

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL RIGHTS

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October 19, 2015  
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HELD AT: Committee Room - City Hall

B E F O R E:  
DARLENE MEALY  
Chairperson

COUNCIL MEMBERS:  
Mathieu Eugene  
Daniel Dromm  
Deborah L. Rose  
Andy King  
Jumaane D. Williams

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

Carmelyn P. Malalis  
Commissioner & Chair  
New York City Commission on Human Rights

Melissa S. Woods  
First Deputy Commissioner &  
General Counsel  
New York City Commission on Human Rights

Dana Sussman  
Special Counsel  
Office of Chairperson  
New York City Commission on Human Rights

Representative  
Section 8 Program  
New York City Housing Preservation &  
Development

Craig Gurian  
Representative  
Fair Play Legislation

Robert Desir  
Staff Attorney  
Legal Aid Society

Richard Saenz  
Senior Staff Attorney  
Queens Legal Services  
Legal Services NYC

1  
2 COUNCIL MEMBER KING: I'm Council Member  
3 Andy King and I am filling in for the Chair, Council  
4 Member Darlene Mealy, who will be here shortly. And  
5 I would like to introduce the members how are here  
6 today for today's committee meeting. Thank you  
7 Council Member Jumaane Williams, who has joined us  
8 today and also, Council Member Andy King has joined  
9 here today.

10 Today's Committee on Civil Rights will  
11 hear Intro. Bill Nos. 805, 817, 827-A and 832;  
12 together these bills will amend the New York City  
13 Human Rights Law to offer more protection for New  
14 Yorkers in the areas of housing and public  
15 accommodations.

16 Intro. No. 805 will require franchisors,  
17 franchisees and companies who lease properties to  
18 follow the laws against discrimination; it will also  
19 make sure that even when accommodations are offered  
20 every person will enjoy that accommodation equally.

21 Intro. No. 817 would clearly state that  
22 any person who offers public accommodation must abide  
23 by our Human Rights Law.  
24  
25

1  
2 Intro. 827 will make it unlawful for any  
3 landlord to discrimination based on source of income,  
4 regardless of how many units are in the building.

5 Finally, Intro. No. would [sic] make it  
6 unlawful to discriminate against someone applying for  
7 housing based on that person being a victim of  
8 domestic violence, a sex offense or stalking.

9 It is our hope that these bills will  
10 strengthen our human rights law, a law that is one of  
11 the most comprehensive laws in the nation. It is  
12 very important that we protect the rights of all New  
13 Yorkers.

14 Today the committee will hear testimony  
15 from the Commission of Human Rights Commission and  
16 various interest groups. We hope to discuss the  
17 impact that this legislation will have on all New  
18 Yorkers. Please be aware that we will likely put up  
19 a three-minute time rule limit on all testimony. I  
20 thank you all for your testimony and your  
21 cooperation.

22 Again I would like to thank the Civil  
23 Rights Committee staff for their hard work -- Alicia  
24 Brown, Counsel to the Committee; Muzna... did I say it  
25 right? [background comment] Muzna... Muzna Ansari,

1  
2 Policy Analyst; Caitlin [sp?] Cutters [sp?],  
3 Legislative Analyst; Ann Decker, Deputy Director of  
4 Drafting Unit, and Rachel Cordero, Deputy Director of  
5 Governmental Affairs.

6 Now I will turn it over to my fellow  
7 colleagues, council members who are here who have co-  
8 sponsored this legislation for the hearing today. We  
9 will first hear from Council Member Jumaane Williams.  
10 Thank you.

11 COUNCIL MEMBER WILLIAMS: Thank you,  
12 Madame Mr. Chair [laughter].

13 Good afternoon, my name is Council Member  
14 Jumaane Williams and I'd first like to thank Chair  
15 Mealy and her representative today, Chair King, and  
16 thank all of you for coming to testify during this  
17 important hearing.

18 One of the bills being heard here today,  
19 Intro. No. 832, is a bill that I'm proud to be co-  
20 sponsoring along with Council Member Laurie Cumbo,  
21 Speaker Melissa Mark-Viverito and Council Member Brad  
22 Lander, which would prohibit discrimination on  
23 housing accommodations on the basis of an  
24 individual's status as a victim of domestic violence.  
25 Nearly 1 in 4 women and 1 in 7 men in the United

1 States have suffered severe physical violence by an  
2 intimate partner; these are victims who have been  
3 deprived of their liberty and security and who face  
4 tremendous threats to their health and safety.

5 Studies show that survivors of domestic violence  
6 often face housing discrimination because of their  
7 past. Landlords have been known to discriminate  
8 against DV victims because of possible zero tolerance  
9 policies or because they know that a domestic  
10 violence victim may call the police and possibly, in  
11 their minds, disrupt other tenants. Even worse is  
12 the stigma that a domestic violence victim may cause  
13 property damage because of their abuses. In many  
14 cases adverse housing action punishes victims for the  
15 violence afflicted upon them and this double  
16 victimization is unfair and with the help of this  
17 bill will become illegal.

18  
19 As Chair of the Council's Housing and  
20 Buildings Committee, my priority has been to fight  
21 for the rights of tenants throughout the five  
22 boroughs and I know that bad-acting landlords,  
23 because we know that not all landlords are like this,  
24 but many of the bad actors will do whatever they can  
25 to deny a tenant housing any way that they can.

1  
2 As continue to address domestic violence  
3 in this council this month and beyond, we must do  
4 everything we can to make sure these people don't  
5 fall victim of tenant harassment along the way. Just  
6 like how it is an unlawful discriminatory practice  
7 for an employer to refuse to hire or discharge a  
8 domestic violence victim they employ, we must hold  
9 those who also deny housing to some our city's most  
10 vulnerable tenants accountable.

11 It is also important to note that men,  
12 including those of us who are elected officials and  
13 have the chance to impact public policy should speak  
14 loudly against violence. Domestic violence is often  
15 looked at as a women's issue, although that's not  
16 completely true, but we do know that they are  
17 primarily the ones who suffer this the most and that  
18 violence against them cannot be accepted; we must  
19 make sure it does not happen.

20 As mentioned, we must also acknowledge  
21 that men are vastly more often the perpetrators of  
22 domestic violence, including sexual violence, than  
23 are women.

24 I hope every victim of one of these  
25 reprehensible offenses hear the Council speak with

1  
2 one voice today; you are not alone. Because victims  
3 of these offenses are among the most vulnerable in  
4 our population, Intro. 832 will make it unlawful  
5 discriminatory practice for landlords and other  
6 agents of real estate to refuse to sell, rent or  
7 lease or otherwise deny or withhold an interest in a  
8 housing accommodation because of an individual's  
9 actual perceived status as a victim of domestic  
10 violence or as a victim of sex offenses or stalking.  
11 It's clear that victims of domestic violence too  
12 often face discrimination in housing, so it's time we  
13 take a stand against that.

14 I'd like to once again thank Chair Mealy  
15 for holding this hearing during the National Domestic  
16 Violence Awareness Month; I would also like to thank  
17 those who helped put this hearing together,  
18 including my Deputy Chief of Staff Nick Smith and  
19 Civil Rights Committee Counsel Alicia Brown; Analysts  
20 Muzna Ansari and Beth Golub; Rachel Cordero and Matt  
21 Gewolb and Laura Popa, all of whom are responsible  
22 for helping us get here today.

23 I look forward to the conversations  
24 around this bill during today's hearing. Thank you  
25 again.



1  
2 COUNCIL MEMBER KING: Thank you Council  
3 Member Williams, and we have been joined by Council  
4 Member Dromm, Council Member Rose, and for those who  
5 don't know, let's go next Mets, two up and we've got  
6 two more to go. [background comments] So with that I  
7 wanna thank you for your statements and now we will  
8 administer the oath for our first panel. So if you  
9 would so do so, just... do you affirm to tell the  
10 truth, the whole truth and nothing but the truth in  
11 your testimony before this committee and respond  
12 honestly to the council members' questions?

