

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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May 4, 2016
Start: 10:37 a.m.
Recess: 12:41 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: ROSIE MENDEZ
Acting Chairperson

JUMAANE WILLIAMS
Chairperson

COUNCIL MEMBERS: Ydanis A. Rodriguez
Robert E. Cornegy, Jr.
Rafael L. Espinal, Jr.
Mark Levine
Helen K. Rosenthal
Ritchie J. Torres
Barry S. Grodenchik
Rafael Salamanca, R.
Eric A. Ulrich

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

Deborah Rand, Assistant Commissioner
Housing Litigation
NYC Dept. of Housing Preservation and Development

Dana Sussman, Special Counsel to Commissioner & Chair
New York City Commission on Human Rights

Kagan Marie Presley
Appearing for Florence Rice

Jenny Laurie, Executive Director
Housing Court Answers

Leanne Landrum, Supervising Attorney
Tenants' Rights Unit
New York Legal Assistance Group, NYLAG

Christina Pajovas (sp?), Staff Attorney
Legal Health Unit
New York Legal Assistance Group, NYLAG

Ali Davis, Chief of Staff
Real Estate Board of New York, REBNY

Frank Ricci, Director
Government Affairs
Rent Stabilization Association

Tom Cayler, Chair,
West Side Neighborhood Illegal Hotel Committee
West Side Neighborhood Alliance

Marti Weithman, Supervising Attorney
MFY Legal Services

Bennett Baumer, Community Organizer
Housing Conversation Coordinators
West Side of Manhattan

1 COMMITTEE ON HOUSING AND BUILDINGS

4

2 [sound check, pause]

3 [gavel]

4 CHAIRPERSON MENDEZ: Good morning,

5 everyone. [coughs] I am Councilwoman Rosie Mendez.

6 I am not Jumaane Williams though sometimes I am

7 almost as handsome as he is. Jumaane is out sick and

8 cannot be her. So as the senior member of the

9 committee, I am chairing today's Housing and

10 Buildings Committee. I am joined today by Council

11 Members Rosenthal, Lancman, Barron, and we here today

12 to discuss three bills: Intro No. 477, No. 688 and

13 755. I will now give a brief summary of each of the

14 bills. Intro No. 477 is sponsored by Council Member

15 Inez Barron, and will require the Department of

16 Housing Preservation and Development to provide

17 tenants who are 62 years of age or older with

18 information about legal services when such tenants

19 are facing eviction. It would also require the

20 Commissioner of HPD to report to the Mayor and the

21 Speaker of the City Council on any pattern of

22 discrimination against such tenants. Just for the

23 record, we've been--one of our guests today, who I

24 suspect may give testimony is Florence Rice, who

25

2 inspired and organized to have this bill hopefully
3 become law very soon.

4 Intro No. 688 is sponsored by Council
5 Member Rory Lancman. It would amend the Housing
6 Maintenance Codes definition of harassment to make
7 illegally converting a dwelling unit that was
8 intended for permanent residents' purposes per se
9 harassment. And Intro No. 755, which was introduced
10 by the chair of this committee Jumaane Williams would
11 require HPD to provide tenants with disabilities with
12 information about legal services when tenants are
13 facing eviction. It would also require the
14 Commissioner of HPD to report to the Mayor and the
15 Speaker of the City Council on any pattern of
16 discrimination against such tenants. So now I--I'm
17 going to ask the sponsors of the bills to make some
18 comments, and we'll start with Council Member Barron.

19 COUNCIL MEMBER BARRON: Good morning.
20 Thank you Madam Chair. Thanks to all of you who are
21 here to talk about this important issue. This bill
22 is actually co-named or sub-named the Florence Rice
23 Bill, and it was actually introduced by my husband,
24 my predecessor Council Member Charles Barron when he
25 was here in the Council. And what it does is it seeks

2 to protect seniors from being evicted and not know
3 that there are other resources that are available to
4 them, and it was generated by an eviction proceeding
5 that was brought against one of the persons that we
6 hoped to hear testimony from today and that's
7 Florence Rice. So she'll be able to talk on her own
8 behalf, but we know from statistics that more than
9 20% of older adults live in poverty, and that many of
10 them are rent burdened, and do not qualify for public
11 benefits. And that there are thousands on wait lists
12 and have been on such wait lists for many years.
13 Statistics indicated that by 2030--by the year 2030,
14 20% of the population will be aged 60 and above. And
15 while we know the city has many housing plans that
16 they have introduced with the intent of providing
17 housing for seniors, we need to make sure that those
18 seniors that are presently living in apartments where
19 they are comfortable, where they are familiar with
20 their surroundings, have the protections to be able
21 to remain in those apartments so that they will not
22 be evicted by those unscrupulous landlords that might
23 want their apartments because of them are paying
24 rents that are much lower than what landlords feel
25 they could get if they can evict those tenants. So

2 much of this legislation looks to provide notice to
3 tenants who are 62 and older as to what rights they
4 may be entitled to, to be able to have them connected
5 with organizations and advocates that do that work
6 and to make sure that we protect those who are so
7 vulnerable. And someone has said, well they may be
8 getting notices and they may be getting mail. Each
9 of us as we know at our perhaps younger ages of below
10 62 and we get inundated with mail. We don't always
11 get to it, and it's not always in a format that we
12 can understand. So what we're trying to do is to
13 provide services to those who are our elders that
14 they might be protected from eviction. We'll know
15 about what agencies there are that can assist them to
16 fight the evictions. Thank you.

17 CHAIRPERSON MENDEZ: Thank you and
18 Council Member Rory Lancman.

19 COUNCIL MEMBER LANCMAN: [pause] Thank
20 you Madam Acting Chairwoman. I'm Council Member Rory
21 Lancman, the sponsor of Intro 688 along with Council
22 Member Rosie Mendez, Andrew Cohen, Deborah Rose and
23 Helen Rosenthal. This legislation would amend the
24 Administrative Code to include the illegal conversion
25 of a permanent dwelling to the Housing Maintenance

Code's definition of per se harassment. [coughs]

Since Airbnb launched in New York City in 2009, the number of listings have grown exponentially.

Currently, over 35,000 residential in New York City

are listed for transient hotel use on Airbnb. A

report published in 2014 by the New York State

Attorney General's Office analyzing Airbnb bookings

in New York City from 2010 to 2014 found that nearly

75% of Airbnb's listings are in violation of state

law. Having members of our community turning

residential apartments into transient hotel rooms

destroys the quality of life for other tenants,

presents dangerous safety hazards for all and poses a

grave threat to New York's affordable housing supply.

Additionally, many lower income tenants face pressure

from landlords to vacate their residences as the

financial windfall from operating an illegal hotel

incentivizes such harassment. This legislation will

provide tenants with the necessary tools to help

combat the harms inflicted on average New Yorkers due

to the increasing prevalence of illegal hotel

listings. By expanding the definition of harassment

to include the illegal conversion of permanent

residents, tenants will be given a resource--excuse

2 me--a recourse against landlords who operate or who
3 turn a blind eye to their tenant's operation of such
4 illegal hotels. Thanks.

5 CHAIRPERSON MENDEZ: Thank you. Finally,
6 I'd like to thank the staff who've worked very hard
7 to assemble this hearing today including Council
8 Member Williams, Deputy Chief of Staff and
9 Legislative Director Nick Smith and the Counsels to
10 the Committee and staff to the committee Jim Wilcox,
11 Megan Chin, Guillermo Patino, Jose Conde, and [cough]
12 and Sarah Gastelum. With that said, I'd like to
13 bring up the first panel to give testimony on these
14 three bills Deborah Rand, the Assistant Commissioner
15 for HPD, Terry Davis-Merchant and Dana Sussman. If
16 you could all come. [background comments, noise,
17 pause]

18 ASSISTANT COMMISSIONER RAND: Okay.

19 CHAIRPERSON MENDEZ: It has to have a red
20 light on.

21 ASSISTANT COMMISSIONER RAND: It does.

22 CHAIRPERSON MENDEZ: And please identify
23 yourself for the record.

24 ASSISTANT COMMISSIONER RAND: I will.
25 Deborah Rand. I am the Assistant Commissioner for

2 Housing Litigation with the New York City Department
3 of Housing Preservation and development. I am here
4 today to testify on the Intros No. 477 and 755, which
5 would require HPD to provide referrals to seniors or
6 disabled persons to legal services organizations up
7 receipt of a notification of the commencement of an
8 eviction proceeding. And also Intro No. 688, which
9 seeks to include illegal conversion to transient use
10 in the definition of harassment in the Housing
11 Maintenance Code. As you know, HPD is charged with
12 enforcing the provisions of the New York City Housing
13 Maintenance and the Multiple Dwelling Law as well as
14 providing financing for the development of affordable
15 housing. Through our Office of Enforcement and
16 Neighborhood Services, the agency responds to
17 complaints from residents experiencing poor housing
18 conditions and issues violations when appropriate.
19 As part of HPD's enforcement efforts, attorneys in
20 the Housing Litigation Division, what we call HLD,
21 bring cases in Housing Court seeking compliance with
22 the Housing Maintenance Code and the Multiple
23 Dwelling Law. These cases lead to court order, which
24 may direct correction of poor housing conditions, the
25 imposition of civil penalties, the appointment of 7-A

2 administrators or the issuance of access warrants.

3 Again, to be clear, although HLD does appear in

4 Housing Court, HLD is not involved in eviction

5 proceedings, which occur in separate parts of the

6 Housing Court. Evictions occur when a landlord files

7 and succeeds in Housing Court to recover possession

8 of a dwelling unit, and it is generally a private

9 legal matter between the landlord and the tenant.

10 HPD's Housing Litigation Division is not involved in

11 eviction proceedings, and the agency does not have

12 access to information regarding eviction actions.

13 Other city agencies, legal services group and

14 community based organization may become involved

15 should a tenant seek out one of the many available

16 programs to assist households facing eviction. The

17 New York City Human Resources Administration or HRA

18 manages the city funding of free legal services

19 programs which provide legal advice and assistance to

20 income eligible tenants. The Administration has

21 increased tenant protection legal services more than

22 tenfold compared to the level funded under the

23 previous administration reaching \$62 million when

24 full operational in Fiscal Year 18. In addition, HRA

25 provides a range of assistance to people who might be

1 rendered homeless through an eviction, utility cut,
2 and other housing problems, including the homed based
3 program. Although recent changes--also recent
4 changes to SCRIE and DRIE, the Senior Citizens Rent
5 Increase Exemption and the Disabled Persons Rent
6 Increase Exemption programs, which are seniors and
7 those with disabilities now allow more people to
8 qualify for rental assistance and avoid the
9 possibility of eviction. There is also a tenant
10 support unit that engages directly with tenants to
11 help them report housing quality issues, refers them
12 to legal services organizations to get help against
13 harassment and provides information on the rights and
14 affordable opportunities. HPD is involved with
15 providing information to the public on certain
16 housing related issues through its housing
17 information guide, the *ABCs of Housing*. The ABCs are
18 available on our website at all of our offices and
19 upon request through 311. The guide contains
20 information on various housing issues including basic
21 information on evictions, how tenants can access
22 legal services such as Legal Aid and Legal Services
23 New York which provide free legal representation for
24 income eligible persons, or community based
25

2 organizations such as Housing Court Answer--Answers,
3 which provides information for tenants and landlords,
4 including information about available resources for
5 tenants facing eviction. While we recognize the
6 Council's interest in increasing access to legal
7 representation, HPD has significant concerns about
8 Intros 477 and 755. These bills would require first
9 owners to notify HPD when an eviction has commenced
10 if the tenant is a senior or is a disabled person.
11 Two, HPD to reach out to the household with
12 information about a eviction legal services, and
13 third to report on a pattern--for HPD to report on
14 pattern of discrimination with respect to these
15 populations and eviction actions. HPD could not
16 adequately enforce these bills without having to
17 verify whether the person served with an eviction
18 action is actually a member of the groups identified
19 in Intros 477 and 755.

20 Intro 755 requires an owner to know or
21 have reason to know that the tenant subject to an
22 eviction proceeding has a disability. In many cases
23 owners and managers of buildings may not be aware of
24 a tenant's existing disability. Disabilities come in
25 all forms whether they are physical, learning or

development in nature. Not all disabilities are immediately apparent. A person may not choose to expose their conditions to landlords or other parties. Intros 477 requires that have knowledge of a tenant's status as a senior. However, in many cases landlords have no knowledge or way of verifying an affected tenant's age. It is also not clear that the data created by these filings would allow anyone to accurately track the threat of an eviction related to seniors and the disabled or establish a pattern of discrimination on these actions. Compliance with this requirement would be difficult and even impossible to enforce since there is no independent data source to confirm the status of the person subject to the eviction proceeding. Targeting these populations through outreach and education campaigns with educational materials may be the more proactive and comprehensive approach allowing important information to be available to these households prior to the commencement of an eviction action. Working with our sister agencies and New York City Department of the Aging and the Mayor's Office for People with Disabilities, we welcome the opportunity to continue to discuss--to discuss with you how to provide more

2 information to these populations on the availability
3 of legal representation on eviction matters before an
4 eviction happens.

