Bill de Blasio
Mayor

Office of
Immigrant Affairs
Nisha Agarwal
Commissioner

October 19, 2017

Testimony of Acting Commissioner Bitta Mostofi
NYC Mayor's Office of Immigrant Affairs

Before a hearing of the New York City Council Committee on Immigration and Committee on Housing and Buildings:

Introductions 1269, 1678, and 1721

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Thank you to Chair Menchaca, Chair Williams, and the members of the Committee on Immigration and the Committee on Housing and Buildings. My name is Bitta Mostofi and I am the Acting Commissioner of the Mayor's Office of Immigrant Affairs (MOIA).

My testimony today focuses on Introduction 1678 and MOIA's efforts to ensure the well-being of immigrant New Yorkers. I will highlight the steps MOIA and its sister agencies have taken to protect immigrants against housing discrimination in New York City, and express our support for the City Council's efforts to provide additional protections for tenants who are harassed by their landlords.

I want to thank the Chairs and the Committee members for continuing to fight to protect immigrant New Yorkers. As Acting Commissioner of MOIA, I have seen how xenophobic rhetoric, aggressive calls for immigration enforcement, and instances of discrimination have created fear in immigrant communities across our City. Introduction 1678 sends the message that the City is committed to fighting against discrimination that has no place in New York City.

Background

As the City Commission on Human Rights (CCHR) will testify, the City Human Rights Law already prohibits discrimination by housing providers, landlords, or their employees on the basis of immigration status.

However, the xenophobic rhetoric and aggressive immigration enforcement policies at the federal level have emboldened some owners and landlords to discriminate against tenants on the basis of their actual or perceived immigration status. Some of these discriminatory actions have been publicly reported, or reported to CCHR and other investigative bodies. We suspect that some acts of discrimination have not been reported at all.

Recognizing the increased need for information in the current political climate, MOIA has built on its work with its partners across the City, including CCHR, to hold days of action and perform outreach to immigrant New Yorkers about their rights. MOIA and its sister agencies have held two days of action on housing discrimination, including one in June when several city agencies, including MOIA, CCHR, the Department of Housing Preservation and Development (HPD), the Human Resources Administration (HRA), the Mayor's Community Affairs Unit (CAU), and the Mayor's Public Engagement Unit (PEU), distributed flyers on housing rights and answered questions on tenant harassment in Jackson Heights and Corona, and one at the end of August in Sunnyside following public reports of displays of Nazi and Confederate imagery, swastikas, and other hate symbols in a building in Sunnyside. MOIA also continues to conduct outreach and know your rights events where we highlight the protections against discrimination in housing provided by the City Human Rights Law. We have also provided literature and trained community-based organizations to provide information about discrimination to their communities. PEU's Tenant Support Unit also conducts proactive outreach throughout the City to speak with tenants about their rights and identify tenants being harassed by their landlord.

Since January, MOIA has participated in over 400 events where we shared information about the right to be free of discrimination and directed residents to call CCHR if they have a complaint or want to learn more. This includes tabling at the CCHR Annual Fair Housing Symposium in the Bronx, and at a senior center housing fair in Brooklyn, as well as at multiple know your rights forums across the five boroughs.

The City also actively investigates reports of discrimination. As CCHR will testify, the Administration has significantly increased its enforcement efforts in the area of housing discrimination. For example, CCHR doubled its number of investigations of housing discrimination based on immigration status or national origin in 2016 compared to 2015.

Introduction 1678

Introduction 1678 would amend the definition of tenant harassment to include threatening any person lawfully entitled to occupancy based on their citizenship status or alienage, or several other characteristics; refusing to accept any valid government-issued ID presented by anyone lawfully entitled to occupancy; and requesting documentation from anyone lawfully entitled to occupancy that would disclose citizenship status or alienage if the person has already provided a valid government-issued personal ID. These actions would give rise to a rebuttable presumption of tenant harassment.

Access to housing is an issue that affects all New Yorkers, including immigrant New Yorkers, and it is crucial that the City does all that it can to prevent exploitation and discrimination in the housing context. Undocumented immigrants in particular are vulnerable to harassment because of the extremely negative effects of deportation. An immigrant who faces these kinds of threats may simply choose to move instead of risking the possibility of deportation.

For this reason, MOIA supports the intent of Introduction 1678. While the City Human Rights Law already provides protections for New Yorkers who face discrimination in housing, this bill, in conjunction with the tenant harassment reforms recently passed by the Council, would provide an additional avenue for relief for immigrant tenants. We note that because the Human Rights Law already covers discrimination in housing, there may be situations where a tenant is unable to bring both a tenant harassment claim and a Human Rights Law claim. We look forward to discussing ways to address this issue with the Council.

The bill would also allow tenants to bring harassment claims if their landlord requests a form of identification and refuses to accept a valid, government-issued ID like IDNYC, which is secure like other forms of government-issued identification and has been issued to over one million New Yorkers.

