

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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June 19, 2017
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HELD AT: Committee Rm - City Hall

B E F O R E: JAMAANE D. WILLIAMS
Chairperson

COUNCIL MEMBERS:

ROSE MENDEZ
YDANIS A. RODRIGUEZ
ROBERT E. CORNEGY, JR.
RAFAEL L. ESPINAL, JR.
MARK LEVINE
HELEN K. ROSENTHAL
RITCHIE J. TORRES
BARRY S. GRODENCHIK
RAFAEL SALAMANCA, JR.
ERIC A. ULRICH

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

Louise Carroll
Associate Commissioner for Housing Incentives
With the New York City Department of Housing
Preservation and Development

Mario Ferrigno
Assistant Commissioner of Code Enforcement with
The Office of Enforcement and Neighborhood
Services

Meryl Block Weissman
HPD's Assistant Commissioner of Performance
Management, Analytics, and Audit

Debra Nagen
Director of Healthy Homes Program, DOHMH

Matthew Chachere
Northern Manhattan Improvement Corporation, New
York City Coalition to End Lead Poisoning

Frank Ricci
Director of Government Affairs for the Rent
Stabilization Association

Paula Segal
Community Development Project, Urban Justice
Center

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[gavel]

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CHAIRPERSON JUMAANE: Good morning

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everyone. My name is Jumaane Williams, Chair of the

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Committee on Housing and Buildings. Today I've been

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joined by Council Members Grodenchik and Dromm both

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from Queens. We are here to hold a hearing on five

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bills, four of the bills related to affordable

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housing and reporting requirements and the last

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relates to lead. Intro Number 305 sponsored by the

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Public Advocate, would require HPD to report on a

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biannual basis the number of dwellings and dwelling

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units created, sponsored, or preserved through

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department programs. Proposed Intro Number 336A,

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sponsored by Council Member Lander would require HPD

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to periodically report on certain information related

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to the voluntary inclusionary housing and the

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mandatory inclusionary housing programs. Proposed

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Intro Number 942A, sponsored by Council Member

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Rodriguez would require HPD to report on housing

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development projects. Intro Number 1645 sponsored by

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Council Members Richards would require HPD to report

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quarterly on the Affordable Housing Fund and the

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mandatory inclusionary housing developments that fund

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it. Finally, Intro Number 427 sponsored by Council

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2 Member Dromm would add a definition for the words
3 reside and residency to the city's lead law. It would
4 define residency as spending 15 or more hours in an
5 apartment in a typical week. With that we're going to
6 have Council Member Dromm give an opening statement.

7 COUNCIL MEMBER DROMM: Thank you Chair
8 Williams for hearing my bill on a serious public
9 health crisis facing many of New York's children,
10 lead poisoning. Over ten years ago the city council
11 took action to try to protect children from the risk
12 of being exposed to lead but a recent court of
13 appeals decision made it clear that more needs to be
14 done. The court ruled that a young girl who spent 50
15 hours a week at her grandmother's apartment did not
16 quote, unquote "reside" in the apartment. This
17 absolved the landlord from any responsibility to
18 abate the lead based paint. Intro 427... 1427, excuse
19 me, will resolve this issue by adding definitions for
20 reside and residency to the administrative code. Now
21 young children present in a dwelling for 15 or more
22 hours a week will be covered under the law and learn...
23 landlords will have an obligation to remove dangerous
24 lead based paint. Families should not have to suffer
25 through the pain of having a child exposed to lead.

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2 This bill fills a major public health gap in the
3 previous code and will protect New York's children
4 from the mariet health risks associated with lead
5 poisoning. For example, lead poisoning can
6 irreversibly impair a child's neurological
7 development, cause behavioral disorders, and reduce
8 educational attainment. I look forward to hearing
9 from the administration and the advocates on this
10 measure. Thank you very much.

11 CHAIRPERSON JUMAANE: Thank you Council
12 Member. I'd like to thank my staff for the work they
13 did to assembly this hearing including Mike Toomey,
14 my Legislative Director; Meghan Chaney; Gino Patino,
15 Council to the Committee; Jose Conde, Policy Analyst
16 to the Committee; and Sarah Gaston, the Committee's
17 Finance Analyst. I'd like to remind everyone who
18 would like to testify today to please fill a card out
19 with the Sergeant at Arms. Our first panel; Mario
20 Ferrigno, Assistant Commissioner of HPD; Louise
21 Carroll; Meryl Block Weissman, Assistant Commissioner
22 of HPD and Debra Nagen from... Director of Healthy
23 Homes Program, DOHMH. Can you please all raise your
24 right hand? Do you affirm to tell the truth, the
25 whole truth and nothing but the truth in your

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2 testimony before this committee and to respond
3 honestly to council member questions? Thank you. Do
4 you want to come up? Are you going... can we get
5 another chair Sergeant? We... no, we can get a... there,
6 the big one there, one of the adult chairs there..
7 okay, you can begin in the order of your preference,
8 thank you.

9 LOUISE CARROLL: Good morning Chairman
10 Williams and members of the New York City Council
11 Committee on Housing and Buildings. My name is Louise
12 Carroll and I'm the Associate Commissioner for
13 Housing Incentives with the New York City Department
14 of Housing Preservation and Development. At the table
15 with me is Meryl Block Weissman, HPD's Assistant
16 Commissioner of Performance Management, Analytics,
17 and Audit and Mario Ferrigno, Assistant Commissioner
18 of Code Enforcement with the Office of Enforcement
19 and Neighborhood Services who will be available for
20 questions at the completion of this testimony. In
21 addition, we have Debra Nagen from Department of
22 Health who will also be available for questions at
23 the end of this testimony. Thank you for the
24 opportunity to testify on Introductions 305, 336,
25 942, and 1645 which would outline new requirements

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2 related to reporting on housing production and
3 Introduction 1427 which would add a definition for
4 residency to the lead paint abatement law. I will
5 also discuss the legislation focused on... I will first
6 discuss the legislation focused on affordable housing
7 reporting. This administration has taken historic
8 steps in partnership with the city council to
9 increase transparency and accessibility for all New
10 Yorkers. In accordance with the New York City's open
11 date of law, Local Law 11 of 2012, HPD works with the
12 Department of Information of Technology and
13 Telecommunications, DoITT and the Mayor's Office of
14 Analytics to publish housing data in a format that is
15 publicly available for examination and analysis. As
16 of June 15th, 2017, there are nine areas in which HPD
17 publishes data sets on the open data portal, three
18 for housing production and six related to
19 enforcement. We are pleased to use this public forum
20 to share what we've been working on and to raise
21 public awareness and city accountability. HPD is
22 voluntarily reporting a large amount of housing
23 production data including on projects, buildings,
24 units that are accounted to its housing New York
25 plan. Data is presented on the open data website both

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2 by building and by project. If you search the open
3 data website by using the housing New York units by
4 project tab you will find data on a project level
5 such as the number of senior units per project. If
6 you search using the housing New York units by
7 building tab you can find building level data
8 including house number, street name, borough, block,
9 and lot, building information number, community
10 board, council district, and census tract in which
11 the building is located. In addition, a search by
12 building or project will give you the following
13 information; project ID, project name, project start
14 date, project completion date, extended affordability
15 status, prevailing wait status, the number of units
16 within each average median income, and number of
17 rental units. Also, you will find the number of
18 homeownership units and the number of total units.
19 Another function of open data is that it allows the
20 public to create specialized searches and save them
21 for future use and for the general public to access.
22 For instance, data can be accessed by district, by
23 community district or council district. For
24 illustration, we created and saved the housing New
25 York by council district query providing information