5 Intro 688 would add illegal conversions
6 to the definition of harassment within the Housing
7 Maintenance Code. It is our understanding that this
8 bill was intended to target illegal activity by
9 owners who convert their residential units for the
10 purpose of short-term rentals are trends and
11 offensive.

12 Tenant harassment can come in many forms
13 that include tactics to get tenants to give up their
14 apartments or give up their rights. Some landlords
15 have engaged in a variety of actions, which cause or
16 are intended to cause tenants to give up their homes
17 or which interfere with their rights. And HPD
18 strongly supports efforts to prevent tenant
19 harassment. Some years ago the city amended the
20 Housing Maintenance Code to permit tenants to file
21 proceedings in Housing Court based upon a claim of
22 harassment. The Housing Maintenance Code currently
23 defines harassment as any act or omission of an owner
24 that causes or is intended to cause a tenant to
25 vacate their unit or surrender their rights, and

2 includes first the use of force or the express or
3 implied threats by landlords. Second, repeated
4 interruptions of essential services. Third, failing
5 to comply with the order to repair or a vacate order
6 issued by HPD. Fourth, commencing repeated baseless
7 or frivolous lawsuits in Housing Court. Fifth,
8 unlawfully removing a tenant's possession, and sixth,
9 removing the doors and/or changing locks without
10 notice. And seven, a very recent amendment, improper
11 efforts to obtain the buyout agreements from tenants.
12 And finally, sort of a comprehensive thing any other
13 activities which could be deemed to unlawfully
14 disturb a tenant's right to quiet enjoyment of the
15 property.

16 On tenant initiated harassments actions,
17 HPD is named as a necessary party to these claims,
18 but the agency--but the agency's involvement differs
19 depending on the allegations in the claim. Attorneys
20 from the Housing Litigation Division or often the
21 judge's court attorney--I'm going to take a minute
22 and drink a few ounces of water--conference most
23 harassment cases in order to determine if the cases
24 can be resolved without a trial. And actions
25 alleging landlord harassment without an additional

claim of poor housing conditions. If the case is not resolved on consent and there is a trial, HPD's role is generally to participate in eliciting facts from the witnesses in order to aid the court in making its determination. HPD does not have the ability to undertake the fact finding necessary to determine the veracity of many of these kind of harassment complaints. The court must hold full evidentiary hearings when the parties cannot resolve the matters. On occasions when HPD has knowledge of a pattern of conduct in the building, HLD may active support the tenant's request for a finding of harassment. And in actions alleging both poor conditions and harassment, HPD is always actively involved in seeking orders to correct the violations and the finding of harassment where appropriate. We would also note that the definition of *owner* in the bill is quite broad, and includes lessees for example under the definition in the Housing Maintenance Code. We have concerns about the unintended impacts that Intro 688 might create, but recognize that illegal conversions are an issue and open to continuing discussion with the Council and our colleagues at the Mayor Office of Special Enforcement about the best means to address where it

2 occurs. Thank you for the opportunity to testify
3 today. We would be glad to address any questions you
4 have.

5 CHAIRPERSON MENDEZ: Thank you very much.
6 I just want to say we were joined by Council Member
7 Ritchie Torres, and currently with us now is Council
8 Member Ydanis Rodriguez. I'm going to go directly to
9 my colleagues to ask questions. I just want to
10 remind everyone that we have until 1 o'clock to be
11 here in this room. So we have two hours to get
12 through all the questions and public testimony before
13 this--this chambers is used by another committee.
14 So, Council Member Lancman, are you ready to ask
15 questions?

16 DANA SUSSMAN: Yes. I--I just have some
17 brief--brief testimony as well.

18 CHAIRPERSON MENDEZ: Oh, okay.

19 DANA SUSSMAN: Sorry about that.

20 CHAIRPERSON MENDEZ: You didn't--you
21 didn't jump in [laughter] right in.

22 DANA SUSSMAN: Sorry. [laughs]

23 ASSISTANT COMMISSIONER RAND: She's not
24 as aggressive as I am.

2 CHAIRPERSON MENDEZ: I--okay, that will
3 be short-lived. [laughter] I'm sure that won't
4 happen again.

5 DANA SUSSMAN: Got that.

6 CHAIRPERSON MENDEZ: So before we go to
7 Council Member Lancman, we will give the Commissioner
8 an opportunity to give testimony on these three
9 bills.

10 DANA SUSSMAN: Thank you. Good morning
11 members of the Committee on Housing and Buildings and
12 thank you for convening this morning's hearing. I'm
13 going to testify on Intros 477 and 755. My name is
14 Dana Sussman. I'm Special Counsel to the
15 Commissioner and Chair at the New York City
16 Commission on Human Rights. The Commission doesn't
17 regularly appear before this committee, but we're
18 happy to do so today with our partners at HPD to
19 discuss the work the Commission is doing to address
20 discrimination in housing and specifically with
21 respect to housing discrimination on the basis of age
22 and disability. We--we always support efforts to
23 combat discrimination and are working with our
24 partners in the Administration and the Council to
25 address these issues as I will further discuss.

2 With the Council's and the
3 Administration's support the commission has grown
4 both in size and scope in the past year as we work to
5 strategically enforce the city's Human Rights Law,
6 one of the broadest and most protected anti-
7 discrimination laws in the country. In doing so,
8 we've opened 31 more--percent more investigations in
9 2015 than in 2014 of which approximately one-third
10 are housing discrimination cases. Complaints based
11 on disability discrimination represents the largest
12 proportion of complaints in housing. The vast
13 majority anecdotally, over 90% or so involve requests
14 for reasonable accommodations not--not necessarily
15 eviction issues. Tackling housing discrimination is
16 a major priority of the commission and we are
17 addressing it in several targeted ways. We've
18 rebuilt the Commission's testing program to address
19 systemic and insidious forms of discrimination in
20 housing by hiring investigators and an Assistant
21 Commissioner experienced in housing, and entering in
22 an MOU with the Fair Housing Justice Center to
23 specifically address housing discrimination through
24 testing. We've partnered with several council
25 members to bring our attorneys to their district,

2 different tenant organizations and large housing
3 providers to do onsite intake where systemic issues
4 are uncovered in order for the Commission to conduct
5 Commission initiated investigations. This is a first
6 for the Commission, this kind of broad based systemic
7 where a cut (sic) had previously been done.

8 The Commission has also revamped our
9 programming and community education outreach. For
10 example, just last week the Mayor's Office for People
11 with Disabilities and the Commission co-hosted a
12 panel discussion on protections against housing
13 discrimination for people with disabilities. In
14 Manhattan the promulgation is that Tim Koch Torres
15 where Commission attorneys were on hand to conduct--
16 to conduct a legal intake for any individuals who had
17 complaints of discrimination. The Commission will
18 also be hosting a much larger fair housing symposium
19 in June at CUNY School of Law in Long Island City
20 with many administration partners to educate more New
21 Yorkers on their rights and responsibilities to the
22 city's Human Rights Law with respect to fair housing.
23 The Commission is working with our administration
24 partners including MOPD, MOIA, HRA, HPD and NYCHA to
25 train staff, develop a Pearl Network an increase

2 internal capacity to identify housing discrimination,
3 and refer cases to the commission. If any tenant
4 believes they're being targeted for eviction because
5 of their age or disability, or immigration status,
6 the use of Section 8 voucher or other rental
7 assistance, religion, race or any other of our many
8 protected categories, they should immediately call
9 311 and ask for the Commission on Human Rights.
10 Commission staff will then conduct a short phone
11 intake and schedule a longer meeting with an agency
12 attorney to determine if the Commission has
13 jurisdiction over their claim, and if we do, we will
14 file a complaint within several days of their first
15 meeting. We look forward to working with HPD, our
16 other agency partners, the Council to continue to
17 address discrimination in housing and its most
18 insidious forms, and we're happy to answer any
19 questions about the Commission work in this area.
20 Thank you.

21 CHAIRPERSON MENDEZ: Thank you for your
22 testimony. So, Council Member Lancman, are you
23 ready?

24 COUNCIL MEMBER LANCMAN: [off mic] Yes.

2 CHAIRPERSON MENDEZ: Do you have
3 questions. Okay. We've also been joined by Council
4 Member Robert Cornegy.

5 COUNCIL MEMBER LANCMAN: Thank you. Good
6 morning. My questions to--to HPD on my Bill 688 and
7 I--I identified two concerns that you--you raised.
8 One, there are--I just recall from your testimony, if
9 the permanent tenants are completely unaffected by
10 the conduct that would not constitute harassment. I--
11 -I'm sure you understand and I appreciate, and this
12 Administration has really done a very good job.
13 We're trying to clamp down [coughs] on--I'll call it
14 the Airbnb, our problem, and I--I'm sure you realize
15 that in those circumstances where a unit or units
16 have been converted to essentially an--an illegal
17 hotel [coughs] that that can have a significant
18 impact on the quality of life of everyone in the
19 building, the coming and going, the transiency, the
20 people who don't have the same kind of vested
21 interest in the building, the property that communal
22 space as everyone else. I--I don't mean this to be
23 critical, but just as an--as an observation I don't
24 think that the administration that is doing so much
25 to try--try to clamp down on these illegal hotels

2 really makes a strong argument when it suggests that
3 somebody living in a building where there's been an
4 illegal conversion is not experiencing discomfort, a
5 loss of quiet enjoyment of their--their--their
6 apartment, a breach of the peace, et cetera. So I--
7 I--I want to work with the Administration to--to try
8 to get to a bill that--that--that you would support,
9 but I don't--I don't see that as being really a very
10 serious or strong objection. I--I see it as an
11 interesting observation, that is a different kind of
12 harassment than most of the other items in the--in
13 the law that constitute harassment, but I do know,
14 you know, that one of the items that currently
15 constitute harassment, I think it's G: Substantially
16 interfere with or disturb the comfort, repose, peace
17 or quiet of any person lawfully entitled to occupy--
18 to occupancy of such dwelling. So already within the
19 existing law, the definition of harassment can be
20 quite broad and not as specific as the landlord has
21 locked you out of your specific apartment. Do you
22 want to comment on that?

23 DANA SUSSMAN: Give me a moment.

24 [background comments, pause]

25

2 ASSISTANT COMMISSIONER RAND: First of
3 all, I would like to say that I have a lot of
4 experience with unlawful hotel units. I've--I've
5 worked for the City on that issue. I've been
6 involved in that issue. I don't think that the
7 Administration is saying that in all cases it is not
8 harassment. What we are raising is that at least the
9 current proposal suggests that it--it doesn't need to
10 cause or be intended to cause the tenant to give up
11 some rights including quiet enjoyment or to be--
12 vacate the unit. So the way it's written now, is
13 it's strict liability. Whether or not it affects the
14 tenant, the current proposal and the administration
15 is concerned about that. Whether or not there could
16 be another wording of this docket, I'm not in a
17 position to respond to that. The Mayor's Office of
18 Special Enforcement isn't here, which enforces ECB
19 laws violations or in Supreme Court. I don't think
20 the Administration at all is saying that it can't be
21 harassing conduct.

22 COUNCIL MEMBER LANCMAN: Okay. Then let
23 me ask you, I'll call it a technical question. The
24 other objection that was raised we would also note
25 that the definition of *owner* in this bill is quite

2 broad, and includes lessees for example. I--I just
3 want to highlight that our bill does not change the
4 definition of owner--

5 ASSISTANT COMMISSIONER RAND:

6 [interposing] Correct

7 COUNCIL MEMBER LANCMAN: --as it's

8 introduced--it is the definition of *owner* that
9 currently exists in the--in the statute. When you
10 say includes lessees for example, do you mean that
11 the landlord leases the apartment to Joe. Joe is the
12 lessee. Joe is illegally turning his apartment into
13 an Airbnb hotel. Are you concerned that this bill
14 would also reach Joe, the lessee?

15 ASSISTANT COMMISSIONER RAND: I don't

16 know whether we're concerned about Joe--

17 COUNCIL MEMBER LANCMAN: [interposing]

18 Uh-huh.

19 ASSISTANT COMMISSIONER RAND: --but we're

20 concerned--I--the Housing Maintenance Code actually
21 has a very broad definition of owner, and this would
22 be part of the Housing Maintenance Code. §27-2004
23 includes any person in control, any lessee, any
24 landlord. So, you know, we're--it may, in fact, be
25 an appropriate word to use, but I think it needs to

2 be looked at carefully and see what class of people
3 you would be including when you talked about owner,
4 and that's something that obviously the
5 Administration would have to look at also.

6 COUNCIL MEMBER LANCMAN: Right. Okay,
7 well, the--the Mayor's Office gave me a call last
8 night to alert me to some of the concerns that you
9 had. So this isn't new to me, but I wanted to flesh
10 it out a--a little bit. I do think we're on the same
11 page. I do think the Administration has done--made
12 good efforts to try to address this--this problem.
13 We want to give tenants an additional tool. So I
14 look forward, and I'm just--not just typing hearing
15 verbiage, I do look forward to working with you to
16 get to a point where--where we can be completely on
17 the same page and have a bill that the Administration
18 supports. Thanks very much.