13 [collective affirmations]

14 COUNCIL MEMBER KING: Uh we three for  
15 three. Okay. The first panel is Commissioner  
16 Carmelyn Masa... Carmelyn P. Malala... Malalis; did I say  
17 it right?

18 COMMISSIONER MALALIS: Malalis.

19 COUNCIL MEMBER KING: Malalis, Malalis,  
20 Malalis. Thank you. [laugh] Then we have Melissa  
21 S. Woods, First Deputy Commissioner of the General  
22 Counsel on Commission on Human Rights and Donna  
23 Sussman, Special Counsel for Commission on Human  
24 Rights. Thank you for joining us all today and we  
25 look forward hearing your testimony.

1  
2                   COMMISSIONER MALALIS: Great; thank you  
3 for having us.

4                   Council Members King, Dromm, Rose,  
5 Williams and you know the members of the Civil Rights  
6 Committee, we thank you for convening today's  
7 hearing.

8                   As many of you know, I am Carmelyn P.  
9 Malalis; I'm the Commissioner and Chair of the New  
10 York City Commission on Human Rights, and as you  
11 said, Council Member King, I'm joined today by  
12 Melissa Woods; she's my First Deputy Commissioner and  
13 General Counsel and Dana Sussman, who is the Special  
14 Counsel to the Office of the Chairperson. As you  
15 know, I was unable to attend the last hearing, On  
16 September 21st, and Ms. Woods and Ms. Sussman had  
17 testified in my place, so I wanted to now take this  
18 opportunity to personally convey my appreciation for  
19 the Council for their support of the Commission and  
20 their interest in strengthening the Commission as a  
21 venue of justice for all New Yorkers, so thank you  
22 for that.

23                   Since Ms. Woods and Ms. Sussman provided  
24 you with an update on the Commission's activities  
25 less than a month ago, I'm just gonna focus my

1  
2 remarks today on the four bills that are the subject  
3 of today's hearing. So that would be Intros. 805,  
4 817, 827-A and 832. My testimony reflects our desire  
5 to safeguard the integrity of the City Human Rights  
6 Law in accomplishing its uniquely broad and remedial  
7 purposes, over and above what's provided under  
8 federal or New York State civil and human rights  
9 laws, and it's a promise that's codified in the law's  
10 construction provision as well as the Civil Right's  
11 Restoration Act of 2005. In composing today's  
12 testimony, my staff and I considered the  
13 conversations that we have had with the Council's  
14 legislative staff, our colleagues in the  
15 administration, and stakeholders who would be  
16 affected by the proposed legislation. Members of my  
17 staff have several years' experience -- some of them  
18 decades of experience -- litigating or advocating on  
19 behalf of individuals with housing and public  
20 accommodations claims under the City Human Rights Law  
21 and other civil rights and human rights laws, and so  
22 their input also informs my testimony on these four  
23 bills.

24 So I'll start with Intro. 805. Now the  
25 proposed bill contains several amendments to the

1 provisions of the City Human Rights Law that protect  
2 against discrimination in public accommodations and  
3 I'll address each amendment in turn. The bill adds  
4 franchisor, franchisee and lessor to the list of  
5 types of providers that are covered under the City  
6 Human Rights Law as public accommodations and  
7 replaces the word "subdivision" with "section" in  
8 Section 107(4)(e). The Commission supports these two  
9 changes.  
10

11 Third, the proposed bill adds the word  
12 "purported" to Section 107(4)(a) of the City Human  
13 Rights Law. Because the word "purported" is already  
14 in the law and this bill simply moves it to another  
15 part of the provision, the Commission does not take a  
16 position on this proposed change.

17 The bill also adds language to prohibit  
18 the denial of full and equal enjoyment, on equal  
19 terms and conditions of public accommodations and  
20 adds language to prohibit the publication of  
21 advertisements to the effect that full and equal  
22 enjoyment on equal terms and conditions shall be  
23 refused, withheld from or denied to person on account  
24 of their membership in a protected group. The  
25 Commission believes that the current wording of the

1  
2 public accommodations provisions in the City Human  
3 Rights Law, i.e., Section 8-107(4), already provides  
4 the protections sought in Intro. 805. Certainly, the  
5 Commission interprets the City Human Rights Law to  
6 include those protections and I am not aware of any  
7 courts that have interpreted the City Human Rights  
8 Law to not include those protections. So to the  
9 extent that Intro. 805 clarifies and makes explicit  
10 those protections, the Commission does not object to  
11 the bill and supports this clarification.

12 Sure and hello to Council Member Mealy.  
13 [background comment] Yes.

14 Now turning to Intro. 817. The proposed  
15 bill will add the words "any person" to the list of  
16 providers of public accommodations in Section 8-  
17 102(9). To the extent this change is intended again  
18 to clarify existing protections in the law, the  
19 Commission does not object to it.

20 Turning to Intro. 827-A. Now this  
21 proposed bill will make existing source of income  
22 discrimination protections consistent with all other  
23 protections against housing discrimination in the  
24 City Human Rights Law. Currently, the law's  
25 provisions protecting against source of income

1 discrimination do not cover housing accommodations  
2 with less than six units. This size limitation does  
3 not apply in the context of other types of housing  
4 discrimination, for example, housing discrimination  
5 based on race or religion or age, disability, etc.  
6 And smaller housing accommodations were intentionally  
7 carved out of the City Human Rights Law's source of  
8 income protections when the original bill was passed  
9 in 2008. Now it's my understanding that they were  
10 carved out so as not to prejudice smaller landlords  
11 waiting on payments for Section 8 vouchers. I  
12 believe that at the time the law was passed in 2008  
13 there could be significant delays before landlords  
14 received the first payment on a Section 8 voucher,  
15 and those delays were considerable enough to cause  
16 financial hardship on smaller landlords. I  
17 understand that while the waiting time on initial  
18 voucher payments has been significantly reduced in  
19 recent years, the wait on a payment is still long  
20 enough such that smaller landlords may not be able to  
21 cover their mortgage and other expenses during this  
22 waiting period.  
23

24 To be clear, the Commission supports the  
25 intent of this bill. We recognize that source of

1  
2 income discrimination is a major issue in New York  
3 City and we have been using our testing program to  
4 root out this insidious form of discrimination, which  
5 impacts some of the most vulnerable New Yorkers. The  
6 Commission welcomes the opportunity to work with the  
7 Council and other stakeholders to discuss  
8 alternatives that protect already-vulnerable New  
9 Yorkers, while also acknowledging that smaller  
10 landlords should not risk defaulting on bills or  
11 their mortgages while waiting for payments from a  
12 federal rental assistance program.

13           Now there are also two other significant  
14 concerns regarding how the bill is currently drafted  
15 that appear to contradict the bill's intent. First,  
16 the bill would only apply to "a person with a Section  
17 8 voucher," which is significantly narrower than  
18 current source of income protections. Section 8-  
19 102(25) of the City Human Rights Law defines source  
20 of income as "income derived from social security or  
21 any form of federal, state or local public assistance  
22 or housing assistance including Section 8 vouchers."  
23 That means it is not just limited to Section 8  
24 vouchers. Second, the bill creates a defense for  
25 landlords that has not previously existed in the law,

1 which would allow housing providers to not accept  
2 Section 8 vouchers where the housing accommodations  
3 are "not in compliance with any rules or regulations  
4 promulgated under Section 8 of the United States  
5 Housing Act of 1937." The Commission is concerned  
6 that this provision creates a loophole that could be  
7 exploited by unscrupulous landlords who want to  
8 discriminate against Section 8 voucher holders. If a  
9 housing accommodation is not in compliance with any  
10 applicable housing standard, the appropriate response  
11 should be for the landlord to make repairs.  
12 Unscrupulous landlords could allow the premises to  
13 fall into disrepair to intentionally bring the  
14 premises outside of compliance with the law and allow  
15 them to reject Section 8 vouchers.

