

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: JUMAANE D. WILLIAMS
CHAIRPERSON

COUNCIL MEMBERS:

ROBERT E. CORNEY, JR.
DANIEL DROMM
RAFAEL L. ESPINAL, JR.
BARRY S. GRODENCHIK
MARK LEVINE
ROSIE MENDZ
ANTONIO REYNOSO
YDANIS A. RODRIGUEZ
HELEN ROSENTHAL
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A P P E A R A N C E S (CONTINUED)

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Special Counsel to the Commissioner and Chair at
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Lindsay Robbins
Senior Advocate at the Natural Resources Defense
Council

Ezra Sucore
Lawyer

Jim Leonard
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2 CHAIR WILLIAMS: Good afternoon everyone,
3 thank you for coming, my name is Council Member
4 Jumaane Williams, Chair of the Counsels Committee on
5 Housing and Buildings, joined today by Council Member
6 Reynos, Grodenchik, Ulrich, did I get the name right?

7 COUNCIL MEMBER GRODENCHIK: Perfect.

8 CHAIR WILLIAMS: All right, Ulrich, Dromm
9 and Torres. Were here today to... at different points
10 were going to be voting on Intro. 49, bill by Council
11 Member Cabrera and Cumbo but aside from that were
12 here to conduct a hearing on proposed Intro. 722-A,
13 sponsored by Council Member Levine and myself. At
14 the request of the Manhattan Borough President, Gail
15 Brewer, and Intro. #871-A, sponsored by Council
16 Member Dromm.

17 Proposed Intro. #722-A would increase the
18 requirement minimum temperature during heat season
19 between October 1 and May 31 regardless of the
20 temperatures outside. Having been an organizer for
21 quite some time it's great difficulty in trying to
22 capture the wrong sometimes property owners are doing
23 because you have to measure it with what the
24 temperature is outside and make sure that you have
25 that accurately and then get the temperature inside,

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2 I think this will help clarify some of the problems
3 that people have to go through to prove that they
4 don't have enough heat in their house and I know that
5 we some discussion about what the temperature should
6 be but I don't think anyone can humanely,
7 particularly on the nighttime humanely say that 55
8 degrees is an appropriate temperature for someone to
9 be living in, much less a senior or an infant.

10 Proposed Intro. #871, will require a
11 single occupant toilet rooms to be usable by a person
12 of any gender. This is a seems like a no brainer
13 bill to me as often lots of questions around bill
14 that we have when it comes to the LGBT community.
15 Those questions have nothing to do with their rights
16 to have be who they are and be able to live in our
17 City and this to me seems to be the one of the most
18 easiest bills to pass out of here. I will have a
19 non-gender assigned bathroom that anybody can use,
20 seems great to me.

21 I understand that Council Member Dromm
22 would like to make a brief statement concerning the
23 bill and so I'll call on him now.

24 COUNCIL MEMBER DROMM: Thank you very
25 much Chair Williams for agreeing to here Intro. 871

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2 and for your support for the Lesbian, Gay, Bi-Sexual
3 and Transgender community. This legislation requires
4 single occupant restrooms to be usable of anyone
5 regardless of gender identity or expression. Signage
6 would be required of existing restrooms and the
7 building code will be revised to make it easier for
8 the construction of such facilities. Sadly, many
9 transgender and gender non-conforming people have to
10 risk harassment or physical attacks when using a
11 restroom at restaurants, sporting and entertainment
12 venues, offices and other places. No one should ever
13 fear being attacked for doing something the rest of
14 us take for granted. While the current
15 administration interprets the New York City Human
16 Rights Law to mean that all individuals must be
17 granted access to public single sex facilities
18 consistent with a gender identity. Businesses are
19 still prevented from building single stall all gender
20 restrooms because of an adequate technical
21 requirement in the building and plumbing codes. It
22 should become, should it become law, Intro. #871
23 would facilitate the building of such facilities.
24 This is an easy common sense way to show our support
25 for New Yorkers of all gender identities and

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2 expressions. Austin, Philadelphia, Washington D.C
3 and other major Cities have passed similar measures.
4 The New York City Council has already installed
5 prominent all gender signs in it's restrooms and I
6 look forward to seeing such signs not only on all
7 appropriate facilities in our City but one day across
8 this Country. I thank my colleagues and the many
9 human rights advocates who have voiced their support
10 for Intro. #871. Together we must ensure that
11 transgender and gender non-conforming people are
12 treated with the respect and dignity they deserve.
13 This bill is a significate step forward toward
14 achieving that goal.

15 CHAIR WILLIAMS: Thank you very much
16 Council Member Dromm for this (inaudible) on the
17 bill. As I mentioned the Committee will also conduct
18 the vote on proposed Intro. # 49-A, which would
19 require DOB to notify Council Member and Community
20 Boards of applications for new building constructions
21 or substantial alterations that would require a new
22 certificate of occupancy for a building filed,
23 approved or rejected, sponsored by Council Member
24 Cabrera and Cumbo. I'd also like to thank my staff
25 or the work they did to assemble this hearing

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2 including Nick Smith, my Deputy Chief of Staff and
3 Legislative Director, Jen Wilcox, Malaika Jabali,
4 Counsel to the Committee Guillermo Patino and Jose
5 Conde, Policy Analyst to this Committee and Sarah
6 Gastelum the Committee Finance Analyst and I'd like
7 to give a huge welcome to our newest Committee
8 Counsel, Megan Chin, who started at the Counsel this
9 week, this is her first hearing, yay and I want to
10 give a shout out to Reggie Thomas who's visiting us
11 again from the wilderness, how you doing sir? As a
12 reminder for those of you who are testifying today,
13 please be sure to fill out a card with the Sergeant-
14 of-Arms, with that said I'm going to we have the, we
15 have the first panel, Patirck Waily from Commission
16 of DOB, Jason Wood, Assistant Commissioner
17 Development Architects and DOB, Dana Sussman, Special
18 Counsel Commission of Human Rights and Vito
19 Mustaciulo and Ann Marie Santiago, Deputy
20 Commissioner/Associate Commissioner of HPD. Now
21 before we do that I'd like to ask for the roll to be
22 called on the vote for Intro. #49.

23 COMMITTEE CLERK: Matthew DiStephno (sp),
24 Committee Clerk, Committee on Housing and Building,
25 roll call on Intro. #49-A. Chair Williams.

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2 CHAIR WILLIAMS: I vote aye.

3 COMMITTEE CLERK: Cornegy.

4 COUNCIL MEMBER CORNEGY: I vote aye.

5 COMMITTEE CLERK: Levine.

6 COUNCIL MEMBER LEVINE: Aye.

7 COMMITTEE CLERK: Reynoso.

8 COUNCIL MEMBER REYNOSO: I vote aye.

9 COMMITTEE CLERK: Torres.

10 COUNCIL MEMBER TORRES: I vote aye.

11 COMMITTEE CLERK: Grondenchik.

12 COUNCIL MEMBER GRONDENCHIK: Aye.

13 COMMITTEE CLERK: Ulrich.

14 COUNCIL MEMBER ULRICH: Aye.

15 COMMITTEE CLERK: By a vote of 7 in the
16 affirmative, 0 in the negative and no abstentions,
17 Intro. 49-A has been adopted.

18 CHAIR WILLIAMS: Thank you, will keep the
19 vote open for the duration of the hearing for other
20 members who are going to be attending and who are at
21 other hearings and... and will start, first if you can
22 please raise your right hand. Do you affirm to tell
23 the truth, the whole truth and nothing but the truth
24 in your testimony before this Committee and to
25 respond honestly to Council Members questions?

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2 PANEL: Yes [in unison].

3 CHAIR WILLIAMS: And I believe you and you
4 can start in the order of your preference.

5 DANA SUSSMAN: Good afternoon Chair
6 Williams, Council Member Dromm and members of the
7 Committee on Housing and Buildings and thank you for
8 convening today's hearing on Intro. #871. I'm Dana
9 Sussman, Special Counsel to the Commissioner and
10 Chair at the New City Commission on Human Rights.

11 The Commission does not regularly appear at hearing
12 before this Committee but were very happy to testify
13 today with our partners at DOB. As this bill aligns
14 with the work the Commission is doing to make the
15 City a more inclusive place for transgender and
16 gender non-conforming people. Intro. 871 amends the
17 New York City Plumbing and Construction codes to
18 require that all single occupant bathrooms are
19 available to individuals of any sex, any sex or
20 gender and further amends the building and plumbing
21 codes to ensure that bathrooms signage requirements
22 are consistent with this new requirement. Protection
23 against discrimination on the basis of gender
24 identity and expression have existed in the New York
25 City Human Rights Law since 2002. A few weeks ago in

2 December 2015, the Commission published it's legal
3 enforcement guidance on discrimination on the basis
4 of gender identity and expressions to provide clear
5 guidance to business owners, employers, housing
6 providers and members of the public on what exactly
7 is considered discrimination on the basis of gender
8 identity and expression under the City Human Rights
9 Law and how such discrimination works to marginalize
10 transgender and gender non-conforming people. But
11 legal enforcement guidance specifically articulate
12 violation of the City Human Rights Law which include;
13 denying someone access to the single sex facilities
14 such as a bathroom or locker room or a program that
15 aligns with their gender identity, refusing to use
16 someone's preferred name or pronoun, requiring dress
17 codes or uniforms or applying grooming standards or
18 appearance standards that impose different
19 requirements for individuals based on gender or sex
20 or forcing a transgender or gender non-conforming
21 individual to use a single occupant facility. It is
22 our goal in creating this guidance that it provides
23 needed transparency and clarity to New Yorkers on
24 their rights and obligations under the New York City
25 Human Rights Law. Consistent with our guidance the

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2 Commission strongly supports efforts to make access
3 to bathrooms safer and easier for transgender and
4 gender non-conforming New Yorkers. Access to
5 bathrooms for transgender and gender non-conforming
6 people is a fundamental health and safety issues and
7 requiring single occupant facilities to be gender
8 neutral will eliminate additional barriers
9 transgender and gender non-conforming New Yorkers
10 face when accessing bathrooms. Transgender
11 individuals frequently face harassment, intimidation
12 and violence when they attempt to access a bathroom
13 associated with their gender identity or gender
14 expression. The availability of single occupant
15 bathrooms of all members of the public minimizes any
16 likelihood of such unwarranted scrutiny. Also,
17 requiring single occupancy bathroom to be designated
18 as gender neutral obviates the need for gender non-
19 conforming, gender queer and or non-binary
20 individuals to choose facilities that may not align
21 with their gender identity and or gender expression.
22 This goal aligns well with the work the
23 administration has been doing to ensure that all New
24 Yorkers including transgender and gender non-
25 conforming New Yorkers have safe and equal access to

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2 bathrooms. As further evidence of this
3 administration commitment to issues of gender equity
4 and transgender equality, in June of 2015 the Major
5 announced creation of the Commission on Gender Equity
6 with the goal of leveraging every power of City
7 Government to expand and increase opportunity for all
8 New Yorkers regardless of sex, gender or sexual
9 orientation and build a City that is safe and free of
10 discrimination. This bill is consistent with that
11 commitment to taking a thoughtful progressive
12 approach to gender issues in New York City. We thank
13 Council Member John for introducing this important
14 piece of legislation, Chair Williams and members of
15 the Committee for holding the hearing as well. We
16 look forward to working with the Council and our
17 partners in the administration to further our shared
18 goal of dignity and respect for all. We thank you
19 for convening today's hearing and were thankful for
20 the support of DOB who's with us here today as we
21 partner to answer any questions you may have, thank
22 you.

23 CHAIR WILLIAMS: Thank you very much for
24 the testimony and thank you joining us, you can come
25 back anytime you'd like.

2 DANA SUSSMAN: Thank you.

3 CHAIR WILLIAMS: I have one question and
4 then I don't know if Council Member Dromm will have.
5 What type of outreach is available to inform building
6 owners of the change? That will probably be from DOB
7 or actually both.

8 DANA SUSSMAN: Well from the Commission
9 prospective were doing, were taking a real
10 comprehensive approach to our outreach so were
11 working with outreach chair regular New Yorkers to
12 inform them what their rights are but were also
13 working on outreach to the business community
14 generally so we have workshops and trainings and
15 materials that are targeted specifically to
16 employers, small businesses, housing providers so
17 they understand what their obligations are under the
18 law. So we would certainly partner with DOB in
19 creating materials and information, making
20 information available and digestible for business
21 owners and owners of public accommodations so that
22 they know what their obligations are under the law.

23 PATRICK WAILY: Hi this is Patrick Waily,
24 Assistant Commissioner of External Affairs of the
25 Building Department. As for the Buildings Department

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2 on the industry and construction side certainly we'd
3 be performing outreach to folks who do this kind of
4 work so the contracting community in the like, we'd
5 be putting on service notices and things of that
6 matter informing them of this new requirement.

7 CHAIR WILLIAMS: Thank you and I jumped
8 the gun a little bit. I think we were going to have,
9 the intention was to have both testimony on both
10 bills and then answer questions so I apologize and
11 will move forward to I guess HPD.

12 VITO MUSTACIUOLO: Thank you, good
13 afternoon Chair Williams and members of the Housing
14 and Buildings Committee. My name is Vito MUSTACIUOLO
15 and I'm HPD's Deputy Commissioner for Enforcement and
16 Neighborhood Services. I am joined to my right by
17 Associate Commissioner for Enforcement Ann Marie
18 Santiago. We appreciate the opportunity to testify
19 regarding Intro. # 722-A, related to the minimum
20 temperatures required to be maintained in dwellings.
21 HPD supports modifications of the housing maintenance
22 code related to the provision of heat. As you know,
23 HPD is City agency charged with enforcing the code
24 related to the provision of heat in residential
25 buildings. HPD received 208,000 complaints, issuing

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2 4,484 violations regarding inadequate heat during the
3 2014-2015 heat season and has received almost 100,000

4 complaints that showing over 1,000 violations

5 regarding inadequate heat thus far this heat season.

6 Our housing litigation division seeks civil penalties
7 in response to almost all violations for lack of

8 heat. When owners fail to correct, we utilize our

9 emergency repair program to restore services to

10 tenants. Last heat season the emergency repair

11 program spent \$2.2 million making repairs and

12 providing utility services to ensure adequate heat.