19 CHAIRPERSON MENDEZ: Council Member
20 Barron to be followed by Council Member Rosenthal.

21 COUNCIL MEMBER BARRON: Thank you Madam
22 Chair. In your testimony both HPD and HRA you
23 reference the opportunity to work on this issue.
24 With the HPD testimony you say we welcome the
25 opportunity to continue to discuss with you how to

2 provide more information to the populations from the
3 availability of legal representation before an
4 eviction becomes a possibility. And with HRA
5 testimony, you say you're willing to discuss
6 discrimination in housing and specifically with
7 respect to housing discrimination on the basis of age
8 and/or disability or other protected categories. I'm
9 glad that's our starting point. So with that being
10 our starting point, how can we do what it is that
11 these bills are attempting to do. In your testimony
12 from HPD you say you are not involved in eviction
13 proceedings. So what are you saying, that you're not
14 presently and you don't intend to?

15 ASSISTANT COMMISSIONER RAND: We're not
16 involve--we're--the Housing Litigation Division,
17 which is the arm of the HPD--

18 COUNCIL MEMBER BARRON: [interposing] Yes.

19 ASSISTANT COMMISSIONER RAND: --that goes
20 in on private landlord disputes. We appear only on
21 the Housing Maintenance Code violation issues, and on
22 other violation issues. We appear to enforce the
23 Housing Maintenance Code. We do not appear in
24 eviction proceedings. We are not parties to private
25 eviction proceedings, and we don't believe it's an

2 appropriate place for us to be. Certainly, the
3 Administration is willing to sit down with Council
4 members and try to figure out some way to address
5 your concerns, which are concerns that I think
6 everyone has that seniors and people with
7 disabilities need to be protected. We--the
8 Administration doesn't think that this bill is an
9 effective way to do that, or that it's even in our
10 view workable, and certainly HPD's position is that
11 we are not the appropriate agency to do this kind of
12 work.

13 COUNCIL MEMBER BARRON: So enough to say
14 that you're saying, you know, NIMBY, but who are
15 that--who are you with? Who do you see as the agency
16 or the city's ability or the possibilities of making
17 that happen? What are you offering? What are you
18 saying--

19 ASSISTANT COMMISSIONER RAND:
20 [interposing] I--I--

21 COUNCIL MEMBER BARRON: --because we
22 agree that the premise is that these people need to
23 be protected.

24 ASSISTANT COMMISSIONER RAND: Correct.

2 COUNCIL MEMBER BARRON: What is your
3 offer for how to do that beyond what this bill says?

4 ASSISTANT COMMISSIONER RAND: You know,
5 I'm not the appropriate person to answer, which of
6 which I would say. I'm here for HPD. I can't really
7 tell you which agency, but I think the Administration
8 is willing to sit down with council members and
9 discuss all of these issues, and try to come up with
10 some workable legislation.

11 DANA SUSSMAN: And I would just add from
12 the Commission on Human Rights, we have two main
13 functions. We enforce the City's Anti-Discrimination
14 Law, both by accepting complaints from the public and
15 by doing our own commission initiated investigations
16 and we--we just believe that discrimination is
17 happening. We also have a Community Relations Bureau
18 that educate New Yorkers of all different
19 constituencies on the Human Rights Law. So with
20 those two functions we are tackling discriminatory
21 evictions and discrimination in housing on both age
22 and disability and many other protected categories.
23 And, we also welcome opportunities to partner with
24 different council members and with the aid--with the
25 Administration on both those areas where we do have

2 expertise, both in law enforcement on discrimination
3 and in community education outreach.

4 COUNCIL MEMBER BARRON: What is it that
5 prompts your own initiated investigations?

6 DANA SUSSMAN: Simply if--if someone
7 comes forward, and believes they are experiencing
8 discrimination, but for whatever reason, they don't
9 want to put their name on a complaint for it, and we
10 can imagine why many people would not want to. The
11 Commission can actually serve as the complainant. So
12 it would be Commission versus X Landlord. So, a
13 person could come forward, or we can get a tip from a
14 Council Member. We can get a tip from a--a--a legal
15 service provider. Really, any member of the public
16 if they think something is going on and we have the
17 authority to subpoena information and--and ultimately
18 if we believe that there is--a reason to believe that
19 discrimination is occurring, we can file a complaint
20 based on--on the Commission's behalf without any
21 named complainant.

22 COUNCIL MEMBER BARRON: So for those
23 persons who for whatever reason are reluctant or
24 hesitant or just not going to come forward, how would

2 your agency then know that there is a problem that
3 exists?

4 DANA SUSSMAN: I'd say--

5 COUNCIL MEMBER BARRON: [interposing]

6 For--for example if there were perhaps an immigrant
7 community that was afraid to bring attention to
8 themselves, how then is your agency going to do that?

9 DANA SUSSMAN: Well, it's--it's--it's a
10 challenge, but it's part of our work on our Community
11 Relations team. So we've been partnering with
12 different community-based organizations that feel
13 this--that--that get this information on the ground,
14 and they know who to contact at the Commission, our
15 various different departments, and they can actually
16 just funnel that information directly to our--our law
17 enforcement attorneys. So either through community-
18 based organizations, religious organizations, council
19 member district offices, whatever it may be that can
20 funnel that information to us of how-- And--and us
21 being out in the community and accepting that
22 information, too, at our various events and--and
23 workshops.

24 COUNCIL MEMBER BARRON: How many
25 investigations did you initiate on your own during

2 the last year, or what was the last year that you had
3 data that tells us how many?

4 DANA SUSSMAN: Sure. We--I can--it may
5 take me a minute, but we have our--from our annual
6 report from last year--

7 COUNCIL MEMBER BARRON: [interposing] Yes.

8 DANA SUSSMAN: --we--which has followed
9 calendar year 2015. We have some data on that, and
10 if I can't get it to you right this moment, I will
11 follow up.

12 COUNCIL MEMBER BARRON: Okay, and does
13 your data describe--describe the source of the
14 initiation of the investigation whether it was based
15 on someone coming with a complaint, or someone or an
16 organization as you say that came to your attention
17 and lodged that?

18 DANA SUSSMAN: We did not capture that
19 data in our Annual Report, sort of the source of the
20 information. We simply have divided it out by
21 Commission initiated versus what we call complainant
22 initiatives.

23 COUNCIL MEMBER BARRON: So you do have
24 it?

2 DANA SUSSMAN: We have that information
3 and I'm--if I--if I don't have it with me I will get
4 it to you.

5 COUNCIL MEMBER BARRON: Okay, and do you
6 have any idea of the range of how many or can you
7 talk about the trend? Have you seen an increase, and
8 do you have an idea of--within a particular category
9 how that trend is moving? Is it disaggregated by
10 trends--

11 DANA SUSSMAN: [interposing] Yeah.

12 COUNCIL MEMBER BARRON: --or by groups?

13 DANA SUSSMAN: Yeah, well I can say
14 anecdotally that we are more likely to see Commission
15 initiated investigations in Housing, which is really
16 undocumented immigrants because of their
17 vulnerabilities on many levels, and we're seeing a
18 lot of tenant harassment on the basis of immigrant
19 status and national origin. And so we're seeing--
20 we're seeing that. I think we're also seeing it in
21 the context of disability and--and with respect to
22 seniors as well. So the--the--the folks that we're
23 talking about today, but I can say anecdotally that
24 we are doing some large scale investigations
25 involving discrimination, particularly tenant

2 harassment with respect to folks who are undocumented
3 or--or in immigrant communities.

4 COUNCIL MEMBER BARRON: So do we know how
5 many--is there an agency? Is it your agency or some
6 other agency that tells us how many evictions took
7 place and that's documented?

8 DANA SUSSMAN: That is not something that
9 we track or that we have access to that kind of
10 information.

11 COUNCIL MEMBER BARRON: So, there's no
12 city agency that has that?

13 DANA SUSSMAN: I can't speak to--to--
14 outside of the Commission.

15 ASSISTANT COMMISSIONER RAND: I don't
16 believe there is. I'm not positive. The OCA has
17 that information, the Office of Court Administration.

18 COUNCIL MEMBER BARRON: And did they send
19 that report to you? Or did you request that report?
20 How do we know what's happening in our city?

21 ASSISTANT COMMISSIONER RAND: I--I--I
22 honestly don't have the answer to that. I don't get
23 that report, but maybe some city agency does.

24 COUNCIL MEMBER BARRON: Okay. So then
25 that leads me to the conclusion here when we get

2 that--all of that information, and when we can
3 identify persons--you indicated that we might be
4 deluged by landlords who in an attempt to not
5 contravene or go against, or miss someone who might
6 be 62 and miss out on sending that, but they might
7 just send this. Listen, here are all the evictions
8 that I'm planning, and you sort it out as to who is
9 62 or older, and then make provisions moving forward
10 from there. If you were to get all of that data, and
11 if we could, in fact, identify those who are 62 or
12 older, then what's the resistance or the pushback?

13 ASSISTANT COMMISSIONER RAND: The
14 Administration doesn't believe that HPD is an
15 appropriate agency to do that. We are not involved
16 with evictions. Certainly the Administration will
17 talk to you about this issue, but it's our position
18 that HPD is not an appropriate agency for that.

19 COUNCIL MEMBER BARRON: And HRA?

20 DANA SUSSMAN: So the Commission's
21 jurisdiction is simply to enforce the Anti-
22 discrimination Law of the city of New York, and I
23 think simply to enforce. It's not quite that simple,
24 but that is our mandate, and so I don't--we are not
25

2 situate at this--at this point to--to be able to
3 gather that information and act on that information.

4 COUNCIL MEMBER BARRON: No, but my point
5 is if you had the information--I'm not saying that
6 you have to go get it--I'm saying if we devise a way
7 and an opportunity to get the information to you,
8 what's the issue?

9 DANA SUSSMAN: If--if we see systemic
10 sort of pattern and practice issues particularly, you
11 know, a landlord that owns several buildings and we
12 see a pattern of--a policy or a practice that
13 disproportionately impacts a certain population
14 whether it be based on age or race or immigration
15 status or gender. We--if we get that information, we
16 can certainly do it an investigation base on--on a
17 disparate impact analysis of discrimination
18 certainly. And just to follow up on your earlier
19 question about Commission initiated cases in the last
20 year--

21 COUNCIL MEMBER BARRON: [interposing] Uh-
22 huh.

23 DANA SUSSMAN: --we filed--the Commission
24 filed over 50 cases.

25 COUNCIL MEMBER BARRON: How many?

2 DANA SUSSMAN: Fifty.

3 COUNCIL MEMBER BARRON: 5-0?

4 DANA SUSSMAN: 5-0 that were Commission
5 initiated in 2015 in a variety of areas previously,
6 but prior to Commissioner Malalis starting at the
7 Commission last year. Commission initiated cases were
8 limited and very narrow circumstances to small
9 employee employment sort of add cases, discriminatory
10 adds, but we've expanded that dramatically. We're
11 now focusing on disability access issues in housing
12 to arrests and conviction history discrimination in
13 employment, one of the new protections in the law.
14 So it's a broad--a broadening of our commission issue
15 that--

16 COUNCIL MEMBER BARRON: Of your 50 cases
17 that you initiated, how many were related to housing?

18 DANA SUSSMAN: [pause] I have here that
19 we had--well disability access in housing, we--and in
20 public accommodations we had seven cases.

21 COUNCIL MEMBER BARRON: Seven?

22 DANA SUSSMAN: In--right in disability
23 access in housing, and public accommodations.

24 COUNCIL MEMBER BARRON: Well, I think
25 that--that perhaps not reflective of how broad the

2 problem is that we're looking at, and I think it
3 brings attention to the fact that we need to do more.

4 DANA SUSSMAN: Uh-huh.

5 COUNCIL MEMBER BARRON: I think that
6 perhaps there might be more than seven cases
7 throughout New York City where people have been
8 illegally removed from their homes or discriminated
9 against for any number of reasons, particularly in
10 housing, and I think that speaks to why this bill is
11 so important especially for a population that has
12 many challenges, and as has been documented by the
13 data is living in poverty but yet not able to benefit
14 from so many of the public programs.

15 DANA SUSSMAN: I agree. We absolutely do
16 not disagree with--with you. I think that when we're
17 looking at Commission initiated and--and resources,
18 we're often looking at one case that can have a
19 broader impact. So while the number doesn't seem
20 particularly high, and--and I might add that we are--
21 our Commissioner was appointed last year. We are
22 still in our rebuilding mode, although, we will
23 continue to expand. Each case that we bring is a
24 Commission initiated case. We look at strategic and
25 systemic enforcement so that we can get more bang for

2 our buck in--with--with--with respect to each case.

3 So when we have a, for example, a--a disability

4 access case in one housing unit, we will look at the

5 entire building. Not only that, we will look at all

6 the buildings that that developer or that landlord

7 owns. So it's--while the number is not exceptional

8 at this point--

9 COUNCIL MEMBER BARRON: [interposing] Uh-
10 huh.

11 DANA SUSSMAN: --but it--we--we are
12 looking at limited resources and how we can use those
13 in the most strategic way possible.