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2 at a glance related to specific council districts.
3 HPD is committed to ensuring that this data is not
4 only available for public use but for public analysis
5 which is why open data is the best way to publish
6 information as opposed to static reports. We commit
7 to providing open data trainings for council members
8 and their staff and to always be a resource for
9 further support on this site's data and analysis
10 capabilities. Concerning inclusionary housing, as
11 promised to the council during the mandatory
12 inclusionary housing process our interactive
13 inclusionary housing map was launched on HPD's
14 website on October 2016. It allows users to identify
15 for the voluntary inclusionary housing program one,
16 generating sites and the compensated developments
17 that purchased floor area from those sites including
18 the street address, block, and lot information. Two,
19 the amount of floor area a generating site produced.
20 Three, how much was transferred to each compensated
21 development and how much remains unused if any. Four,
22 the stage of construction of that generating site and
23 five, the community board and council district in
24 which both generating sites and compensated
25 developments are located. For the mandatory

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2 inclusionary housing program, we just updated the map
3 to include two MIH projects that will close this
4 fiscal year. This requires us to provide similar
5 information as we currently do for voluntary
6 inclusionary housing. For these two projects and all
7 MIH sites you'll be able to see the corresponding MIH
8 development including address, block, and lot
9 information. Two, the amount of floor area in that
10 MIH site. Three, the stage of construction of the MIH
11 site and four, the community board and council
12 district in which both the MIH site and development
13 is located. Users of the inclusionary housing map can
14 search by city council district to see all of the
15 inclusionary housing production in the district of
16 interest or for information about a specific project
17 you can quarry by address or by borough block and
18 lot. In addition, the layers tool lets users see
19 other information such as underlying zoning in the..
20 in... and the city zoning districts. While the data
21 comes from HPD, the source of most of the layers in
22 the map is the New York City Department of City
23 Planning and we thank them for their support in our
24 efforts to put information up. Finally, users can
25 find information about developers and contractors by

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2 searching data at HPD publish pursuant to Local Law
3 44 of 2012. Pursuant to Local 44 HPD requires housing
4 production project information to be published
5 biannually including project location, developers,
6 contractors, city financial assistance, and
7 affordability information. This legally required
8 information can be accessed by our open data allowing
9 for the public to analyze it through various
10 meaningful lenses. We now turn to the proposed
11 legislation. It is clear that both the council and
12 HPD are committed to transparency and HPD agrees with
13 the spirit of Introduction 305, 336, and 942. We
14 thank Public Advocate Latisha James and Council
15 Members Lander and Rodriguez for putting these bills
16 forward for further discussion. Much of the data
17 required in these bills is now being published
18 through the recently created housing New York open
19 data inclusionary housing map and Local Law 44 open
20 data. We are open to codifying appropriate provisions
21 such as the indexing of data by council district in a
22 non-proprietary format as proposed by Introduction
23 942 and to further discussing what is not currently
24 being captured but would be meaningful to the
25 council. HPD is also in the process of adding the

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2 administering agent to the inclusionary housing map.
3 As I noted previously HPD wants to ensure the
4 published information is available for public to use
5 and analysis so we will conduct council trainings and
6 provide continued support for how to best utilize
7 open data, the open data portal for analysis. We do
8 have concerns about some of the specific provisions
9 of these bills. For example, HPD would need more time
10 following the end of the fiscal year close in June to
11 collect and conduct a data quality review for the
12 information requested in Introduction 942. We would
13 suggest October 31st for a more realistic timeframe.
14 We also have concerns with the requirement to
15 identify anticipated or considered development sites
16 in Introduction 305. Publishing possibly prematurely
17 our recommendations for particular projects would
18 significantly impeded the city's ability to finance
19 the preservation and creation of affordable housing
20 at the lowest possible cost. Such a list might
21 encourage developers to demand exorbitant prices for
22 properties near our parcel thereby inhibiting our
23 ability to assemble land for a project. Finally, as
24 part of the process to enact the mandatory
25 inclusionary housing program HPD and the city council

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2 agreed that an annual report on in lieu fees and the
3 affordable housing fund would be incorporated into
4 the zoning text. Given that there is already an
5 agreed upon reporting framework HPD cannot support
6 Introduction 1645. Now I will quickly discuss Intro
7 1427 on behalf of HPD's Office of Enforcement and
8 Neighborhood Services. HPD is committed to creating
9 safe homes for all New Yorkers and it takes very
10 seriously any complaint related to lead based paint.
11 According to the Department of Health and Mental
12 Hygiene since 2005 there has been an 86 percent
13 decline in childhood lead poisoning. HPD has concerns
14 that Introduction 1527 would have unintended
15 consequences that could greatly impact tenants,
16 property owners, HPD Enforcement Operation. Although
17 not defined in Local Law 1 of 2004 the term reside is
18 commonly understood to mean that a person lives at a,
19 a location that is their primary dwelling. Local Law
20 1 includes several provisions that require the owner
21 to affirmatively determine if a child resides in a
22 unit. When a child under six years old resides in an
23 apartment there are a significant number of
24 requirement imposed on property owners including
25 annual notices, annual inspections, and work practice

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2 requirements. If the tenant responds yes to the
3 annual notice the owner must conduct an inspection
4 for lead based paint habits, if the tenant does not
5 respond owner is required to attempt to inspect the
6 dwelling unit to determine if a child of applicable
7 age resides there. Owners must also inspect for lead
8 paint hazards when a tenant notifies them that a
9 child has come to live in the unit or makes a
10 complaint about a condition that may cause a lead
11 paint hazard or request an inspection. The law also
12 provides the tenants may not refuse or fail to
13 provide information about child residency or refuse
14 to act... access to the owner for the purpose of
15 investigation and repair of lead paint hazards. All
16 of these provisions assist in establishing knowledge
17 by the owner of the presence of a child under six in
18 units in the building. The HPD also has substantial
19 procedures for addressing lead based paint. Due to
20 the increased risk for children our inspectors ask
21 tenants if there's a child under six years old
22 residing at the home at every in... single inspection
23 we conduct and 311 operators are trained to ask if a
24 child under the age of six resides in the home for
25 any service requests regarding paint. If a complaint

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2 is filed and the tenant does not indicate that a
3 child under six is residing in the apartment but the
4 inspector confirms that such a child who lives in the
5 dwelling at the time of inspection HPD will conduct a
6 preliminary lead based... lead based paint survey and
7 if peeling paint is found conduct a second inspection
8 to confirm the presence of lead based paint. A lead
9 based paint inspection requires the inspector to test
10 the paint using an x-ray fluorescent machine which
11 requires the lead content which measures... excuse me,
12 the lead content in the paint. The inspector must
13 test any painted surface that has peeling paint and
14 all windows and doors. Violations will be issued if a
15 lead based paint hazard is identified and the
16 property owner will be advised about how to correct
17 the condition safely which includes hiring a company
18 certified by the Environmental Protection Agency for
19 abatement and a dust wipe contractor to follow up. If
20 the property owner fails to address the lead based
21 paint condition HPD will attempt to do so and bill
22 the property owner for the work. Many of these
23 operational standards also have notification
24 components and are required by law. While we
25 understand the intent of Intro 1427 we need to

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2 evaluate how a definition of reside would be
3 incorporated operationally into our lead based paint
4 complaint inspection and emergency repair program
5 processes. With a proposed threshold changing from
6 primary residences to anywhere a child under six
7 spends 15 hours a week it can be assumed that the
8 Department of Universal Buildings would greatly
9 expand, however to what extent the impact of this
10 expansion would have it is not yet known. More time
11 would be needed to appropriately realize the
12 additional cost to the Department related to
13 staffing, office space, equipment, emergency repair
14 work, and litigation. We look forward to continuing
15 conversations with Council Member Dromm on this
16 topic. We thank you again for the opportunity to
17 share the existing transparency work done by the
18 administration and to discuss ways of ensuring that
19 all New Yorkers can live in safe and comfortable
20 homes. We would be happy to, to answer any questions
21 you may have at this time.