13 Legislation is recent years has supported HPD's

14 enforcement through increase civil penalties and

15 inspection fees against properties which consistently

16 failed to provide adequate heat. Although this

17 enforcement effort is significate, the fact is that

18 most properties throughout the City provide heat to

19 their residence as a required by current code. The

20 extraordinary number of complaints received as

21 compared to the number of violations issued is

22 noteworthy and is impacted by two issues; on, people

23 still fill cold even when heat is being provided as

24 required by code and two, because the provision of

25 heat is based on the outdoor temperature at the time

2 of inspection, that may be the case that heat is both
3 required and not required within the same day making
4 enforcement difficult. During heat season, October
5 1st through May 31st, HPD current inspection procedure
6 requires a housing inspector to take a temperature
7 reading before entering any buildings recording that
8 temperature and then taking another temperature
9 reading inside a dwelling unit. If the outdoor
10 temperature falls below 55 degrees during the day or
11 40 degrees between the hours of 10 p.m. and 6 a.m.
12 If the temperature outside is 55 degrees or above
13 during the day or 40 degrees or above at night, the
14 inspector cannot issue a violation. This is a
15 difficult conversation to have with a tenant when it
16 is quite possible that an hour later the temperature
17 might drop below the outdoor temperature threshold
18 and heat would be required. As we all note,
19 temperature fluctuations during the day and at night
20 are common. These situation also require HPD to
21 expend additional resources on the same condition
22 because it is likely that the tenant will call 311
23 again once the temperature drop below 55 or 40
24 requiring us to go out yet again to check the
25 temperatures. The outside temperature fact that can

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2 also work against landlords as heating systems might
3 not be producing sufficient heat at the time when
4 temperature outside deeps below 52 or 55 or 40. For
5 an example if an inspection is done before the
6 heating system has had time to adequately raise the
7 indoor temperature. While researching the issue of
8 how other City's deal with this type of challenge, we
9 found that other City's such as Chicago, Boston,
10 Philadelphia and Newark all have minimum temperature
11 requirements defined only by the date of the heat
12 season, not dependent upon outdoor temperature
13 readings. Intro. 722-A would eliminate the outside
14 temperature as a determinate for the provision of
15 minimum indoor temperature. HPD strongly supports
16 this modification because the outside temperature
17 requirement presents enforcement challenges.
18 Removing it would simply require that the temperature
19 regulations for both tenants and owners would require
20 consistent temperatures regardless of minor outside
21 temperature changes. Intro. 722-A also proposed an
22 increase in the required minimum indoor temperature.
23 Consulting with our sister agencies the Department of
24 Health and Mental Hygiene, there is no particular
25 scientific date evidence to support any specific

2 indoor temperature only a general understanding that
3 the provision of heat at a comfortable temperature is
4 required to support good health. We have heard
5 numerous complaints from tenants and tenant's
6 advocates that 55 degrees too low for most people who
7 still feel cold at that temperature. Feeling cold
8 may lead to less healthy options for increasing the
9 temperature inside individual apartments including
10 cutting on stoves or ovens, using space heater or
11 electric blankets all which can pose dangers.
12 Especially for seniors or sick individuals if not
13 properly used. Were there for support and increase
14 when the required minimum indoor nighttime
15 temperature. While HPD is advocating for an increase
16 in the nighttime heat requirement, we also believe
17 that owners can take proper measures to ensure that
18 their buildings are more energy efficient maintaining
19 adequate internal temperatures. Many buildings in
20 New York City suffer from inadequate air ceiling or
21 poor installation and heat distribution systems which
22 do not properly serve a building's units. Improving
23 installation in air ceiling will reduce heat loss and
24 maintain warmer indoor temperatures along the periods
25 of time. Reducing the amount of fuel needed to meet

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2 minimum temperature requirements and minimizing heat
3 cost for landlords and tenants. Better installation
4 will also improve temperature reliance by maintaining
5 longer periods of stable indoor temperatures. Even
6 in the event of power losses or system failures. New
7 York City is helping owners to address these issues
8 through the NYC Retrofit accelerator, a one stop free
9 service that can guide owners through an energy
10 retrofit project such as a boiler upgrade, envelop
11 ceiling and HVAC improvements. HPD supports the
12 elimination of outdoor temperatures triggers for the
13 provision of heat and higher nighttime temperatures.
14 We believe that these changes can improve the quality
15 of life for all residential tenants in New York City.
16 Thank you again for the invitation to testify and we
17 look forward to working with the Council in the
18 future.

19 CHAIR WILLIAMS: Thank you very much for
20 the testimony, I want to go back to a question from
21 the previous bill, Council Member Dromm.

22 COUNCIL MEMBER DROMM: Thank you very Mr.
23 Chair. I guess this questions is really for the
24 Department of Buildings, do all City buildings have
25 single stall bathrooms now?

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2 UNKNOWN SPEAKER: No not all buildings do
3 have them.

4 COUNCIL MEMBER DROMM: Can you put the
5 mic on.

6 UNKNOWN SPEAKER: No not all buildings do
7 have them.

8 COUNCIL MEMBER DROMM: So is there
9 anything being done right not to ensure that we have
10 all gender bathroom in every City building?

11 UNKNOWN SPEAKER: Currently, no.

12 COUNCIL MEMBER DROMM: And I'm also
13 curious about schools because you know I know that we
14 have a senior in a high school who's going to give
15 testimony a little bit later on this afternoon and
16 the issue of having an all gender bathroom in schools
17 is one of major importance and what roll would the
18 department of buildings play interacting with perhaps
19 the school construction authority to ensure that we
20 have single stall bathrooms in the schools as well?

21 UNKNOWN SPEAKER: So I can tell you
22 Council Member that we'd certainly be interested in
23 having a dialogue with the Department of Education
24 and the schools construction authority to understand

25

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2 better the issue and what role the Department of
3 Buildings can play in ensuring that, that happens.

4 COUNCIL MEMBER DROMM: Do you when you
5 when we build the school building do you have a role
6 in that? Do you have to certify them and approve them
7 and are they required to abide by existing plumbing
8 codes etc.?

9 UNKNOWN SPEAKER: So they of course have
10 to adhere to the City's construction codes, however,
11 the school construction authority ordinarily has
12 their own plan examiner and staff who review the work
13 that gets preformed.

14 COUNCIL MEMBER DROMM: So the decision
15 whether to have an all gender bathroom in a City
16 public school is primarily left up to the... the
17 decision by school construction authority?

18 UNKNOWN SPEAKER: I can't say that for
19 certain Council Member, I'd have to examine that a
20 get back to you.

21 COUNCIL MEMBER DROMM: Because that's
22 something I'm probably going to follow up with them
23 in the Education Committee because I have Oversight
24 over the Department of Education and... and the school
25 construction authority and would really like to get

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2 to the bottom of that as well. I guess for the, for
3 the Human Rights Commission, what enforcement
4 mechanisms are in place to ensure compliance with the
5 Commission on Human Rights interpretation which I
6 think was if maybe a hearing ago or a month a so ago
7 that you interpreted differently the parts of the
8 human rights law as it pertains to transgender/gender
9 non-conforming individuals?

10 DANA SUSSMAN: That's right the
11 Commission published out a legal enforcement guidance
12 in December and our plan is to issue that as proposed
13 rules and do a notice an comment and actually codify
14 much of that guidance into rules. But what the, what
15 the guidance is intended to do is to make clear both
16 for regular New Yorkers who may have claims under our
17 law and also business owners, employers and housing
18 providers what their obligations are under the law.
19 As you know all... all our laws says is that
20 discrimination is prohibited on the basis of gender
21 identity and expression and... and adds a few more
22 words but there is very little direction as to what
23 that actually means and given this area has caused a
24 lot of confusion, it's an evolving area we wanted to
25 be very explicit with our guidance, giving real world

2 example of what this actually means for people in
3 their daily lives. As far as an enforcement
4 mechanism we want to encourage people to come to the
5 commission if they believe their rights have been
6 violated and we've also been developing and
7 finalizing trainings on Trans101, cultural competency
8 trainings for employers, housing providers, HR
9 professionals so that they understand what their
10 obligations are under the law and will be partnering
11 with community based organizations unrolling that out
12 as well. So we're trying to go at it through
13 educating the public on what their rights are so they
14 can come to us and report what's going on but also
15 educating employers, housing providers and people
16 that may come to us in a more defensive posture as to
17 what their obligations are under the law so that it's
18 clear for everyone.

19 COUNCIL MEMBER DROMM: So do you have any
20 idea of the number of complaints based on transgender
21 and gender non-conforming individuals in regards to
22 discrimination for using bathrooms? I remember one
23 case I believe was at a restaurant in Greenwich
24 Village a number of years ago after the Gay Pride
25 Parade where a transgender individual was beaten up

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2 because they used a bathroom of the sex opposite than
3 to which they appeared.

4 DANA SUSSMAN: I don't have numbers with
5 me today but I can certainly get back to you on
6 those.

7 COUNCIL MEMBER DROMM: Is it something
8 you hear about commonly or?

9 DANA SUSSMAN: We do, it you anecdotally
10 I can say that it certainly something that I think is
11 on the top of the list of where were hearing that
12 harassment and intimidation takes place.

13 COUNCIL MEMBER DROMM: And I know that in
14 Jackson Heights for example we had a AIDS
15 organization which in which a transgender individual
16 attempted to use the women's bathroom and because of
17 that there was an eviction proceeding that occurred
18 simply for that reason that they wanted the whole
19 organization out of the building and that was a
20 number of years ago but you know these are cases that
21 I'm most familiar with and have heard of others as
22 well. But that if this happens to be a real issue.

23 DANA SUSSMAN: Absolutely, we agree.

24 COUNCIL MEMBER DROMM: And then again for
25 Buildings Department, could a, could a builder

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2 construct a building with only all gender multi stall
3 bathrooms?

4 UNKNOWN SPEAKER: It is within their
5 rights to do that, yes.

6 COUNCIL MEMBER DROMM: It's within their
7 right to do that?

8 UNKNOWN SPEAKER: Yes.

9 COUNCIL MEMBER DROMM: And could a
10 builder construct a building with only all gender
11 single stall bathrooms?

12 UNKNOWN SPEAKER: Yes they could.

13 COUNCIL MEMBER DROMM: Currently they
14 can, ok, all right thank you I think that's it,
15 Chairman thank you.

16 CHAIR WILLIAMS: Thank you very much, I
17 do want to go to some question on number 722-A, what
18 was some of the temperatures, nighttime temperatures
19 that you heard across the Cities in which looked at?

20 VITO MUSTACIUOLO: Sure, so in Chicago,
21 Boston, Newark and Philadelphia there nighttime
22 temperatures range between 64 and 66.

23 CHAIR WILLIAMS: Would--- did they have
24 you see any other City's that were 55 or below?

25

2 VITO MUSTACIUOLO: Not in the study that
3 I conducted so far.

4 CHAIR WILLIAMS: Did you do any studies
5 had daytime temperatures?

6 VITO MUSTACIUOLO: They all have a
7 daytime temperature of 68 degrees.

8 CHAIR WILLIAMS: 68 degrees. Assuming
9 hypothetically that you we could raise the daytime
10 temperature, do you have a temperature that are you
11 opposed to temperature we put, do you have a
12 temperature you think make sense?

13 VITO MUSTACIUOLO: For the daytime
14 temperature?

15 CHAIR WILLIAMS: Yes.

16 VITO MUSTACIUOLO: We believe that 68
17 degrees is sufficient for daytime.

18 CHAIR WILLIAMS: In the past two years
19 how many heat related cases did the department bring
20 to housing court.

21 VITO MUSTACIUOLO: So for the last heat
22 season we initiated 2,500 heat cases.

23 CHAIR WILLIAMS: And how much money did
24 HPD spend on heat related repairs for the emergency
25 repair program or any other program?

2 VITO MUSTACIUOLO: For last heat season?

3 CHAIR WILLIAMS: Yes.

4 VITO MUSTACIUOLO: \$2.2 million.

5 CHAIR WILLIAMS: How much?

6 VITO MUSTACIUOLO: \$2.2 million.

7 CHAIR WILLIAMS: Do you have a percentage
8 of the heat violations issued by the department and
9 how many are repeat violations that occurred within
10 the same calendar year?

11 VITO MUSTACIUOLO: Yes we do and again in
12 my testimony I just want to point out that most
13 landlords are good responsible landlords.

14 CHAIR WILLIAMS: Sure.

15 VITO MUSTACIUOLO: And do maintain their
16 heat.

17 CHAIR WILLIAMS: I've actually found
18 most... most property owners don't keep temperature at
19 55 this place is very cold and usually the ones that
20 do are not the best landlords and not the best
21 property owners to begin with.

22 VITO MUSTACIUOLO: We have found when we
23 have done inspections that night that most landlords
24 do maintain above 55. So if you just look at this
25 heat season thus far we have issued violations to 491

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2 distinct buildings for lack of heat of which 11% are
3 repeat heat offenders within the same period of time.

4 CHAIR WILLIAMS: That's just for this
5 heat season?

6 VITO MUSTACIUOLO: Yes that's for this
7 heat season, I'll have to get back to with
8 information from last heat season and 8% of the
9 violators this heat season were also in violation
10 last heat season.

11 CHAIR WILLIAMS: Thank you I know that
12 Council Member Levine has some questions; he's
13 actually one of the co-sponsors of the bill.

14 COUNCIL MEMBER LEVINE: Thank you Chair
15 Williams, I thank you to our panel and it's wonderful
16 to see you Commissioner, you've given a lot of very,
17 very helpful numbers on the pace of the number of
18 complaints around heat, forgive me if you've already
19 specified this but can you (inaudible) by the number
20 of complaints that come in when in fact the
21 temperature is above 55 degrees perhaps it's 56
22 degrees to determine that they technically be legal?

23 VITO MUSTACIUOLO: So we can run that
24 report, we don't have it with us.

25

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2 UNKNOW SPEAKER: So I'm sorry Council
3 Member, so we can tell you when we did our inspection
4 what the temperature was but we don't obtain from the
5 tenant who's calling in what the temperature is at
6 the time they call and 311 don't capture that
7 information either.

8 COUNCIL MEMBER LEVINE: But there must be
9 all sorts of cases where you show up in an apartment
10 and it's 56 degrees.

11 UNKNOWN SPEAKER: Yes we can tell what
12 the temperature was at the time we do the inspection,
13 absolutely.

14 COUNCIL MEMBER LEVINE: I can imagine for
15 the inspector that's got to be an awkward
16 conversation because the person sitting here
17 shivering.

18 VITO MUSTACIUOLO: Yes.

19 COUNCIL MEMBER LEVINE: And you have to
20 say sorry there's no violation of the law here.

21 VITO MUSTACIUOLO: That's absolutely
22 correct.

23 COUNCIL MEMBER LEVINE: Look anyone who's
24 spent the night in a 55 degree apartment is going to
25 understand this viscerally, you did talk about the

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2 lack of clear scientific evidence of a threshold
3 temperature, I don't need science to tell me that 55
4 degrees is cold.

5 VITO MUSTACIUOLO: And we agree.

6 COUNCIL MEMBER LEVINE: Anyone who's
7 experienced that I think knows. And a related
8 question you... you had some very helpful language
9 about the challenge you having triggers for outdoor
10 temperature as opposed to simply dates on the
11 calendar, so can you clarify how often were getting
12 complaints coming in when in fact we didn't meet the
13 threshold outside.

14 VITO MUSTACIUOLO: Sure, again I don't
15 have the specific data but what I can tell you
16 officially what we've experienced just this winter
17 where we had on a Sunday 60 degree temperatures and
18 the next day below freezing, so what the change in
19 temperatures that were experiencing it's becoming
20 increasingly more difficult and certainly within any
21 given day a temperature may fluctuate between not
22 being required to provide heat to being a heat day.

23 COUNCIL MEMBER LEVINE: Right.

24 VITO MUSTACIUOLO: If I just, I'm sorry
25 to interrupt, the point that the other Cities that I

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32

2 had looked at their information about their day
3 temperature, none of them have an outdoor trigger.

4 COUNCIL MEMBER LEVINE: That... that seems
5 like a much simpler and more fair system frankly, so
6 but... but just to be clear there could be a case where
7 someone can have, it could be 30 degrees outside,
8 there was rapid drop, there's no heat in the building
9 and an inspector shows up where if someone calls and
10 says I'm sorry but there's no legal remedy here.

11 VITO MUSTACIUOLO: Correct.

12 COUNCIL MEMBER LEVINE: And so there could
13 be no violation of the law even at such extreme
14 cases.

15 VITO MUSTACIUOLO: Absolutely.

16 COUNCIL MEMBER LEVINE: One could, one
17 could suspect that with growing climate change
18 there's going to be all sort of additional weirdness
19 and temperature fluctuation in this kind of
20 unfortunate phenomenal could be even more frequent.
21 Now environmentalist have pushed back and said
22 there's a cost here that every degree we raise the
23 threshold means more fuels going to be burned and
24 that's clearly true. Do you have a sense that all on

25

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2 this scale of the impact on consumption of fuels that
3 such a change in the threshold would make?