14 COUNCIL MEMBER BARRON: Okay. Well, once
15 again, I'm glad that we have the same premise that
16 these--these are populations that need to be
17 protected and that we need to make sure that they are
18 not being abused. I look forward to working with you
19 to make that happen.

20 DANA SUSSMAN: Thank you very much.

21 COUNCIL MEMBER BARRON: Thank you, Madam
22 Chair.

23 CHAIRPERSON MENDEZ: Thank you. We've
24 also been joined by Council Member Mark Levine, who
25 will follow Council Member Rosenthal in questions.

2 COUNCIL MEMBER ROSENTHAL: Thank you so
3 much, Chair. I want to start from--I want to make it
4 clear that I start from a place that the
5 Administration is--is trying to help us figure this
6 out, and I know how much work that you've already
7 done. So these questions are maybe a little
8 nitpicky, but I'm--I'm struggling to understand the
9 opposition to some of these bills, and I feel if we
10 better understood the opposition, we might be able to
11 get to our place of common understanding to our
12 common goal. First on 477 and on 755, HPD is
13 testifying on page 4 that it could not adequately
14 enforce the bills without having to verify whether
15 the person served with the eviction is a member of
16 the groups identified. And for these purposes, can
17 we just talk about SCRIE and DRIE? I--the Department
18 of Finance I'm curious to know, first of all, why the
19 Department of Finance is not here testifying because
20 they, of course, keep these records, and I'm curious
21 to know why that information could not be shared with
22 HPD?

23 ASSISTANT COMMISSIONER RAND: First of
24 all, SCRIE and DRIE do not cover all people with
25 disabilities and all seniors.

2 COUNCIL MEMBER ROSENTHAL: No, and that
3 is something that we're all trying to fix--

4 ASSISTANT COMMISSIONER RAND:
5 [interposing] Right.

6 COUNCIL MEMBER ROSENTHAL: --for sure,
7 but let's start with the low-hanging fruit, shall we?

8 ASSISTANT COMMISSIONER RAND: So you're
9 talking about limiting it to people SCRIE and DRIE?

10 COUNCIL MEMBER ROSENTHAL: No, my--I--I
11 mean let's not play with words. I'm talking about
12 the low-hanging fruit that DOF currently has where
13 they know by apartment number who's on SCRIE and
14 DRIE. Why not welcome the opportunity to help those
15 folks? No?

16 ASSISTANT COMMISSIONER RAND: I'm sure--

17 COUNCIL MEMBER ROSENTHAL: [interposing]
18 I mean sure the Administration and the Department of
19 Finance has testified repeatedly that they would like
20 all people who should be on SCRIE and DRIE on it, and
21 they can't identify those people. So we're spending
22 a lot of taxpayer dollars to try to identify them and
23 get them enrolled, right? But why not start there?

24 ASSISTANT COMMISSIONER RAND: It may well
25 be that the Administration is willing to discuss

2 this. HPD is not the appropriate agency, but--but
3 certainly--

4 COUNCIL MEMBER ROSENTHAL: [interposing]
5 So why isn't HPD here? I mean DOF here? They are
6 the appropriate agency.

7 ASSISTANT COMMISSIONER RAND: I don't
8 speak for them. I don't speak for certain ones. I
9 don't know. [pause] Oh, apparently DOF was not
10 invited to the hearing. Okay.

11 COUNCIL MEMBER ROSENTHAL: Well, this is
12 just silliness. We're trying to get to an answer.
13 So my question is why couldn't--why isn't there a
14 computer system that allows HPD to retrieve this date
15 from the Department of Finance, or why couldn't you
16 pick up the phone and call them?

17 ASSISTANT COMMISSIONER RAND: We are
18 certainly willing to discuss with the committee
19 appropriate legislation. The Administration's
20 position and HPD's position is that HPD is not the
21 appropriate agency. Certainly, we're willing to sit
22 down and talk about this.

23 COUNCIL MEMBER ROSENTHAL: What's your
24 suggestion on it?

2 ASSISTANT COMMISSIONER RAND: I honestly-
3 -I--I--I can't speak for the Administration.

4 COUNCIL MEMBER ROSENTHAL: Okay. So
5 let's go on to 688, and I have to say I'm struggling
6 with this one, too. I share Council Member Lancman's
7 question about just trying to understand the
8 objection to it. And I'm looking at the words
9 written in the last paragraph of page 7, and I'm not
10 able to understand the crux of the opposition. I'm
11 seeing that the opposition seems to be that there
12 could be a situation where there's no tenant at which
13 point it would it be irrelevant. Like why not
14 categorize illegal conversion as harassment? If
15 there's no tenant that wouldn't stop registering the
16 registration of an additional definition of
17 harassment. I'm just trying to understand the thread
18 of the opposition.

19 ASSISTANT COMMISSIONER RAND:
20 [interposing] That particular objection goes to a
21 technical question about the wording of the statute.
22 It doesn't go to the underlying policy issue. If--
23 if one looks at the current statute, every
24 definition, everyone of those individual items
25 follows the language above, which is causes or is

2 intended to cause. So--so the way the bill is
3 currently written that sentence is before the causes
4 or intended to cause instead of after. That's a
5 technical issue that certainly the Administration is
6 willing to talk with you about.

7 COUNCIL MEMBER ROSENTHAL: Wait. So if we
8 fix that, and I'm not a lawyer so I don't know how
9 easy or hard that is, but if we put the word before
10 instead of after, then the Administration would feel
11 fine with it?

12 ASSISTANT COMMISSIONER RAND: I think
13 the--the Administration has talked with the Mayor's
14 Office of Special Enforcement, and have talked
15 internally, but certainly--

16 COUNCIL MEMBER ROSENTHAL: [interposing]
17 But in regard to the Office of Special Investigation,
18 what additional information would the Office of
19 Special Investigation--?

20 ASSISTANT COMMISSIONER RAND: They
21 enforce the Illegal Hotel Bill.

22 COUNCIL MEMBER ROSENTHAL: Sure.

23 ASSISTANT COMMISSIONER RAND: And--and so
24 there would have to be a conversation internally. I
25 certainly think in terms of the meaning of this

2 statute, that would significantly change the meaning,
3 and make it in my view as a lawyer, make it more
4 serviced. (sic)

5 COUNCIL MEMBER ROSENTHAL: Okay.

6 ASSISTANT COMMISSIONER RAND: Okay?

7 COUNCIL MEMBER ROSENTHAL: Got it. Thank
8 you very much.

9 CHAIRPERSON MENDEZ: Council Member
10 Levine.

11 COUNCIL MEMBER LEVINE: Thank you, Madam
12 Chair. I want to add my strong support to these
13 bills and--and want to commend the sponsors, Council
14 Member Barron and the others. There's been a lot of
15 discussion about the government's obligation is in
16 these cases, and I actually believe that the
17 government has profound obligation to ensure justice
18 is done in all legal proceedings especially if
19 there's a possibility of life-altering outcome such
20 as incarceration, deportation, eviction for sure,
21 loss of custody of kids by a parent. You really
22 can't have any certainty about whether we're avoiding
23 discriminatory practices, or have any kind of
24 fairness and result in cases where those proceedings
25 have a lawyer on one side, and no lawyer on the

1 other. And sadly, in Housing Court, in enrichment
2 cases that is overwhelmingly the status quo. A
3 status quo even judges a crying out against because
4 they feel it's unfair. Thankfully, the City is
5 taking some steps and significant and important steps
6 to rectify that situation. With the Council's
7 leadership last year in partnership with--in the--in
8 the Mayors Office we created for the first time an
9 Office of Civil Justice, Housing HRA, which perhaps
10 could have been here. I think they would have had a
11 lot to say on this topic. They are indeed collecting
12 data in ways that the City hasn't before some of
13 which is already available. I mean we know exactly
14 how many evictions there are in the city. There were
15 21,998 last year. We know that because the City
16 Marshals record that, but there were many, many
17 additional thousands of cases where tenants left
18 midway through proceeding because they were
19 intimidated. They were fearful. Many of them were
20 seniors. Many of them did not understand their legal
21 rights. Some--some of them mistakenly thought that
22 if they were undocumented immigrants, they wouldn't
23 reasonable claim in the case of an eviction
24 proceedings. Many didn't understand that there are
25

2 legal services available for free to people who
3 qualify including seniors and people with
4 disabilities. So I think those services are not
5 adequate to cover all the need, but I think we have a
6 compelling interest in making people--helping seniors
7 and others understand their rights to legal
8 representation, and we clearly have an obligation to
9 do more to extend that representation so that
10 ultimately every tenant has that benefit, and it will
11 get us much closer to having justice in Housing
12 Court. This is turning out to be more of a comment
13 than a question. So forgive me for that, but I would
14 welcome your thoughts on--on this as it relates to
15 these bills or the broader questions of justice we're
16 addressing today.

17 ASSISTANT COMMISSIONER RAND: In terms of
18 the broader questions of justice, having been a legal
19 services lawyer and a government lawyer for--for
20 years, I obviously agree that it's really important
21 that tenants have--know their rights, and that they
22 are properly able to defend themselves. And I think
23 the Administration, as Council Member you have
24 raised, has made enormous strides to trying to move
25 that forward. In terms of, you know, the--these two

2 bills, I think the Administration is willing an
3 interested in talking with you about how to achieve a
4 similar result in terms of seniors and disabled
5 people having the information they need. It's the
6 particular bills that we're concerned about, but I
7 know that the Administration shares your concern
8 about people knowing their rights.

9 COUNCIL MEMBER LEVINE: All right, thank
10 you very much.

11 CHAIRPERSON MENDEZ: Thank you and I'm
12 going to ask a few questions. Commissioner Rand, you
13 had stated that HPD is not the appropriate agency to
14 be in charge of these proposed legislations. Why
15 don't you start off by telling me--I mean most of
16 these eviction cases end up in Housing Court. Some
17 of them I guess do end up Supreme Court, but in terms
18 of HPD's role in either Supreme or Housing Court,
19 what would be your function in one of those
20 courtrooms?

21 ASSISTANT COMMISSIONER RAND: We do not
22 appear on eviction cases at all.

23 CHAIRPERSON MENDEZ: Can you repeat that?

24 ASSISTANT COMMISSIONER RAND: HPD does
25 not appear on private eviction cases.

2 CHAIRPERSON MENDEZ: You do appear in
3 Housing Court for what kind of cases?

4 ASSISTANT COMMISSIONER RAND: We appear
5 in Housing Court on Housing Maintenance Code, either
6 tenant initiated actions or HPD initiated with
7 actions seeking correction of Code violations.

8 CHAIRPERSON MENDEZ: Okay. So then it's
9 about maintaining the property in a safe, habitable
10 condition--

11 ASSISTANT COMMISSIONER RAND: Yes.

12 CHAIRPERSON MENDEZ: --and you are either
13 made an action to the case if the tenant starts it or
14 you check the city records and initiatives, your own
15 cases?

16 ASSISTANT COMMISSIONER RAND: Or we
17 receive referrals, and--and commence cases.

18 CHAIRPERSON MENDEZ: So you have no role
19 in eviction cases?

20 ASSISTANT COMMISSIONER RAND: No.

21 CHAIRPERSON MENDEZ: Okay. So, just
22 because I guess in the interest of disclosure, we
23 work together, and I was a tenant organizer and you
24 were a legal services attorney. Back in the day
25 [laughter] we--

2 ASSISTANT COMMISSIONER RAND:

3 [interposing] That was a long day ago. [laughs]

4 CHAIRPERSON MENDEZ: Yeah, yeah, yeah, I
5 know. Back in the day, one of the things as
6 advocates that we fought for and were successful
7 eventually in getting was having the postcard stamps
8 on an eviction case so that if you did not get proper
9 service, the court may allow a postcard. So that
10 tenants would not find themselves with a marshal at
11 their door. Do you think that in these cases, right,
12 would it be beneficial if at Housing Court or
13 somewhere along the eviction proceeding there was a
14 check-off or a question that asks if someone was a
15 senior disabled. Well, then the court would send
16 information and say if you are a senior disabled
17 please go to these organizations or follow up to know
18 what your rights are.

19 ASSISTANT COMMISSIONER RAND: I don't
20 want to speak--[coughs]--I'm sorry. I don't want to
21 speak on behalf of OCA.

22 CHAIRPERSON MENDEZ: Okay.

23 ASSISTANT COMMISSIONER RAND: I really
24 think that's a question that should be directed to
25 them.

2 CHAIRPERSON MENDEZ: [interposing] So
3 that would be directed to them, and that would have
4 nothing to do with HPD. Okay, so--

5 ASSISTANT COMMISSIONER RAND:
6 [interposing] Well, I mean nothing to do in the sense
7 of we don't do it--

8 CHAIRPERSON MENDEZ: [interposing]
9 Eviction.

10 ASSISTANT COMMISSIONER RAND: Obviously,
11 everyone cares--

12 CHAIRPERSON MENDEZ: [interposing]
13 Correct.

14 ASSISTANT COMMISSIONER RAND: --about
15 these issues.

16 CHAIRPERSON MENDEZ: Uh-huh, and the same
17 thing with the Commission Human Rights?

18 DANA SUSSMAN: Right, we're--we're always
19 supportive of--of identifying vulnerable populations
20 and getting the information to the population. So we
21 do--we welcome conversations about whether it's
22 information that automatically gets sent where people
23 check certain boxes. I think we--we'd be open to
24 having those conversations with the appropriate
25 different agency partners. Absolutely.