22 CHAIRPERSON JUMAANE: Thank you very much
23 for the testimony, we've been joined by Council
24 Member's Lander, Rosenthal, and Rodriguez. I'm going
25 to allow Council Member's Lander and Rodriguez to do

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2 opening statements, no questions at this time though.
3 If you have questions we can put you on full out
4 questions after.

5 COUNCIL MEMBER RODRIGUEZ: Thank you
6 Council Member Williams and I'm sorry for being late.
7 I want to thank you for your great work on housing
8 chair and for choosing to hear this bill today. Intro
9 942 will increase transparency in city supported
10 housing development project an issue that I know many
11 of colleagues are concerned by often project take
12 longer than initially anticipated leaving residents
13 or communities in the dark about when they will be
14 able to move into renovated house... home. I introduced
15 this bill because we on the council should know where
16 projects stand in the timeline, who the developers
17 are and the... and the address of these buildings.
18 Without these oversights of transparency, we do
19 little to hold developers to the fire when they let a
20 project drag on for months or even years past the
21 original completion date. When city resources go to
22 support the housing development project this project
23 must be a model for how development is done in our
24 society, this should mean that strict deadlines are
25 being met, work site conditions are safe, employees

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2 are paid a prevailing wage, wage and that the project
3 is delivered on time on, on a... on budget. Often these
4 projects are for the creation or, or restoration of
5 affordable units. Our city is in a homeless crisis
6 and the longer a unit remains in construction the
7 higher the chances a family is forced out on the
8 street for lack of affordable options. We owe it... we
9 owe it to our city's residents to address concerns of
10 a project delay. I want to specifically highlight
11 that this legislation will call for the listing of
12 developers of this project so that we can see if any
13 are consistently going over the projected timeline.
14 We work to find those that provide quality on time
15 work instead. They said that sunlight and
16 transparency are the best remedies and with this bill
17 I hope we can provide that to our city's housing
18 development project. Thank you again.

19 CHAIRPERSON JUMAANE: Thank you very
20 much. I have a... just a couple of questions then I
21 want to go to the sponsors; Council Member's Dromm,
22 Lander, and then signed up as Council Member
23 Rosenthal which everybody will have five minutes. But
24 I just want to make sure I clarify, it looked like
25 for bills 305, 336, and 942 you agree in concept and

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2 think you could agree with some modifications, is
3 that right?

4 LOUISE CARROLL: We, we agree... yes,
5 Council Member we agree in concept however we already
6 publish much of the data in... that's required by the
7 proposed bills and so we feel that much of this data
8 is already out there and its already out there in, in
9 a manipulatable forms. For example, through the open
10 data portal or for example through the inclusionary
11 map where you can find the address, the block and lot
12 of both generating sites and compensated
13 developments, you can find the, the status progress
14 of the development for example whether it's in
15 construction, whether its completed. So, we're
16 already putting all this information out there so we
17 feel that, you know if there are tweaks to what we're
18 doing we're happily... we're happy to incorporate some
19 of the council's suggestions into what we're already
20 doing.

21 CHAIRPERSON JUMAANE: Just for clarity, I
22 mean having it out there I guess would make it easier
23 to agree with us to codify it?

24 LOUISE CARROLL: I'm sorry, can... [cross-
25 talk]

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2 CHAIRPERSON JUMAANE: Having already,
3 already having it out there should make it easier to
4 agree with making it law to have it out there.

5 LOUISE CARROLL: So, I'm going to let our
6 Assistant Commissioner for Performance and Analytics
7 respond but we are already complying with several...
8 with Local Law 44. We have promised the council as
9 part of the MIH process that we would have increased
10 transparency and we kept that promise by putting the
11 inclusionary housing data out in October 2016 which
12 is a few months after the council passed the MIH law.
13 So, we're, we're responding to you and we're putting
14 information out there in response to laws or in
15 response to your request and so we feel if we're
16 already doing that, if there are gaps in what we're
17 producing we're happy to add to our data but we, we
18 don't think that it's necessary to have it codified
19 in a bill.

20 CHAIRPERSON JUMAANE: So, just... I mean
21 there always seems to be a philosophical difference
22 with most of the agencies when we present bills to
23 codify even if its codifying things that are already
24 being done I just want to understand it a little bit
25 better from our point of view, we want to codify it

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2 because the next batch of HPD folks or the people
3 after them may not be... may not do as good a job as
4 you're doing in a certain purview so I just need to
5 understand the opposition from codifying things that
6 is already being done?

7 LOUISE CARROLL: So, I will let Meryl
8 answer the question.

9 MERYL BLOCK WEISSMAN: So, for 942
10 especially the point that... [cross-talk]

11 CHAIRPERSON JUMAANE: Can you just get
12 close to the mic?

13 MERYL BLOCK WEISSMAN: Sorry, for the...
14 for such... for 942 for Local Law 44... the one that's
15 related to Local Law 44, the points that were raised
16 are all actually part of the legislation already so
17 our primary... we're definitely open obviously to
18 discuss any of the provisions that were heard to be
19 codified. One of the main things that we're concerned
20 about is the legislation calls for a specific report,
21 the data that's required by Local Law 44 is actually
22 incredibly complex and lends itself best to open
23 data. It is not something because there's very
24 complicated relationships it cannot be created as a
25 physical report. My team is happy to spend time as we

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2 said training or providing one on one assistance so
3 people know how to use the open data but then the
4 other provisions we're welcomed to discuss but..
5 especially the report requirement, I think is really
6 counterintuitive so it involve.. the type of data that
7 is required for Local Law 44. Sorry..

8 CHAIRPERSON JUMAANE: So, I'm, I'm going
9 to have the, the, the Council Members I assume are
10 going to ask specific questions about the bill just
11 in general I wanted to stay on the point of.. [cross-
12 talk]

13 MERYL BLOCK WEISSMAN: Yes.. [cross-talk]

14 CHAIRPERSON JUMAANE: ...it seemed there's
15 opposition to even codify what you're already doing
16 so is that.. is that the case even some of the stuff..

17 LOUISE CARROLL: No, we're saying that
18 its already codified in Local Law 44 so we're
19 providing a lot of information that you're.. [cross-
20 talk]

21 CHAIRPERSON JUMAANE: Well that was..
22 [cross-talk]

23 LOUISE CARROLL: ...requesting.. [cross-
24 talk]

25 CHAIRPERSON JUMAANE: ...one bill..

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LOUISE CARROLL: ...in, in one bill. For example the inclusionary housing requirement's already codified in the zoning resolution and we have agreed with the council on, on what we're going to publish as part of that process and we put into the zoning resolution that the in lieu fees will be held at the community district level for ten years after which it can be used at the borough level and that an annual report would be published by HPD and all of this was in negotiations with you and so we're saying some of the bills have... which... the age of the bills basically some of those bills that may be three years old and subsequent to those bills being put out we have come to arrangements with the council to put some of those requirements in the zoning resolution for example or we're publishing voluntarily through open data or we're already publishing through Local Law 44.