4 VITO MUSTACIUOLO: Well we've had a
5 preliminary conversation with the Mayor's Office of
6 Sustainability and I think it's important for us
7 together with the Council to sit down with them to go
8 over that data. But I think what's also important to
9 factor in as I mentioned in my testimony is that
10 tenants are resorting to auxiliary uses of heat and I
11 think that needs to be factored as well. The use of
12 a stove or oven and that emits carbon and it burns
13 fuel.

14 COUNCIL MEMBER LEVINE: Or electric
15 heater, right, yeah.

16 VITO MUSTACIUOLO: And not only do they
17 are they energy not energy efficient but there also
18 dangerous if not used properly.

19 COUNCIL MEMBER LEVINE: Very powerful
20 point, I'm sure that degree per degree it just
21 consumes more energy through those less efficient
22 sources like an oven or even a space heater but
23 that's the reason why we had central heating because
24 it more efficient.

25 VITO MUSTACIUOLO: Correct.

2 COUNCIL MEMBER LEVINE: Then having
3 everyone with their own system even in addition to
4 the safety factors. Are they also legal minimum
5 maximums on temperature? If I'm overheating an
6 apartment can I possibly be violating the law?

7 VITO MUSTACIUOLO: So there is no
8 specific provision, however, we can issue and have in
9 past a violation, it's an abatement nuisance. But
10 typically we do not issue those violations during a
11 heat season but there had been occasions where we
12 have found heat being provided during the summer
13 months.

14 COUNCIL MEMBER LEVINE: Right but this
15 might be appropriate for a separate piece of
16 legislation but there's a phenomenal we've seen all
17 too frequently where a buildings overheated, people
18 open their windows to get relief that then requires
19 the boiler to work even harder and pump out even more
20 and you get this terrible vicious cycle of energy
21 consumption and discomfort but it seems like there
22 may not be clear laws regulating that, perhaps we
23 need to explore that further. Thank you again for
24 your testimony for all your great work.

25 VITO MUSTACIUOLO: Thank you.

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35

2 COUNCIL MEMBER LEVINE: I really
3 appreciate it, thank you.

4 CHAIR WILLIAMS: Thank you, just again
5 hypothetically speaking if we could or would adjust
6 the daytime, would it make sense to drop the outside
7 requirement for that as well?

8 VITO MUSTACIUOLO: Again I think one
9 proposal is going to eliminate the outside
10 requirement all together.

11 CHAIR WILLIAMS: We've been also joined
12 by, I did have another question so in my district
13 alone in the past 8 days we have 43 heat and hot
14 water complaints which is a lot I assume going to
15 mirror many other districts, do you have enough
16 resources to investigate the complaints and make sure
17 that relief is provided?

18 VITO MUSTACIUOLO: So we do and the Mayor
19 has committed to maintaining our workforce of housing
20 inspectors and the emergency repair program, so we
21 are sufficiently staffed.

22 CHAIR WILLIAMS: Council Member
23 Grodenchik.

24 COUNCIL MEMBER GRODENCHIK: Thank you Mr.
25 Chairman, I have a question, in your testimony you

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2 say they were about 208,000 complaints during the
3 last full season and yet only just under 4,500
4 violations were issued, that's a just over 2% for
5 every complaint, can you explain why there were so
6 few violations issued and so many complaints?

7 VITO MUSTACIUOLO: Sure so we that 208,000
8 also reflect what we call duplicate complaints.

9 COUNCIL MEMBER GRODENCHIK: What kind of
10 complaints?

11 VITO MUSTACIUOLO: Duplicate so we can be
12 receiving multiple calls from the same building, we
13 can provide you with the number of distinct calls
14 that have come in. You know primary we consider them
15 to be primary complaints but often time what we find
16 is that tenants are calling in for a lack of heat but
17 were finding that heat is adequate, it's to the
18 current code, it's just that the tenants don't
19 believe it's warm enough for them so they call in
20 heat complaints.

21 COUNCIL MEMBER GRODENCHIK: Ok, thank you
22 Mr. Chairman, thank you.

23 CHAIR WILLIAMS: Thank you, what's the
24 response time from a complaint to someone coming out
25 to check on the complaint?

2 VITO MUSTACIUOLO: So response time is
3 measured in a number of different ways, so upon
4 receipt of a complaint for lack of heat or hot water
5 we call the owner or the registered managing agent
6 within hours of the receipt of complaint to inform
7 them that we have received a complaint of no heat or
8 hot water. Obviously our intent is to ensure that
9 tenants are being provided with the essential
10 services not necessarily to run out there and catch
11 them with the violation. Our response time with
12 respect to inspection is currently around 3 to 4 days
13 depending upon the volume. This heat season in one
14 day we received over 5,500 calls not just in one day.

15 CHAIR WILLIAMS: Ok it sounds, on those
16 days when you receive a large number you still
17 believe you have enough inspectors for that.

18 VITO MUSTACIUOLO: We bring in extra
19 resources when.

20 CHAIR WILLIAMS: Sorry.

21 VITO MUSTACIUOLO: We bring in additional
22 resources, we also link the... the tours for the
23 inspectors when the temperatures drop below certain
24 degrees.

2 CHAIR WILLIAMS: And what's happening
3 during those 3 or 4 days?

4 VITO MUSTACIUOLO: So again we are
5 calling the landlord, were also making calls to the
6 tenants and in a number of cases the conditions has
7 been corrected. The tenant has informed us that heat
8 has been restored and we close out the complaint.

9 CHAIR WILLIAMS: So what's the time frame
10 from a call to a close out, the same timeframe?

11 VITO MUSTACIUOLO: Will have to take a
12 look at that and get back to you.

13 CHAIR WILLIAMS: Ok, thank you. I don't
14 think any of my colleagues have additional questions
15 so I just want to say thank you so much for the
16 testimony, we greatly appreciate it.

17 PANEL: Thank you (in unison).

18 CHAIR WILLIAMS: Next we have our
19 illustrious Manhattan Borough President Gail Brewer
20 even though I am proud to be the prime sponsor it is
21 at the request of a great Borough President who did a
22 tremendous work on this any many issues while she was
23 in the Council and has continued it as the Borough
24 President and also Andrew L. Calick, Office of New
25 York City Controller.

2 GAIL BREWER: You want us to be sworn?

3 CHAIR WILLIAMS: Yes, can you both raise
4 your right hand please? Do you affirm tell the truth
5 the whole truth and nothing but the truth in your
6 testimony before this committee and to respond
7 honestly to Council Members questions?

8 PANEL: I do [in unison)

9 GAIL BREWER: Thank you.

10 CHAIR WILLIAMS: You can begin.

11 GAIL BREWER: Thank you very much, I am
12 Gail Brewer, I am the Manhattan Borough President. I
13 am honored to be here particularly with Chair
14 Williams and members of the Committee on Housing and
15 Buildings and I thank you for the opportunity to
16 testify and particularly for all the Chairs interest
17 in this issue and to work with them on this issue. I
18 am proud to have co-sponsored Intro. 722-A with
19 Council Members Williams and Levine and we heard
20 earlier that the City's Department of Housing
21 Preservation and Development, HPD and I think as well
22 Counsel Legislative Affairs that has per section 79
23 of the multiple dwelling law the City pre-empted
24 from changing the daytime temperature for residential
25 building so will just talk about evening and some of

2 the other aspects. Our focus comments on the areas
3 of the bill that are within our legislative prevue.

4 This intro will amend the minimum required overnight
5 temperature for residential buildings as we know that
6 is currently 55 degrees to 65 degrees between 10 p.m.
7 to 6 a.m. during the heating season. In addition the

8 bill would require buildings to maintain this
9 overnight temperature throughout the heating season

10 as it oppose to being triggered by an outside
11 temperature point which I know you heard earlier from
12 HPD. I think you know that during last year heating
13 season which was between October 1st, 2014 and May
14 31st, 2015, 311 registered 232,086 complaints of

15 inadequate heat Citywide and close to 53,000 of these
16 complaints were made in Manhattan. Over the course

17 of this current heating season there have been little
18 over 94,000 heat complaints and close to 24,000

19 complaints from Manhattan. Last Tuesday, January
20 5th, New Yorkers woke up to temperatures in the low

21 teens that couldn't and didn't rise above freezing
22 and 311 filled the highest single day complaint

23 volume for this heating season with 5,052 complaints
24 of inadequate heating, some of them may have been
25 duplicate at HPD indicated. While it's likely that

2 not all of these complaints resulted in violations as
3 we heard earlier, it is essential that our
4 residential building are heated properly and that HPD
5 and their wonderful inspectors who work very hard
6 have the needed tools at their disposal to enforce
7 the law. Under the current system outdoor and indoor
8 readings are taken during inspection for violations
9 often days after the initial complaint. Reliance on
10 an outside temperature trigger in an environment that
11 can fluctuate over the course of the day, again as
12 you heard earlier, leads to confusion for tenants and
13 responsible owners. Removing the outside temperature
14 requirement is a common sense simplification of the
15 code that will establish a consist indoor temperature
16 to the benefit of owners and tenants. It will also
17 add clarity and efficiency to agencies enforcement
18 efforts. The primary impotence for this proposal is
19 improving the health and safety of New Yorkers in
20 their dwelling during the cold months. While this
21 change would benefit many New Yorkers, it embodies
22 the goals of age friendly New York as it would
23 particular help our older resident and of course
24 young children who are more susceptible to health
25 complications due to lower overnight temperatures.

2 When buildings are not heated adequately, resident
3 may turn to additional heat sources like space
4 heaters and cooking ovens and we know there use is
5 expensive, inefficient and dangerous, particularly
6 when you have a small apartment and electrical
7 outlets that are not frequent enough and sometimes
8 overburden. In our store front office on 125th
9 Street, we receive lots of complaints of inadequate
10 heat from constituents in rental building and
11 (inaudible) of you can imagine where they have
12 resorted to using space heaters. On November 10th,
13 2015 unsafe usage of space heaters resulted in
14 serious fires. In Bronx somebody was in a fire
15 because of a space heater on that day and in Queens
16 somebody unfortunately died from the injuries as a
17 result of a space heater electrically fire. These
18 two proposed changes are reasonable and well within
19 the range of residential heating regulations. You
20 heard about City's like Chicago and Boston and others
21 that have similar weather conditions to our City and
22 neither City or heating regulations triggered by
23 outside temperature, their current minimum overnight
24 indoor temperature are consistent with a proposal to
25 move New York to 65 degrees. Chicago requires at or

2 above 66 degrees and Boston requires at or above 64
3 degrees. I thank you for the opportunity to testify,
4 I really also want to thank Legal Service Providers
5 who are voicing their support here as they do over
6 and over again, help tenants in our City and well as
7 live on New York which is really Bobby Sackman (sp)
8 who submitted testimony in support. So I really
9 again appreciate the Council Members who introduce
10 this legislation and I hope people will vote on the
11 City Council for Intro. 722-A, thank you very much.

12 ANDREW CALICK: Hi my name is Andrew
13 Calick, I'm the Deputy Policy Director for Controller
14 Scott Stringer and I'm here testifying on his behalf.
15 Thank you Chairperson Williams for holding this
16 hearing today and Council Member Dromm for working
17 with my office to introduce this critical piece of
18 legislation and thank you to the advocates who have
19 worked for years to protect, defend and expand the
20 rights of transgender New Yorkers including the
21 Transgender Legal Defense and Education Fund, Land
22 the Legal, the Lesbian, Gay, Bi-Sexual and
23 Transgender Community Center, the New York Civil
24 Liberty Union and many others. As detailed in our
25 restroom for all report last year, expanding the use

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2 of gender neutral restrooms in the City of New York
3 will make our City safer and more welcoming for all.

4 As a result I urge the Council the pass Intro. 871.

5 As we heard in 2002 this Council passed the
6 Transgender Rights Bill to expand the scope of
7 protection guaranteed under the City's human rights
8 law to people who's gender and self-image do not
9 fully accord with the legal sex assigned to them at
10 birth. As a result, the City has one of the
11 strongest human rights laws in the Nation and as we
12 also heard earlier last month the Commission on Human
13 Rights issued new detailed guidance confirming the
14 scope of these protections including the fact that
15 individuals must be allowed to use bathrooms or
16 lockers rooms or participate in single sex programs
17 that are consistent with their gender, regardless of
18 their sex assigned at birth. However the guidance
19 also made clear that the existing Human Rights Law
20 does not require entities to make existing bathrooms
21 gender neutral, even those that are single occupancy.

22 This is a serious problem because it is the very
23 nature of bathroom as a sex segregated facilities
24 that lead to harassment in the first place. As the
25 Transgender Legal Defense and Education Fund has

2 reported, individuals across the Country including
3 here in the 5 Boroughs have been barred from using
4 the restroom that correspond to their gender identity
5 or even attacked for doing so. In deed Nationwide
6 70% of transgender individuals have reported denial
7 of access to facilities, verbal harassment or even
8 physical assault when they sort access to gender
9 segregated public restrooms and that includes over a
10 quarter of transgender students who have been
11 excluded from accessing restrooms at school. As a
12 result of the harassment and humiliation that can
13 accompany the use of sex segregated facilities, many
14 transgender Americans avoid public restrooms all
15 together, a phenomenon that OSHA that has found can
16 lead to injury and illness. Here in New York many
17 institutions, universities and businesses have
18 already taken steps to address these concerns by
19 expanding access to gender neutral facilities
20 including the Whitney and Guggenheim Museums, Barnard
21 College, the New School, Edsie and many others.
22 Despite this trend New York City's plumbing and
23 building codes are stuck in the 20th century
24 requiring separate facilities for each sex. It's
25 time to bring our restroom facilities into this

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2 century to ensure that all New Yorkers regardless of
3 their gender identity or expression can safely access
4 a restroom in every corner of the City. Intro. 871
5 can achieve that goal in a smart and efficient way by
6 requiring existing single occupancy publicly
7 accessible restroom to become gender neutral and
8 changing City Codes to give more building owners the
9 opportunity to create new gender neutral restrooms as
10 they see fit. Sometimes a small change can go a long
11 way and by adopting signage on existing single
12 occupancy restrooms throughout the City, we will join
13 City's across the County as Council Member Dromm had
14 noted that have implemented simple cost effective
15 solution that provide safe restrooms for all. Thank
16 you very much.

17 CHAIR WILLIAMS: Thank you very much for
18 your testimony, we greatly appreciate it. Thank you
19 Borough President for your leadership on these issue
20 and please thank the controller of the leadership
21 fund as well. Generally speaking I don't sign on to
22 bill that are not mine before they come to Committee
23 so I want to make sure that I put on notice that I'd
24 like sign on to Intro. 871-A. Next up we have Ethan
25

2 Rice, Transgender Legal Defense Education Fund, Rocko
3 Sanabrio (sp), hope I pronounced that right.

4 [pause]

5 CHAIR WILLIAMS: Can you'll both please
6 raise your right hand. Do you affirm to tell the
7 truth, the whole truth and nothing but the truth in
8 your testimony before this committee and to respond
9 honestly to Council Member questions?

10 PANEL: I do [in unison].

11 CHAIR WILLIAMS: You can begin in the
12 order of your preference and will give everyone 2
13 mins to give their testimony.