2 CHAIRPERSON MENDEZ: Well, okay. So I am
3 going to thank you all for your testimony and we will
4 on this side follow up to determine what we can do in
5 terms of SCRIE and DRIE tenants with DOF to alert.
6 As my colleague before set the low-hanging fruit
7 that--that individuals that we can--at this moment
8 the city can identify that might be at risk that fit
9 that criteria, and see what else we can do in terms
10 of possibly tweaking this language or if need be if
11 there was a more appropriate agency getting that
12 agency involved to see how we can provide some
13 justice for these individuals who may be at risk. So
14 I want to thank you all for your testimony. So the
15 first panel to come up to give testimony will be
16 Florence Rice, Kagan Marie Presley, Jennifer Laurie,
17 and Leigh Magnum (sp?) [background comments, pause]
18 So I'm going to ask Ms. Florence Rice to start her
19 testimony since I know this legislation has been
20 around for a while, and she's probably eager to give
21 her opinion this.

22 FLORENCE RICE: [off mic] So I'm stating
23 my name.

24 CHAIRPERSON MENDEZ: [interposing] So
25 whenever you're ready.

2 FLORENCE RICE: Florence M. Rice.

3 CHAIRPERSON MENDEZ: It's a pleasure to
4 have you here today.

5 FLORENCE RICE: I'm a consumer educator.
6 [pause] And let's get started.

7 MALE SPEAKER: Yeah, just--you can just
8 start. So just say what happened to you.

9 FLORENCE RICE: Oh, I'd like to say what
10 happened to me has happened to many--quite few
11 seniors, and as a result that I want to thank Inez
12 Barron for putting this bill up. But I think it's
13 very important because where all the--all that have
14 lived here we have contributed--people like being the
15 many advocates who contribute that we--what is
16 happening to me should not happen to any more
17 seniors. So that's what I'd like to say right now.
18 So I will tell you. This is all new to me. [laughs]

19 FEMALE SPEAKER: Okay, if you can say
20 what happened after your--your apartment was gutted.

21 FLORENCE RICE: Oh, that--

22 FEMALE SPEAKER: And that was very--what
23 happened in housing, that's the harassment, the
24 illegal actions, the illegal activity that took
25 place.

2 KAGAN MARIE PRESLEY: Good morning. My
3 name is Kagan Marie Presley, and I'm going to give a
4 detail description for Mrs. Rice. At the time she
5 was 85. She's now 97, and so, you know, he memory
6 sometimes comes and goes. But she was evicted in
7 2004, and what happened is that Mrs. Rice was served
8 with eviction papers by her landlord who claimed that
9 she had underpaid her rent for thee years by almost
10 \$200 per month. And at the time when she was
11 evicted, she had--she was given--the court appointed
12 her a legal--legal guardian and her name was Beverly
13 Grisby. And I'm must going to read some of the
14 report that Ms. Grisby gave us that she believed that
15 Ms. Rice--why she believed that Ms. Rice was
16 illegally evicted. Ms. Grisby reported that the rent
17 was raised from \$291 to \$458 per month, and Mrs. Rice
18 was failed--and Mrs. Rice, the--the landlord failed
19 to inform her of the changes in her rent increase.
20 The Court and prior to that had ordered several
21 repairs of the apartment because there were several
22 housing violations in the apartments. The landlord
23 agreed that he would repair the apartment and the
24 specifications were given to the court that he would
25 start in the kitchen. He would move to the dining

2 room and the bedroom, and it was very clear as to how
3 he would repair the apartment. However, what
4 happened--really happened, Mrs. Grisby and Mrs. Rice
5 went to breakfast one morning, and they were only
6 away for two hours. When they got back to the
7 apartment it was entirely gutted. There were--there
8 were no repairs done. The men came and what they did
9 they tore the entire apartment apart. They tore the
10 walls down, everything. You could stand at the front
11 door and see right through the entire apartment. The
12 only thing that was left standing in the apartment
13 was the toilet. So this is very devastating to both
14 Mrs. Rice. At the time, as I said, she was 85, and
15 she didn't know what to do. All her belongings
16 including her furniture they were either bagged and
17 they were thrown outside of the apartment, in front
18 of the apartment on the sidewalk. What they did
19 they--they--they--as I said, they--they would--the--
20 the--the apartment was completely unlivable. There
21 was nothing in there. Pictures were taken. She
22 called in the Fire Department and she called in
23 several witnesses. So we have pictures of the
24 apartment, which was constructed--deliberately
25 gutted. Mrs. Grisby contends that the landlord

2 deliberately planned to refurbish the apartment and,
3 you know, to use the word refur--he deliberately
4 planned to refurbish the apartment and force Mrs.
5 Rice to leave so that he could re-rent the apartment
6 at a higher rate. And what happened is that when
7 they--when he reconstructed the apartment eventually,
8 it was reconstructed into three bedrooms. It was
9 entirely changed with each bedroom with its own
10 entrance, which would--she contends would indicate
11 that he intended to rent it to three separate
12 tenants. So what happened, Mrs. Rice was practically
13 left homeless. For two years she had nowhere to
14 live. She had to stay with family, and she had to
15 stay with other friends. So ten years after--over
16 ten years after the situation still has not been
17 resolved. She has had four different landlords, and
18 she's still in court with this, you know, and this is
19 as I said a part of what has happened to her. She
20 has a campaign which is called War on Seniors, which
21 brings attention to what happens as, you know, we
22 age. We are not--

23 COUNCIL MEMBER BARRON: [interposing]

24 That's right.

2 KAGAN MARIE PRESLEY: We are not able to,
3 you know, effectively not--I would not say
4 effectively speak for ourselves but, you know,
5 there's, you know, there's a lot of just like
6 paperwork that comes in they might not understand
7 what the law is or what it means. So, they--you
8 know, seniors need protection. So this bill is very,
9 very important that this bill gets passed because it
10 would protect the rights of seniors from landlords or
11 anyone who would try to remove them from their places
12 or dwelling. Moreover, it is not easy when you are a
13 senior to, you know, to go look for an apartment.
14 These people are retired, and Mrs. Rice is an
15 activist. She has made several contributions on the
16 consumer field, and it is very important that not
17 only herself, but, you know, seniors on any level who
18 have made contributions. They have worked. There
19 have been family members that have contributed to
20 the--to our--our communities. They have been stable
21 parts--parts of family--family lives. It is very
22 important that we pay attention and make sure that
23 their housing, the place that they have to live and
24 retire they feel comfortable. This--it should be
25 protected. So we thank Councilwoman, Ms. Barron for

2 your husband introducing the bill, and for you and
3 others to continue to make sure that this bill comes
4 into effect. Thank you.

5 CHAIRPERSON MENDEZ: Thank you very much
6 for your testimony. Next whoever is ready.

7 JENNY LAURIE: A hard act to follow. I
8 commend you all for your really courageous fight on
9 this issue, and I hope you get in touch with some of
10 us in the audience and help maybe resolve the
11 problems in the buildings so the--the repairs are
12 made and counsel--and legal counsel is retained. My
13 name is Jenny Laurie. I'm the Executive Director of
14 Housing Court Answers. Housing Court Answers and
15 runs information tables in the five county Housing
16 Courts. We also run a--a helpline, a telephone
17 helpline for tenants who are facing eviction who need
18 help with rent arrears, and need information about
19 their Housing Court cases, and we provide information
20 table at 851 Grand Concourse, and 250 Broadway for
21 NYCHA tenants who are facing evictions. And I want
22 to testify and speak to the issues in the two bills
23 that address the seniors and--like seniors and
24 disabled tenants. From our experience I would say
25 that we deal only with tenants who don't have

2 attorneys. So we're dealing with a very large
3 population. Last year over 200,000 cases were filed,
4 non-payment were filed against tenants in Housing
5 Court so there's a big population of people who don't
6 have attorneys even with the current administration's
7 funding for legal services. Seniors and disabled
8 tenants have a particularly hard time in Housing
9 Court. Even though Housing Court--the Housing Courts
10 are public buildings they are not as accessible as
11 they should be. So there's no written material
12 that's available to people who have vision
13 impairments or difficulty reading. There is very
14 little access for people who have hearing
15 disabilities or--or limits in--in hearing abilities.
16 It's impossible in Brooklyn Housing Court for
17 instance to get into an accessible bathroom. So we--
18 I've heard myself a tenant in a wheelchair tell me I
19 had to wear diapers today because getting into an
20 accessible bathroom in--in Brooklyn Housing Court is
21 impossible. The elevators in some of the other
22 courts are impossible to get into. They take
23 forever. It's very difficult for tenants who depend
24 on Access-A-Ride or someone else to go with them to
25 Housing Court to get to court on time. As many of

2 you know, there's limits on time. If you're not
3 there by a certain time, your case--there's a default
4 in your case. If you go there on the wrong day or in
5 the wrong courtroom, you also have to file a special
6 kind of paper to get your case put on a different
7 day. So the court is not a friendly place for people
8 with disabilities or seniors. There's also a lot of
9 issues related to the Housing Court cases themselves
10 obviously. People who have been on fixed incomes
11 have a difficulty--a difficult time affording their
12 rents, and many of them face non-payment proceedings,
13 and there's virtually no affordable housing for
14 seniors or disabled tenants who are living on SSI or
15 Social Security retirement that would be affordable to
16 them and available to them in the--in the--if they do
17 get evicted.

18 Housing Court Answers supports a right to
19 counsel for low-income tenants period. We support it
20 for all tenants, all low-income tenants, and we think
21 it would be a great thing to start with tenants who
22 are seniors and disabled. I have some minor
23 objections that other people have talked about--about
24 this current bill. I think it would be better aimed
25 at HRA. HRA houses the Adult Protective Services

2 agents. We--whatever you call it, the--the services
3 that are provided for adults that are unable to care
4 for themselves and after themselves. So APS would be
5 a good target for helping seniors and disabled
6 tenants who aren't able to help themselves. HRA also
7 runs the Legal Services Programs now. They--they
8 manage the contract of legal service providers. So
9 they would know which legal service providers are
10 available in Housing Court. A number of the legal
11 service providers now have offices in the Housing
12 Courts and take direct referrals from the judges.
13 And they also are doing, I think as Council Member
14 Levine remarked earlier, they are currently doing an
15 update to the study that we did 25 years ago to
16 determine who's in Housing Court and what are--what
17 are their attributes? So for instance how many
18 seniors are being taken to Housing Court? How many
19 disabled tenants are being taken to Housing Court,
20 and how many people are sued in a--in a case that
21 don't actually appear in court? And those are really
22 important issues to--to--to basically do research on.
23 And so I think HRA would be the better focus. As I
24 said before, I think that a right to counsel for
25 tenants, senior tenants and disabled tenants of low

2 incomes would be the solution, the best solution for
3 this. And particularly in the situation that we just
4 heard about, if the tenant had been notified right at
5 the start of the case, you have a right to a lawyer
6 and here's how we can provide you with an attorney, a
7 lot of that heartache and really disruptive behavior
8 would have been stopped. Thank you very much.

9 LEANNE LANDRUM: Good morning. My name
10 [AUDIO CUT OUT] [on mic] Okay. My name Leanne
11 Landrum. I'm a Supervising Attorney at the New York
12 Legal Assistance Group or NYLAG in our Tenants'
13 Rights unit, which provides comprehensive on housing
14 legal services to low-income New York City tenants
15 including through HRA's, HPLP, or Homeless Prevention
16 Law Project funding. I'm joined by my colleague
17 Christina Pajovas, who is a staff attorney at NYLAG
18 in our Legal Health Unit, which partners with
19 hospitals and healthcare provider to run on-site
20 legal clinics to address the legal needs of--faced by
21 individuals suffering from serious health conditions.

22 First, we would like to strongly commend
23 the City Council for continuing to take steps to
24 address the growing problem of eviction of
25 homelessness and housing insecurity in New York, and

2 we're seeking solutions to help vulnerable New York
3 Senate--New York tenants maintain stable housing.

4 You know, as you all know, homelessness is a
5 significant, a huge drain on city and state
6 resources, the cost of shelter, the increased
7 healthcare costs, which my colleague is familiar with
8 and, you know, obviously we're all working to find
9 solutions to keep individuals and families housed.

10 So the two bills under consideration among--we're
11 also testifying about the two bills, Intro No. 477
12 and Intro No. 755 related to our legal service
13 referrals of the information about legal services for
14 vulnerable tenants. They are laudable to recognizing
15 that referral to the services do help prevent
16 improper eviction for a vulnerable population. We,
17 of course, support the goal---goals of increasing
18 protection for elderly and disabled tenants.