CHAIRPERSON JUMAANE: So, so for 1645 that's the... Council Member Richards, your, your opposition is because you're saying there's already a framework that was put into the zoning... [cross-talk]

LOUISE CARROLL: Yes... [cross-talk]

CHAIRPERSON JUMAANE: ...law?

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2 LOUISE CARROLL: Yes, and that framework
3 was put into the zoning resolution in negotiations
4 with the council. So, we, we all agreed that that's
5 where it would lie and we put it in the zoning
6 resolution and so we have in lieu fees that are
7 published now that state how much the fee would be
8 and when the fee would be changed.

9 CHAIRPERSON JUMAANE: I'm sorry...

10 LOUISE CARROLL: Alright, so we have
11 rules out now for the in-lieu fee that say what the
12 fee is and how often that fee would be changed but in
13 terms of the things that you're looking for holding
14 the, the funds at the community district level for
15 ten years after which it could be released at the
16 borough level and that we should report annually, all
17 of that with your agreement was put in the zoning
18 resolution.

19 CHAIRPERSON JUMAANE: Alright, well that...
20 that council member is not here, my... I imagine that
21 what he's saying I guess either wasn't good or it
22 needs to be tweaked, personally I voted against it so
23 I don't... I don't have a particular bearing on what we
24 put in there but my assumption is that if, if there's
25 something else that's not there or needs to be

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2 tweaked is the reasoning that we're, we're putting
3 this forward. So, are you saying that in 1645 its
4 exactly what was already put in there or its
5 different and you don't want to change it?

6 LOUISE CARROLL: The main parts of the
7 bill where the fund... the collection of the funds
8 where they will be used, for how long, for ten years
9 at the council district level after which it can be
10 used at the borough level, an agreement that an
11 annual report would be more beneficial than less a
12 reporting because we do not expect to collect a lot
13 of fees as part of that program, all of this was
14 discussed and placed in the zoning resolution. We
15 also agreed through a side letter with you some of
16 the specifics of what a report would look like and,
17 and we feel that because of the age of the bill the
18 council accomplished what it wanted subsequent to
19 that bill and that we should adhere it to what we
20 accomplish together.

21 CHAIRPERSON JUMAANE: Do you have a
22 citation of where in the law its... this bill already
23 covers?

24 LOUISE CARROLL: So, there's a definition
25 of affordable housing fund, the definition in the

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2 zoning resolution I think its section 23911
3 definition of affordable housing fund basically
4 states that the fund is administered by HPD, all
5 contributions shall use... shall be used for the
6 development, acquisition, rehabilitation, or
7 preservation of affordable housing or as specified in
8 HPD rules such contribution to the fund shall be
9 reserved for use within the borough in which the MIH
10 development making such contribution is located and
11 for a minimum of ten years shall be reserved for use
12 in the same community district in which the MIH
13 development making such contribution is located. The
14 HPD shall issue a public report on the use of such
15 funds no less frequently than an annual basis. For
16 the provisions for the use of such funds may be set
17 forth in the guidelines IE through cap rules and all
18 of this was done and written in consultation with the
19 council.

20 CHAIRPERSON JUMAANE: Thank you. I'm
21 going to call up now Council Member Dromm, just from
22 your testimony it seemed like most of that opposition
23 had to do with how much additional work would have to
24 be given on HPD. I'm also part of the work on this,
25 when I was an organizer, a tenant organizer one of

1
2 the first things we worked on was getting Local Law 1
3 passed so... unfortunately we still haven't gotten
4 exactly where we wanted to but Council Member Dromm.

5 COUNCIL MEMBER DROMM: Thank you very
6 much Mr. Chair and I'm sorry I, I have three hearings
7 this morning so... all back to back in hearing my
8 legislation but what is... what is the current
9 definition of reside and residency in the city's lead
10 law and how did the Yaniveth decision affect the
11 definition if at all?

12 LOUISE CARROLL: So, there isn't
13 currently a definition and it is a dictionary
14 definition of reside but what the agency is saying is
15 that the definition of reside may not be the issue,
16 we've come a long way since the Yaniveth case in the
17 way we approach inspections of units and in the way
18 we approach prevention and so what we're saying is if
19 you put a bar... a, a, an amount of time somebody maybe
20 who has a child ten hours sudden... who may have an
21 issue doesn't have an opportunity to be savvy and
22 when the HPD inspector goes by and says does a child
23 reside here, anybody can say yes and that is the end
24 of the question, HPD will go ahead and inspect for
25 peeling paint or other paint violations, if they find

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2 anything they will require the landlord to make
3 repairs. What we're saying is let's have a discussion
4 with the Department of Health, let's have a
5 discussion with HPD to see what the right tool is in
6 today's world as opposed to when that case occurred
7 back in 1982 under a prior Local Law.

8 COUNCIL MEMBER DROMM: So, what is
9 currently required of landlords to remediate lead
10 based paint hazards in apartments of young children?

11 LOUISE CARROLL: So, I will turn to Mario
12 Ferrigno to answer that question.

13 MARIO FERRIGNO: So, when the department
14 receives a 311 complaint and the tenant indicates
15 that the child under six resides in the apartment our
16 lead program will go out and conduct an inspection
17 using XRF testing, if a violation is issued for a
18 lead paint hazard landlord is required to, to hire an
19 EPA certified contractor to have the, the contractor
20 has to have the work done with using safe work
21 practices, the owner is also once the work is done
22 required to hire an independent EPA certified
23 contractor to perform dust clearance tests, all of
24 such documents are to be submitted to HPD for
25

1
2 consideration of the removal of the violations which
3 we will have to inspect.

4 COUNCIL MEMBER DROMM: Does HPD conduct
5 audits for compliance with Local Law 1?

6 MARIO FERRIGNO: HPD will, will... as
7 audits of what... you have a specific... [cross-talk]

8 COUNCIL MEMBER DROMM: Do you... how do you
9 enforce it?

10 MARIO FERRIGNO: We will issue the
11 violations, conduct reinspection's, conduct, you know
12 follow up inspections, proactive inspections when
13 access is not achieved our emergency repair program
14 is out trying to do emergency repairs where the owner
15 has not submitted to us documentation that the
16 violations have been corrected or submitted a
17 certification that they have used... submitted the
18 proper documentation.

19 COUNCIL MEMBER DROMM: Can you tell us
20 how many violations for Local Law 1 is an issue in
21 2015 or '16?

22 MARIO FERRIGNO: I, I can tell you in FY
23 '16 we issued 11,567 violations.

24 COUNCIL MEMBER DROMM: So, looking at the
25 report from 2015 I see that it appears that very few

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2 violations are issued for Queens, it seems the
3 highest concentration is in Upper Manhattan and the
4 Bronx, can you explain why the numbers are so low for
5 Queens?

6 MARIO FERRIGNO: Well our inspections are
7 generated by 311 complaints so I don't have the exact
8 answer, I assume that since Queens is... has more one
9 and two-family homes the complaint intake is less.

10 COUNCIL MEMBER DROMM: Well in my
11 district which is one of the most densely populated
12 districts, so district 25 mostly apartment buildings
13 for example it has from zero to 110 violations, is
14 there any explanation for that?

15 MARIO FERRIGNO: At this point, no but we
16 could certainly get back to you, research, you know
17 the complaint activity from your district and..

18 [cross-talk]

19 COUNCIL MEMBER DROMM: And, and... so,
20 just... and just the last one, how do you do education
21 for the public on lead point poisoning and how to go
22 about reporting lead paint?