17 Again, I want to make clear that the  
18 Commission supports the intent of the bill addressing  
19 source of income discrimination and as we continue to  
20 discuss this bill with the Council and with  
21 stakeholders, we hope to find ways to address the  
22 concerns we have raised today.

23 I'll turn now to Intro. 832. And as  
24 Council Member Williams mentioned, it's fitting to  
25 discuss this bill now, as October is Domestic



1  
2 Violence Awareness Month, a time when we are all  
3 reminded of the need to support victims and survivors  
4 of domestic violence. Frequently, when Commission  
5 staff discuss the impact of the City Human Rights  
6 Law, we stress the importance and the impact of our  
7 law particularly in protecting the City's most  
8 vulnerable populations. In our eyes, this bill is  
9 another great example of how the City Human Rights  
10 Law would function to do just that. Over the past  
11 several months, the Commission and the Mayor's Office  
12 to Combat Domestic Violence (OCDV) have partnered to  
13 cross-train staff and ensure that domestic violence  
14 victims experiencing discrimination in employment or  
15 in other areas already protected by the City Human  
16 Rights Law are referred directly to specific staff at  
17 the Commission. The partnership has resulted in  
18 direct referrals from the OCDV's NYC Family Justice  
19 Centers, as well as their Domestic Violence Response  
20 Team. We look forward to continuing our partnership  
21 with the Mayor's Office to Combat Domestic Violence  
22 and the City Council to raise awareness regarding the  
23 rights of victims of domestic violence, sexual  
24 violence and stalking and to increase protections.

1  
2 The proposed bill would make it unlawful  
3 to discriminate against actual or perceived victims  
4 of domestic violence, sexual violence or stalking in  
5 housing. The Commission supports this legislation  
6 and believes it is critical in protecting some of the  
7 most vulnerable New Yorkers secure and helping them  
8 to keep stable and safe housing for themselves and  
9 their families. And as Council Member Williams said,  
10 the send a message that they are not alone.

11 The Commission thanks Chair Mealy and the  
12 members of the Committee for calling this hearing.  
13 We look forward to continuing our dialogue on how to  
14 strengthen the Commission and the City Human Rights  
15 Law to ensure respect and dignity for all New  
16 Yorkers. And I welcome your questions and your  
17 comments. Thank you very much.

18 CHAIRPERSON MEALY: I'm gonna let my  
19 colleague Jumaane Williams... or who's on the list?  
20 [background comments] Council Member King.

21 COUNCIL MEMBER KING: Again... Oh, sorry.  
22 Thank you again for your testimony today; learned a  
23 little bit more, so I feel a little bit smarter than  
24 before I walked in the door. So but my one question;  
25 if there was something that you would add, if I

1  
2 missed it in your testimony, or change in any of  
3 these legislations, what would you... 'cause I saw you  
4 say you support the intent of some, but some parts of  
5 it, you know, you said they were contradictory. So  
6 what would you suggest that we do to get you to a  
7 place that we can move this?

8                   COMMISSIONER MALALIS: Sure. I think  
9 that probably your question is directed most to the  
10 testimony I gave on 827-A, which is the bill that  
11 would amend the source of income discrimination  
12 provision in the City Human Rights Law, and again, I  
13 think there are one counterbalancing issues that need  
14 to be addressed in that bill for purposes of both  
15 being able to more comprehensively address  
16 discrimination against folks who present with  
17 different types of vouchers under different programs,  
18 as well as addressing concerns that have been raised  
19 by smaller landlords, and I think that that is a  
20 conversation that we can continue with Council  
21 legislative staff and stakeholders, certainly, to  
22 address those issues. But then there's kind of a  
23 larger issue, which is, you know if the intent of the  
24 bill is to expand protections against this type of  
25 discrimination occurring against any type of voucher

1  
2 holder, I think we are concerned that the wording,  
3 the actual wording of the bill could function to  
4 allow landlords that have less than favorable  
5 intentions from allowing voucher holders to seek  
6 certain housing units by just allowing premises to  
7 fall into disrepair, so while it is intended to  
8 expand protections, I think that we would have to  
9 come up with ways of redrafting the bill or  
10 addressing some of the wording in the bill to prevent  
11 that type of loophole, I think is how I addressed it  
12 in my testimony, from functioning.

13 COUNCIL MEMBER KING: Thank you.

14 CHAIRPERSON MEALY: Thank you. Jumaane  
15 Williams.

16 COUNCIL MEMBER WILLIAMS: Thank you,  
17 Madame Chair, and you weren't here when I thanked you  
18 before, so I just wanna make sure you heard me say  
19 thank you.

20 Thank you so much for the testimony, and  
21 I'm very excited about the testimony; we get a lot of  
22 agencies that come before the City Council and just  
23 don't agree with any of our recommendations, so I was  
24 happy to hear you agreeing with most if not all of  
25 them, and one thing that is welcome is, where you

1 don't agree, you provide some suggestions, which  
2 every agency doesn't do. So I thank you very much;  
3 that helps in the partnership, to not only say we  
4 disagree, but to show why and to show how we can move  
5 forward in working together, so I appreciate it.

6  
7 I want to know if you knew, if you had  
8 any numbers on the type of complaints that you get  
9 for any domestic violence refusal with housing and  
10 source of income; I don't know that some people don't  
11 know yet; we're working on that, to make sure they  
12 know they can go to the Human Rights Commission, but  
13 I didn't know if you had any numbers.

14 COMMISSIONER MALALIS: Before I get to  
15 the actual numbers, one of the things I would say is  
16 that, you know I think that particularly for purposes  
17 of protections for victims of domestic violence,  
18 sexual offenses, stalking and other related offenses,  
19 I think that early on in, you know in, I guess my  
20 tenure at the Commission in the last nine months, we  
21 recognize this area as being probably an area where  
22 there hadn't been as much claims being filed with the  
23 Commission; it was an area that had been, frankly,  
24 from our purposes, somewhat under-enforced, and so  
25 you'll see that in the Commission's new materials

1  
2 that we've put out in the last nine months, this  
3 particular issue is something that we've addressed in  
4 our materials and we have kind of a palm card on  
5 point really wanting to get the word out, you know  
6 with the help of elected officials, such as  
7 yourselves here, but also with the Mayor's Office to  
8 Combat Domestic Violence and other community-based  
9 organizations, that this is an area that is currently  
10 protected under the law, and so victims and survivors  
11 of domestic violence who feel as though they are  
12 being discriminated in employment should be coming  
13 forward to the Commission.

14 As for actual numbers, I'm not sure that  
15 we have any right now, but it's something that we  
16 could look into and get back to you on, Council  
17 Member.

18 COUNCIL MEMBER WILLIAMS: 'Kay, thank  
19 you, Commissioner. Thank you, Madame Chair.

20 CHAIRPERSON MEALY: 'Kay, I wanna thank  
21 and I apologize for being late; good seeing you  
22 again, and not at the train station so early. I have  
23 a couple of questions. According to the 2014 annual  
24 report, 23 sources of income discrimination cases  
25 were filed with the Commission; do you have any idea

1  
2 how many of those cases were resolved? Or if so;  
3 what was the results of them?

4 COMMISSIONER MALALIS: I can't tell from  
5 that number, 'cause that's from the 2014 report; I do  
6 know that as of January 2015 we've had 76 complaints  
7 that were filed at the Commission alleging source of  
8 income discrimination. I can't tell you what the  
9 procedural posture is of those cases, but again,  
10 that's something that we could get back to you on,  
11 Council Member.

12 CHAIRPERSON MEALY: But was the majority  
13 of them resolved or do you..

14 COMMISSIONER MALALIS: I really couldn't  
15 tell you right now, but it's something I could get  
16 back to you on.

17 CHAIRPERSON MEALY: I would love to know.

18 COMMISSIONER MALALIS: Sure.

19 CHAIRPERSON MEALY: Has the Commission  
20 ever turned away a source of income discrimination  
21 claim because the claim involved a building that had  
22 five or fewer units?