19 However, NYLAG believes that every tenant who is
20 faced with eviction would benefit from referrals to
21 counsel. Therefore, we urge the City Council to
22 expand the bill scope to include all tenants facing
23 eviction in New York City. We believe it's possible
24 to be over-inclusive in providing information about
25 legal counsel. I want to speak particularly about

2 the bill sort of related to tenants with disabilities
3 in order to help illustrate this. Disabilities take
4 a lot of forms, not all of which are visible. As has
5 been noted, there may be a disabled family member
6 that is for example with DRIE you have to be the--the
7 leaseholder who is not only disabled, but has--you
8 have to be receiving disability related income. So
9 SSI, Veterans Disability benefits, and not all
10 disabled tenants do receive that income. Therefore,
11 would not--are not eligible for DRIE. So not all
12 disabilities are visible and a landlord may not be
13 aware that the tenant is disabled at the time he's
14 serving a petition.

15 I want to give you a quick case example.
16 Obviously, Ms. Rice's situation. So, I mean it's
17 something you see everyday, you know. So we have a
18 particular client who's a Brooklyn tenant, a single
19 mother who lives with her son. She did come to NYLAG
20 through Legal Health partnership. So she suffers
21 from Lupus, which severely impacts her quality of
22 life. However, it's not necessarily visible, and it
23 may not be discernible to her landlord. She had to
24 stop working because of her health problems, fell
25 behind in rent and was sued in a non-payment case.

2 So we're defending her in Housing Court. We expect
3 her to be seeing the City FABS and allow her--to keep
4 her in a rent stabilized affordable apartment.

5 Obviously to leave the streets and detrimental health
6 effects of--that are aggravated by housing

7 instability and keep her son in his school--in his
8 school. But, if she had not come to NYLAG through

9 our Legal Health Partnership, she might not have
10 known about the availability of free legal services

11 for housing issues, and very likely wouldn't have
12 been identified as disabled and received referrals

13 under Intro No. 755. So, you know, landlords may
14 inadvertently violate the law. If there if their--

15 the tenant's disability is not obvious, the tenant
16 may not want to disclose the nature of their

17 disability to a landlord and my not receive legal
18 referrals as a result--as a result. Providing legal

19 referrals to all low-income New Yorkers who are at
20 risk of eviction eliminate--eliminates the potential

21 problem. Of course, by increasing funding the
22 Council or the Mayor has taken steps to recognizing

23 that everyone has right to housing. Again, as the
24 Council is well aware there are great social and

25 fiscal costs to eviction and homelessness. So again,

2 NYLAG thanks and applauds the City Council for
3 introducing these bills. We thank you for allowing
4 us to testify today, and if we can be of further--
5 provide further input--input we would appreciate that
6 opportunity. Thank you.

7 CHAIRPERSON MENDEZ: Thank you. My--my
8 question is for NYLAG and anyone else on this panel
9 who would like to answer. HPD did say here that they
10 will not be the appropriate agency to have oversight
11 and enforce this legislation as tasked, and NYLAG you
12 in your testimony raised some issues with the
13 legislation. So just some thoughts on what you think
14 might be the appropriate agency and/or what can we do
15 either by changing this legislation or something else
16 in this city to help protect seniors and the
17 disabled?

18 LEANNE LANDRUM: So thank you, Chair
19 Mendez. We do have a few thoughts about it, and I
20 think you may have stepped out when Laurie from
21 Housing Court Answers addressed that. They show of--
22 up to ten. We don't do that. However, we understand
23 that these--so a--a couple of initial thoughts of
24 attaching these referrals and information to a
25 petition at the time it's filed. So that a tenant

2 will be served with it. That's what happens with
3 Social Security denials. But when you get the denial
4 you receive a referral to all--various agencies that
5 have terms of appeal, or perhaps either adding to the
6 current postcard that's sent out when petitions are
7 filed or, you know, perhaps a second postcard. I
8 understand that like no one wants to be deluged with
9 mail that they may not notice. However, I understand
10 both of those solution would have to be on a state
11 level. I think that they would require at least
12 coordination with the Office of Court Administration,
13 but those are a couple of ideas. And I think the--
14 you know, we already discussed the Office of Civil
15 Justice within HRA perhaps that is because they're
16 already, you know, very much coordinating and
17 increasing access to Council for low-income tenants.
18 Perhaps that's an agency that could provide these
19 referrals.

20 CHAIRPERSON MENDEZ: Anyone else?

21 LEANNE LANDRUM: So, Yes.

22 CHAIRPERSON MENDEZ: And--and I'm sorry,
23 Laurie, but nature called. You know how that is.

24 JENNY LAURIE: Oh, that's okay. I just
25 suggested HRA because Adult Protective Services is

2 within HRA. HRA manages the legal services
3 contracts. So they're providing funding to the legal
4 service providers in--in eviction cases citywide, and
5 HRA is currently doing a study within--within their
6 Research Department on who's in Housing Court, and
7 HRA is really I think geared up to prevent
8 homelessness, and to prevent evictions. And, I think
9 HRA is particularly focused on preventing the
10 evictions of people who will find it impossible to
11 find other housing, and will end up in the shelter
12 system or worse. Whatever. You know, nursing homes,
13 hospitals--

14 CHAIRPERSON MENDEZ: [interposing] Yes.

15 JENNY LAURIE: --which is a real event--a
16 real possibility for seniors who get evicted. So I
17 think HRA would be the agency. I also think--I mean
18 obviously you have no power over the court system.
19 Not obviously, but you don't, and so--but presumably
20 the court system would cooperate with an agency that
21 wanted to notify tenants of the--of the ability to
22 access legal services. And certainly, you know,
23 there are currently programs with in the Housing
24 Court to basically allow the clerks and the judges to
25 refer to the legal service providers. And I'm sure

2 there are ways to beef that system up. The problem,
3 of course, is there are tenants who would be sued in
4 the court case who would never come to court, and who
5 might not respond to the written notice that they
6 get. However, it was served with them. So it would
7 be nice if there was a way to--I mean on this--on
8 the state law level it would be nice if there were a
9 requirement and in a non-payment case that the
10 landlord would have to go through a hearing to prove
11 that the tenant who was sued in the non-payment case
12 wasn't a senior or disabled or some other vulnerable
13 person. And--and then, of course, it would be nice
14 if there was some way that HRA had of--or--or some
15 other agency of following up on cases to see why
16 people don't appear in court cases.

17 CHAIRPERSON MENDEZ: Thank you very much.
18 Council Member Barron.

19 COUNCIL MEMBER BARRON: Thank you, Madam
20 Chair. I want to thank all of the panelists who came
21 and gave their testimony, and were bold enough to
22 offer solutions, which we seem to have difficulty
23 getting from the city as to how they could address
24 the issue. But I particularly want to give
25 acknowledgement and thanks to Sister Florence Rice.

2 In case you missed it, she is 97 years old. In case
3 you missed it, and she has come to be able to talk
4 about what it is that she has endured over the last
5 12 years, and it happened at a time when she was 85.
6 She has a history of being a community activist, and
7 an advocate, and we certainly owe our thanks for not
8 giving up, for making the effort to come to be here
9 at City Hall and all that entails. We also want to
10 thank those who came to be supportive of her in
11 getting her here today, and we have an obligation as
12 an enlightened progressive society to take care of
13 our seniors and others who have disabilities. It's
14 an obligation that we have, and we certainly need to
15 make sure that we address that obligation and act
16 responsibly. So I want to thank you once again for
17 coming. It's an honor to have you here, and thank
18 once again for your steadfastness in this issue.
19 Thank you, Madam Chair.

20 CHAIRPERSON MENDEZ: Thank you, Council
21 Member Barron. I want to thank this panel and
22 particularly Florence Rice. We hope that in the
23 future no one else, no senior will have to go through
24 what you went through, and we will keep working at
25 trying to figure out how it is we can put extra

2 protections in place particularly for our senior
3 citizens in this city. Thank you very much for
4 coming here today, and sharing your story with us.

5 FLORENCE RICE: I--I want to thank all of
6 you for being here because I've been certain--upset
7 knowing once you get old, you get the business
8 especially if you're poor. So I want to thank you,
9 and Brother Barron for this hearing, and that's about
10 all that I think that--[laughs]

11 CHAIRPERSON MENDEZ: Thank you very much.
12 The next panel will be Ali Davis from REBNY and
13 Frank Ricci from the RSA.

14 FLORENCE RICE: Thank you.
15 [background comments, pause]

16 CHAIRPERSON MENDEZ: So--so whoever is
17 ready can grab the microphone and start with your
18 testimony.

19 ALI DAVIS: Good afternoon, Chairperson
20 Mendez and members of the Committee on Housing and
21 Buildings. My name is Ali Davis, and I'm the Chief
22 of Staff at the Real Estate Board of New York. REBNY
23 thanks you for the opportunity to testify regarding
24 Intro 688, a proposal that would amend the definition
25 of tenant harassment to include the illegal

2 conversion of dwelling units. REBNY opposes illegal
3 construction--

4 CHAIRPERSON MENDEZ: [interposing] Ali,
5 give me one second because there is noise in the
6 hallway. Sergeant and it's entering the Chambers and
7 it's making it difficult for us to hear the
8 testimony. Thank you very much, Sergeant. I'm
9 sorry. If you could just please start all over
10 again. I want to make sure we capture all your
11 testimony.

12 ALI DAVIS: Sure. Good afternoon,
13 Chairperson Mendez and members of the Committee on
14 Housing and Buildings. My name is Ali Davis, and I'm
15 the Chief of Staff at the Real Estate Board of New
16 York. REBNY thanks you for the opportunity to
17 testify regarding Intro 688, a proposal that would
18 amend the definition of tenant harassment to include
19 the illegal conversion of dwelling units. REBNY
20 opposes illegal short-term rentals, and applauds the
21 efforts undertaken by the Council and the
22 Administration to stop this harmful practice.
23 However, we feel strongly that the penalties must be
24 directed at those actually responsible for causing
25 violations. Intro 688 does not take into account

1 cases in which dwelling units are illegally
2 converted, in other words, sublet for fewer than 30
3 days to sites such Airbnb by tenants themselves many
4 of whom may be using these sites without the
5 knowledge or permission of their landlord. Despite
6 their best efforts, it is often impossible for an
7 owner to know the status of every individual unit
8 they own on a daily basis. As currently written,
9 Intro 688 would allow tenants to illegally convert
10 their residents and create a series of inconvenience
11 for their fellow tenants, not to mention the building
12 owner, him or herself, only to have the owner
13 penalized for harassment once the conversion is
14 reported. REBNY recommends that this bill be amended
15 to ensure that all penalties for illegal conversions
16 will be imposed on the person or entity that
17 initiated the conversion and not simply on the
18 building owner. With the modifications previously
19 mentioned, REBNY would support Intro 688. Thank you
20 again for the opportunity to comment, and we welcome
21 any opportunity to work the Council to improve this
22 legislation. I'm happy to answer any questions that
23 my might have.
24

2 FRANK RICCI: Thank you, Council Member
3 Mendez and members of the committee. My name is
4 Frank Ricci. I'm the Director of Government Affairs
5 to the Rent Stabilization Association. I'm going to
6 testify on Intro 688 as well as 477 and 755. I'm
7 combining my testimony on 477 and 755 because our
8 objections are really the same for both bills. The
9 first objection is it's a practical matter, and I
10 think it was discussed earlier by the--the city
11 representatives. Many owners, most owners may not
12 know the age of a tenant, or if they have an actual
13 disability especially in buildings that are
14 transferred from one owner to another over a period
15 of time, and any records that may have indicated
16 someone's age or disability would be lost, and not--
17 just not there. Additionally, we don't think it's
18 appropriate for owners to--to have to go out and
19 start asking tenants for their age, and their
20 disability status. It could be interrupted as
21 harassment then and there just--just inquiring about
22 something like that. It would make a lot more sense
23 of as a beginning SCRIE and DRIE tenants, which
24 obviously, you know, have been already vetted by the
25 city. A bill like this would apply to them, and not

2 to others. We have no objection really to tenants
3 having an attorney, being represented in--in Housing
4 Court by an attorney. In fact, the city has really
5 ramped up its programs to provide attorneys to
6 tenants. We've noticed that there's a slight
7 decrease in the amount of time that owners and
8 tenants are spending in Housing Court that there's a
9 quicker resolution to stipulations and that owners
10 are actually, you know, getting to pay the--the
11 rental payment they're entitled to because often
12 times the--the non-payment case is a result of a city
13 or state agency not making the payment to the owner
14 on time. So this expedites the whole process. The
15 other objection we have to both bills is that we
16 don't think this Council really has any authority to
17 deal with these two issues since it has some court
18 procedures, and those requirements are dictated by
19 the Real Property Actions and Proceedings Law, the
20 RPAPL, and that's something that--that is under the
21 purview of the State Legislature, not the City
22 Council. Additionally, the penalties that are
23 enclosed in this bill for a violation of not
24 providing notice is not the same as it would be in
25 the RPAPL. If you don't do something--if you don't

2 serve a tenant property under the Real Property
3 Actions and Proceedings Law, you have the opportunity
4 to cure. Under this bill there's a penalty, so we
5 think that you're not (sic) in your jurisdiction on
6 those two bills to begin with. But as I said, we're
7 supportive of the concept and, you know, I think
8 everyone has indicated a willingness to sit down and
9 figure something out today. So I think you can
10 include us in that regard.