14 ETHAN RICE: Thank you good afternoon my
15 name is Ethan Rice and I'm the Staff Attorney with
16 Transgender.

17 CHAIR WILLIAMS: Can you bring the mic
18 closer to you.

19 ETHAN RICE: Certainly yeah. I'm a Staff
20 Attorney with Transgender Legal Defense and Education
21 Fund and I'll be proving testimony on behalf of our
22 organization in support of Introduction 871, the
23 legislation that would require single occupant
24 bathrooms to be usable by persons of any sex and
25 thank you Chairperson Williams and Council Member

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2 Dromm for your leadership in protecting the rights
3 and dignity of transgender and gender non-conforming
4 people. Transgender Legal Defense and Education Fund
5 provides a comprehensive in-house litigation programs
6 and provide test case litigation with wide impact in
7 all areas of transgender civil rights. While many
8 victories have been won in an acting legislation that
9 protects lesbian, gay, bi-sexual and transgender
10 individuals, many hurdles remain especially for and
11 gender non-conforming New Yorkers. In 2001, study
12 found that 74% of transgender New Yorkers surveyed
13 faced discrimination in the workplace, 19% have a
14 household income of \$10,000 or less per year and
15 that's almost 5 times the poverty rate of the general
16 population. Only 52% had employer based health
17 insurance compared to 59% of the general population.
18 And 53% of people in New York that were surveyed had
19 been verbally harassed or disrespected in a place of
20 public accommodation or service, so from fighting
21 workplace discrimination to insuring equal access to
22 healthcare, Transgender Legal Defense and Education
23 Fund works tirelessly for transgender equal rights
24 and to reverse a cultural of discrimination that has
25 been tolerated for too long. Introduction 871 is

2 sorely needed to legalize the ability of transgender
3 and gender non-conforming New Yorkers to perform the
4 most basic of functions; using a bathroom without
5 fear of harassment or the threat of violence. Since
6 2010 our organization has filled 196 calls from
7 transgender and gender non-conforming individuals
8 that have been harassed, attacked or denied entry
9 when attempting to us the public restroom.

10 CHAIR WILLIAMS: You can wrap up.

11 ETHAN RICE: Thank you. So the New York
12 City on Human Rights was already was here and
13 testified regarding a lot of the issues that
14 transgender and gender non-conforming New Yorkers are
15 facing, I'll just you know wrap up with a couple of
16 comments about cases and people that have contacted
17 us. Last year we received a call from a cafeteria
18 employee who began her transition after being
19 employed with her company for some time and after her
20 transition she began to use the women's locker room
21 and two weeks later she entered the facility and
22 found a sign that said get out of her you man and
23 during the same year we received a call from a gender
24 non-binary individual and he, they were having a
25 difficult time finding appropriate place to change

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2 and use restroom facilities at their gym and while
3 the gyms management was able to find office space for
4 them to change clothing, there was still no bathroom
5 facilities that were available because of the in-
6 accessibly due to the gender designation. So in
7 conclusion Transgender Legal Defense and Education
8 Fund believes introduction 871 is a common sense
9 legislation, it shows a commitment to protect basic
10 human rights and the right level sensitivity so needs
11 of a population that is all too often marginalized
12 and we do hope that we can be of service to the
13 process and be happy to assist you and thank you
14 again for the opportunity to speak today.

15 CHAIR WILLIAMS: Thank you very much, if
16 you can give one second I want to call the ask for
17 Council Member Rosenthal to vote and are you voting
18 also? And Council Member, then Council Member
19 Torres, Mendez sorry and.

20 COMMITTEE CLERK: Introduction 49-A,
21 Council Member Rosenthal.

22 COUNCIL MEMBER ROSENTHAL: I vote aye,
23 thank you.

24 COMMITTEE CLERK: Council Member Mendez.
25

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2 COUNCIL MEMBER MENDEZ: I vote aye, thank
3 you.

4 COMMITTEE CLERK: Vote now stands at 9 in
5 the affirmative.

6 CHAIR WILLIAMS: Thank you, we've also
7 been joined by Council Member Johnson and you can
8 continue.

9 ROCKO SANABRIO: So I would like to first
10 say thank you to Councilman Dromm for this
11 opportunity to share and testify and also to each and
12 every one of you for your open ears. My name is
13 Rocko Sanabrio. I was 4 years old when I tugged on
14 my mom's shirt as she washed the dishes to let her
15 know that I was boy. Mommy what if there's a girl
16 and there was a boy living inside her body. A 3 foot
17 pawn of life declared his own identity and at the age
18 my innocence ignored all of the possible and soon to
19 be obstacles I would face. Bathrooms being high on
20 the list. One of my favorite quotes from Mary
21 Shelley Frankenstein is when the monster first sees
22 his reflection. I'd admire the perfect forms of my
23 cottages, there grace, beauty and delicate
24 complexions but how I was terrified when I viewed
25 myself in a transparent pool. I watched the other

2 boys and recognized the beauty of them being allowed
3 to be themselves. The beauties of their clothes,
4 there comfortability and everything that (inaudible)
5 them. It felt like I was supposed to be, it was
6 supposed to be mine as well but I like the monster
7 saw my reflection with disgust and anger. The
8 monster wasn't treated very well by other. I entered
9 by I had hardly placed my foot within the door before
10 the children screech and no one and one other woman
11 fainted. Some fled, some attacked me. It's a very
12 upsetting moment to read this line and have to
13 question whether this was the monster experience or
14 your own. Despite having short spiky hair, my
15 elementary school, PS58 made me identify as a girl.
16 Using bathrooms became one the hardest parts. I
17 remember when I entered barely placing my feet in
18 those doors before hearing the sharp cries of all the
19 girls in the bathroom. They were usually older than
20 I was and very upset that the boy was in the
21 bathroom. The boy was upset that he was in the
22 bathroom to. Through all of elementary school when I
23 stepped into the girl's bathroom I stepped into the
24 girls bathroom I stepped into name calling, crying,
25 pushing, crawling, hiding. I stopped using the

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2 bathroom entirely. My high school now, Massive High
3 School offers a much different, much better
4 environment and I'm allowed to use the boys bathroom
5 as I do with any public bathroom, despite this not
6 every day is smooth sailing when it comes to being
7 transgender and having to use the restrooms. When
8 your transgender and your just figuring out your
9 identity, bathrooms along with other things like
10 going to a pool and dating is not often on the top of
11 your mind. You don't realize the overwhelming affect
12 it will have which plays a huge toll on your
13 emotional health until it happens and once it happen
14 it consistent. Every day you try and wait for an
15 empty bathroom, every day you try and slowly and
16 quietly tear that toilet paper and every day you
17 stare at those urinals and think of how it should
18 have been for you. We use bathrooms every single day
19 and for anyone not just transgender, public bathrooms
20 are a place of absorbing self-confidence and
21 insecurities. It just becomes amplified when you
22 have gender dystonia. The only times I've ever felt
23 truly comfortable in a public bathroom is when using
24 a more gender neutral single occupant bathroom.
25 Using a bathroom becomes about using the bathroom and

2 not about the anxieties and comfortabilities. It's a
3 bathroom where I know that I won't feel threaten by
4 others who are inside and I don't have to cautious of
5 what I do. It's a bathroom that will be available so
6 I don't need to hold it in for hours and hours
7 because I'm too afraid. No child should have to
8 spend time out of their day worrying about something
9 like that. It could be stressful for any child that
10 doesn't have, they don't have to be transgender, this
11 will be a bathroom for all. Everyone can feel safe
12 and comfortable because everyone should when it comes
13 to something like this. It's upsetting that when it
14 comes to speaking in front of all of you and when
15 comes to using the public bathroom I'm more afraid to
16 use a public bathroom. The bathroom would be for
17 everybody, I would encourage anyone and everyone to
18 use it when it makes the, if it makes them feel more
19 comfortable. My goal though is for the future that
20 one day this type of bathroom, the gender neutral
21 single occupant bathroom will just be a bathroom but
22 for today it's important for all of us that the
23 gender neutral bathrooms are available. No one like
24 myself should have to hold it in for 8 hours, be

2 bullied or be afraid because this is something that
3 we need, thank you.

4 CHAIR WILLIAMS: Thank you both very much
5 for your testimony. Thank you very much for your
6 touching testimony and personal story. I think it's
7 important that folks see real people behind many of
8 the names and labels that are thrown out and so I
9 think it's important people can have the courage to
10 come out and speak about their story, so I thank you
11 for that, I'm, I there was an experiment we did in
12 high school, it was either high or college where the
13 professor asked us to actually use a bathroom of a
14 different gender to try and go in and experience the
15 un-comfortability of what's that like so I can only
16 imagine if they have to do that for your entire life,
17 that's why I think this is a great common sense piece
18 of legislation to help elevate all of that. My first
19 encounter with non-gender bathrooms was in Spain
20 actually, I was young, it was confusing at first and
21 then it didn't really become a big deal it just
22 seemed like the regular thing to do, so I... I applaud
23 your courage and continue and wish you the best of
24 luck, thank you so much. We have questions from
25 Council Member Dromm and then Council Member Johnson.

2 COUNCIL MEMBER DROMM: Thank you Council
3 Member Williams, Chair Williams and I also want to
4 thank Rocko for coming in and providing testimony as
5 well as the other witness. I happen to know Rocko
6 from a while back and his story is very moving and
7 touching and he's gone through a lot. I also know
8 the school that he referred to and the principal who
9 gave him a really unbelievably horrible time when he
10 was in elementary school and even though he at that
11 time he knew that he was different as he's described
12 in his testimony as well. So you know the courage
13 that you've displayed is incredible and maybe if you
14 could just tell us what your roll is in the school
15 today, what do you do.

16 ROCKO SANABRIO: So in my high school I am
17 Student Body President, so some of my
18 responsibilities are attending School Leadership team
19 where we discuss a lot of different topics which you
20 know of one of them right now.

21 COUNCIL MEMBER DROMM: He came to
22 interrogate me on school lunches and school sports,
23 excuse me on school sports, school lunches was
24 yesterday, schools sports was the other day but he's

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2 looking for more sports for both boys and girls teams
3 in his school so.

4 CHAIR WILLIAMS: What district do you
5 live in?

6 ROCKO SANABRIO: District, I live in a
7 different district then I attend school in.

8 CHAIR WILLIAMS: I just want to make sure
9 you can't run against me for a while.

10 ROCKO SANABRIO: But, so that's one of the
11 things that were currently discussing in our school.
12 A lot of raising expose to our school and developing
13 the communication between the students and the
14 teachers and the community but aside from my
15 leadership in the student government I'm also
16 president and the founder at my school of Best
17 Buddies which is completely separate, it's a, it's a
18 organization to include individuals with
19 intellectuals and developmental disabilities and so
20 that's something that I take a lot of pride in at my
21 school as well.

22 COUNCIL MEMBER DROMM: So the reason I
23 asked you Rocko to explain a little bit more about
24 that is because sometimes when people hear this topic
25 they get all crazy and they get nervous and they say

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2 you know especially parents of kids who are in high
3 school, you seem to have gone beyond that with your
4 classmates, how did you accomplish that and you know
5 why doesn't it make a difference to the kids or does
6 it make a difference to the kids in your school that
7 you use the male bathroom?

8 ROCKO SANABRIO: So I guess it's
9 important to start at the beginning and how vocal you
10 really have to be for yourself and it's also has to
11 do with a lot of patience with who your speaking to.
12 With my parents I was very fortunate, I didn't have
13 to be very patient, they were very understand and
14 accepting but like the principal that I had in
15 elementary school it's just a matter of staying
16 confident with who you are, ignoring the judgement of
17 the people who can't understand because I took a
18 really long time to realize that people just
19 physically can't and won't understand and you have to
20 just kind of distinguish between those and the people
21 who will and once you make that distinguishing you'll
22 realize that the people who couldn't understand
23 weren't the people who could do anything for you in
24 the first place. I've just, it's been such a long
25 time I mean 4 years old living like a boy, it's still

2 like obviously not the easiest thing I've still run
3 into, I mean I had a kind of like cut down and shave
4 off a lot of my testimony but there are times when I
5 really felt scared by the threat that I've received,
6 it's just the support system that I've really
7 surrounded myself with and I also, I mean I just love
8 like my school that I go to. I got a good vibe from
9 it and there really accepting, supportive
10 individuals. It's a great community.

11 COUNCIL MEMBER DROMM: In many ways the
12 administration in the school Maspeth High School has
13 been very, very supportive of you.

14 ROCKO SANABRIO: Very.

15 COUNCIL MEMBER DROMM: Thank you Rocko.

16 ROCKO SANABRIO: Thank you.

17 COUNCIL MEMBER JOHNSON: Thank you Mr.
18 Chair for holding this hearing today. I want to
19 thank you for hearing this important bill and I want
20 to thank Council Member Dromm for introducing this
21 legislation. I tried to get to it first and he beat
22 me to it and so I'm happy to be number 2 on this bill
23 and Rocko I just want to thank you for your testimony
24 here today, for your leadership and you just
25 mentioned that you actually to try to fit within the

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2 timeframe you cut out a lot of your testimony but I
3 read through it and it is very moving.

4 ROCKO SANABRIO: Thank you.

5 COUNCIL MEMBER JOHNSON: Very moving and
6 very beautiful.

7 ROCKO SANABRIO: Thank you.

8 COUNCIL MEMBER JOHNSON: And it's
9 incredibly eloquent and moving and I think you being
10 here today, you don't just represent yourself, you
11 represent many other people who aren't able to be
12 here and aren't afforded the opportunity to be here
13 and so I'm really grateful that you're here and there
14 was one paragraph that really stuck out to me and you
15 said and you just mentioned it again you said it
16 could be stressful for any child, they don't have to
17 transgender, this will be a bathroom for all.
18 Everyone can feel safe and comfortable because
19 everyone should know when it comes to something like
20 this, I mean how crazy is it that when it comes for
21 speaking in front you all and using a public bathroom
22 I'm more scared to use a public bathroom, it doesn't
23 make any sense. And so I think that really goes to
24 the heart of the matter, this is common sense, it's
25 easy to do, it's going to help countless individuals

2 and your becoming a bit of a regular here at the City
3 Council, you testified on our birth certificate
4 legislation when it came before us and told your
5 story about being a native New Yorker and how
6 important that was for you and so I wanted to thank
7 you for being here today. You also came and spoke in
8 front of the Chancellor when we had hearings on that,
9 so your helping countless New Yorkers who are
10 struggling with similar issues and who are not being
11 treated fairly. You are as New York One would say,
12 our New Yorker of the Week for all of your hard work
13 on behalf of so many other people, so I want to thank
14 you for being here today.

15 ROCKO SANABRIO: Thank you.

16 COUNCIL MEMBER JOHNSON: Thank you Mr.
17 Chair.

18 COUNCIL MEMBER WILLIAMS: I to read
19 through a lot of your testimony that you had to cut
20 out and as (inaudible) one line in particular struck
21 me, it was you saying I'm not a man because I'm
22 transgender, I'm only transgender because I'm a man.
23 I knew I was boy when I was 2 years old. I wanted to
24 make sure that, that was put into record for people
25 who will be hearing this and have additional

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2 questions, so I just want to say I thank you again
3 very much, I don't know if we have additional
4 questions but I really appreciate you coming out and
5 I personally appreciate you coming out with the
6 courage and your story, thank you so much.

7 ROCKO SANABRIO: Thank you.

8 CHAIR WILLIAMS: Next up we have Laura
9 Kerr, Urban Green Counsel, Abby Brown, Environmental
10 Defense Fund and Frank Ritchie, RSA, who I know will
11 be very happy about our temperature bill, probably
12 coming and cheer on didn't go high enough.

