPD inspectors, as you've heard today,
11 repeatedly go to the same apartments to record the
12 same violations. Many tenants really become so
13 frustrated and defeated, they stop calling 311 or
14 taking any other measures because they just
15 believe it's futile, and as a result, sometimes
16 buildings fall off the scope of the City's radar
17 because they have low violation counts, even as
18 they're getting worse and worse.

19 This bill begins to address those
20 problems by allowing HPD to issue orders requiring
21 landlords to address the underlying conditions
22 that create these violations. This way, tenants
23 can get real relief from recurring violations.
24 The resources of organizations like ours and other
25 community-based organizations, as well as the

1
2 courts and HPD, will be used more effectively and
3 more efficiently because there won't be this
4 repetition of inspections, emergency repairs, and
5 litigation.

6 We've seen the power of this kind
7 of order in the Alternative Enforcement Program,
8 where HPD has this tool. It's a tool that really
9 shouldn't be reserved for the worst of the worst
10 buildings, HPD should be able to issue these kinds
11 of orders before buildings deteriorate to that
12 extent. But, you know, we have seen how powerful
13 it is in buildings, buildings that we've worked
14 with, the tenants associations, where they've
15 really been through years of recurring leaks,
16 recurring mold, and the building goes into AEP and
17 then the roof is repaired or the pointing is
18 repaired and there's really a permanent fix to the
19 problem.

20 So we encourage passage of the act.
21 Look forward to working with HPD and tenants
22 groups in making efficient use of it.

23 CHAIRPERSON DILAN: Thank you. Ms.
24 White?

25 KERRI WHITE: Thank you. Good

1
2 morning, my name is Kerri White, I am the co-
3 director of the organizing and policy department
4 at the Urban Homesteading Assistance Board. I'd
5 like to thank the Chair Dilan and the committee
6 for allowing me to testify today.

7 I have been a tenant organizer at
8 UHAB for over four years. In this time, I have
9 personally seen the consequences of neglectful
10 landlords who choose to do the bare minimum in
11 repairs while tenants suffer from hazardous
12 conditions, such as faulty heat, collapsing
13 ceilings, reoccurring leaks, and persistent mold.

14 New York City Housing Maintenance
15 Code exists to protect residents from living in
16 inhabitable apartments and to hold owners and
17 management accountable for the conditions in their
18 buildings. However, some owners have managed to
19 circumvent the code by making patch repairs that
20 temporarily mask the problem, but we all know that
21 these repairs will eventually fail and the
22 problems will come back.

23 Tenants are forced to perpetuate
24 this cycle of fighting to get the bare minimum of
25 work, calling 311 for the same violation over and

1
2 over again, and it will never get fully resolved.
3 It wastes the time of HPD inspectors who have to
4 come back to report on the same violation multiple
5 times. It's bad for the buildings, which continue
6 to deteriorate because they never get the full
7 systematic work that they need. It's bad for our
8 tenants, who fear for the health and safety of
9 themselves and for their families because of the
10 hazardous conditions in their buildings. And it's
11 bad for New York City because the city cannot bear
12 the weight this puts on the affordable housing
13 stock where these problems are generally
14 concentrated.

15 The expansion of the Housing
16 Maintenance Code is necessary to prevent
17 irresponsible landlords from thwarting the laws
18 and it will allow HPD to ensure that the standards
19 that the City Council has already created are
20 effectively being enforced. It will enable HPD to
21 hold management accountable for, not only
22 repairing cosmetic issues, but to fix the
23 reoccurring systematic problems so that tenants
24 will not have to deal with the same violation over
25 and over again. This legislation will be a useful

1
2 tool for the City, advocates, and tenants to
3 ensure that owners and management are keeping the
4 buildings maintained to an acceptable level.

5 UHAB is very happy to see the City
6 Council moving and to HPD to put this innovative
7 mechanism in place where tenants can get the
8 repairs needed to have their apartments remain in
9 safe and decent condition.

10 CHAIRPERSON DILAN: Okay. Thank
11 you all. And seeing as I don't have any questions
12 for you, I would like to thank you for your time
13 and your testimony today. We'll go on--

14 JONATHAN LEVY: Thank you for your
15 time.

16 CHAIRPERSON DILAN: Thank you.
17 We'll go on next to testimony from Mr. Sylvester
18 Giustino on Intro 997 of BOMA New York.

19 SYLVESTER GIUSTINO: Thank you, Mr.
20 Chairman, I appreciate it. Sorry for the--thank
21 you for giving me the opportunity to testify. My
22 name is Sylvester Giustino, Director of
23 Legislative Affairs for the Building Owners and
24 Managers Association of Greater New York. BOMA
25 New York represents more than 750 owners, property

1
2 managers, and building professionals who either
3 own or manage 400 million square feet of
4 commercial office space. And we're responsible
5 for the safety of over 3 million tenants, generate
6 more than \$1.5 billion in tax revenue--and I
7 managed to chase everybody out of the room, so
8 this is great. Anyway--

9 CHAIRPERSON DILAN: You still got--

10 SYLVESTER GIUSTINO: Oh.

11 CHAIRPERSON DILAN: --you still got
12 NYSFAFH.

13 SYLVESTER GIUSTINO: Thank you.

14 The commercial real estate industry is a
15 significant contributor to the nation's and, in
16 particular, our city's economic engine. We employ
17 over 228,000 New Yorkers and contribute over \$14
18 billion dollars to the gross state product.