11 I'll switch now to Intro 688. The way
12 the law--the way this bill is written it makes any
13 violation of § 28-210.3 grounds for harassment of a
14 tenants, and as Ali said before me, that would mean
15 that a tenant who is renting out an apartment through
16 their Airbnb or a short-term rental where the owner
17 has no knowledge or even where the owner is objecting
18 to it and is taking them to court, will now be found--
19 -now be subject to harassment charges when in reality
20 it's--it's not the owner who's trying to do it.
21 It's--it's the tenant. So what Ali failed to mention
22 is that RSA and REBNY have had numerous meetings with
23 the City, the Department of Buildings, the Mayor's
24 Office of Special Enforcement. I'm sure we're going
25 to have more. One agency seems to kick this issue to

2 the other saying well it's not our jurisdiction.
3 Now, now we're talking--we're going to talk to ECB.
4 But this is a huge problem for owners with tenants
5 illegally renting out their apartments through some
6 kind of web service and, you know, we want the
7 violator to be the person who the city goes after,
8 and not the owner especially when the owner-- And--
9 and I should add that there's many cases where owners
10 do become--do have knowledge of a tenant illegally
11 renting, and the city comes in and slaps the owner
12 with a fine for a \$1,000 a day. So we have owners
13 and those continue up until the point of eviction.
14 So an owner--it can take months. So we have owners
15 with fines of \$50, \$60,000 who are in court doing the
16 right thing. Yet, the city is giving them no help
17 whatsoever, and it's not their fault that their
18 tenant is illegally renting. So, I think in
19 summation what we're saying is we need some help. We
20 don't like the practice either, but this isn't the
21 right way to do it.

22 CHAIRPERSON MENDEZ: Thank you very much
23 for your testimony. Council Member Lancman.

24 COUNCIL MEMBER LANCMAN: Thank you. Good
25 afternoon. You know, the reason that we put this

2 bill in is a sense that too many landlords, too many
3 owners are not taking this issue seriously enough.
4 They're getting their monthly rent from whoever is
5 renting the apartment. They're using it as an
6 illegal hotel. That's not the owner's problem.
7 Until it rises to the level where the City might--
8 will actually start enforcement actions, and what
9 recourse does a tenant who's following the law have
10 to get the landlord to own up to his or her
11 responsibility to make sure that the other tenants in
12 the building are using their properties in a way--
13 using their--their apartments in a legal way, and in
14 a way that's not impacting and diminishing the
15 quality of life and the safety of the other tenants
16 in the building. In what scenario do you think it
17 would be acceptable for the landlord to be
18 responsible and required to take action when Tenant A
19 is engaged in misconduct in breach of his or her
20 lease in a way that affects the other tenants in the
21 building. Because what I'm hearing from you is that
22 once you rent the apartment the only concerns that
23 the landlord has are those violations that impact the
24 landlord, and we are trying to give every tenant in
25 that apartment building a tool to get the landlord to

2 do his or her job. Right, because if the landlord is
3 actively trying to kick out right. Someone brings a-
4 -a harassment proceeding, they--they don't get money
5 damages. They don't get a rent abatement. They just
6 get an order directing the landlord to cure such and
7 such a problem. The landlord might have to pay a
8 fine. It doesn't go to the--to the tenant. The only
9 scenario where this law would come into effect would
10 be where a tenant felt that the landlord was not
11 addressing the problem and had to go to court to get
12 the landlord who is in the position to enforce the
13 lease that's being violated to--to do so.

14 FRANK RICCI: Well, let me just try and
15 address a couple of things you said. As a practical
16 matter here's what happens. The owner gets a
17 complaint from a tenant that they think one of their
18 neighbors is renting out short-term. They'll call
19 the tenant first and say look I'm getting this
20 complaint. What are you doing about it? The very
21 first thing the tenant is going to say they're my
22 relatives, they're my friends, they're just staying
23 with me for a couple of days. They're staying for a
24 couple of weeks, and this back and forth can go on
25 for months. Ultimately, when the complaints keep

2 coming, that's when the owner takes action. But when
3 you say that the city is trying to give owners tools,
4 that's what we're asking for and we're not getting
5 those tools from the City or the Council. The
6 owners would love to be--and we gave the city I--what
7 I thought was a pretty good suggestion just last
8 week, and it's similar to what the City was doing
9 back in the late '80s and early '90s using the Buddy
10 (sic) House Law. And then when they became aware of
11 illegal activity in the build--in their building that
12 at least the owner could go--the--the DA of that
13 respective borough would give the owner what they
14 call a lead jacket to go into court for an expedited
15 eviction proceeding. So then the owner could really
16 do something about it, and something like that would
17 be helpful now, but right now, if the owner goes to
18 the city and says, hey, I'm having--and we have
19 plenty of cases like this--I'm having a problem. A
20 tenant in apartment 2B is renting out short-term.
21 What does the city do? And--and I'll quote the--the
22 head of the Mayor's Office of Special Enforcement:
23 "We don't have time to sort out the facts. We just
24 want to go and write the violation to the owner at
25 \$1,000 a day." That's--it's up to ECB when they

2 finally get into ECB to figure out all the facts in
3 the case. So, you want to give us tools, we're
4 willing to sit down and talk about right, but right
5 now we don't have any tools.

6 COUNCIL MEMBER LANCMAN: Well, listen, I
7 as one of the 51 council member are more than happy
8 to work with you on--on giving you appropriate tools
9 that will let you try to solve this problem without
10 impacting tenants' rights in other ways. You might
11 be aware that the city right now is having a
12 conversation about potential excesses and the Police
13 Department's of nuisance abatement, and what you're
14 talking about is in the same--same genre. But it is
15 the landlord who is in the best position. It is the
16 owner who is in the best position to be able to
17 enforce the terms of the lease between bad acting
18 tenant and the landlord. It's not--it's not good
19 tenant, and I would just say you might have
20 frustration with the Housing Court process, but
21 property owners avail themselves of Housing Court all
22 the time, and somebody who is violating the terms of
23 their lease can be, you know, sued for violating the
24 terms of their lease. That's--that's the landlord's
25 responsibility.

2 FRANK RICCI: Right, but on the flip side
3 of that, you heard Deborah Rand from HPD recite a
4 litany of items that constitute harassment. So if an
5 owner starts bringing a non--a holdover case against
6 a tenant constantly because they think they're--
7 they're--they're renting out short-term, that tenant
8 can bring a harassment case against the owner. So
9 it's a Catch 22. The owners are as frustrated as
10 anyone else, and this is what happens everyday.

11 COUNCIL MEMBER LANCMAN: I don't--I don't
12 know if I really give a lot of credit to that. The
13 developers--the--the property owners [coughs] the
14 landlords are very familiar with Housing Court.
15 They're in Housing Court all the time trying to
16 remove tenants who are violating their lease of not
17 payment or whatever it is. So, you know, I'm not
18 overly sympathetic to the--to the--to the concern
19 that well, if you--if you bring that case in Housing
20 Court, then you're going to trigger another provision
21 of the Tenant Harassment Law. Bear in mind if a
22 tenant were to bring a claim and lacks the kind of
23 proof that--that you would need to--to likewise bring
24 a claim, that tenant is not going to be successful.
25 So, if--if the facts are there to support that the

2 tenant is illegally converting their apartment into a
3 hotel, they're there for the tenant. They're there
4 for the good tenants, they're there for you as well.
5 But ultimately for me, and I--I spoke to REBNY, you
6 know, earlier this week. Happy to talk further on--
7 on this. I really am. We don't want to jam up good
8 landlords, but we do want all landlords to take
9 ownership of--of what they own, and be responsible to
10 the good tenants in the building who right now don't
11 have a--an effective tool to get the landlord to deal
12 with the problem tenant.

13 ALI DAVIS: And I would like to echo what
14 Frank said earlier, which is that we as landlords are
15 looking for those tools from you. One of the things
16 that we consistently asked for is--is for the City to
17 have the ability or maybe not the ability because
18 there is some questions as whether or not they can,
19 and to write violations against tenants. It's--it's
20 a tool that would be very helpful to us when there is
21 a tenant that we know that is using a--a set like
22 Airbnb illegally repeatedly, and having the city be
23 able and be willing to write violations to those
24 tenants would be helpful to us. I have owner members
25 who, and manager members who are interested up the

2 city and reporting tenants, as Frank mentioned, and
3 that's not an option because what will happen is they
4 will get the violation themselves.

5 FRANK RICCI: And I have to disagree with
6 you when you say well the owner is in court all the
7 time, and there are plenty of the owners we're
8 talking to are right now coming to us because of the
9 exposure they feel they have if tenants are doing
10 that. Not because they're in court every time, but
11 as a practical matter, if you're an owner of a
12 building and you think this tenant is doing this and
13 they, you know, lied to you for a month or two saying
14 it's my relatives, it's my friends. They're only
15 staying a week. I'm there with them, et cetera. The
16 other goes and sees his attorney--his or her attorney
17 and the attorney is going to say well can you prove
18 it. No, I have a suspicion. Well, then the attorney
19 has--has an obligation to advise their client that,
20 you know, you could be exposing yourself on the other
21 side of harassment if you bring this frivolous case.
22 So I--I disagree with the premise that--that you just
23 espoused a few minutes ago, but owners do have to
24 make those decisions.

2 COUNCIL MEMBER LANCMAN: [interposing]

3 But--

4 FRANK RICCI: --they're not cheap
5 decisions. It's not cheap.

6 COUNCIL MEMBER LANCMAN: But the tenant
7 when consulting his or her lawyer, the good tenant,
8 is also going to get the same feedback from their
9 lawyer. Well, how do you prove it? What do you
10 know? Well, it's not really a strong case. I
11 wouldn't--I wouldn't--I wouldn't advise bringing this
12 against a landlord because you're going to lose.
13 It's going to waste everyone's time and money. I
14 mean--

15 FRANK RICCI: So I--I--they don't have to
16 get an attorney to--under--under the Harassment Bill
17 that was passed by this Council eight years ago, they
18 don't need to. They go into court and HPD represents
19 them on a harassment case. They don't--they don't
20 need to hire their own attorney.

21 COUNCIL MEMBER LANCMAN:

22 FRANK RICCI: Well, I don't know if you
23 were here earlier, but HPD in its testimony
24 represented that in--in these kind of cases their
25 role is not to represent the tenant, but to gather

2 facts and H--what HPD said in its earlier testimony
3 was that [coughs] these kinds of cases, it's hard
4 for--essentially HPD was saying that they absolved
5 themselves of--of fulfilling that role in--in these
6 cases. Whether that's true or not that was their
7 testimony earlier. But there is a significant cost
8 in time and effort for a tenant to bring a case like
9 this. So I--all I'm saying is if the facts on the
10 ground support the application of this law, this bill
11 that we're proposing adding it to harassment, it
12 would also support the landlord's suit against the
13 bad tenant for violating their lease and--and
14 violating the law, but we'll talk about it. But I
15 think we're firmly committed to the idea that the
16 landlords, the owners should not be able devolve
17 their responsibility for maintaining legality in
18 their building to the individual law breaking tenant
19 because that leaves the rest of the tenants exposed,
20 and without the ability really to--to preserve the
21 quality of life and--and quiet enjoyment of--of their
22 tenancy. Great. To be continued. Thank you.

23 COUNCIL MEMBER ULRICH: Okay, thank you
24 Council Member Lancman. Boy oh boy, I don't think
25 RSA or REBNY ever thought to see the day that I was

2 chairing the Housing Committee in the City Council,
3 but we've also been joined by colleague--

4 COUNCIL MEMBER LANCMAN: [interposing]
5 He--he did a little dance--

6 COUNCIL MEMBER ULRICH: [interposing] I
7 guess.

8 COUNCIL MEMBER LANCMAN: --for a second.

9 COUNCIL MEMBER ULRICH: I think this was--
10 --this is really a first. Any bills we want to pass?
11 I mean there's nobody here. I'm just saying.
12 Anyway, the lobbyists are getting nervous and I don't
13 know. Thank you. We're going to call up the next
14 panel now. The next panel we'll be joined by Bennet
15 Baumer from Housing Conservation Coordinators. Mr.
16 Tom Taylor and Westside Neighborhood Alliance as well
17 as Mart--yeah, Marti Weithman from Legal Services,
18 and that's all. Okay. Okay, so we don't time the
19 panel but we do have to be out of here by 1:00
20 because Land Use is using this room so--

21 TOM CAYLER: Then I will go first.

22 COUNCIL MEMBER ULRICH: Please.

23 TOM CAYLER: And I will alacratis. My
24 name is Tom Cayler. I'm with the West Side
25 Neighborhood Alliance. I also act as the Chair of

2 the West Side Neighborhood Illegal Hotel Committee

3 but today I'm here just to talk to you guys about a

4 tenant who has dealt with the consequences of illegal

5 conversion in the building where they live. And I'm

6 speaking in support of 688. I'm in a loft building,

7 which is an IMD, meaning that it doesn't as yet have

8 a certificate of occupancy for a residential use.