23 COMMISSIONER MALALIS: Sure. I can't  
24 tell you affirmatively on that; that's something else  
25 that we could get back to you on. By five or fewer

1  
2 units, so you're being explicitly... [background  
3 comments] you know, if somebody presented with a  
4 claim where the landlord was carved out of the  
5 provision because the landlord was too small; is that  
6 the question?

7 CHAIRPERSON MEALY: Kind of.

8 COMMISSIONER MALALIS: Okay.

9 CHAIRPERSON MEALY: If the building was  
10 two or three floors, have you had any cases in  
11 regards to that, that you all had to do anything in  
12 regards to discrimination? [background comment]

13 COMMISSIONER MALALIS: Again, Council  
14 Member Mealy, I'd have to check with our staff to see  
15 the numbers on that; I will say that the carve-out  
16 refers to units in a building regardless of the  
17 floors in the building.

18 CHAIRPERSON MEALY: Regardless to the  
19 floors in the buildings? Uhm that's... and one other  
20 thing; I understand that while the waiting time on  
21 initial voucher payments have been significantly  
22 reduced in recent years, the wait on a payment is  
23 still long enough such that the smaller landlords may  
24 not be able to cover their mortgage and other  
25 expenses during the waiting period; you testified



1  
2 that the wait to receive voucher payment's still  
3 being long; can you give us any idea approximately  
4 how long this wait is typically?

5 COMMISSIONER MALALIS: I would have to  
6 say that that's probably a question better answered  
7 by someone from my sister agency, from HPD, because  
8 that is not... that program is not administered...

9 [crosstalk]

10 CHAIRPERSON MEALY: Vouchers...

11 COMMISSIONER MALALIS: through the  
12 Commission.

13 CHAIRPERSON MEALY: I kinda re... yeah, the  
14 vouchers would be kind of HPD. But on your  
15 testimony, on Page 4...

16 COMMISSIONER MALALIS: Yes. [background  
17 comments] Just a moment, Council Member Mealy; I  
18 think someone from my sister agency is going to be  
19 joining us to answer that question.

20 FEMALE VOICE: Hello, my name's [00:26:51  
21 **inaudible**]; I work with the Section 8... [crosstalk]

22 CHAIRPERSON MEALY: Can't hear you.

23 [background comments]

24 FEMALE VOICE: Sorry. My name is  
25 [00:26:57 **inaudible**]; I work with the Section 8

1  
2 Program at HPD and I can only speak to the Section 8  
3 process at the Department of Housing Preservation &  
4 Development, and currently our wait time between  
5 approving of subsidy and payment going out would be...  
6 longer... okay... would be about four to six weeks  
7 between the time a unit has been approved and payment  
8 going out, on average, if everything goes smoothly.  
9 I can make sure we come back to you with more  
10 detailed response to that question.

11 CHAIRPERSON MEALY: Four to six weeks?

12 FEMALE VOICE: Yeah.

13 CHAIRPERSON MEALY: That's practically  
14 two-and-a-half months.

15 FEMALE VOICE: And that's generally when  
16 everything is going smoothly...

17 CHAIRPERSON MEALY: 'Cause they will  
18 start sayin' the check is in the mail and the  
19 landlords start going crazing when they don't get  
20 their check. So you say at least four to six weeks?

21 FEMALE VOICE: Right. And that's when  
22 everything is going smoothly; it could take up to  
23 three months in some cases.

24 CHAIRPERSON MEALY: How long was it  
25 before that?

1  
2 FEMALE VOICE: It could've been up to  
3 four months before.

4 CHAIRPERSON MEALY: Months?

5 FEMALE VOICE: Yes.

6 CHAIRPERSON MEALY: Are you all doin' any  
7 initiatives that do less than four to six weeks?  
8 'Cause that can make or break some landlords.

9 FEMALE VOICE: There are many federal  
10 regulations that end up constraining our process;  
11 this is something that we're working on and we can  
12 make sure to come back to you with any steps that  
13 we're taking in this area.

14 CHAIRPERSON MEALY: Okay then, I would  
15 love to hear. I have one more question... any of my  
16 colleagues... [background comment] one second... uh-oh.  
17 I'll let my colleague Andy King and then Council  
18 Member Jumaane.

19 COUNCIL MEMBER KING: You just mentioned...  
20 I didn't get your name; I couldn't hear your name,  
21 but I do wanna just thank you for your testimony.  
22 But you mentioned there were some constraints,  
23 federal constraints that has made this process a  
24 whole lot longer for folks; I would like -- whether  
25 you have that information with your now -- but I

1  
2 would like to know what some of those constraints  
3 are, because what I have learned in my short time  
4 working here, that there is a lot of government that  
5 gets in the way of process, so how do we eliminate  
6 some of the stuff that gets in the air that hurts the  
7 everyday reality of what people have to live with?  
8 So if you can give me some of the stuff that's  
9 getting in your way, if you know off of the top of  
10 your head, so maybe we can come up with solutions  
11 here to try to navigate that process a little quickly  
12 for you, if possible.

13 FEMALE VOICE: We're doing everything we  
14 can to try and expedite the process and we'll make  
15 sure to list what are the concrete obstacles and make  
16 sure to come back to the Committee.

17 COUNCIL MEMBER KING: Alright. Thank  
18 you.

19 [background comments]

20 COUNCIL MEMBER KING: Can you name just  
21 one federal obstacle right now?

22 FEMALE VOICE: For example, it's ensuring  
23 that housing quality standards... housing quality  
24 standards are met before any subsidy is paid out.  
25 There are some programs where it's possible for an

1  
2 applicant to move into an approved unit and then to  
3 make payments after that, but housing quality  
4 standards and ensuring that the unit has met our  
5 inspection standards, you know creates a delay to  
6 some degree. We're working to expedite and make sure  
7 that units are inspected quickly and we're generating  
8 contracts as quickly as we can, but that's one...  
9 that's possibly... [crosstalk]

10 COUNCIL MEMBER KING: Your answer opens  
11 up another question, so... so... [background comments]  
12 but I'm gonna ki... yeah, not even just... yeah, how many  
13 inspectors; is there a timeframe for your own  
14 inspections before you put these properties on the  
15 market, these apartments on the market so when the  
16 feds come in you're already in compliance as opposed  
17 to waiting? Do you all have your own timeframe for  
18 inspections or do you need more inspectors or?

19 FEMALE VOICE: That's something I'm gonna  
20 have to make sure we regroup and come back to you on.

21 COUNCIL MEMBER KING: Okay. Alright.

22 CHAIRPERSON MEALY: Okay, my colleague,  
23 Mr. Williams.

24 COUNCIL MEMBER WILLIAMS: Sure, I had a  
25 question related to Intro. 805. Do you have numbers

1  
2 on how many Human Rights Law complaints you get in  
3 general, in terms of employment?

4 COMMISSIONER MALALIS: I don't off the  
5 tope of my head, Council Member Williams, but that  
6 certainly is something we could back to you on. Do  
7 you mean like since January of 2015 or for what  
8 timeframe would you like us to get back... [crosstalk]

9 COUNCIL MEMBER WILLIAMS: Past couple  
10 years; two, three years... [crosstalk]

11 COMMISSIONER MALALIS: Okay.

12 COUNCIL MEMBER WILLIAMS: it would be  
13 good to have numbers on that and how many resolved  
14 and what the resolutions were.