23 MARIO FERRIGNO: Right, so HPD inspectors
24 carry brochures, pamphlets which are handed out to
25 tenants upon inspection in addition our website has..

1
2 as, as well as the Department of Health and Mental
3 Hygiene's website has a lot of information regarding
4 lead paint hazards and how to prevent...

5 COUNCIL MEMBER DROMM: Okay, thank you
6 very much.

7 MARIO FERRIGNO: You're quite welcome.

8 CHAIRPERSON JUMAANE: Thank you Council
9 Member, Council Member Lander?

10 COUNCIL MEMBER LANDER: Thank you Mr.
11 Chair and thank you to the HPD team, I know this was
12 a lot of work so I want to start by appreciating that
13 and actually, you know the legislation that I
14 introduced I actually drafted after a report my
15 office did back in 2013 before MIH was created we did
16 a, a study to try to understand how the voluntary
17 programs were and weren't working and found it very
18 difficult to get the data and that's why we
19 originally introduced this language for the voluntary
20 program, we went ahead and then amended it to include
21 the mandatory program but you have indeed made a lot
22 of improvements and I know that that's been a lot of
23 work, one of the challenges we found is that you had
24 good information on the generating sites but the
25 compensated developments were hard to track and I'm

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2 sure it was a lot of work to put this together so I
3 want to honor and appreciate all the work that went
4 into it and I appreciate your willingness to add
5 administering agent. I do want to talk through some
6 pieces of it and I guess just ask about it, you know
7 and I know its brand new and I feel like we're in
8 beta testing so those things that I say I hope you'll
9 take into beta testing spirit starting with just two
10 bugs actually I was able to do search in safari but
11 the search tool didn't work easily in chrome so if
12 you could just have somebody kind of check the
13 different browsers and similarly the dark blue of the
14 address that appears in the box is hard to see so
15 maybe change that color. Anyway, these are just small
16 beta testing that I'm thrilled that exists but let's
17 get it right but I guess some more substantive
18 questions which are not in, in the bill but that I
19 think might be useful to try to build out because it
20 seems to me the goal of doing this is, is really
21 twofold. One is to make sure for any individual site
22 the rules are being followed and the other is to... you
23 know have the analysis we need to make sure the
24 programs are working to achieve its goals. So, one
25 relatively simple thing that would be helpful for the

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2 first one would be a link to the regulatory agreement
3 or governing document so that if you were trying to
4 look up what it was about a particular site and
5 obviously gathering them all and making sure they're
6 all online is a different question but we're at least
7 going forward or where we have them. One thing that
8 would be great to look at... maybe I'll just list all
9 these things and then you can... I don't need an answer
10 today but... and we can... we can follow up after but it
11 would be great to have a link to the regulatory
12 agreements. There's some additional information that
13 it would be wonderful to have so for example in the
14 mandatory program which option... which MIH option
15 people took would be very useful to know and it seems
16 to me we, we really have four programs rather than
17 two or maybe even more than that; there's the old R10
18 program, the designated areas voluntary program, of
19 course each of those is in a designated area and then
20 for mandatory distinguishing area wide applications
21 and, and private applications I think over time would
22 be very useful to that second goal of digging down
23 and understanding how's the program working, what
24 might we want to tweak about it, so I think adding
25 which option a little more specificity to which kind

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2 of program it was and maybe even in designated areas
3 which area would then help us a lot to just figure
4 out over time how to use this in an analytic way as
5 well. So, all those things would be... would be great
6 if they... if it... I mean you guys can take a look at
7 how, how easy they would be or how... well they'll all
8 be challenging but how... so if you have thoughts on
9 any of them I'm happy to hear them, I'm also glad to
10 follow up offline afterwards.

11 LOUISE CARROLL: You know I think it
12 would be best if we went back and took a
13 comprehensive look at the map and then we can talk
14 with your office and, and walk through.

15 COUNCIL MEMBER LANDER: That sounds
16 great, you know I'm, I'm... it's a very... it's going to
17 be useful tool and I, I guess what I will just end
18 with is you know the goal... The report that we
19 produced was not about the access to the data, the
20 report was is the voluntary program working and the
21 answer to that was mixed, in some places better than
22 others, it's part of what pushed us to help adopt a
23 mandatory program which for all the chairs particular
24 issues I think is a whole lot better than the
25 voluntary program that we had that is for sure but

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2 you know I for one want to keep pushing us forward,
3 you know I believed then, I believe now that we
4 actually should have a genuinely citywide program
5 that every multifamily development include some
6 affordable housing whether you get a density bonus or
7 a tax break or not, I think there will come a time to
8 go back and look at the R10 and voluntary designated
9 areas programs and think about whether we want to
10 pull those towards the mandatory program so, the goal
11 here is to... for today is to... is to say thank you for
12 and help get an even better version and then pass a
13 piece of legislation that codifies the, the tracking
14 but I think it's just a useful reminder the goal of
15 tracking that information is to help make sure the
16 rules are followed and we keep a evolve... evolving the
17 program to get better.

18 LOUISE CARROLL: So, I'd just like to
19 answer a little bit of that. There was a time when
20 the programs didn't produce many units of voluntary
21 program and the, the administration and the agency
22 went through tweaks in the processing and how we
23 handled the program so that, you know we went from
24 producing about 700 units to producing over 3,000 in
25 FY '17, we're consistently producing over 1,000 units

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2 every fiscal year even without 421A so when 421A
3 comes back we expect to be back up in the thousand...
4 the 3,000's instead of the... you know 1,500 units that
5 I expect to produce this fiscal year. So, in terms of
6 is it working the way we handle projects and try to
7 handle closings in real time has greatly boosted our
8 numbers under those projects. I will remind the
9 council that we promised you we would get an
10 enforcement in compliance division together in order
11 to make sure that people were complying with not only
12 our tax exemption programs but our voluntary and
13 mandatory inclusionary housing programs and we did
14 hire that person, we have an Executive Director,
15 she's currently pursuing enforcement actions in
16 litigation on the taxing center side and is hiring so
17 we're checking off all the boxes for all the things
18 you've requested.

19 COUNCIL MEMBER LANDER: Mr. Chair can I
20 have one more comment?

21 CHAIRPERSON JUMAANE: Go ahead.

22 COUNCIL MEMBER LANDER: Thank you. So, I,
23 I want to both honor that and keep pushing us..

24 [cross-talk]

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2 LOUISE CARROLL: Yes, absolutely... [cross-
3 talk]

4 COUNCIL MEMBER LANDER: ... you know you
5 have taken an... done... since... it depends how you look
6 obviously, you know the, the 1987 program, you know
7 the R10 program produced quite few units, you know up
8 until 2006, that program produced a lot more units in
9 its next decade than that first program had produced
10 in 30 years, what has happened since 2014 is that.. is
11 an enormous amount of work and I appreciate the
12 agency's significant improvement in the data that's
13 available, significant improvement in your own
14 internal processing and making it possible for
15 developers to utilize all the programs and of course
16 the mandatory program, which I think is going to be a
17 very successful producer so I want to honor all that
18 work. It is of course also true that the magnitude of
19 our housing affordability crisis is, is probably
20 bigger than it was in 2006 or 1987 and that's not
21 because you guys haven't done enough work on the... on
22 the, the IZ programs and I just think continuing to
23 take this good work you've done, honor it and use it
24 to push ourselves forward, you know I continue to
25 believe we can pull the R10 and the designated area

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2 programs forward with... based on what we've learned in
3 the mandatory program and that we still should, I
4 mean this is for the subject for a different hearing
5 Mr. Chair but the idea that every multifamily
6 developer in this city ought to make some
7 contribution to help with our affordability crisis
8 whether we give them a density bonus or a tax break
9 or not that'll produce tens, tens of thousands of
10 units and we just have to keep working to get there,
11 this data helps us make this program work better so I
12 appreciate it and I appreciate your time.