13 COUNCIL MEMBER JOHNSON: Jumanne, Mr.
14 Chair I just wanted to say one thing. We didn't
15 recognize and think it's always important and this is
16 like this, I want to thank Rocko's mother for being
17 here and being so supportive of her son, we need more
18 parents that accept their children in New York City
19 and I want to thank you for being here today, thank
20 you.

21 CHAIR WILLIAMS: Can you please raise
22 your right hand. Do you affirm to tell the truth,
23 the whole truth and nothing but the truth in your
24 testimony before this Committee and to respond
25 honestly to Council Members questions?

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2 PANEL: Yes (in unison)

3 CHAIR WILLIAMS: You can begin in order
4 of your preference.

5 ABBY BROWN: Good afternoon my name is
6 Abby Brown and I am the New York City Clean Energy
7 Project Manager for Environmental Defense Fund New
8 York Clean Energy Program. I respectfully submit the
9 following testimony regarding Intro. # 722-A, the
10 proposed local law to amend the administrative code
11 of New York City in relation to minimum temperatures
12 regarding or required to be maintained in dwellings.

13 Environmental Defense Fund or EDF is a not for
14 profit, non-partisan, international environmental
15 organization with headquarters in New York City.

16 With over 700,000 total members, more than 35,000 of
17 which are residents of New York City, we work to
18 advance market based policy to address the world's
19 greatest environmental challenges. EDF has a long
20 history of working with the City Council and the City
21 of New York most recently with the NYC Clean Heat
22 Program and Retrofit Accelerator. After supporting
23 legislation to phase out heating heating oil in New
24 York City, EDF acted as program manager for NYC Clean
25 Heat. Through our partnership with the Mayor Office

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2 of Sustainability, the NYC Department of

3 Environmental Protection and other partners, NYC

4 Clean Heat helped nearly 6,000 building convert to

5 cleaner fuels between 2012 and 2015, dramatically

6 improving air quality for all New Yorkers. We have

7 also worked closely with the New York City Housing

8 Authority to analyze the potential for using

9 technology to provide consist, comfortable

10 temperatures to residents while saving both energy

11 and money. I just like to pause and say that most of

12 our concerns in coming here were with the daytime new

13 required, proposed required daytime indoor

14 temperatures and now that it seems as though that may

15 not be the primary issue here I'd like to skim past

16 part of my testimony and just say that our... our main

17 concerns with increasing the required indoor air

18 temperature were, increased cost that could for

19 buildings that could potentially be passed on to

20 resident and the fact that more increased energy use

21 could make it increasing difficult to meet the City's

22 existing 80/50 goals that we have committed to and as

23 well as the State's energy reduction and GHG

24 reduction goals. So I'd like to just say that we

25 have some suggestion for some alternate options.

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2 Building owners can take many actions to improve the
3 performance of their heating systems which would
4 increase resident comfort and reduce heating
5 complaints.

6 CHAIR WILLIAMS: So if you can give a
7 wrap up statement would be good, then we can get to
8 some of that in the question... question period.

9 ABBY BROWN: Ok, absolutely. I would I
10 would just say that our primary concerns are insuring
11 that cost for increase energy use are not passed on
12 to residents and that New York City is still able to
13 meet the aggressive energy reduction and GHG
14 reduction goal that we have publicly committed to and
15 that we believe that this issue deserves more time
16 and research and we suggest putting together a
17 working group to really get into the issue, spend
18 some time researching it and ensure that whatever
19 action we take does not increase cost and make New
20 York City unable to meet our goals, thank you.

21 LAURIE KERR: Good afternoon Chairperson
22 Williams and Members of the Committee, I'm Laurie
23 Kerr and Architect in the Director of Policy for
24 Urban Green Counsel. Urban Green focuses on the
25 health cost and sustainability of New York City's

2 buildings. Given all of the discussion that's
3 happened so far I'm going to skip forward a little
4 bit in general we were concerned about the rising,
5 raising the daytime temperature and now that, that's
6 off the table comfortable with that. We agree that
7 there may need to be some raising of the nighttime
8 temperatures and removing the outdoor temperature
9 regulations seems to make sense to us. However, we
10 would like to address the core problems which cause
11 so much discomfort in New York City's apartment
12 buildings which is primarily not due to under heating
13 in most, in many New York Apartment buildings as heat
14 rises and escapes through poorly sealed windows and
15 roofs, external air rushes in through lower floors to
16 make up for the air loss. As a result lower floor
17 residents suffer cold temperatures while upper floor
18 residences are overheated causing even more heating
19 imbalance if you raise the temperatures in the colder
20 apartments. So the principle cause of cold
21 apartments in our view is not under heating but
22 instead poor installation of lack of ceiling and
23 uncontrolled and uneven heating throughout apartment
24 buildings. Therefore, we would recommend that New
25 York City pursue a policy of improving New York

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2 City's heating systems in the way that there run in
3 the way that the City's buildings are insulated and
4 the way that there sealed. For example, passing
5 Intro. 13-A which would implement efficiency training
6 so that building operators could run steam systems
7 with greater skill and provide more comfortable
8 living systems would be a good place to start.
9 Similarly the City could institute requirement for
10 improving steam, including sensors and controls
11 solutions that are often inexpensive and yield
12 savings while elevating discomfort which is the heart
13 of this bill. We look forward to helping City
14 Council develop such requirements, thank you.

15 CHAIR WILLIAMS: Thank you, I'm switching
16 one second, I want to allow my colleague Ydanis
17 Rodriguez to vote.

18 COMMITTEE CLERK: Introduction 49-A,
19 Council Member Rodriguez.

20 COUNCIL MEMBER RODRIGUEZ: Aye.

21 COMMITTEE CLERK: Vote is now at 10 in
22 the affirmative.

23 CHAIR WILLIAMS: You can go ahead.

24 FRANK RITCHIE: Chairman Williams,
25 Members of the Committee, my name is Frank Ritchie,

2 I'm the Director of Government Affairs for the Rent
3 Stabilization Association. We are the trade
4 association that represents 25,000 building owners in
5 the City who collectively have about a million units
6 of housing in their buildings. I did not coordinate
7 my testimony with the two ladies on my right today
8 but I'm also going to skip over part of it, I'm not
9 going to read it but I'm in total agreement that our
10 most objectionable part of this bill was the daytime
11 temperature increase which would have a severe impact
12 on the City's goal of reducing greenhouse gases by
13 80% by 2050. I'd like to point out that RSA was an
14 active member of the Clean Heat Test Course, we are
15 active members of the various Subcommittees at the
16 Mayor's Office of Sustainability has convened to look
17 at reducing greenhouse gases by 2050 and we try and
18 work with them as best we can to protect the owners
19 of those buildings and the residents from any kind of
20 extreme rent increases. I will point out that any
21 increase in the temperature weather it's daytime or
22 nighttime will ultimately be factored in to the price
23 index of operating cost that the rents guidelines
24 boards uses each year to determine rent increases so
25 I think you need to keep that in mind when your

2 discussing what seems to be now were down to just
3 nighttime temperature based on the prior testimony
4 today. With that I'll be happy to take any questions
5 but I'm in agreement with pretty much everything that
6 was said previously by my colleagues on the right.

7 CHAIR WILLIAMS: Thank you so Mr. Ritchie
8 are you saying that if we don't increase it, you'll
9 join us when we ask for rent freezes or... or lower
10 rents.

11 FRANK RITCHIE: No because I think were
12 under compensated already so were always going to
13 asking for higher increase.

14 CHAIR WILLIAMS: Ok, I was just checking.

15 FRANK RITCHIE: Ok.

16 CHAIR WILLIAMS: I did want to also make
17 one thing clear, the daytime increase is not off the
18 table, there is some questions that were working
19 through so I'm still interested in hearing what the
20 opposition is. Artlessly, it seems that your saying
21 if we raise the temperature 4 degrees in the daytime
22 is worst then if we raise a degree, 10 degrees in the
23 nighttime, so I want to understand why in your
24 opinion that would, that's...

25 FRANK RITCHIE: If I can answer that.

2 CHAIR WILLIAMS: Sure.

3 FRANK RITCHIE: Most apartment in the
4 City are empty in the daytime, so you're going to be
5 heating empty apartments and if you go to the other
6 argument I'm making about the price index of
7 operating cost, ultimately you're going to have
8 tenants and owners to a certain extent paying to heat
9 empty apartments all day long.

10 LAURIE KERR: I think some of the other
11 reason are that 68 is not seen by many as being
12 uncomfortable and given that's the lowest temperature
13 of any apartment and we know how uneven these
14 buildings, that means many apartments are going to be
15 in the high 70's or even 80's for the lowest
16 apartment to be at that temperature so, on the other
17 hand a temperature of 55 I think many of us could see
18 that's fairly low and so there might be some room for
19 raising that 5 degrees or so and that... that would
20 seem to be reasonable, so I think it more has to do
21 with the level of... of... of comfort. I think that
22 another reason for not wanting to raise the daytime
23 temperature is this issue of imbalance which is
24 probably the worst problem that we have in our
25 buildings so if you right now you'll have easily 10

2 degree differences in apartments. The operator heats
3 to the coldest apartment, that means the warmest
4 apartments are going to be even more heated. That
5 causes a chimney affect to go through the building as
6 the people in the hotter apartments open their
7 windows, letting air out, so it becomes a vicious
8 cycle, the more you increase the temperature in the
9 hottest apartments sometimes perversely the lower
10 floors can become even colder, so it's... it's going to
11 be much better to improve building operations,
12 sensors and controls on steam heating systems and
13 infiltration in these buildings and in the long run
14 the people that are too hot and the people that are
15 now too cold are all going to be a whole lot
16 comfortable, more comfortable if we approach the
17 problem that way.

18 ABBY BROWN: I'll just second what they
19 said.

20 CHAIR WILLIAMS: I am just coming from
21 experience of being a tenant and having tenants and I
22 know that usually even at 68 there's still complaints
23 you don't feel, usually people feel normal around 70
24 because I know complaints still come in even at 68.
25 Is there any increase in daytime that you'd be

2 supportive or you think any increase in the daytime
3 is no good?

4 FRANK RITCHIE: Were opposed to any
5 increase in the daytime temperature and I thought I
6 heard for the first time the Borough President say
7 there was a pre-emption issue so I'd like to go back
8 and look at that myself.

9 CHAIR WILLIAMS: Sure, there's a we
10 there's no agreement on that were... were looking at
11 some legal issues as well as what the number would
12 be.

13 ABBY BROWN: I'll second and say that
14 other City's like Chicago and Boston find 68 to be
15 fine and I don't know, I think more research needs to
16 be done to see if raising it from 68 is really
17 necessary and what the true impacts of that would be
18 and if there's potentially a pre-emption issue than
19 that needs to be thoroughly researched as well.

20 CHAIR WILLIAMS: Council Member
21 Gradonchik.

22 COUNCIL MEMBER GRADONCHIK: Thank you Mr.
23 Chairman, this is for any of the panelist. Has
24 anybody estimated what the percentage all of the
25 things being equal because we're seeing a very, very

2 low cost of energy at this time although a few years
3 ago oil was \$147 a barrel and todays it's about \$31 a
4 barrel, has anybody estimate all the things being
5 equal, what the cost increase would be percentage
6 wise? I'll take it from you nodding your head, so
7 I'll, she's stuck on the end not in the middle.

8 ABBY BROWN: I'm so we had our economics
9 team do that research based on figures from the US
10 Department of Energy and we found and this is more
11 specific for daytime energy cost cause as I said that
12 was our... our primary concern. We found that the
13 proposed change in minimum indoor temperature would
14 increase heating bills by at least 18%.

15 COUNCIL MEMBER GRADONCHIK: 18%.

16 LAURIE KERR: And we looked at the
17 daytime plus nighttime temperature and found about
18 1/3 that... that cost would be increased by about 32%
19 so I think that's in line.

20 COUNCIL MEMBER GRADONCHIK: And do we
21 know and maybe this questions if for Mr. Ritchie, do
22 we know what percentage of cost in the rent
23 guidelines would survey heat is... is I know there's
24 formula.

2 FRANK RITCHIE: Yea, fuel, I don't know
3 the exact percentage but I know that fuel and then
4 (inaudible) does, they look at the cost of fuel
5 weather it's gas, oil, then they also look at degree
6 days so they monitor the temperature, daytime and
7 nighttime every day from October 1 to May 31, to May
8 1st I mean, to look at, do that calculation.

9 COUNCIL MEMBER GRADONCHIK: But heating
10 is a substantial cost?

11 FRANK RITCHIE: Substantial, yes,
12 substantial cost.

13 COUNCIL MEMBER GRADONCHIK: Thank you
14 very much, thank you Mr. Chairman.

15 CHAIR WILLIAMS: You'd of thought with
16 the oil prices going down we'd of had, we'd you had
17 more property owners joining us in supportive of the
18 rent freeze but that somehow didn't happen, I was
19 shocked and amazed.

20 FRANK RITCHIE: Well, it may be
21 temporary, I mean oils cheaper than natural gas right
22 now to heat a building, it may not last.

23 CHAIR WILLIAMS: I did have some
24 questions because we're talking about obviously the
25 energy goals, do you factor in that people who don't

2 have adequate heat, do we use space heaters, do we
3 open ovens that adds to the energy usage and also a
4 cost of people paying electrical bills?

5 FRANK RITCHIE: I believe that aspect of
6 the calculations are overestimated, most buildings in
7 the City are actually overheated and you heard Deputy
8 Commissioner Mr. Trulio (sp) say that the... the number
9 of actual violations compared to complaints is really
10 like 2% so actually that just goes to, I... I... I...

11 CHAIR WILLIAMS: Well also that's
12 because...

13 FRANK RITCHIE: I just don't think that
14 you get that many people using space heaters.

15 CHAIR WILLIAMS: But you also have to
16 factor in then that it's way too low now, so if it
17 was at a temperature that wasn't too low, particular
18 at night, that would probably go up, particularly
19 also because we have the outside temperature, so now
20 they have to measure well if it's 40 degrees, is it
21 39, so I think that one of the reasons that it's
22 particularly low because event thought it's probably
23 too cold, legally speaking there isn't much that they
24 can do. Did you have a response to whether that's
25 factored in the energy usage that your worried about?

2 ABBY BROWN: I would have to check with
3 our ECON team who did the calculations but I'd be
4 happy to get back to you on that.

5 LAURIE KERR: We did not take that into
6 account cause we had no way of estimating the extent
7 of that.

8 CHAIR WILLIAMS: Thank you. I do
9 honestly believe that most... most buildings are heated
10 above 55 and during the, during the heating season I
11 had one staff member text me to say that they were
12 happy about this hearing cause they had 57 degrees
13 one night and they were cold and I don't think, I
14 don't think it's arguable that 57 degrees is probably
15 cold when it's 20 something degrees outside, so we
16 can continue discussion on in the daytime, thank you
17 for the support that you've shown for what is there
18 and kind of support from RSA for some small portion
19 of it I think, I don't know did you, did you have a
20 comment about taking away the outside temperature
21 portion.

22 FRANK RITCHIE: No, I have no comment
23 about that.

24 CHAIR WILLIAMS: Ok, thank you very much
25 for your testimony, appreciate it.

2 ABBY BROWN: Thank you.

3 CHAIR WILLIAMS: David Bilingsly, MFY
4 Legal Services, Stephanie Rudolph, Urban Justice
5 Center, Katylin Johnson, LSNYC, Army Shaw, for LSNYC.