19 We support the passage of Intro
20 977. At this current time, there is up to 18
21 million square feet of office space that is
22 currently unusable as a result of the hurricane.
23 We believe that this law would not only help
24 damaged buildings come back on line in a more
25 expedited manner, but, more importantly, bring

1
2 life back to normal for so many of our members and
3 tenants. The legislation gives the Department of
4 Buildings the appropriate regulatory oversight to
5 make sure that repairs are made in a safe and
6 perfunctory manner.

7 Our association started to monitor
8 the storm beginning on October 26. We advised our
9 members to take all necessary precautions to
10 prepare their buildings for the potential of
11 flooding and wind damage. Now days before the
12 storm to well within the recovery period, BOMA New
13 York sent 57 separate storm-related advisories to
14 our membership.

15 While our members were well
16 prepared, they still encountered unforeseen
17 challenges. And the number of our buildings,
18 particularly those downtown, had to pump millions
19 of gallons of water out of their basements. And
20 today, a number of our members are facing
21 operational obstacles as they are running their
22 buildings on generators far longer than they have
23 expected.

24 In the first days after the storm,
25 we participated in conference calls with the DOB

1
2 and DEP to discuss the suspension of certain
3 building code provisions so that recovery
4 operations can begin in earnest. We are grateful
5 for the City that they took this immediate action
6 to assist our industry in their recovery efforts.
7 We believe that the passage of Intro 977 will only
8 make our member's recovery operations continue in
9 a safeless and safe way.

10 During Hurricane Sandy, BOMA New
11 York was proud to work in partnership with OEM,
12 DOB, DEP, and other various state and federal
13 agencies on our response to this devastating
14 storm. We're especially grateful to OEM for
15 having a specially designated desk for our
16 association and the real estate industry at the
17 EOC, Emergency Operations Center. We shared
18 important technical information with city agencies
19 and we benefited from receiving important updates
20 during the hurricane.

21 Thank you for giving us the
22 opportunity to testify on this bill, and we urge
23 its urgent passage. Any questions.

24 CHAIRPERSON DILAN: No.

25 SYLVESTER GIUSTINO: That's for you

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to--

CHAIRPERSON DILAN: [Interposing] I certainly agree with you.

SYLVESTER GIUSTINO: The only thing I do want to bring up is that I just want to make sure that the bill does cover the commercial real estate industry. It does say buildings damaged by the storm, but I just want to make sure that it covers the commercial buildings. 'Cause I heard the DO--

CHAIRPERSON DILAN: [Interposing] The way it's drafted, it would--

SYLVESTER GIUSTINO: Okay.

CHAIRPERSON DILAN: --there's not any--

[Crosstalk]

SYLVESTER GIUSTINO: [Interposing] We just want to make sure.

CHAIRPERSON DILAN: --but I think he's just speaking more to the intent of--

SYLVESTER GIUSTINO: Very good.

CHAIRPERSON DILAN: --and I think as you start to get into the, you know, the elevator arena certainly and some--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SYLVESTER GIUSTINO: Yes.

CHAIRPERSON DILAN: --parts, you know, there are--

SYLVESTER GIUSTINO: Absolutely.

CHAIRPERSON DILAN: --residential with elevators, but for the most part, the commercial buildings do have more elevator needs than the residential. You know, certainly we want to see everything quickly done, whether--

SYLVESTER GIUSTINO: Sure.

CHAIRPERSON DILAN: --it's residential or--

SYLVESTER GIUSTINO: Absolutely.

CHAIRPERSON DILAN: --commercial, and if I--I'll sneak one question in for you. Do you feel all your members and providers that are part of your association can get all their permits in within the current deadlines as stated in the bill?

SYLVESTER GIUSTINO: Yes, absolutely.

CHAIRPERSON DILAN: So you think--

SYLVESTER GIUSTINO: If anything, I think this has helped our members recover more

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

quickly--

[Crosstalk]

CHAIRPERSON DILAN: [Interposing]

So you don't think an extension of the permitting process would help your members?

SYLVESTER GIUSTINO: Oh, if the date was moved from 2014 to a later time?

CHAIRPERSON DILAN: Well I don't think it'll be moved by, you know--

SYLVESTER GIUSTINO: [Interposing]
Okay. Well then I--

CHAIRPERSON DILAN: --by a couple of months, I don't think it'd be a dramatic move.

SYLVESTER GIUSTINO: Okay. Well it's just fine, we support it. Anything to make the recovery efforts easier.

CHAIRPERSON DILAN: Okay. Thank you, Mr. Giustino.

SYLVESTER GIUSTINO: Thank you, Mr. Chairman.

[Crosstalk]

CHAIRPERSON DILAN: We received testimony for the record that'll be entered into the record as if read in full from the Plumbing

1
2 Foundation of the City of New York on Intro 977,
3 from the National Elevator Industry on Intro 977
4 as well, from the Real Estate Board of New York
5 on, I believe this is on Intro 977 as well, and
6 testimony from the Queens and Bronx Building
7 Association and the Building Industry Association
8 of New York City on Intro 967.

9 All items before the committee
10 today are laid aside, and that will conclude this
11 hearing.

12 [Gavel]

C E R T I F I C A T E

I, Tammy Wittman, 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 *Tammy Wittman*

Date January 2, 2013