In addition, this bill dovetails with the Administration's historic investment in legal representation for tenants in housing court. HRA's Office of Civil Justice funds legal services for low-income tenants facing harassment from unscrupulous landlords, and this bill would expand the grounds for low-income immigrant tenants to bring harassment claims in housing court.

Conclusion

The Administration is committed to protecting the rights of all New Yorkers, including immigrant New Yorkers. Thank you again for allowing us to provide testimony on this important bill to protect immigrant New Yorkers from exploitation and discrimination in housing. We look forward to continuing to work with the Council on this bill.

NYC Commission on Human Rights

Central Office Address:
22 Reade Street
New York, NY 10007

Testimony of Dana Sussman

Deputy Commissioner for Policy and Intergovernmental Affairs

NYC Commission on Human Rights

Before the City Council Committee on Immigration

and the Committee on Housing and Buildings

on Introductions 1269, 1678, and 1721

October 19, 2017

Good morning, Chair Williams, Chair Menchaca, and members of the Committee on Housing an Buildings and Committee on Immigration. I am Dana Sussman, Deputy Commissioner for Intergovernmental Affairs and Policy at the New York City Commission on Human Rights. The Commission does not regularly appear before these Committees, but we are happy to testify here today with our partners at the Mayor's Office for Immigrant Affairs (MOIA) and other city agencies, to discuss the work the Commission is doing to address discrimination in housing, and specifically with respect to housing discrimination on the basis of immigration status and national origin. Our work enforcing the City Human Rights Law and combating discrimination is particularly relevant to Intro. 1678, which would expand the definition of tenant harassment to include threats based on discrimination on the basis of alienage and citizenship status, gender, disability, and many other protected categories, similar to the protected categories that exist in the City Human Rights Law.

With the Council's and the Administration's support, and under Commissioner and Chair Carmelyn P. Malalis's leadership and vision, the Commission has grown in both size and in scope as we work to strategically enforce the City Human Rights Law, one of the broadest and most protective anti-discrimination laws in the country. Inquiries into the Commission increased by 60% from 2015 to 2016, and we are on pace to exceed our 2016 numbers. As I will describe below, we have significantly increased our enforcement efforts to protect tenants who are being harassed based on their immigration status and/or national origin, and those who are being retaliated against for asserting their rights under the City Human Rights Law.

Tenant Harassment

In New York City, it is illegal under the City Human Rights Law for housing providers, landlords, or their employees or agents to:

- Discriminate against tenants by creating a hostile environment of harassment based on their race, religion, immigration status, sexual orientation, or any other protected class.
- Harass or threaten tenants because of their race, religion, immigration status, sexual orientation or any other protected class.
- Refuse to make repairs or provide equal services to tenants because of their protected class.

- Retaliate against tenants who report discriminatory behavior or neglect to ensure employees and agents are trained on their responsibilities under the NYC Human Rights Law, including superintendents, maintenance workers, brokers, and salespeople.

Over the past two years, the Commission has significantly increased enforcement efforts to address housing discrimination and tenant harassment, tripling the number of investigations in this area. The Commission is currently investigating over 570 claims of housing discrimination, over 75 claims of which directly involve tenant harassment.

One example of this work is reflected in the investigation the Commission launched in August on behalf of the City, following public reports from Majority Leader Jimmy Van Bramer of a hostile environment due to alleged tenant harassment by the property manager at a condo building in Sunnyside, Queens, connected to Nazi and Confederate imagery, swastikas and other hate symbols in the lobby and other harassing and discriminatory behavior.

In conjunction with the launch of the investigation, the Commission, the Mayor's Office of Immigrant Affairs, Community Affairs Unit, Public Engagement Unit and the Human Resource Administration also held a Day of Action in Sunnyside, Queens where they distributed flyers on tenants' rights and discriminatory harassment and answered questions on legal protections and services against discrimination and harassment. As a direct result of the press conference, announcement of the investigation, and outreach, the Commission has seen an uptick in reporting of tenant harassment in recent months and increased awareness among advocates and organizers of tenants' rights under the City Human Rights Law.

Retaliation

It is also illegal under the City Human Rights Law to retaliate against any individual for reporting discrimination, regardless of their immigration status. No one should fear for their safety when reporting violations of the Law and the Commission will not hesitate to take action against bad actors when they retaliate against New Yorkers who have reported discrimination. The Commission is cracking down against bad acting landlords, filing retaliation charges against landlords on behalf the city, and sending cease and desist letters to other landlords the Commission has reason to believe are violating the City Human Rights Law.

As reports of discrimination have increased across the city, so too have retaliation charges. The Commission has increased investigations into retaliation by nearly 60% over the last two years under Commissioner Malalis, filing 260 claims of retaliation in 2015-2016 compared to 165 in 2013-2014.