6 [pause]

7 CHAIR WILLIAMS: Can you each raise your
8 right hand, hold on a second. Can you raise your
9 right hand please. Do you affirm to tell the truth,
10 the whole truth and nothing but the truth in your
11 testimony before this Committee and to respond
12 honestly to Council Members questions? You'll each
13 have 2 minutes; you can begin in the order of your
14 preference. Whichever you prefer, yes you can start.

15 DAVID BILLINGSLEY: Good afternoon my
16 name is David Billingsley, I'm a Poverty Justice
17 Solutions Fellow at MFY Legal Services. I wanted to
18 thank the Committee and the Chair for giving me an
19 opportunity to testify. MFY annually serves more
20 than 3,600 tenants, over 2,000 of whom are at least
21 60 years old and approximately half of them are
22 people with disabilities. MFY legal services
23 supports Intro. 722-A, proposed at the request of the
24 Manhattan Borough President Brewer raise the
25 overnight minimum temperature from 55 to 65 and

2 remove the exterior temperature requirement
3 triggering the provision of heat because this
4 amendment will provide significant health and safety
5 benefits to the most vulnerable New Yorkers. Many of
6 our clients are elderly, poor, disabled or other
7 vulnerable people, you know elderly and young people
8 are especially susceptible to hypothermia and cold
9 related complications of disease and disability
10 partly because the natural aging process reduces the
11 ability to isolate the body against cold temperatures
12 and detect change in temperature. Many
13 cardiovascular vascular respiratory disease are
14 complicated or worse than by cold temperatures and
15 cold temperatures associated with higher rates of
16 death from strokes and heart attack, as a result you
17 actually see older age groups even showing excess
18 rates of mortality in the winter and these problems
19 are complicated by poor nutrition, a lack of access
20 to appropriate winter clothing, which exacerbate
21 these kinds of issues. Secondly and equally
22 important is that a lot of people will burn, well
23 excuse me they'll burn, they'll open the oven, open
24 the stove, this exposes people to carbon monoxide
25 poisoning, an estimated 430 deaths per year around

2 the United States are due to carbon monoxide
3 poisoning and using space heaters also which
4 contributes to according to the US product, Consumer
5 Product and Safety Commission they estimate that more
6 than 25,000 fires and residential homes are the
7 results of space heater use or in-proper use and
8 fires pose an especially large risk in a place like
9 New York City which is densely populated. I want to
10 just briefly talk about we support HPD testimony
11 that, that it was streamline the enforcement often
12 times we have tenants who report that they you know
13 call and but by the time HPD gets out there because
14 of the large number of... of calls that come in the
15 temperatures change or it takes a long time to heat
16 the building up and a lot of landlords may escape
17 enforcement or even if they're trying to do the right
18 thing then sometime by the time they get out there,
19 there's nothing that can be legally done about it and
20 I'd like to take any questions if the Committee has
21 any.

22 STEPHANIE RUDOLPH: Thank you my name is
23 Stephanie Rudolph, I'm a Housing Attorney at the
24 Community Development Project of the Urban Justice
25 Center. CDP's mission is strengthen the impact of

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2 grassroots organizations in New York City and low

3 income and other excluded communities as part of our

4 preservation of affordable housing work we commence

5 group cases on behalf of tenants, particularly low

6 income tenants and NYCHA tenants and heat cases are a

7 large part of our docket so I'll probably skip over a

8 lot of the written testimony to just focus on my

9 experience in housing court working on heat cases.

10 First of all you know one thing in the City that

11 never sleeps increasing the nighttime temperature

12 from the frosty 55 to reasonable 65 degrees means

13 that new parents and caretakers who are up at night

14 with infants will be warmer shift workers who are

15 sleeping during the day but up during the night and

16 early risers will enjoy more habitable and

17 comfortable residential environments. It's not true

18 at least in our client population that folks are away

19 during the day, a lot of folks especially those with

20 disabilities and the elderly and those of young

21 children are home during the day so having a warmer

22 inside temperature during the day is really important

23 to our clients. While wearing multiple layers,

24 staying warm at 55 degrees at night is very difficult

25 for most tenants. Those who cannot withstand the

2 cold particularly those with disability, the elderly
3 and the very young are forced to rely on space
4 heaters. We've already talked about that being a
5 fire hazard and also increase our client's
6 electricity bills. We've seen bills in the several
7 hundreds of dollars. It causes electricity outages
8 in the building because the breakers can't sustain
9 that many space heaters and it shifts the cost of
10 creating a habitable living environment from the
11 owner to the tenant. One of the strange requirements
12 when the of the current heating law that if it's 41
13 degrees at night, it's as if there literally is not
14 heat law at all, so you know the landlord is under no
15 obligation to heat the building at all if 41 degrees
16 and we know that HPD does do nighttime inspections
17 but unfortunately they come out on a warm night even
18 if there's literally no heat coming out of the
19 radiator there's no violations that can be placed.
20 So just to jump to the real life application and
21 housing court, my very first case was actually a case
22 that resulted in some dispute about the heat, there
23 was a major fire in August and by December the
24 tenants still did not have a working heating systems,

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2 it was a 72 unit rent regulated building in the South
3 Bronx and children were having.

4 CHAIR WILLIAMS: I have to ask you to
5 wrap up.

6 STEPHANIE RUDOLPH: Children were having
7 asthma attacks, nearly every night, children were
8 missing school and parents were staying home from
9 work to care for their children, so in one
10 particularly sad case the administration for children
11 were threatening to remove the mothers child from the
12 home, the judge basically said you know it doesn't
13 matter that you can see your breath in the house, I
14 keep my vacation home at 55 degrees and that's just
15 so the pipes don't freeze when I come in after being
16 away, I can certainly see my breath.

17 CHAIR WILLIAMS: I'm sorry I'm going to
18 have to ask you to.

19 STEPHANIE RUDOLPH: All right, I'll stop.

20 CHAIR WILLIAMS: Thank you.

21 ARMY SHAW: My name is Army Shaw, I'm
22 here with my colleague Kaitlyn Johnson, we are
23 Staff Attorney's at Manhattan Legal Services and will
24 be jointly testifying on behalf of Legal Services
25 NYC, National Organization for Legal Services Workers

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2 and Local 2320 of the UAW. We thank the Council for
3 the opportunity to testify before you and wanted to
4 express our full support of the Council removing the
5 outside temperature requirement that is currently
6 present in the code and increasing the nighttime
7 minimum temperature requirement. Through our work
8 our organization has found that the outside
9 temperature requirement has often allowed landlords
10 to evade providing homes with sufficient heat.

11 Landlords have interrupted this requirement as a
12 strict threshold failing to heat apartments at all
13 until the outside temperature falls below the
14 guidelines as colleague mentioned. The current
15 language allows the code, allow, the current language
16 of code allows landlords to pride no heat to tenants
17 even when the temperature is 41 degrees.

18 Additionally, the outside temperature requirement
19 makes it much more difficult for tenants to prove
20 violations as they must both record the inside and
21 outside temperatures at a given time. For these
22 reasons we fully support the Council efforts to
23 eliminate this requirement.

24 KAITLYN JOHNSON: Recently our office
25 along with pro-bono Counsel from King and Spaulding

2 and the Public Advocate Latisha James office filed a
3 group case against the City's largest landlord, the
4 New York City's Housing Authority for its failure to
5 adequately heat, provide heat to tenants. In
6 November NYCHA counsel forwarded an email to me from
7 the NYCHA director of heating services stating that
8 NYCHA official policy is to shut off heat between 10
9 p.m. and 5 a.m. when the outside temperature is above
10 20 degrees. In justifying this policy NYCHA claims
11 that the language of the code requires only that they
12 maintain the temperature at 55 degrees at night when
13 the outside temperature is below 40 degrees and that
14 this did not require them to actually turn the heat
15 on. NYCHA argued that if the heat was on during the
16 day a minimum temperature of 55 degrees could be
17 maintained throughout the night without actually ever
18 turning the heat on. While we dispute that NYCHA
19 ever did maintain the dwellings of this temperature,
20 the language and the code allows landlords to draw
21 the distinction between maintaining the temperature
22 and affirmatively providing heat. Because this
23 language does not mandate that the heat remain on at
24 night, it creates an opportunity for landlords to
25 essentially engage in a guessing game when it comes

2 to providing heat. The landlords provide the amount
3 of heat in the day that they think will keep the
4 apartments at 55 degrees overnight. This calculation
5 increases the likelihood that tenants will be without
6 the requisite heat at night and puts the burden on
7 the tenant to prove that the apartment wasn't
8 maintained at the required temperature rather than
9 show that heat wasn't provided. While the proposed
10 rule raises the minimum temperature that must be
11 maintained, the revised language still allows for
12 landlords to engage in this sort of roulette because
13 it only maintain, require that they maintain a
14 minimum temperature. Thus, under the revised
15 language NYCHA can still argue that it can maintain
16 this new minimum nighttime temperature without
17 turning on the boilers which put vulnerable low
18 income New Yorkers at risk of spending cold winter
19 nights without any heat. To address this concern we
20 propose that the Council explore requirements for
21 effective monitoring for (inaudible) and buildings
22 that would take this guessing element out of
23 providing heat.

24 CHAIR WILLIAMS: Thank you, thank you
25 very much for the testimony. You were saying

2 something about the judge is saying that if you
3 breath your breath it doesn't matter.

4 STEPHANIE RUDOLPH: Yes I mean I didn't
5 get to, I apologize for going over time, I was going
6 to talk about the use of heat logs and essentially
7 the judge had said I can see my breath, it doesn't
8 mean it's a violation of the heating code for other
9 reason that heat logs were disqualified would have
10 been disqualified for evidence due to collaboration
11 issues and so we were at a point where we could not
12 prove a heat violation even though the heating
13 system, there was gas in the building also was not
14 working and that was problematic, the judge wanted to
15 HPD violations, some judge want, judges want to see
16 them every day of the week and that's just impossible
17 if the outside temperatures is going to be over a
18 certain amount. HPD takes 36 to 72 hours to respond
19 to a complaint, so when HPD comes out it's not
20 necessarily as cold as when the tenant called.

21 CHAIR WILLIAMS: Thank you, I don't know
22 if my colleagues have any questions but I just want
23 to say thank you very much for the work that you're
24 doing and thank you for taking time out to testify.
25 Next we have Robert Hodgeson, Beverly Tillery, NYC

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2 Anti-Violence Project, Keri Davis, LGBT Community
3 Center and will be joined on the phone by Helen
4 Fitzpatrick, also known as Nellie, Director of LGBT
5 Affairs Office of Mayor Jim Kenney, City Hall
6 Philadelphia. Ms. Fitzpatrick is she on.

7 NELLIE FITZPATRICK: Yes I'm on thank
8 you.

9 CHAIR WILLIAMS: Thank you, so we do have
10 an affirmation statement, I'm going trust that you
11 would raise your right hand when I ask, even though I
12 can't see it.

13 NELLIE FITZPATRICK: Yes.

14 CHAIR WILLIAMS: Ok. Can everyone please
15 raise their right hand? Do you affirm to tell the
16 truth, the whole truth and nothing but the truth in
17 your testimony before this Committee and to respond
18 honestly to Council Members questions?

19 PANEL: Yes [in unison]

20 NELLIE FITZPATRICK: Yes I do.

21 CHAIR WILLIAMS: Thank you, just so we
22 cannot be confusing were going to ask Ms. Fitzpatrick
23 if you would go first, everyone is being give 2
24 minutes to provide testimony.

25

2 NELLIE FITZPATRICK: Yes, thank you, good
3 afternoon like you said my name is Nellie Fitzpatrick
4 and I'm the Director of the Mayor's Office LGBT
5 (inaudible) to the City of Philadelphia and I'm proud
6 to testify in support of Intro. 871, a local law to
7 amend the New York City Plumbing Code, New York City
8 Building Code and the Administrative Code of the City
9 of New York in relation to general neutral single
10 occupancy bathrooms and thank you for allowing me to
11 testify telephonically from Philadelphia City Hall.
12 This bill which requires that single occupancy
13 bathroom facilities known throughout New York City
14 code as toilet rooms be used by all people without
15 limitation based on gender identity. I think it's
16 important to let us first began by acknowledging that
17 speaking about bathrooms is not something many of us
18 do on a daily basis, further we can all agree that
19 using public bathrooms rarely brings about enjoyable
20 or fond memories for anybody, however, for
21 transgender people and many others using a public
22 bathroom can be highly stressful and even a dangerous
23 experience. This bill is an excellent way to help
24 provide more safely accessible restrooms and
25 eliminate the stress of some in doing what each of us

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2 do every single day. Here in Philadelphia October
3 8th, 2015 City Council unanimously passed the bill
4 which I commonly known in Philadelphia as the Gender
5 Neutral Bathroom Bill, which requires that all
6 Philadelphia restrooms that are single occupancy no
7 longer be distinguished separately by gender instead
8 they are opened to all genders by simply being
9 labeled as bathrooms. This bill was endorsed and
10 supported by the Pennsylvania Restaurant and Lodging
11 Association as well as received widespread support by
12 business and civilians alike throughout the City of
13 Philadelphia and beyond. Leading up to the unanimous
14 passage of this bill, there was actually a lot of
15 dialogue that happened here in the City of
16 Philadelphia and the reason this dialogue was here
17 was why on earth would we really need to make gender
18 neutral or all gender bathrooms when in fact our fair
19 practice ordinance just like yours in New York City
20 allows anybody to access any bathroom that is
21 appropriate for their gender identity without
22 restriction based on their appearance or what it says
23 on their birth certificate or what it says on their
24 legal id and the very simply answer to that is that
25 bathrooms without designated gender or without

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2 signage labeling them as to accessible to only to men
3 or only to woman benefit individuals who not
4 comfortable or face mistreatment when accessing
5 gender specific restrooms. Transgender and gender
6 non-conforming people often face stress, anxiety and
7 mistreatment when accessing gender bathrooms that is
8 appropriate for them. Providing access to a private
9 non-gender space can reduce or even eliminate this
10 burden. On April 18th, 2011 around 8 p.m. a 22 year
11 transgender woman name Krissy Pollas (sp) entered a
12 multi-occupancy women's room in McDonalds, in a
13 McDonald restaurant in Roswell, Maryland which is a
14 suburb of Baltimore. Krissy was immediately
15 confronted by two teenage woman in the McDonald's
16 restroom, one of them spit in face and they both
17 proceeded to repeatedly punch in Krissy about her
18 face and body. The brutal beating went on for
19 several meeting as Krissy covered her head while
20 lying in the fetal position trying to survive the
21 attack. Instead of intervening or helping Krissy,
22 onlookers including a McDonald's employee laughed and
23 videotaped the attacked on a cellphone. The video
24 shows the attackers dragging Krissy's body through
25 the restaurant and after one particularly powerful

2 blow to her head she appeared to have a violent
3 seizure while bleeding from the mouth. It was at
4 this point that finally the employee filming warned
5 the spectators and the attackers to flee before the
6 police came and the assault finally came to an end.
7 At that end of that video tape, Krissy laid alone on
8 the ground convulsing and bleeding by a trash can
9 when the video cut off. In the aftermath of the
10 assault the two attacker age 19 and 14 were arrested.
11 Years later Krissy remained afraid to leave her home
12 and reported to news sources that she was so
13 embarrassed by the incident that she never planned on
14 telling her story. The video of the heinous attack
15 remains on Youtube today and has been viewed 100's of
16 1,000's of times. Krissy's story went viral due to
17 the video being captured and shared on the internet.
18 For many people like Krissy, there victimization goes
19 untold, unhealed and ongoing. I share Krissy's story
20 with you to speak to the most important thing that
21 this bill will do. It will assist in eliminating
22 members of the public, store owners, employees,
23 customer and so on from policing the gender of
24 others. This bill provides space...