15 COMMISSIONER MALALIS: Okay.

16 COUNCIL MEMBER WILLIAMS: Thank you.

17 CHAIRPERSON MEALY: Yeah... just one  
18 question on that. Does the administration have any  
19 additional concerns about Intro. 804 [sic] that have  
20 not been expressed today; you're really for it... [sic]

21 COMMISSIONER MALALIS: 805?

22 CHAIRPERSON MEALY: 805, thank you, 805.

23 COMMISSIONER MALALIS: Sure. No.  
24  
25

1  
2 CHAIRPERSON MEALY: Oh okay. Thank you.  
3 I... [background comments] Oh that's why you're happy.  
4 Okay. [background comment]

5 COMMISSIONER MALALIS: That's why he's  
6 not asking any questions; right?

7 [laughter]

8 CHAIRPERSON MEALY: Okay; I apologize. I  
9 have one more. Would the administration face any  
10 obstacles enforcing additional protections for  
11 individuals who receive housing assistance and seek  
12 to rent in smaller buildings? Will the  
13 administration have any additional enforcement for  
14 people who wanna rent to individuals that have  
15 housing with smaller apartments, like two... two-family  
16 housing?

17 COMMISSIONER MALALIS: I mean currently  
18 the... you know the exception to all the different  
19 housing discrimination provisions under the City  
20 Human Rights Law... you know there are two exclusions  
21 or two different categories of exclusion. One...  
22 [interpose]

23 CHAIRPERSON MEALY: But enforcing?

24 COMMISSIONER MALALIS: I'm sorry?

25 CHAIRPERSON MEALY: Enforcing?

1  
2                   COMMISSIONER MALALIS: There are two  
3 exclusions to enforcing the City Human Rights Law in  
4 housing discrimination cases. One is if, you know  
5 the specific situation is a landlord-occupied two-  
6 family dwelling that has not been advertised to the  
7 public. Council Member Williams was actually asking  
8 me about that type of situation before the hearing  
9 started. Then the other exclusion is situations in  
10 which it's a single unit landlord-occupied and it's  
11 more of kind of a roommate share. In those two  
12 scenarios, the housing discrimination provisions do  
13 not apply under the City Human Rights Law.

14                   CHAIRPERSON MEALY: That's like... what  
15 about rooms; that's what you're talkin' about,  
16 roommate shares?

17                   COMMISSIONER MALALIS: Yes.

18                   CHAIRPERSON MEALY: 'Kay. Okay. Thank  
19 you. Anyone else have any questions? [background  
20 comment] Oh Jumaane would like to have... [background  
21 comments] Uh Danny Dromm... [crosstalk]

22                   COUNCIL MEMBER DROMM: Commissioner,  
23 thank you. You just mentioned two-family units and  
24 then we were talking about six... six-unit buildings

25



1  
2 before; can you just explain the difference for me in  
3 that?

4                   COMMISSIONER MALALIS: Sure. So the.. you  
5 know the City Human Rights Law protects against  
6 discrimination in housing, and I wanna say 15  
7 different categories. So you know race, creed, you  
8 know disability, kind of the.. all the different  
9 categories of protection that are afforded under the  
10 law. For all of those different categories of  
11 protection there are two ways that somebody can,  
12 frankly, you know if they wanted to discriminate  
13 under the law in housing. One is if it was a  
14 landlord who was occupying a two-family dwelling and  
15 they were seeking to rent out the second dwelling and  
16 they had not advertised that dwelling publicly. The  
17 second situation would be if there was something of a  
18 roommate share where the landlord, again occupied the  
19 unit or the premises and was looking to then, you  
20 know kind of lease out a room in that dwelling, so  
21 something like a roommate share. Now for purposes of  
22 lawful source of income discrimination under the City  
23 Human Rights Law, you know -- and this would be a  
24 different situation than if we were looking at  
25 discrimination based on race or disability or any of

1  
2 the other protections that are afforded under the  
3 City Human Rights Law -- there is an additional  
4 exclusion, so the exclusion is; if the premises in  
5 question is a building where there is less than six  
6 units and again, you know, it's my understanding that  
7 when the law was passed in 2008 this exclusion was  
8 put into the law to protect smaller landlords,  
9 basically.

10 COUNCIL MEMBER DROMM: It's only in that  
11 instance then, with income... sources of income...  
12 [crosstalk]

13 COMMISSIONER MALALIS: Source of income  
14 discrimination. Correct.

15 COUNCIL MEMBER DROMM: Okay. Thank you.

16 CHAIRPERSON MEALY: I'm sorry. Yes.

17 COUNCIL MEMBER WILLIAMS: Thank you. So  
18 just to follow up; I wanted to make sure I'm clear.  
19 So if you're an owner-occupied two-family but you did  
20 advertise, then the Human Rights Law goes into  
21 effect?

22 COMMISSIONER MALALIS: Would apply.

23 COUNCIL MEMBER WILLIAMS: So if you had a  
24 real estate broker; then it also would apply; does  
25 that count automatic...? [crosstalk]

1  
2                   COMMISSIONER MALALIS: A real estate  
3 broker is advertising your unit, yes.

4                   COUNCIL MEMBER WILLIAMS: What counts as  
5 advertisement?

6                   COMMISSIONER MALALIS: What counts as  
7 advertisement?

8                   COUNCIL MEMBER WILLIAMS: Yeah.

9                   COMMISSIONER MALALIS: Uhm uh...  
10 [crosstalk]

11                   COUNCIL MEMBER WILLIAMS: No, I mean  
12 'cause a broker... someone might come in and say to a  
13 broker, do you have units available? Is that  
14 advertisement or do you mean like a printed  
15 advertisement, something like that?

16                   COMMISSIONER MALALIS: I think we would  
17 interpret the law broadly to be more than just  
18 printed advertisement.

19                   COUNCIL MEMBER WILLIAMS: Interesting.  
20 Alright. 'Cause I also... I mean I just... I think it  
21 makes sense to call about some of those; I mean, it's  
22 unfortunate if somebody doesn't like me 'cause I'm  
23 black, but if you're a owner-occupied and you live in  
24 the property, it always seemed to me that that leeway  
25

1  
2 didn't make a little bit of sense. But thank you for  
3 explaining that a little further.

4 CHAIRPERSON MEALY: Yes, Council Member  
5 Rose.

6 COUNCIL MEMBER ROSE: Thank you, Council  
7 Member Mealy. Commissioner, it really is good to see  
8 you at this hearing; it's such a wonderful change  
9 that... you know, to see the Commissioner here at all  
10 of the hearings, with the exception of the last one,  
11 but we understood that.

12 COMMISSIONER MALALIS: Thank you very  
13 much.

14 COUNCIL MEMBER ROSE: Do you think that  
15 making an intentional act of noncompliance with  
16 Section 8 rules a violation as well will remedy the  
17 loophole that Section 8 issue... will remedy the  
18 loophole in the Section 8 issue?

19 COMMISSIONER MALALIS: You mean if it's  
20 written into the bill... [interpose]

21 COUNCIL MEMBER ROSE: Yeah.

22 COMMISSIONER MALALIS: that if the... if  
23 the landlord intentionally... [crosstalk]

24 COUNCIL MEMBER ROSE: intentional  
25 noncompliance.

1  
2                   COMMISSIONER MALALIS: allows it to fall  
3 into... [interpose]

4                   COUNCIL MEMBER ROSE: Right.

5                   COMMISSIONER MALALIS: disrepair. Well I  
6 think that... [crosstalk]

7                   COUNCIL MEMBER ROSE: a violation...

8                   [background comment]

9                   COMMISSIONER MALALIS: I would have to  
10 see what the drafting of the bill would look like,  
11 but I think that that is in fact the loophole that we  
12 would be seeking to address so that that wouldn't  
13 happen.

14                   COUNCIL MEMBER ROSE: Okay. In  
15 Intro 832, which prohibits housing discrimination  
16 against domestic violence and stalking victims, but  
17 it has a carve-out for very small properties, where  
18 the landlord is in the residence. Is there any  
19 reason why that carve-out... [interpose]

20                   COMMISSIONER MALALIS: It's actually the  
21 same carve-out that I was just discussing a moment  
22 ago that applies to all housing discrimination-  
23 related matters. So that carve-out doesn't only  
24 apply in the context of, you know discrimination  
25 against somebody because of their DV status, for

1  
2 example, but it would also apply to folks.. if there  
3 was a claim of discrimination based on race or  
4 religion or any of the other enumerated categories  
5 under the Human Rights Law.