9 It's under the Loft Board in New York City right at

10 the moment, and we're going through the process of

11 legalization. Back in 2004 the then landlord brought

12 in a bed and breakfast operator who turned one of the

13 loft tenants, former artist loft, into a 8-bedroom,

14 3-bedroom--8-bedroom, 3 bath bed and breakfast in the

15 unit. In 2008, a subsequent landlord brought in a

16 youth hostel owner who turned a one-bedroom into a

17 five-bedroom, and operated it as a youth hostel.

18 Now, that we're in the legalization process, those

19 units have to be brought into compliance with

20 Building Code. The new owner now has planned that

21 the former artist loft will become three studio

22 apartments, and the former youth hostels would become

23 two studio apartments. So as well as having to put

24 up with the work that was done illegally in the

25 building, now what we're faced with is that the

2 legalization process is going to cause plumbing,
3 mechanical, vents, gas lines, electrical lines to
4 penetrate our floors our ceilings. So, instead of
5 just legalizing the former illegal work, now they're
6 going to put in new units, and we're going to have to
7 suffer that work as well. When illegal work happens
8 in a building, all the tenants suffer.

9 I would like to contradict Commissioner
10 Rand when she was--she mentioned that this bill
11 would--would impact on the unaffected units by the
12 illegal conversion. When you're living in a building
13 where there's illegal working going on, there are no
14 unaffected units. All the units are impacted by this
15 illegal work. So we support this bill. I would also
16 just like to comment, Councilman Lancman, on your
17 discussion you were just having with REBNY here we
18 don't--the Illegal Hotel Committee at Westside
19 Neighborhood Alliance does not in any way, shape or
20 form support tenants renting out their units
21 illegally. It is a huge problem in the city, and we
22 need to find a way in which landlords and tenants and
23 government can work together to try to solve this
24 problem in the city. Unfortunately for us, where we
25 have asked over and over again the Administration has

2 not been willing to meet with us at all. We've been
3 fighting illegal hotels since 2004. We have a long
4 history of doing it. We have worked with landlords
5 who had exactly this problem. They've identified a
6 tenant who is renting illegally. They've taken them
7 to court. It's a difficult process. It's cost them
8 thousands of dollars to do what's right, and in many
9 cases the tenants have walked away making hundreds of
10 dollars on this. So it's--it's not--we--we recognize
11 it is not simple, and it would certainly be our
12 suggestion that landlords, tenants, advocates--
13 advocacy groups, and the administration and Council
14 sit down and really talk about what we can do
15 particularly after the Council meeting we just had
16 with RBB on October 30th of last year where Airbnb
17 just essentially sat here and lied to the Council.
18 But that would certainly be a suggestion of ours is
19 to find a way in which landlords, tenants and the
20 city can work together to resolve this problem.
21 Thank you.

22 MARTI WEISMAN: Good morning. My name is
23 Marti Weithman. I'm a Supervising Attorney at MFY
24 Legal Services. Thank you very much for the
25 opportunity to testify here today. MFY very much

2 supports Intro 688. Illegal hotels have plagued New
3 York City for well over a decade having an extremely
4 negative impact on tenants' lives both through a
5 quality of life issues that are raised with noise at
6 all hours of the day and night, the overuse of the
7 common areas of the building and elevators as well as
8 creating safety and security issues for tenants.
9 Being short-term rentals for period of less in
10 residential buildings these buildings do not have to
11 comply with the same stringent fire and building code
12 requirements and other transient accommodations have
13 to. So you have fire hazards for the--for the
14 tenants who are living in the building as well as the
15 guests who are--are coming in and staying. In
16 addition, we have seen the negative impact that
17 illegal hotels have had on our housing crisis, which
18 has only exacerbated it, and as Council Member
19 Lancman mentioned, since the advent of online
20 platforms such as Airbnb as well as many others, the-
21 -the problem in the city has only been exacerbated.
22 We definitely over the years have seen a strong
23 correlation between illegal hotel operations in
24 buildings and harassment. By and large the illegal
25 hotel operations that we see are conducted by

2 building owners as well as third-party commercial
3 operators and seeing the potential for the
4 significant profits where they can make illegal rent
5 in only a few nights of having tourists stay. These
6 significant profits really do incentivize landlords
7 to pressure tenants to--in pushing them out of their
8 homes and stepping up their harassing tactics. Just
9 to give one example, in one of the residential,
10 larger residential SRO buildings on the Upper West
11 Side, the Grand Imperial Court Hotel, they began--
12 this is a residential SRO so they do have to comply
13 with the state law of having occupancies of 30 days
14 or longer. Back in about 2005, they started renting
15 to tourists on a nightly basis, and along with that--
16 with that new operation in their building they did
17 start stepping up the harassment against the tenants
18 trying to push them out, and we have seen many of the
19 tenants who were displaced over the years. And
20 subsequent to the Grand Imperial's commencement of
21 their illegal hotels operation, they did apply from
22 the city for a certificate of no harassment, which
23 they were required to do in order to obtain building
24 permits to change the use or configuration of the
25 building. They applied for that back in 2011, and

2 HPD after an investigation did find reasonable cause
3 to believe that harassment did exist in the building.
4 They opposed the owner's application, and then after
5 a hearing where many of the tenants did testify about
6 the harassment, there was a finding of harassment
7 based on multiple frivolous lawsuits that were
8 brought against tenants, a disruption of services, an
9 well as the failure to make repairs. So this is like
10 a very strong correlation, and something that we've
11 seen over and over again in--in multiple buildings
12 between the illegal hotel operations and harassment.
13 And I--I would just in closing like to--to comment on
14 the--those remarks made by the REBNY and RSA. You
15 know, as Mr. Cayler mentioned, we--MFY also does not
16 condone any short-term rentals contrary to the state
17 law. However, you know, we do believe that owners
18 are responsible for knowing what's happening in their
19 buildings, and if a tenant is doing, you know,
20 renting out their unit on Airbnb or another platform,
21 owners do have a recourse, and they take steps to--to
22 avail themselves of--of those--of that recourse. We
23 have really seen an increase in eviction proceedings
24 against tenants, and we've seen the law actually
25 change quite considerably and--and tenants are being

2 evicted for this. But we do believe that--that
3 making this part of the harassment definition is very
4 important in recognizing the--the impact or the
5 negative impact this has on tenant's lives, and the
6 increased pressures that they feel and are
7 experiencing in--in--by the owners to--to get them
8 out of their--their house. Thank you very much.

9 BENNETT BAUMER: Hello, my name is
10 Bennett Baumer. I'm a Community Organizer of Housing
11 Conversation Coordinators on the west side of
12 Manhattan. Thanks for the opportunity to share my
13 concerns about how short-term rentals and illegal
14 hotels can wreck and buildings' residents quality of
15 life and the problem of illegal hotels presents a
16 threat to the residential housing stock and
17 affordability. According to insideairbnb.com, the
18 site estimates 53% of listing of Airbnb are entire
19 apartments or homes, which no doubt are running afoul
20 of the law buying rentals of less than 30 days in
21 multiple dwellings, and we're talking about over
22 19,000 listings, by the way. That would be entire
23 apartments or homes. A recent panel covered by the
24 real estate magazine Real Deal surveyed sharing
25 economy experts who theorized the future of online

2 platform for short-term rentals will be further
3 professionalizing and upon it. I attached that with
4 my testimony. That's where the industry is heading
5 is towards professional illegal boutique hotel
6 operators. Thus, it's incumbent on the city to crack
7 down on illegal hotel operators in strengthening the
8 harassment law to include the use of illegal hotels
9 is a great start. Building owners already have an
10 economic incentive to clear rent regulated tenants
11 from buildings and illegal hotels exacerbate this
12 problem. Furthermore, a common plan is to clear rent
13 regulated buildings of tenants in preparation for a
14 sale, and transient illegal hotels are way to earn
15 income during that process. In my work building
16 residents often complain of the hazardous illegal
17 hotels draining the quality of life. Tenants
18 complain of over-served late night tourists palming
19 buzzers when they forget their keys and, of course,
20 there is no front desk in illegal hotels. Tourists
21 come to New York to have a good time and often do,
22 and the apartment next door on that Wednesday night
23 when you have an early morning meeting the boss. But
24 usage of illegal hotels can be more just irritating.
25 It can be a way to drive tenants from the building.

2 It can be a business plan. Along West 49th Street in
3 Hells Kitchen after the Recession hit, a real estate
4 company turned to illegal hotels as a way to capture
5 market rents at a time when rents were falling and
6 mortgage prices stayed the same. During this period,
7 housing conservation coordinators and the tenants
8 associations worked with then Speaker Quinn to get
9 the landlord to cease running the illegal hotels to
10 some success. Nevertheless, the property owner
11 continued the course to evict longstanding tenants.
12 The city recently increased the funding to the Office
13 of Special enforcement, the office charged with
14 enforcing the Illegal Hotels Law. The city can add
15 another tool in its toolkit by amending §27-2004 of
16 the Administrative Code and supplement the Anti-
17 Harassment Law with provisions counting illegal
18 hotels as harassment.

19 CHAIRPERSON MENDEZ: Thank you very much
20 and Council Member Lancman.

21 COUNCIL MEMBER LANCMAN: Thank you very
22 much and thank you all for coming to give your
23 testimony. I just would like to give you an
24 opportunity to directly address the concern raised by
25 the folks at REBNY and RSA that it is essentially

2 unfair to hold the landlord, the owner, accountable
3 for the misconduct of one tenant in a building who
4 might be using their--their apartment as--as an
5 illegal hotel. In circumstances particular where the
6 landlord either does not know that the apartment is
7 being used as an illegal hotel, or has difficulty in
8 gathering the facts and the evidence to--to prove
9 that in--in court. That was their main objection.
10 If there is anything you have to say on that, this is
11 the moment.

12 MARTI WEITHMAN: I--I do believe that
13 owners are responsible for knowing what's going on in
14 their buildings. So I--I don't really agree with--
15 with the response that, you know, they may not know
16 what's going on or, you know, how are they supposed
17 to know what's going on. They are responsible for
18 knowing, and I--I guess I just also you the--Mr.
19 Baumer testified the majority of--of the issues that
20 we see are from these larger operations, right, where
21 multiple units in a building are being used as
22 illegal hotels, and that's where the real issues come
23 in where you are seeing the--the quality of life
24 issues and the safety issues. Not that tenants
25 aren't doing this, and that that is not a problem,

2 but the--the landlord is in the best position to know
3 what's going on, and then they do have their
4 recourse. I don't--I haven't seen many cases where
5 landlords have been sued for multiple actions about
6 tenants illegally renting out their units. We've
7 seen an increase, a very sharp increase in the cases
8 that landlords, eviction proceedings that landlords
9 have brought against individual tenants, and we've
10 seen a sharp increase of tenants being evicted. So
11 they do have their recourse. I don't--I--I don't
12 think that they're--that they're concern is--is--is
13 legitimate. I think that they have their recourse,
14 and this is meant to be a recourse for tenants who
15 are experiencing what is happening in the buildings.
16 And just like any other part of the quiet enjoyment,
17 or warranty to have livability, that is part of that,
18 and the landlord again is responsible for that in--in
19 their buildings.

20 TOME CAYLER: I would--I would certain
21 echo what Weithman is saying, but I--I--I would that
22 the number of the landlords who have suffered because
23 of what their tenants have done here and again at
24 West Side Neighborhood Alliance have worked with some
25 of these landlords. So we know that this is true. We

2 know that this happens, but I would also bet that the
3 number of those is not nothing compared to the amount
4 of landlords who are bringing in professional
5 operators and having them establish illegal hotels in
6 their unit. And that's not a number that we're
7 hearing. So this--this is a double-edged sword. If
8 REBNY and--if RSA want to say well we had a few
9 landlords who were suffering from this, well we have
10 a lot of tenants who are suffering on the other side
11 when landlords are participating in this. So, as a
12 sign of good faith, I'd ask them to say police your
13 own members start with, and then let's look at the
14 few who are suffering from it, and then let's see
15 what we can do about that. Again, I think if the
16 Administration, the Council and advocacy groups on
17 both sides were actually to sit down, I think that
18 New York could establish a model for the country.
19 Because we're not the only city suffering from this.
20 Lots of cities have made deals with Airbnb, and found
21 out what happens when they make deals with Airbnb.
22 If we want to protect our housing, we need to do it
23 together, and landlords and tenants have a symbiotic
24 relationship. Nobody is going to profit unless both
25 sides profit.

2 BENNETT BAUMER: I would like to perhaps
3 explore the worse case scenario from a landlord's
4 perspective. Let's say what RSA was conjuring does
5 happen, but if you own a building you have a tenant
6 who is doing illegal hotels, and you didn't know
7 about it, and you're hit with a harassment case and
8 you're in case. Your recourse is you go to court,
9 and you say you didn't know anything about it, and
10 you--you prove it to the Housing Court Judge, and you
11 beat the case. That would be the worst case scenario
12 and in that worst scenario you would still have
13 recourse, and you could still prevail. Thank you.

14 CHAIRPERSON MENDEZ: I want to thank this
15 panel for their testimony. I want to thank HPD for
16 staying to the end of this hearing, and my colleagues
17 who are still here today. This hearing is adjourned.
18 Thank you. [gavel]

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1 COMMITTEE ON HOUSING AND BUILDINGS

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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 May 25, 2016