13 CHAIRPERSON JUMAANE: Thank you very much
14 and thank you. I concur with most of what my, my
15 colleague said, I, I do think there's some, some good
16 strides, I don't think we did everything that we
17 could do, I think there was some good work
18 particularly with MIH, I think we failed there very
19 specifically and intentionally by not including a
20 true mandatory on all of the options that were there,
21 folks like me I think feel some sort of vindication
22 because there are new term sheets that do exactly
23 what it was that we were pushing to be done in MIH
24 and haven't received no information of why now the
25 change of heart but also I think there's been success

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2 based against the numbers we said we would have but
3 those numbers I think were not enough particularly on
4 the lower AMI's so we, we got to keep pushing because
5 we are in a... in a, a tremendous crisis. I do have
6 some additional questions on the lead bill that's...
7 what was it 1427, is that right? Does H... does HPD
8 conduct audits for compliance with Local Law 1?

9 MARIO FERRIGNO: So, so, we conduct
10 reinspection's often times or occasionally we will
11 not get access to do repair for lead violations, we
12 will audit those, go back out and reinspect to
13 determine if the lead work was done or if it's in
14 fact necessary for us to do the work so we're looking
15 at those open violations regularly to see if A, they
16 were corrected and B, if the owner's used the proper
17 practices to move forward to remove the violations
18 where they were corrected.

19 CHAIRPERSON JUMAANE: How many violations
20 for Local Law 1 have been issued in 2015 or 2016?

21 MARIO FERRIGNO: I believe I, I provided
22 the number for Fiscal Year '16, we issued 11,567
23 violations.

24 LOUISE CARROLL: Excuse me Council Member
25 I, I think we also want to add that the Department of

1
2 Health makes referrals to HPD and HPD inspects and
3 I'd like to give the Department of Health an
4 opportunity to answer.

5 DEBRA NAGEN: I... we can... we can answer
6 the questions about the... of Department of Health part
7 of it but we, we have a... we're... when there is a child
8 with lead poisoning we make a referral to HPD as part
9 of Local Law, Law 1 requirement and we refer the
10 building, the address, if we find lead paint hazards
11 in the, the unit where that child lives we're going
12 to order them to abate that hazard but the rest of
13 the building, that whole address gets referred to HPD
14 and for there and Mario could answer that better than
15 I, they're going to look at the rest of the building
16 related to, to Local Law 1.

17 MARIO FERRIGNO: Right, correct so HPD
18 will receive the referral from the Department of
19 Health and Mental Hygiene and we will audit the, the
20 rest of the building to determine if there's a child
21 under the age of six living in any of the apartments
22 and upon inspection issue any appropriate violations
23 to the apartments where there are lead paint hazards.

24 CHAIRPERSON JUMAANE: Do... you gave the
25 number for 2016, do you have the number for 2015 and

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2 how many violations in both years were the result of
3 complaints?

4 MARIO FERRIGNO: So, that information I
5 do not have with me but we can provide it.

6 CHAIRPERSON JUMAANE: Based on your
7 testimony seemed to be opposition to Council Member
8 Dromm's bill was primarily about how much time... how
9 much additional time the Department would have to add
10 in terms of staffing, office space, equipment, is
11 that correct or is it something else?

12 MARIO FERRIGNO: We're, we're concerned...

13 LOUISE CARROLL: So, I think
14 operationally there may be some issues we need to
15 work out but primarily we are concerned that maybe
16 the definition of residency is not today's issue
17 whereas it might have been the issue back... [cross-
18 talk]

19 CHAIRPERSON JUMAANE: Say that again, the
20 definition of residency...

21 LOUISE CARROLL: The definition of
22 residency may not be today's issue in terms of
23 prevention and dealing with lead paint. It was an
24 issue then for that case but it's not the issue that
25 we're seeing today and so we want to be able to sit

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2 with the council and try to work through a bill that
3 would address the issues from the HPD, Department of
4 Health and the council's perspective and just the
5 discussion of additional staffing is just an addition
6 to that. What would be... [cross-talk]

7 CHAIRPERSON JUMAANE: What, what are the
8 issues... [cross-talk]

9 LOUISE CARROLL: ...appropriate, who would
10 be... [cross-talk]

11 CHAIRPERSON JUMAANE: ...What are the
12 issues... [cross-talk]

13 LOUISE CARROLL: ...appropriate... [cross-
14 talk]

15 CHAIRPERSON JUMAANE: ...you're seeing now?

16 LOUISE CARROLL: So, we have two of the
17 experts from the division, we think that it would be
18 better after the hearing for HPD and DOHMH and the
19 council to get together to discuss this more
20 thoroughly, I myself am not an expert on, on this
21 issue.

22 CHAIRPERSON JUMAANE: So, just for
23 clarity you're saying the, the hours that the law
24 says you have... in this case, 50 hours wasn't enough
25

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2 for the property owner to have to make any changes
3 that's not an issue that you see come up often?

4 LOUISE CARROLL: No, today if a question...
5 if the question comes through 311 or a complaint
6 comes through 311 about paint HPD would say does a
7 child reside there and there's no hours, there's no
8 minimum threshold, if someone, a grandmother, a
9 caregiver says yes HPD will go out and will do the
10 inspections, if they find peeling paint they will do
11 the test and they will send the lead team out and so
12 it's a broader blanket... [cross-talk]

13 CHAIRPERSON JUMAANE: Did that change
14 after this case?

15 MARIO FERRIGNO: No, it's been that way.

16 CHAIRPERSON JUMAANE: So, what happened
17 during that case?

18 MARIO FERRIGNO: I don't know what
19 happened in that case, I don't know, the law hasn't
20 changed, it's been the same.

21 CHAIRPERSON JUMAANE: It seems a bit
22 strange if, if we're saying there's no minimum
23 threshold and the Council Member put the bill in
24 because of a particular case where threshold was
25 used.

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MARIO FERRIGNO: As was explained if a, a call is... comes into 311 the question is asked about whether a child under the age of six resides in the apartment, if the answer's in the affirmative there's no follow up question with respect to the... [cross-talk]

LOUISE CARROLL: So... [cross-talk]

MARIO FERRIGNO: ...number of hours.

LOUISE CARROLL: I think in this case what we're talking about is prevention and with DOHMH its cure, right, so with prevention... you know in the case where you have someone who's already had lead poisoning and the question to the landlord is whether the child resided here... the progression of that case is unusual because one, HPD on the prevention mode wouldn't be asking the landlord how many hours, we wouldn't get to how many hours the child lives there, HP... the landlord would have to do the work or HPD would do it and bill them or on the DOHMH side if they found lead poisoning they would then in... send a referral to HPD and also inspect other areas where the child may spend time and its... and it's not 50 hours, its five hours so the way DOHMH is working with HPD... [cross-talk]

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CHAIRPERSON JUMAANE: I under... I

understand what you're saying I just want to... were
you aware that this was the case that the Council
Member used to... when he put the bill forward?

LOUISE CARROLL: I, I understand that
this is the case but it... the fact pattern of the case
does... [cross-talk]

CHAIRPERSON JUMAANE: No, I'm, I'm...
[cross-talk]

LOUISE CARROLL: ...not... [cross-talk]

CHAIRPERSON JUMAANE: ...understanding but
I'm just saying if we were aware... I'm just surprised
that you can't tell me what happened in that
particular case then because if this is the case
that's being used and you're saying that the law... it
doesn't match up with what the law is but now you
can't tell me why that happened in that case.