6 COUNCIL MEMBER ROSE: And you said that  
7 the reason for those carve-outs of very small, you  
8 know, properties or pots.. properties are -- what was  
9 the reason why we can't incorporate that into the  
10 Human Rights Law?

11 COMMISSIONER MALALIS: I'm sorry..

12 COUNCIL MEMBER ROSE: Is there a reason  
13 why it's difficult or we haven't incorporated the  
14 carve-outs for very small properties into the Human  
15 Rights Law?

16 COMMISSIONER MALALIS: For those two  
17 carve-outs specifically, so the kind of landlord-  
18 occupied two-family unit dwelling.. [crosstalk]

19 COUNCIL MEMBER ROSE: Source of income..

20 COMMISSIONER MALALIS: or the roommate  
21 share. I honestly haven't looked at the legislative  
22 history on that, so I'm not sure what the intent was  
23 when those carve-outs were first established,  
24 [background comment] you know, we had looked more  
25 closer at the exclusion that applies only to source

1  
2 of income discrimination because of 827-A, so that is  
3 something we could get back to you on after reviewing  
4 the legislative history on that.

5 COUNCIL MEMBER ROSE: Okay. And I really  
6 appreciate your efforts to make our laws in plain  
7 language, you know. But I was wondering, is there a  
8 genesis for these technical corrections? Were there  
9 any specific issues that arose from the previous  
10 wording?

11 COMMISSIONER MALALIS: I'm sorry, on  
12 which bill, Council Member Rose?

13 COUNCIL MEMBER ROSE: When... I'm sorry,  
14 Intro. 805...

15 COMMISSIONER MALALIS: Oh okay.

16 COUNCIL MEMBER ROSE: the plain language  
17 changes. I'm wondering what the genesis of the  
18 technical corrections are; were there any previous  
19 issues that sort of... with wording, that [background  
20 comment] precipitated, you know, these changes?

21 COMMISSIONER MALALIS: Again, I'm not  
22 aware of any cases on point [background comment] that  
23 gave rise to 805; we are in favor though of  
24 situations where -- if there is areas of the law that  
25 would benefit from clarity, we're always in favor of

1  
2 lending that type of clarity and I think that that's  
3 -- you know, that is what we seen in 805; I think it  
4 clarifies, you know, one; that franchisor,  
5 franchisee, lessors are included in the law. Just  
6 looking back again at my time as litigator, as  
7 somebody who was an employee advocate prior to coming  
8 to the Commission, I know that there had been  
9 sometimes confusion as to whether or not those were  
10 included under the law, so again, I see this as being  
11 a gray area of clarification. The other, you know  
12 main part I guess of the bill -- full and equal  
13 enjoyment -- again, I'm not aware of any cases on  
14 point where that was called into question, but I  
15 think it does lend clarity to the law and so we  
16 support that.

17 COUNCIL MEMBER ROSE: And do you have any  
18 concerns about the "any person" in Section 2 being  
19 decoupled from the list of protected classes; do you  
20 think it could lead to interpretive confusion? "Any  
21 person," it's in Section 2 -- to make any  
22 declaration, publish, circulate, issue, display,  
23 post, or mailing, written or printed communication  
24 notice or advertisement to the extent that full and  
25 equal enjoyment on equal terms and conditions of any



1  
2 of the accommodations, advantages, facilities and  
3 privileges of any such place or provide of public  
4 accommodation shall be refused, withheld from or  
5 denied to any person or that the patronage or custom  
6 of any person is unwelcome, objectionable or not  
7 acceptable, desired or solicited. Do you think that  
8 it lends itself to any interpretative confusion or I  
9 guess that's to further clarify?

10 COMMISSIONER MALALIS: As I get kind of  
11 the plain language reading of how the statute is  
12 worded, it doesn't give us pause.

13 COUNCIL MEMBER ROSE: Excuse me?

14 COMMISSIONER MALALIS: It does not give  
15 us pause. Is there some... Is there a... give us pause..  
16 [crosstalk]

17 COUNCIL MEMBER ROSE: Does not... uhm I'm  
18 sorry; I just...

19 COMMISSIONER MALALIS: I'm sorry; it does  
20 not concern us.

21 COUNCIL MEMBER ROSE: Okay.

22 COMMISSIONER MALALIS: Is there..  
23 [crosstalk]

24 COUNCIL MEMBER ROSE: Uhm..  
25

1  
2                   COMMISSIONER MALALIS: or maybe I'm not  
3 understanding the question.

4                   COUNCIL MEMBER ROSE: No, it's just... it  
5 actually is... your purpose is to condense it from...  
6 what, specifying, what, race, you know, what is it...  
7 what is it condensing? You're going from "any  
8 person" to... in the original law.

9                   COMMISSIONER MALALIS: Are we talk... on  
10 805 or 817...? [crosstalk]

11                   COUNCIL MEMBER ROSE: I'm talking about  
12 on 805, Section 2.

13                   [background comments]

14                   COUNCIL MEMBER ROSE: It's being  
15 decoupled from the list of protected classes.

16 [background comment] It's just... I guess it's just a  
17 technical question that... [crosstalk]

18                   COMMISSIONER MALALIS: Actually, I'm...

19                   COUNCIL MEMBER ROSE: [laugh] that is  
20 maybe... [crosstalk]

21                   COMMISSIONER MALALIS: trying to  
22 understand the question.

23                   [background comments]

24                   COUNCIL MEMBER ROSE: Oh it's any... Oh, it  
25 was 817? [background comment] Oh I'm sorry.

1 [background comment] I'm sorry; it's 817.

2 [background comments]

3  
4 COMMISSIONER MALALIS: And... I said... You  
5 know the way that I see the bill drafted, I don't  
6 think it's decoupling it; I think it just moves it up  
7 to the front of the list... [crosstalk]

8 COUNCIL MEMBER ROSE: Okay, you think  
9 it's just... Okay. Alright. Thank you.

10 COMMISSIONER MALALIS: Sure.

11 COUNCIL MEMBER ROSE: Thank you.

12 CHAIRPERSON MEALY: Okay. Commissioner,  
13 I wanna thank you for your time today; I'm lookin'  
14 forward to seein' you again and speaking more; this a  
15 no-brainer legislation. And I had thought about a  
16 two-family exclusion of someone bein' harassed; it is  
17 someone's right to -- if they're livin' in the  
18 apartment, to be safe, so I think this legislation is  
19 very good that was one of the intros we had. So I  
20 think all the sponsors of these legislations also.  
21 So I thank you for your time.

22 COMMISSIONER MALALIS: Thanks for your  
23 time today too.

24 CHAIRPERSON MEALY: Alright. We're gonna  
25 be callin' up two other panels and that's all we have

1  
2 for today. [background comments] We can call 'em  
3 all together -- Craig Gurian, Fair Play Legislation;  
4 Legal Services NYC, Richard Snarzwa [sic].