25 CHAIR WILLIAMS: Ms. Fitzpatrick.

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2 NELLIE FITZPATRICK: That is labeled for
3 it's purpose, a bathroom and not a gender controlled
4 space that allows others to question, harass or harm
5 those seeking to use it. A study from the Williams
6 Institute...

7 CHAIR WILLIAMS: Ms. Fitzpatrick.

8 NELLIE FITZPATRICK: Confirms...

9 CHAIR WILLIAMS: Hello, Ms. Fitzpatrick

10 NELLIE FITZPATRICK: Hello.

11 CHAIR WILLIAMS: Yes, thank you for the
12 testimony, it's a little overtime and we have to get
13 some other people to testify, if I can ask you to
14 pause then and if we have some additional questions
15 if you can hang on, you can continue with some of,
16 the rest of your testimony ok?

17 NELLIE FITZPATRICK: Yes.

18 CHAIR WILLIAMS: Ok, thank you very much,
19 please.

20 BEVERLY TILLERY: Good afternoon, thank
21 you Chair Williams, my name is Beverly Tillery, I'm
22 the Executive Director at the New York City Gay and
23 Lesbian Anti-Violence Project or AVP. I'm here to
24 testify about proposed Intro #871-A, introduced by
25 Council Member Daniel Dromm and supported by several

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2 other Council Members. AVP empowers lesbian, gay,

3 bi-sexual, transgender, queer and HIV communities and

4 allies to end all forms of violence through

5 organizing and education and we support survivors

6 through organizing and education and we support

7 survivors through counseling and advocacy. I want to

8 thank you all for our allowing me to speak today and

9 let you know that AVP supports the passage of the

10 proposed Intro #871-A. In working with LGBTQ and HIV

11 affected survivors of violence, AVP hears daily

12 stories of LGBTQ people like the one that you just

13 heard, especially transgender and gender non-

14 conforming people who experience violence and

15 harassment when accessing gender... gender at public

16 restrooms of their choice for their actual or

17 perceived gender identity. For several years, AVP

18 has worked with the LGBTQ community on addressing

19 bathroom safety and ensuring that people have the

20 resources and support they need to have experience to

21 if they have experienced violence when accessing

22 public restrooms of their choice. The passage of

23 this proposed Intro. #871-A would be an important

24 step towards ensuring that New York City is committed

25 to creating an environment in which all people

2 regardless of their actual or perceived gender
3 identity are safe and respected when accessing gender
4 neutral single occupant bathrooms. In addition to the
5 passage of this important legislation as you heard as
6 you've heard from human rights commission, we also
7 want to ask that education and training continues to
8 make sure that those who are responsible for adhering
9 to these regulations really understand what their
10 being asked to do and how to do it because as we've
11 experienced from working with the police department
12 and other public entities that's not always the case
13 and we would be happy to be a part of planning as it
14 goes forward to make sure that that's... that's
15 happening, thank you.

16 KERI DAVIS: Good afternoon and thank you
17 for this opportunity to support Intro. 871. My name
18 is Keri Davis and I'm the Chief Programs and Policy
19 Officer at the LGBT Community Center where I've
20 worked since 1998. I've been very fortunate of these
21 last 17 years to be able to collaborate with the City
22 to service LGBT citizens better. Despite all that
23 I'm not sure I'm testifying today as a social worker,
24 or as an architect to practice in New York City for
25 15 years or as someone who just uses restrooms.

2 Toilets operate according to the rules of physics
3 rather than notions of gender and are by their very
4 nature for all genders. Despite that we've all sit
5 outside two identical single occupant restrooms, one
6 with the figure of a stick figure in pants and other
7 with a figure in a skirt. The room you need to use
8 is in use, the other is vacant. While waiting you
9 wonder what would happen if you used the other
10 restroom, the one with symbol that does not
11 approximate your identity. Are you breaking a law or
12 do you just need to urinate? Gender specific
13 restrooms raise challenges for many people including
14 fathers caring for their daughter, mothers caring for
15 their sons as well as people who have a caretaker of
16 a different gender. Intro. 871 is also in line with
17 OSHA best practices. With it's focus on function,
18 this legislation simply shifts the emphasis from what
19 we labeled the restroom as to what we do in it. The
20 result is more restrooms for more people. Like
21 restroom usage, gender identity is a core part of
22 everyone's life. For transgender and gender non-
23 conforming people, significant problems often arise
24 in gender segregated spaces. Many trans-people have
25 had the experience of being questioned by authorities,

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2 threatened, harassed or assaulted in sex segregated
3 restrooms. I've encountered this myself on numerous
4 occasions. In New York City Kristine Forsa (sp) a
5 young trans-woman was beaten while trying to use the
6 restroom after eating at a McDonalds. Requiring
7 gender neutral single occupant restrooms is a simple
8 we can take to help this vulnerable group address
9 basic health and hygiene concerns. Our City has an
10 opportunity to continue to lead the way and
11 addressing it and proving that health and well-being
12 of all New Yorkers. The change proposed today will
13 be helpful for fathers caring for their daughters or
14 mothers caring for their sons, it will help people
15 have a caretaker of a different gender and finally
16 this common sense piece of legislation makes more
17 restrooms available to trans-people, thank you for
18 considering this.

19 CHAIR WILLIAMS: Just pause for one
20 second, I going to have my colleague Council Member
21 Ralph Espinal.

22 COMMITTEE CLERK: Introduction 49-A,
23 Council Member Espinal.

24 COUNCIL MEMBER ESPINAL: I vote I.
25

2 COMMITTEE CLERK: Final vote on that item
3 is now 11 in the affirmative, 0 in the negative and
4 no abstention.

5 CHAIR WILLIAMS: Thank you, that is
6 everyone on the Committee who's voted so I will now
7 close the vote out, thank you.

8 BOBBY HODGESON: My name is Bobby
9 Hodgeson, I'm an Attorney at the New York Civil
10 Liberty Union. I'd like to thank Council Member
11 Dromm, Chair Williams and the Committee on Housing
12 and Buildings for inviting NYCLU to provide testimony
13 today in support on Intro. 871. In lite of the NYCLU
14 of vigorously defending the rights and liberties of
15 transgender and gender non-conforming individuals,
16 the NYCLU is pleased to testify in strong support of
17 the bill. In my spoken testimony today I'll just
18 echo the points made by other supporters of the bill
19 and I'll briefly highlight the two major points from
20 or longer written testimony. So first the bill
21 represents as it been said a positive and common
22 sense step towards ensuring that all New Yorkers
23 regardless of their gender identity or expression
24 have safe and convenient access to bathroom
25 facilities. It's mandate is simply, requiring

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2 nothing more of cover entities then relabeling a door

3 or switching out one sign for another and it will

4 provide a substantial benefit for countless people.

5 For transgender and gender non-conforming people,

6 gender segregated bathrooms can be unwelcoming and

7 potentially unsafe. These spaces often become flash

8 points of harassment or violence and in one study,

9 70% of transgender respondent reported either denial

10 of access to facilities, verbal harassment or

11 physical harassment when attempting to access gender

12 segregated bathrooms. Second the elimination of

13 gender specific single user bathrooms would bring New

14 York City in line with large Cities across the

15 Country that have been named, that have adopted

16 similar laws or regulations in recent years. None of

17 these action has resulted in controversy and each has

18 been welcomed as a common sense change that offer

19 significate benefits to transgender and non-

20 transgender people alike who need safe and reliable

21 access to facilities. I will note thought that these

22 other jurisdictions also offer examples of

23 additional, legal or administrative features that

24 amplify the positive affect of their policies. And

25 these are things that Council Member Dromm mentioned.

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2 In Philadelphia the City affirmatively requires all
3 new or renovated City owned buildings to include a
4 sufficient number all gender single user bathrooms
5 and in Washington DC the City Office of Human Rights
6 publicizes easy to use methods reporting violations
7 and has an entire public awareness campaign around
8 the issue. So in conclusion we applaud Council
9 Member Dromm and the bills co-sponsors for their
10 recognition and their leadership on this issue and we
11 welcome this as a step forward in fulfilling the
12 City's promise to treat all New Yorkers equally,
13 thank you.

14 CHAIR WILLIAMS: Thank you very much. I
15 know Council Member Dromm has some questions and I
16 want to thank him for putting us in touch with Ms.
17 Fitzpatrick who testified earlier.

18 COUNCIL MEMBER DROMM: Thank you very
19 much and thank you to my 3 colleagues in the
20 struggle, I'm really glad that you'll here. I do
21 have a question for Nellie Fitzpatrick, are you still
22 there.

23 NELLIE FITZPATRICK: Yes I am.

24

25

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2 COUNCIL MEMBER DROMM: I just wanted to
3 ask you, have establishments complied in
4 Philadelphia?

5 NELLIE FITZPATRICK: So our law they had a
6 window to which they could get compliance, the dates
7 that they must be compliant is January 18th and we
8 have already seen countless businesses compliant. We
9 actually did the bill signing ceremony in an Irish
10 Pub right here in Center City, Philadelphia and
11 changed the signs right there in the bill signing and
12 it's... it's really wonderful to see how many places
13 are without any level of even attempting to enforce
14 it on their own proactively changing the signs. We
15 will also be using similar methods to Washington D.C was
16 getting the information out there for reporting using
17 a hashtag campaign, we're going to do free2phl and
18 some other, some other techniques but the businesses
19 have been absolutely no push back yet or negative
20 ramification whatsoever.

21 COUNCIL MEMBER DROMM: I glad to hear you
22 mention an Irish Pub, I'm of Irish decent as well and
23 Ireland passed marriage equality with a 62% vote, so...

24 NELLIE FITZPATRICK: It sure did.

25

2 COUNCIL MEMBER DROMM: I... I notice your
3 name is Fitzpatrick and...

4 NELLIE FITZPATRICK: That's correct.

5 COUNCIL MEMBER DROMM: Probably of the
6 same decent as I am. Which is great through, I'm
7 glad to hear that there's that type of compliance and
8 that enthusiasm for it. Are there enforcement
9 mechanisms and penalties for non-compliance in the
10 Philadelphia law?

11 NELLIE FITZPATRICK: There... there are,
12 there are, there are fines that are in place, our
13 licensing and (inaudible) department will be the ones
14 handling that. The way that it will work thought is
15 that actually my office will do a lot of pro-active
16 work. If we have a business that instead of, instead
17 of immediately citing them well you want to use it at
18 an educational moment to go out to that business,
19 figure out what the hurdles are, work to do some real
20 competency building and create not just a safe
21 bathroom but we want to build safe businesses, safe
22 public spaces for all people to go into, so if we're
23 seeing a space where there resistant to just change a
24 sign on (inaudible) bathroom, it's indicative of a
25 lot more work to do. My goal is that we never have

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2 to resort to issuing fines or using the mechanisms
3 that we built.

4 COUNCIL MEMBER DROMM: Well thank you
5 and... and I do also want to point that the most of the
6 restaurant owners that I've spoken to see that it was
7 almost silly that we continue to label some bathrooms
8 women, men you know especially when see lines either
9 outside the women's you know or the men's and
10 somebody won't enter and these are single stall
11 bathrooms you know, so it actually seems...

12 NELLIE FITZPATRICK: Exactly.

13 COUNCIL MEMBER DROMM: That it would help
14 to accommodate more people, more quickly if we were
15 just to have all single stalls as non-gender as all
16 gender bathrooms, thank you.

17 NELLIE FITZPATRICK: Thank you.

18 CHAIR WILLIAMS: Ms. Fitzpatrick this is,
19 I didn't announce myself before, this is Jumaane
20 Williams, I Chair the Committee, I just want to thank
21 you for taking time out of your day to testify of
22 this important bill. I really appreciate your
23 expertise on it.

24 NELLIE FITZPATRICK: Thank you it's been
25 an honor and I apologize for froggie cold flu voice.

2 CHAIR WILLIAMS: No, I think you did a
3 great job and please send the story you told was
4 horrific, I think it moved everybody here. We just
5 want to send our prayers to her for that horrific
6 attack that she suffered and hopefully she's
7 recovering and will have a great life after.

8 NELLIE FITZPATRICK: I hope so and for
9 all the many other people like her that haven't
10 stepped forward.

11 CHAIR WILLIAMS: Sure, thank you very
12 much Ms. Fitzpatrick and thank you to everyone who
13 testified, thank you.

14 NELLIE FITZPATRICK: Thank you.

15 CHAIR WILLIAMS: We have two more panels.
16 Daniel, I think it's Karpen (sp), Professional
17 Engineer, Yating Lu (sp) I believe, New York Leave of
18 Conservation Voters, Lindsay Robbins, Natural
19 Resources Defense Counsel. They'll be testifying on
20 722 and right after then our last two people who have
21 signed up, I think it's Ezra Sucar (sp) from Hancock
22 Street and Debbie Myer from all West 136th Street.
23 So they'll be up right after this testimony here. Can
24 you all please raise your right hand? Do you affirm
25 to tell the truth, the whole truth and nothing but

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2 the truth in your testimony before this Committee and
3 to respond honestly to Council Members questions?

4 You can begin in the order of your preference. Can
5 you turn the, yes thank you.

6 DANIEL KARPEN: My name is Daniel Karpen,
7 Professional Engineer. I reside at 3 Harbor Hill
8 Drive, Huntington, New York, 11743. My energy, my
9 engineering practice is Energy Conservation. This
10 building, this law will increase the energy
11 requirements in building for which landlords do not
12 want to pay. The biggest change in the New York City
13 Housing stock that I've noticed in the last 45 years
14 is the installation of double glazed windows
15 throughout most of the housing stock in the City of
16 New York. It's virtually complete. This one change
17 has made it possible that many of the apartments will
18 not even go down to 55 degrees at night once the heat
19 is turned off. The biggest problem that I am seeing
20 in New York City apartments is overheating and the
21 overheating is because of the double glazing and you
22 have to realize that in 1920's and 1930's, people
23 slept with the windows open in their buildings.
24 That's practice stopped during World War II. Right
25 now the biggest problem we have in the residential

2 housing stock is vastly oversize radiators, vastly
3 oversized boiler and heating systems that cannot be
4 controlled. The present heating controls in most
5 buildings consist of an outside sensor that sensors
6 the outside temperature then turns the heat on. In
7 most buildings there are not thermostats that measure
8 the temperature in apartments. Some of the more
9 sophisticated buildings have temperature sensors that
10 measure the temperatures and then determine whether
11 or not the heat is to be turned on or off. The big
12 problem is that for the smaller building 6 to 20
13 units, these systems are very expensive to install
14 and to make sure they work properly. Do you have any
15 questions of me?

16 CHAIR WILLIAMS: We will, if you have a
17 closing sentence you can say it, if not will we can
18 move on and will have questions at the end.

19 YATING LU: Hi good afternoon Chairman
20 Williams and Council Member Dromm, My name is Yating
21 Lu, I am the New York City Program Director with the
22 New York League of Conservation Voters, thank you for
23 the opportunity here to testify and... and comment on
24 this proposed legislation. I'm not going to read my
25 testimony because a lot of it sort of is, doesn't

2 really reflect the conversation already had today.