LOUISE CARROLL: It was... it was a
different law and the progression of the way the
agencies work this wouldn't happen today. So, under a
different law... [cross-talk]

CHAIRPERSON JUMAANE: I didn't... I'm
sorry... [cross-talk]

LOUISE CARROLL: ...years ago... [cross-talk]

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CHAIRPERSON JUMAANE: ...repeat that again?

LOUISE CARROLL: Number one it was a different law and to... and number two the way... [cross-talk]

CHAIRPERSON JUMAANE: What, what was a different law?

LOUISE CARROLL: The Local Law 1 back in, I think it was 2000... [cross-talk]

CHAIRPERSON JUMAANE: Four... [cross-talk]

LOUISE CARROLL: Was it 82? Okay, actually let me let the Department of Health.

DEBRA NAGEN: So, that... [cross-talk]

CHAIRPERSON JUMAANE: Alright, sorry just really quickly I want to shout out we've been joined by the Bronx Academy of Letters, is this the high school? Middle school, you guys look grown, welcome very much, welcome, hope it's a lot of fun. Sorry, please continue.

DEBRA NAGEN: I mean I think this is applying to the original Local Law 1, this emanates Local Law 1 of 1982 now the Local Law 1 of 2004 as you well know has a whole different provision for identifying children... [cross-talk]

CHAIRPERSON JUMAANE: I see... [cross-talk]

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2 DEBRA NAGEN: ...who are high risk living
3 in pre-1960... [cross-talk]

4 CHAIRPERSON JUMAANE: So, you're saying
5 this case was before 2004?

6 DEBRA NAGEN: Exactly.

7 CHAIRPERSON JUMAANE: Okay, alright.

8 DEBRA NAGEN: It... at... it was just
9 decided. Yes, and the case... and the case was related
10 to a child with lead poisoning.

11 CHAIRPERSON JUMAANE: So, it happened
12 before '04 but decided after '04?

13 DEBRA NAGEN: Yes.

14 CHAIRPERSON JUMAANE: Okay. Alright, well
15 hopefully you can sit down with Council Member Dromm
16 and, and figure out what the actual needs are, if
17 this doesn't match up but I appreciate all of the
18 work that you're doing on all of these areas even
19 with affordable housing even though we've got to push
20 a little further but thank you very much for your
21 testimony. And we have three people signed up for
22 public testimony. I'm going to call everybody up at
23 the same time, I know everybody's going to get along
24 even though one person I'm assuming is going to be in
25 opposition, I don't know for sure... oh no, he's

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2 checking opposition, okay. Matthew Chachere, Northern
3 Manhattan Improvement Corp.; Paula Segal, Community
4 Development, Project with the Urban Justice and Frank
5 Ricci, Rent Stabilization Association. Bye Bronx
6 Academy of Letters, hope it was all your hoped and
7 dreamed. Can you please raise your right hand? Do you
8 affirm to tell the truth, the whole truth and nothing
9 but the truth in your testimony before this committee
10 and to respond honestly to council member questions?

11 MATTHEW CHACHERE: Yes.

12 CHAIRPERSON JUMAANE: You'll each have
13 two minutes and you can begin your testimony in the
14 order of your preference.

15 MATTHEW CHACHERE: Thank you Mr. Chair.
16 My name is Matthew Chachere, I'm summarizing a much
17 longer testimony which I'm putting it on the record.
18 I'm with Northern Manhattan Improvement Corporation,
19 I'm also Council for the Long.. for.. with the New York
20 City Coalition to End Lead Poisoning and in this
21 capacity, I've been involved in a lot of litigation
22 over the failure of city agencies to implement the
23 city's lead laws as well as I submitted a friend of
24 the court brief in the Yaniveth case before the court
25 of appeals which is the basis upon which Council

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2 Member Dromm's bill has been proposed. I submit these
3 comments also on behalf of UJC. In 2003, in the New
4 York City Coalition to End Lead Poisoning versus
5 Vallone the court of appeals declared that the
6 dangers of exposure to lead paint especially young
7 children are well documented and propose... and poses
8 serious public health risks. While the city was on
9 the cutting edge of preventing policy in 2004 when it
10 adopted Local Law 1 the medical science makes it
11 clear we need to do even more now to prevent children
12 from the... protect children from the intellectual,
13 emotional, and physical damage that exposure to lead
14 does... causes of even vanishing low amounts. Thus in
15 2008 the federal EPA issued rules that require the
16 use of safe work practices in child occupied
17 facilities and noteworthily the child occupied
18 facilities definition in the federal regs is a
19 location visited at least two days a week for a
20 minimum of three hours each visit in a combined
21 weekly total of six hours and a combined annual visit
22 of 60 hours. This is far more stringent than what's
23 been proposed in, in this legislation and assumedly
24 the federal standard was, was carefully analyzed. I
25 see no reason why any city standard should be less

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2 protective than the federal standard. The realities
3 that young children spend significant amount of times
4 in multiple homes in a given week such as when
5 parents live in separate residences and from a
6 child's health perspective the damage that can be
7 done from ingesting lead from dust or deteriorate
8 paint can be just as devastating regardless of
9 whether the child resides in the dwelling or
10 frequently visits. I would suggest however the more
11 significant issue for this council is the lack of
12 enforcement by the city with broad aspects of the
13 current law and although the council asked the, the
14 representatives from the agencies earlier if the city
15 conducts audits, I can tell you that the city
16 conducts virtually no enforcement of three key
17 aspects of the city's law. One, the requirement that
18 at vacancy lead paint on specified surfaces, window
19 frames and door frames be permanently abated and that
20 record be certified to the tenant and documented, the
21 city does not enforce that, period. Number two, the
22 requirement that landlords annually inspect the
23 apartments for lead hazards and document that in
24 writing, the city conducts no enforcement of that
25 provision either except where there's a lead poisoned

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2 child. Three, the requirement that safe work
3 practices be used at all times when disturbing either
4 lead paint or paint of unknown lead content
5 regardless of whether it's a violation, the city does
6 not enforce that and I think those are key issues
7 that should be followed up.

8 CHAIRPERSON JUMAANE: Thank you... [cross-
9 talk]

10 MATTHEW CHACHERE: Thank you.

11 PAULA SEGAL: Thank you. I want to thank
12 my colleague for testifying on behalf of the Urban of
13 the Urban Justice Center. I am also testifying on
14 behalf of the Urban Justice Center's Community
15 Development Project. I'm a Senior Staff Attorney in
16 our Equitable Neighborhoods Unit, I submitted
17 testimony about the bills as written and I... its short
18 and I encourage you to read it, there's a bunch of
19 technical tweaks but I want to respond to a couple of
20 things that the agency staff said under oath up here
21 that I think need to be addressed directly. It's
22 wonderful that they are putting material on the open
23 data portal, the open data portal is a technical
24 tool, its, its spreadsheets, giant ones since they're
25 putting that data in the portal asking them to