5 MALE VOICE: Saenz.

6 CHAIRPERSON MEALY: Snize [sic].

7 MALE VOICE: Saenz.

8 CHAIRPERSON MEALY: Size... Snize, and  
9 Robert Desare [sic].

10 ROBERT DESIR: Desir.

11 CHAIRPERSON MEALY: Desir, Legal Aid  
12 Society. [background comments] Anyone could start.

13 CRAIG GURIAN: Okay. My name is Craig  
14 Gurian; most of you know me as the Executive Director  
15 of the Anti-Discrimination Center; I'm here today on  
16 behalf of Fair Play Legislation; I'll start, Council  
17 Member Mealy, with your bill, 817, clarifying that  
18 everybody, no matter who they are, is covered as a  
19 provider of public accommodations; this is one that I  
20 could speak to directly; I drafted the existing  
21 language in 1991 and I could tell you that it was  
22 intended that everybody, whether it was the City or  
23 anybody else, was intended to be covered; apparently,  
24 the City has sometimes made objection that somehow  
25 it's not a provider; it's a very useful

1 clarification, I think, to make sure that "person,"  
2 which is a defined term in the law and it includes  
3 everything, so that's good and we won't have any more  
4 frivolous objections to that.  
5

6 Second, on the source of income bill,  
7 827, I think the Commission identified a couple of  
8 important drafting issues in the bill; specifically,  
9 just limiting it to recipients of Section 8 as  
10 opposed to the broader scope of the current law;  
11 there are other lawful sources of income, including  
12 disability benefits, for example, and so that's one.  
13 And the second one has to do with the reference to  
14 the Housing Act, which sort of has, as it's written,  
15 this perverse problem of exempting from coverage a  
16 landlord who has a substandard dwelling, which is  
17 something that we wouldn't want to do. I have to  
18 say, and I don't know if my colleague at Legal Aid is  
19 going to mention this; we think that the under six  
20 unit exemption is too large and bear in mind; I  
21 believe it's the case, that the delay that's being  
22 talked about is the delay in the first instance; not  
23 a every month of rent delay.

24 Turning to 832, on domestic violence.

25 Back in 2005 I ran a study that showed indications of

1  
2 unlawful treatment in almost 50% of Stage I tests for  
3 discrimination on the basis of domestic violence;  
4 that this form of discrimination isn't yet illegal  
5 really is an outrage, I think it's a testament to the  
6 power of the landlord lobby in previous  
7 administrations. We welcome the bill and I'm sorry  
8 that Council Member Williams wasn't able to stay; I  
9 think it's unfortunate that there's not a reasonable  
10 accommodation provision to it; I mean, so an example  
11 of that would be a survivor of domestic violence who  
12 said I'm very nervous about having my name on the  
13 intercom downstairs, you know that's something that  
14 really can be accommodated, but prohibiting status  
15 discrimination is very important.

16           Finally, on 805, making sure the terms  
17 and conditions language is done; that's something  
18 that wasn't changed back in 1991, so it's a provision  
19 that goes back to the 1960s, when discrimination was  
20 just much more clear-cut -- you can't come in because  
21 you're African American; go away. But now we have  
22 circumstances where there's profiling in stores or  
23 harassment, so making sure that it's not just the  
24 full turndown, but any flavor of a partial refusal is  
25 important. I agree with much of what the

1  
2 Commissioner said; I do think... well I'm very  
3 skeptical of just relying on courts to get this  
4 correctly, so having greater clarity is important.  
5 But the last thing I wanted to mention is that while  
6 it's good to include "franchisor" and "franchisee,"  
7 the real problem is that when you think about it, it  
8 doesn't really matter who's doing the discriminating;  
9 like the discrimination is just not supposed to be  
10 done. A colleague of mine mentioned recently that  
11 there was a patient in a hospital who was groped by  
12 an aide, or take a circumstance where somebody's  
13 shopping in a store and is groped by another  
14 customer; I mean, why would that be okay to happen; I  
15 mean it's not okay. So in our view, this provision,  
16 the public accommodations provision should say  
17 clearly that it's unlawful for any person to do this.  
18 Our interpretation of the existing law is that you  
19 could get at that through interference with protected  
20 rights, but it would be clearer to have it in the  
21 public accommodations section itself. And I thank  
22 you.

23 ROBERT DESIR: Good afternoon. My name  
24 is Robert Desir; I'm a Staff Attorney with the Legal  
25 Aid Society. I thank the Council for working on this

1  
2 legislation and thank you for hearing us. We also  
3 thank the Council for having passed the Source of  
4 Income Discrimination Law back in 2008; since that  
5 time, it's been a very valuable tool in our work;  
6 we've litigated a number of cases against landlords  
7 who refused to accept Section 8 and have had  
8 favorable decisions from the court. We're also very  
9 pleased that the Council is now coming back and  
10 attempting to get at the gap in the law that left  
11 some people unprotected. However, we are a little  
12 bit concerned about the legislation as it's currently  
13 written.

14           As has been mentioned in the testimony  
15 today, we strongly look at the language as something  
16 that can have the reverse effect and that can allow  
17 landlords to refuse to accept Section 8 on the basis  
18 that they're not in compliance with the housing  
19 quality standards. As counsel at the Legal Aid  
20 Society that has litigated a lot of cases involving  
21 the law, we have seen the gamut of excuses that  
22 landlords use to refuse to accept the law to  
23 challenge its applicability in different situations;  
24 this is despite what's pretty clear language and what  
25 has been determined to be clear language by the



1 courts. So in our view, you know we are very happy  
2 of what the Council's doing, but we think that  
3 simplicity would probably be the better way to go.  
4 You know we have some suggestions that are in the  
5 testimony, but we welcome the opportunity to work  
6 with the Council to find ways to strengthen the law  
7 and to avoid any of the possible pitfalls that lay  
8 particularly with the law as it's written. That's  
9 the extent of my testimony; I think a lot of what I  
10 wanted to cover has already been said, so I won't  
11 belabor; you also have my written testimony and as I  
12 said, I welcome the opportunity to work with the  
13 Council towards coming up with a strong way to  
14 protect these people who were left behind in the  
15 first go round. Thank you.

17 CHAIRPERSON MEALY: Thank you.

18 RICHARD SAENZ: Good afternoon. My name  
19 is Richard Saenz; I am a Senior Staff Attorney at  
20 Queens Legal Services, which is part of Legal  
21 Services NYC; I have also provided written testimony.

22 Legal Services NYC, we welcome the  
23 Committee's proposal to clarify and expand the  
24 provisions of the Human Rights Laws relating to  
25 public accommodations. Although some courts have

1  
2 recognized that governmental agencies are public  
3 accommodations subject to the law, other courts have  
4 misinterpreted the law to exclude such coverage. By  
5 proposing Intro. 817, the Committee rightly  
6 recognizes that New Yorkers are entitled to the same  
7 nondiscriminatory treatment from their own government  
8 as they are from private actors. The City cannot  
9 hold private businesses to higher standards than it  
10 applies to itself.

11 We also support the provisions of Intro.  
12 805 that makes clear that to comply with the City's  
13 antidiscrimination laws, businesses and public  
14 agencies must not also refrain from denying services  
15 to persons in protected categories, but also must  
16 provide them "on equal terms and conditions" to  
17 assure that the full and equal enjoyment of such  
18 services are afforded to all New Yorkers.

19 Although this proposition seems self-  
20 evident, Legal Services NYC recently litigated a case  
21 in which a transgender client was abused and insulted  
22 by staff at a City agency. The City argued in a  
23 Motion to Dismiss that because the client continued  
24 to receive city services despite the abusive  
25 treatment, the staff's conduct did not violate the

1  
2 Human Rights Law; the court ultimately rejected the  
3 City's preposterous argument. Intro. 805 will  
4 prevent the Human Rights Law defendants from raising  
5 such defenses in the future, including the City  
6 itself.

7 Although Legal Services NYC applauds the  
8 intent underlying Intro. 827-A, we are also concerned  
9 that the language chosen by the Committee will fail  
10 to achieve the purpose of the bill and may in fact  
11 actually facilitate income discrimination by  
12 landlords.