3 Our primary concern initially was with the daytime

4 temperature increase and a lot of it is again I just

5 want to echo some of the previous environmental

6 comments regarding just in terms of standards,

7 compared to other Cities when it comes to daytime

8 temperatures the concerns around cost and also the

9 City's greenhouse gas emission goals and... and I think

10 the Laurie Kerr from Urban Green Counsel really

11 nailed down the head for us which is that at the end

12 of the day what we want all tenants to be

13 comfortable. We also want the City to reach it's

14 ambitious greenhouse gas reduction goals and we also

15 want to make sure that ultimately this is affordable

16 to everyone; landlords and tenants and we don't think

17 that these 3 goals are mutually exclusive or should

18 compete. So at this point I think we do want to

19 recommend maybe pulling together a working group or

20 convening some sort of task force to really further

21 explore the sort of degree temperature increase for

22 nighttime to really strike that perfect balance. It

23 just seems like from everyone testimonies today that

24 more analysis on all fronts in terms of just

25 compliance and enforcement gaps, greenhouse gas

2 emission impact and also cost impacts needs to be
3 further researched and looked at, thank you.

4 LINDSAY ROBBINS: Good afternoon
5 Chairperson Williams and members of the Committee, my
6 name is Lindsay Robbins and I'm a Senior Advocate at
7 the Natural Resources Defense Council which is a
8 National Non-Profit Environmental Organization that's
9 based in New York City. I'm testifying on behalf of
10 the New York Energy Efficiency for All Coalition
11 which includes the Association for Energy
12 Affordability, The Center for Working Families,
13 Enterprise Community Partners, Green and Healthy
14 Homes Initiatives, the Natural Resources Defense
15 Council, Pace Energy and Climate Center and We Act
16 for Environmental Justice. Energy Efficiency for
17 All's mission is to bring together the energy,
18 housing and community and environmental justice
19 sectors to tap the benefits of energy efficiencies
20 for New Yorkers living on limited incomes. We thank
21 you for the opportunity to provide testimony on the
22 legislation that is before the Committee today. We
23 believe that the goal of the legislation of providing
24 New York City Apartments dwellers, heating services,
25 sufficient to ensure health and comfort in their

2 homes is admirable. I also am not going to read
3 through my testimony directly because as is true for
4 many of my colleagues that have spoken today, our
5 primary issue was with the daytime heating increase
6 requirements. But I will add that you know, I think
7 that a lot of the issue that, that raises for us are
8 simply that raising temperatures does not
9 systematically address the issue of providing healthy
10 safe and comfortable homes for New Yorkers that are
11 also affordable. Some of our main issues, I have
12 already been spoken about by some of my other
13 colleagues. One being the fact that most apartment
14 building in New York City have uneven heating systems
15 and heat to heat the coldest apartment and tend to
16 overheat the majority of apartments in the building
17 causing people to open windows and creating
18 discomfort for residence in those other apartments
19 and simply raising the temperatures does not address
20 that issue. These building need to be weatherized,
21 they need to have their heating systems fixed and
22 just very quickly our other issues are really the
23 impact that increasing these heating requirements
24 would have on operating cost that would be passed on
25 to rents in affordable units for apartments and also

2 the impact that this might have on this City's
3 ability to achieve it's carbon goals.

4 CHAIR WILLIAMS: Thank you very much, I
5 did have a question, is it Karpen?

6 DANIEL KARPEN: Karpen yes, Karpen.

7 CHAIR WILLIAMS: I didn't disagree with
8 everything that you actually said but in addressing
9 some of this heat problem I think you hit the nail on
10 the head with some of it will be cost prohibited.

11 How much will it be to get building to put in
12 thermostats in each individual apartment?

13 DANIEL KARPEN: Let me tell you my
14 experience. I was working with a hotel in New York
15 City that had overheating in some of the rooms. We
16 went through with the thermal scanner and checked the
17 temperatures in these various rooms, some were 85
18 others were 70. I advised the owner of the hotel to
19 simply put in a smaller radiator in those rooms that
20 were overheated. Once we did that systematically
21 through the building we were able to balance the
22 temperature and there was only one thermostat in the
23 main office of this small hotel about 15,000 square
24 feet. We were able to solve the problem that way.
25 There's another way of solving the problem, it's

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2 called thermostatic radiator valves, they are put on
3 each radiator. Unfortunately these valves,
4 thermostatic radiators valves controls cost about
5 \$150 per radiator including installation and people
6 can play with them. My advice to landlords is put in
7 smaller radiators and while we have problems with
8 buildings is the oversight.

9 CHAIR WILLIAMS: How much does it cost to
10 put in smaller radiators?

11 DANIEL KARPEN: Well it's the smallest as
12 low as \$50 for a 2,000 btu radiator compared to a
13 \$6,000 btu radiator that's there right now and
14 besides once you downsize the radiators in the
15 building, then you can put in a boiler that's much
16 smaller and cut energy costs, they cost a heating
17 building by 40% to 50%, my experience is that these
18 oversized boilers in the building typically 40% to
19 55% of the energy is wasted in the boiler room
20 because you have a tankless coil in the boiler which
21 provides domestic hot water, it's now possible with
22 these new condensing gas boiler systems to put in
23 separate hot water system using condensing gas
24 boilers that are very efficient and then have the
25 boiler a small go on only for the purpose of

2 providing heat in the building. We're doing that in
3 this small hotel in Manhattan and I am, I am going to
4 cut the cost use of energy in the building by 50%.
5 We also had hundreds of feet of uninstalled
6 streamlines in the basement that were wasting huge
7 goggles of energy. We also had a big problem with
8 the basement door that was left open all the time.
9 The big problem in the buildings that I see is huge
10 lubbers to loud and fresh air that are oversized.
11 What they should be do is put in a damper that
12 solenoid activated with a the burner so it's goes on
13 allows fresh air into the boiler room only when
14 necessary. The losses are so horrible it's
15 unbelievable. The biggest problem I'm having is
16 trying to find clients who are willing to do this
17 work and cut cost enormously.

18 CHAIR WILLIAMS: Thank you.

19 DANIEL KARPEN: This small hotel is one
20 that I'd like to take you to once the installation is
21 completed within the next several weeks.

22 CHAIR WILLIAMS: Thank you.

23 DANIEL KARPEN: I'd like to take you down
24 there and show you what we did.

25

2 CHAIR WILLIAMS: I appreciate it. You
3 can, I have an additional question for you but you
4 can respond to that, has anybody factored in the
5 environmental cost of space heaters and ovens that
6 are often used when people feel they are not being
7 heated adequately?

8 YATING LU: We... we didn't prepare any
9 estimates for this particular testimony on the cost
10 of this legislation but I would certainly defer to my
11 colleagues at EDS and the Urban Green Council on the
12 estimates that they have come up with. I did want to
13 point out that we did reference in our testimony a
14 recent study that we just produced on fixing steam
15 heating systems in New York City apartment buildings
16 and how to do it cost effectively and what types of
17 strategies to deploy which is a huge issue in New
18 York City and the report is referenced in... in our
19 testimony.

20 CHAIR WILLIAMS: Did you have a response
21 to my question?

22 LINDSAY ROBBINS: No, we did not prepare
23 the.

24 CHAIR WILLIAMS: Ok well thank you very
25 much, I am, I appreciate actually many of the

2 suggestions you've made and I'm sure there's other
3 suggestions I'd still think that might be beneficial to
4 give some of that to the Committee and generally
5 speaking I think by the time we try to figure all
6 that out (inaudible) how to do it, it'll be years and
7 people will still be cold, so I don't see it as a
8 either or, I'm going to look at the testimony and
9 still try to actually push forward some measure of
10 what is actually already in the, in the law as
11 written. But I think it's worthwhile to explore many
12 of the things that you suggested, they seem to make
13 sense irrespective of what the temperature law is.
14 Do you have another comment?

15 YATING LU: I just realized what I didn't
16 say during my testimony. We certainly you know we do
17 not oppose raising the nighttime temperature,
18 although I think that 10 degrees might be excessive
19 and that you might want to consider looking into that
20 I think somewhere between 5 to 7 degrees might be
21 more appropriate but we certainly do not oppose that
22 or getting rid of the outdoor temperature
23 requirement.

2 CHAIR WILLIAMS: Seems a lot of
3 opposition to the daytime what's that's only 4
4 degrees but some support for the nighttime.

5 YATING LU: Well I think it's not because
6 68 degrees seems be a reasonable level in many other
7 Cities agree with that including the International
8 building code.

9 CHAIR WILLIAMS: So that's also
10 interesting to me because I assuming people are
11 looking at what Cities have but other Cities for the
12 nighttime is actually about 10 degrees higher so
13 people want to compare to other Cities for the
14 nighttime, for the daytime but for the nighttime so...
15 so it's a little odd to me but I understand the
16 concerns and I very much appreciate the testimony, I
17 think I'm the only one here so there's no one has any
18 additional questions, thank you so much for your
19 testimony I appreciate it.

20 YATING LU: Thank you.

21 CHAIR WILLIAMS: And the last two that we
22 have signed up for testimony if anyone else would
23 like to testify please fill out a card with the
24 Sergeant of Arms. Debbie Mayor and I'm sorry I think
25 it's Ezra, is it Ezra? Sucore, all right thank you.

2 EZRA SUCORE: Am I waiting on someone
3 else or should I?

4 CHAIR WILLIAMS: I... I think I just was
5 told that she left so can you please raise your right
6 hand. Do you affirm to tell the truth, the whole
7 truth and nothing but the truth in your testimony
8 before this Committee and to respond honestly to
9 Council Members questions?

10 EZRA SUCORE: I do.

11 CHAIR WILLIAMS: Thank you so much for
12 your patience and you can go ahead begin your
13 testimony.

14 EZRA SUCORE: Thank you, my name is Ezra
15 Sucore, I'm here to offer my testimony in strong
16 support of 871 and also to advocate for it's
17 expansion as many said before me Intro. 871 is a
18 commonsense measure that will expand access to
19 bathrooms for everyone, everyone in New York but it's
20 of particular importance to trans people. It's bares
21 repeating that access to all gender bathrooms of a
22 matter of health and safety for transgender and
23 gender non-conforming New Yorkers. Many people say
24 that statistics and compelling personal stories I
25 also want to draw the Committees attention to the

2 impact that not being able to count on safe bathroom
3 access has on transgender people. It really
4 adversely impacts our lives. Avoiding use of
5 bathrooms can lead to health problems from urinary
6 tract infections to kidney problems and dehydration.
7 Furthermore lack of safe access to a bathroom can
8 make it difficult to maintain employment. Having to
9 avoid using the restroom leave ones worksite to use
10 the restroom as I know many people who must or deal
11 with hostility in the restroom is mentally and
12 physically stressful, it can increase tardiness, it
13 can increase absenteeism, it can harm our job
14 performance. Lack of restroom access also impedes
15 access to local businesses, necessary social services
16 and medical care. All gender bathrooms are
17 particularly important to gender non-conforming
18 people and non-binary transgender people are
19 segregated spaces in variably designated for men or
20 for women but not all people fit these categories.
21 Some transgender peoples appearance do not conform to
22 widely held stereotypes about how men or women should
23 look and not everyone's a man or a woman, some of us
24 are non-binary. For those of us who defy binary
25 gender trying to stay safe and retain dignity while

2 using the restroom is huge burden. My own
3 misadventures and both the men's or the woman's room
4 have run the gamete from confusing others to being
5 kicked out. I thank the Council for spearheading
6 this important bill and for the opportunity to
7 testify. All gender bathrooms will elevate serious
8 burdens. I urge you not only to pass this bill but
9 to expand it to require City... City buildings as
10 Council Member Johnson suggested earlier to include
11 all gender bathrooms which they currently do not,
12 thanks.

13 CHAIR WILLIAMS: Thank you, I know you
14 cut your testimony short but if you don't mind I want
15 to read to record you first paragraph.

16 EZRA SUCORE: Sure.

17 CHAIR WILLIAMS: My name is Ezra Sucore,
18 I am a lawyer who has in the past focused on
19 representing low income transgender New Yorkers, now
20 I am employee of the City of New York but today I'm
21 testifying on my own behalf. I live in Council
22 Members Cornegy district, I'm proud to live in and
23 work for the City. I know that we still have to work
24 to do, to make the City safer for transgender and
25 gender non-conforming people. Intro. 871 is part of

2 this work, I offer my testimony in strong support of
3 the bill and to advocate for it's expansion. Just
4 thought it was important to get that first part in
5 there, but thank you so much for your testimony. I
6 really appreciate all of the advocacy work that
7 you're doing.

8 EZRA SUCORE: Thank you.

9 CHAIR WILLIAMS: We do have one more
10 person who signed up, Jim Leonard, Intech 21.

11 JIM LEONARD: Thank you Council Member.

12 CHAIR WILLIAMS: Can you please raise
13 your right hand. Do you affirm to tell the truth, the
14 whole truth and nothing but the truth in your
15 testimony before this Committee and to respond
16 honestly to Council Members questions?

17 JIM LEONARD: Yes sir I do.

18 CHAIR WILLIAMS: You can begin.

19 JIM LEONARD: It's kind of interesting I
20 sat through this Council with a temperature
21 outside/inside. I'm with a company called Intech 21,
22 were a manufacture of technology out in Port
23 Washington Long Island. I've been with the company,
24 met the partners there in 1999 and we've been
25 controlling and monitoring temperatures both inside

2 and outside of over 500 buildings roughly 30,000
3 apartments in the metropolitan New York City area in
4 15 minutes intervals since the year 2000. Both
5 public and private we've done our public side, we've
6 done the castle hill houses in the Bronx, there's a
7 report by EDF that has shown that inside temperature
8 sensors save 22% and they have a return of investment
9 about 6 years. Jumaane you asked a question is there
10 a way to put individual temperatures in each
11 apartment? The answer is technically yes, it's very
12 expensive but if you had a temperature sensor in
13 everyone's apartment and it was able to communicate
14 with the (inaudible) control system, you'll get that
15 22% as well as having the ability to know what the
16 temperature is in every apartment. With that said,
17 the temperature won't be as if the gentleman who's
18 not here testified, some apartments will be hotter
19 than others but if you have a temperature sensor in
20 everyone's apartment you would know which apartments
21 to address and when to address them. We've done
22 approximately 5,000 units with NYCHA to date and on
23 the private side we've done approximately 35,000.

24 CHAIR WILLIAMS: That's it?

25 JIM LEONARD: Yes sir.

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2 CHAIR WILLIAMS: Oh ok.

3 JIM LEONARD: So there is, there is a way
4 to get done I believe what the Council and what
5 City's looking to get done.

6 CHAIR WILLIAMS: And you say your company
7 does that?

8 JIM LEONARD: Yes we do that.

9 CHAIR WILLIAMS: And how much, how much
10 do they, how much do they cost?

11 JIM LEONARD: The rough cost to install a
12 wireless energy module in New York City Housing
13 Authority is approximately \$1,500.

14 CHAIR WILLIAMS: Per.

15 JIM LEONARD: Per apartment.

16 CHAIR WILLIAMS: Well, thank you very
17 much for that testimony that you gave today and thank
18 you for your patience and giving us that information.

19 JIM LEONARD: Is there a way that I can
20 share the EDF report or the video with anybody here.

21 CHAIR WILLIAMS: Yes.

22 JIM LEONARD: How do we do that?

23 CHAIR WILLIAMS: She will give you a card
24 when we finish.

25 JIM LEONARD: Ok, great.

2 CHAIR WILLIAMS: All right.

3 JIM LEONARD: Thank you very much.

4 CHAIR WILLIAMS: Thanks so much,
5 appreciate it. And with that I just want thank
6 everybody, he came out for the record we have
7 testimony from Nilag (sp), Nisafa (sp), Liveon (sp),
8 Rebny (sp), ABO, CNYC and Brian Ellicot, with that
9 the hearing is now closed.

10 [gavel]

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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 January 21, 2016