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2 produce a report from that data should be a no-
3 brainer and HPD has staff that can do that, the
4 community boards don't, the Community Advocacy
5 Organization's don't. so, the annual reports would
6 serve a different purpose and they would address a
7 different audience and they would make the material
8 that they're already putting on the open data portal
9 accessible to a much broader swath of people who are
10 impacted by the policies that they're apparently
11 reporting on, the information's not transparent if
12 its presented in a format that can't be read. So, I
13 really want to drive home to the council that you can
14 ask for annual reports of the same information that
15 they're already publishing in English instead of
16 spreadsheets, that's fine. The other bill that the... I
17 was very surprised to hear the agency opposed was the
18 transparency on the MIH fund, the language in the
19 zoning text simply says that HPD and I quote, "will
20 issue a public report on the use of such fund",
21 nowhere in the text are the words the use defined.
22 The Manhattan borough board when they submitted their
23 comments on the MIH text amendment requested
24 standards that include for transparency and again I
25 quote, "eliminating the possibility that future

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2 administrations may have different priorities and can
3 unilaterally change the nature of the fund". The city
4 planning commission in making its determination to
5 approve the MIH text stated and I quote, "HPD will
6 track in lieu payment... in lieu fee deposits as they
7 are received and report annually about funds
8 generated, programmed, and spent. That would be great
9 but that is not what made it into the text, I don't
10 know why the legislation is necessary because right
11 now HPD is simply told to report on the use of such a
12 fund and there's nothing to tell advocates what's
13 actually been deposited in each district's account,
14 there's nothing to actually make real transparency
15 possible other than nice people who work at HPD who
16 feel like it, that's not good enough. So, I really
17 want to draw your attention to the fact that this
18 fund is really needed and it's something that
19 advocates have been asking about in the last year
20 since MIH has been passed.

21 CHAIRPERSON JUMAANE: Thank you.

22 PAULA SEGAL: Thank you.

23 FRANK RICCI: Thank you Mr. Chairman...

24 [cross-talk]

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2 CHAIRPERSON JUMAANE: Just going to agree
3 with everything they said.

4 FRANK RICCI: No, not today.

5 CHAIRPERSON JUMAANE: Okay...

6 FRANK RICCI: My name's Frank Ricci, I'm
7 the Director of Government Affairs for the Rent
8 Stabilization Association. I'm here today to oppose
9 Intro 1427 for many of the same reasons that you
10 heard HPD say but as a practical matter, one of the
11 services that we provide to our members and we send
12 out hundreds of thousands if not millions of these
13 notices a year are the annual lead paint and window
14 guard notice asking tenants if they have a child
15 under ten or under six which would trigger if it's
16 under six it would trigger the owner to do an
17 inspection of the apartment to see if there's any
18 peeling paint, the biggest problem we have is tenants
19 responding so we have a, a procedure we go through a
20 second notice, a third notice and then a, a reminder
21 to the owner and go knock on the door just to get the
22 tenant to respond but the... I think the bill on... for
23 the hearing today is totally unnecessary because even
24 if a tenant is watching a child, a grandchild, a
25 neighbor's kid whatever for two hours a week or three

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2 hours a week all they have to do is say yes and
3 that's going to make the owner go in and inspect for
4 peeling paint and then he has to correct that
5 condition. If there's... as you heard HPD say if
6 there's a call to 311 about peeling paint and a child
7 under six they take it a step further they go and do
8 an inspection they bring their XRF machine which is...
9 many of them are flawed because the default on many
10 of the XRF machines is the same number, it's, it's
11 1.0 which triggers a lead paint abatement when in
12 reality it could be something much less than that.
13 Most of the violations you see and hear about today
14 are in doorframes and door... metal doors because there
15 is an ambient level of lead in, in the alloys that
16 make up a lot of these metals but... so there's a lot
17 of... and I would argue there's a needless abatement
18 going on in some of these apartments but the fact of
19 the matter is the bill for the hearing today is
20 totally unnecessary because it doesn't matter if the
21 child's there two hours or 15 hours or 50 hours, the
22 inspection's going to get done either by HPD or the
23 owner for peeling paint to correct the condition. And
24 the final thing I'd like to point out is that you
25 heard them and I, I didn't hear any discussion on it,

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2 since the lead law was passed in 2004 there's been an
3 86 percent reduction in the incidents of poisonings
4 in the city and that's with them lowering the
5 standard from 15 to 10 and now the action level is
6 between five and ten so by lowering the bar, the
7 threshold every few years the number... incidents of
8 lead poisoning has dropped dramatically which is a
9 big success story. Thank you.

10 CHAIRPERSON JUMAANE: Thank you very
11 much. Did I... just did I hear you say that there
12 should be... we should do something that includes
13 additional notices?

14 FRANK RICCI: No, I said that right now
15 what happens is the Health Department requires
16 owners... if the tenant doesn't respond on the first
17 notice... [cross-talk]

18 CHAIRPERSON JUMAANE: I see... [cross-talk]

19 FRANK RICCI: ...which a lot of tenants
20 don't they have an obligation to go back two and
21 three times... [cross-talk]

22 CHAIRPERSON JUMAANE: I see... [cross-talk]

23 FRANK RICCI: ...we... as the service we do
24 it for our members, we will send a second notice, we
25 will do a third notice and we'll even do a phone call

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2 to the tenant just to get them to say... ask if there's
3 a child under six or ten.

4 CHAIRPERSON JUMAANE: May... I, I want to...
5 because it did... there was some logic to... I, I hear
6 what you're saying about what the federal guidelines
7 are but what Frank and, and HPD was saying is that
8 their... the guide... the guidelines doesn't matter
9 because it could be half an hour or an hour right
10 now, are you saying that that, that that's not true?

11 MATTHEW CHACHERE: Well... Mr. Williams I,
12 I... what, what HPD testified to with respect to their
13 policy and practices is what I understand has always
14 been HPD's practice ever since Local Law 1 of 2004
15 went into effect and this may be one of the rare
16 times that Frank Ricci and I in public have ever
17 agreed on anything... [cross-talk]

18 FRANK RICCI: You say the same thing to
19 me all the time...

20 MATTHEW CHACHERE: Right... but... see I
21 think what's important to understand here is, is
22 Yaniveth the, the, the issue in Yaniveth is... it was a
23 liability standard and, and it was brought... it, it,
24 it was... it was brought under the old Local Law 1 of,
25 of 1982 and the issue was and, and this has always

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2 been the critical issue before a, a leading case in
3 1986 called Juarez versus Wavecrest Management is
4 whether or not the owner had notice of the presence
5 of a child and that triggered all sorts of
6 obligations and I think the court was very divided on
7 that issue in terms of the duty to abate being
8 triggered by the quote, unquote "residence" of the
9 child and in fact it was not a unanimous court
10 decision Judge Fahey dissented. It may be.. and again
11 I think this bill is probably going to go through
12 revisions from what I'm hearing, it may be that the,
13 the remedy here is to codify something with respect
14 to owners liability being triggered by residents of a
15 certain minimal amount of time but I, I would
16 certainly agree that there's no reason to impose a
17 minimum amount of time requirement to trigger HPD
18 inspections or.. and certainly not the Health
19 Department inspections, I mean it's, it's pretty well
20 understood that a child could be there five minutes
21 and ingest enough lead in the right circumstances to
22 be lead poisoned.

23 CHAIRPERSON JUMAANE: Alright, thank you
24 very much and Miss Segal, thank you for driving some
25 of those points home particularly the audiences of

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2 who the reports were for, I think that's a, a key
3 part. Well thank you very much for all your
4 testimony, I greatly appreciate it.. is this for the
5 record or something.. we also were joined by Council
6 Member Torres of the Bronx, for the record we have
7 testimony from the Associated Buildings and Owners of
8 Greater New York and Public Advocate Tish James and
9 seeing no one else who wants to testify this hearing
10 is now closed.

11 [gavel]

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C E R T I F I C A T E

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



Date

July 15, 2017