13 Intro. 827-A commendably removes most  
14 restrictions on the applicability of the Human Rights  
15 Law's income discrimination provisions; landlords  
16 would be barred from discriminating against tenants  
17 who seek to pay their rent through any subsidy  
18 program, regardless of the size or nature of the  
19 properties. This revision of the law recognizes that  
20 no landlord has a legitimate interest in refusing  
21 rent payments regardless of their source and also  
22 recognizes that due to the tightness of the rental  
23 market, many low-income tenants have no alternative  
24 to seeking housing in small buildings not subject to  
25 rent regulation. By ensuring access to such

1  
2 properties to tenants participating in programs such  
3 as Section 8, HASA, which is for people living with  
4 HIV and FABS [sic], Intro. 827-A will contribute to  
5 the city's homelessness prevention efforts and reduce  
6 the desperation of low-income families seeking  
7 affordable accommodations.

8           However, Intro. 827-A inadvertently  
9 creates a new exception to the statutory bar on  
10 income discrimination by allowing landlords to refuse  
11 Section 8 if the housing accommodation "not in  
12 compliance with any rules or regulations promulgated  
13 under Section 8 of the United States Housing Act of  
14 1937." This provision would allow landlords to evade  
15 application of the Human Rights Law simply by  
16 refusing to correct substandard conditions in their  
17 apartments that would violate Section 8 housing  
18 quality standards; such a result was surely not  
19 intended by the drafters of Intro. 827. We believe  
20 that the proposed exemption serves no purpose. If an  
21 apartment cannot be brought into compliance with  
22 Section 8 rules due to reasons beyond control of the  
23 landlord, it is unlikely that courts would hold  
24 landlords liable for discriminating on the basis of  
25 income. Where the apartments' deficiencies are

1  
2 correctable, the Human Rights Law should hold  
3 landlords liable if their refusal to correct the  
4 deficiencies deprives a tenant or applicant of her  
5 ability to use her Section 8 subsidy. If the  
6 Committee seeks to retain such an exemption, it  
7 should exempt only accommodations that cannot be  
8 brought into compliance with any rule or regulations  
9 promulgated under Section 8 of the United States  
10 Housing Act of 1937.

11           As to Intro. 832, Legal Services NYC, we  
12 support Intro. 832, which bars private landlords from  
13 discriminating against tenants or perspective tenants  
14 because of an actual or perceived status of said  
15 individual of domestic violence or as a victim of sex  
16 offense or stalking. Although federal law already  
17 barred such discrimination in federally-funded  
18 housing included public housing, victims of domestic  
19 violence should receive the same protections in the  
20 private rental market and under the Human Rights  
21 Laws, and there is concern about possible exclusion  
22 of this status as a protected status from the  
23 advertising and the prohibition on inquiry of  
24 someone's domestic violence status and I don't know  
25 if that was just a drafting issue or not. But we

1  
2 believe that this should be afforded the same  
3 protections that the other protected statuses have  
4 under the law.

5 We thank the City Council for addressing  
6 this important issue and look forward to working with  
7 the Committee and providing effective protections to  
8 vulnerable low-income tenants. Thank you.

9 CHAIRPERSON MEALY: Thank you. I have  
10 just a question for each one of you and we finish.

11 Do you think making it about violation  
12 intentionally not to comply with Section 8 rules  
13 would remedy the issue with the Section 8 language in  
14 the current bill?

15 RICHARD SAENZ: We do believe so and we  
16 would be happy to provide any additional information  
17 to the Council.

18 CHAIRPERSON MEALY: You would?

19 RICHARD SAENZ: Yes.

20 CHAIRPERSON MEALY: Thank you. And my  
21 next one; you stated kinda that you don't feel this  
22 bill is good enough or something with the landlord  
23 Section 8, the quality of housing because of the  
24 building is run down. Could you give me one  
25 suggestion; you said later that you would be able to

1 give just some suggestions into how we can do better?

2 Could you give me one?

3 ROBERT DESIR: You mean in terms of  
4 language...? [crosstalk]

5 CHAIRPERSON MEALY: The landlord not let...

6 RICHARD SAENZ: Well as an initial  
7 matter, I think the... you know you have this  
8 paragraph, oh that creates the exception in the first  
9 place; my instinct would be to kind of take away from  
10 that, as opposed to, you know the way it adds on and  
11 kind of goes and creates this situation that creates  
12 a loophole for the landlords. I would look to remove  
13 language as opposed to adding. 'Cause we have this  
14 portion that, you know, mainly provides for the  
15 exception that, you know... [crosstalk]

16 CHAIRPERSON MEALY: You say remove it?

17 RICHARD SAENZ: That would be my  
18 suggestion.

19 CHAIRPERSON MEALY: Okay. Give me one  
20 suggestion that you feel would be appropriate if we  
21 remove that... of it... [crosstalk]

22 RICHARD SAENZ: Well with the removal of  
23 that, then you don't have the five or fewer exception  
24 any longer; you... [crosstalk]

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CHAIRPERSON MEALY: Six or fewer.

RICHARD SAENZ: Well it applies to at least six... [crosstalk]

CHAIRPERSON MEALY: Five or fewer...

RICHARD SAENZ: and... Right, the exception is for the five or fewer; you still have the broader exceptions that were mentioned earlier, which is the owner-occupied units that are advertised and the room I guess within a single unit.

CHAIRPERSON MEALY: And Mr...

CRAIG GURIAN: Gurian.

CHAIRPERSON MEALY: Gurian, you said that you didn't like it because of the six stories... six families; that's too wide or broad; we should keep it lower...? [crosstalk]

CRAIG GURIAN: No, the... the supe... Right, so... so look... looking... so looking at 827-A, the existing language -- What happened in 2008 -- it'll just take a minute to review -- what happened in 2008 is that discrimination on the basis of lawful source of income was made illegal and that just joined all the other categories, you know, race, color, creed, national origin, lawful source of income, but because there was this carve-out for smaller landlords, this



1 section that you're seeing here today was added that  
2 said, "unless there are six or fewer units."

3  
4 CHAIRPERSON MEALY: Uhm-hm.

5 CRAIG GURIAN: So there are two ways of  
6 doing it; and I think what my colleague was saying is  
7 that under... like you shouldn't have that underlying  
8 language right near the bottom of the page; that  
9 "that are not in compliance" language, like you just  
10 take that out. But there are sort of two  
11 possibilities. One possibility is if everybody  
12 agrees that the exemption should be just like for  
13 other categories of discrimination; if that's true,  
14 then you don't need this section at all; you just get  
15 rid of this section that provides an exemption. If  
16 however -- let's say that the Committee decided; the  
17 Council decided, what we wanna do is, we're not gonna  
18 get rid of it altogether, but let's see what happens  
19 if it's fewer than four units; right, then you'd just  
20 take the existing provision and you see that middle  
21 part, little number one; then you just change that  
22 five to a 30 or whatever you'd wanna do, but in terms  
23 of this other business about whether the unit's in  
24 compliance; that's the underlying stuff near the  
25 bottom of the page, number one, I have to admit, I

1 don't understand it very well, but number two, it  
2 just... it's sort of the opposite of what you wanna do.  
3 You don't... somebody who hasn't been keeping a housing  
4 unit in compliance, you don't wanna give them a  
5 bonus, that now they also can get to discriminate, so  
6 I just think that that has nothing to do with this  
7 and if there is a concern, as there should be, about  
8 landlords who don't have their units in compliance,  
9 that to me seems like that's not a human rights law  
10 issue, but that's a housing maintenance code issue or  
11 something like that, and that would be the way to get  
12 at it.  
13

14 CHAIRPERSON MEALY: Okay. Thank you.  
15 This is such an important... we've been joined by our  
16 colleague, Mathieu Eugene. Would you like to say  
17 anything on this legislation? Okay then, I thank  
18 you... I thank you all for your input and I'm  
19 definitely gonna speak to them in regards to the six;  
20 it's contradiction, really, so I'm looking forward to  
21 discussing that more with you... [crosstalk]

22 CRAIG GURIAN: Thank you.

23 CHAIRPERSON MEALY: And thank you all for  
24 this hearing and I call this meeting now adjourned.

25 [background comments]

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COMMITTEE ON CIVIL RIGHTS

[gavel]

[background comments]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date October 23, 2015