The most typical forms of retaliation by landlords after tenants report discrimination include:

- Trying to evict tenants from the building

- Refusing to renew a lease
- Refusing to fix issues in tenants' apartments
- Cutting off utilities and other services
- Harassing tenants and encouraging others to do so

For example, earlier this year, the Commission served a landlord a notice of a complaint alleging discrimination after Make the Road NY brought a case to the Commission. In his response letter to the Commission, the landlord denied the allegations and indicated that he sent a copy of the letter to U.S. Immigration and Customs Enforcement (ICE), which included tenants' personal information, in violation of the City Human Rights Law's anti-retaliation protections. The Commission is now charging the landlord with retaliation against his tenants and has filed an additional complaint against him on behalf of the City.

In June, the Commission sent a cease and desist letter to landlord Zara Realty Holding Corp (Queens) for discriminating against immigrant tenants. Also in June, the Commission sent a cease and desist letter to landlord Jaideep Reddy (Queens) after it learned he was discriminating against tenants based on their immigration status.

Increased Enforcement Based on Immigration Status and National Origin Discrimination

Over the past two years, the Commission has increased enforcement efforts to address housing discrimination based on immigration status and national origin.

- Over the last two years, the Commission has doubled the overall number of investigations into discrimination based on immigration status and/or national origin, filing 376 claims in those areas in 2015-2016 compared to 155 claims in 2013-2014.
- In 2016 alone, the Commission more than doubled the number of new investigations into discrimination based on immigration status and/or national origin in housing, filing 60 claims in 2016 compared to 22 in 2015.
- The Commission is currently investigating over 300 claims of discrimination based on immigration status and/or national origin, 100 claims specifically in housing.
- The Commission also trains housing providers on their responsibilities under the Law with the goal of preventing future acts of discrimination and regularly engages housing advocates and vulnerable communities to address housing discrimination and inform people of their rights.

The Commission has the authority to fine violators with civil penalties of up to $250,000 for willful and malicious violations of the Law and can award compensatory damages to victims, including emotional distress damages and other benefits. The Commission can also order trainings on the NYC Human Rights Law, changes to policies, and restorative justice relief such as community service and mediated apologies.

Increased Public Outreach to Vulnerable Communities
The Commission works closely with our agency partners, including many of the agencies here today, to educate and inform the public of their rights under the City Human Rights Law and how to avail themselves of city resources, including how to file a complaint or report discrimination to the Commission. Some recent outreach efforts include:

- Launching a citywide "You Have Rights" campaign to inform New Yorkers of their rights against discrimination and harassment
- Holding Days of Action outside subway stations across the city to inform vulnerable New Yorkers of their rights, along with MOIA, CAU, PEU, and many others.
- Holding press conferences and pitching news stories announcing new enforcement actions against landlords and brokers who have violated the law
- Partnering with community-based organizations, legal services providers, schools, houses of worship, community boards, Council Members, and many others to provide important Know Your Rights information and to empower communities to identify discrimination and harassment and connect victims to the Commission.
- Holding nearly 400 workshops and outreach events on housing discrimination this year, including our annual Fair Housing Symposium, to educate tenants about their housing rights.

We encourage victims and witnesses of discrimination or harassment to call the Commission's Infoline at 718-722-3131. Reports may also be filed anonymously. People may also report discrimination on the Commission's website.

Intro. 1678
Intro. 1678 would provide tenants with an additional venue to assert claims of discriminatory tenant harassment in addition to filing these claims at the Commission. The Commission strongly encourages the Council to consider aligning all areas of protection against discrimination in housing under the City Human Rights Law with the list of protections in Intro. 1678. Protections against discrimination for victims of domestic violence, sexual offenses, and stalking, protections against discrimination based on one's source of income (i.e., the use of housing vouchers and subsidies), and protections based on the presence of children in the home should all be added to this bill. In addition, the City Human Rights Law's definition of "alienage and citizenship status" is incorporated by reference in this bill, but no other City Human Rights Law definition is cited. Importantly, the definition of gender under the City Human Rights Law as amended in 2002 to include "actual or perceived sex" and "gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth," and we strongly encourage this and all other defined terms in the City Human Rights Law to also be incorporated by reference.

Finally, it is important to note that if a tenant chooses to bring a claim under this provision in housing court it is possible that they will be precluded from bringing the same claim at the Commission. Because the remedies in housing court are more limited, currently only civil penalties ranging from $1,000 to $10,000 are available in housing court, compared to uncapped compensatory damages to the victim, civil penalties up to $250,000, and other affirmative relief, it is vital that tenants understand the options available to them and are able to make an informed decision regarding the venue they choose.

We look forward to working with our partners in City Council and partner agencies on this bill and other initiatives to ensure that tenants are protected from discrimination and harassment in housing. Thank you for convening this hearing and I look forward to your questions.

Testimony of the New York City Department of Housing Preservation and Development to the New York City Council Committees on Housing and Buildings and Immigration regarding Introductions 1269 and 1721

Thursday, October 19, 2017

Good morning, Chair Williams, Chair Menchaca, and members of the New York City Council Committees on Housing and Buildings and Immigration. My name is Jordan Press, and I am the Executive Director of Development and Planning in the Division of Government Affairs with the New York City Department of Housing Preservation and Development (HPD). Thank you for the invitation to testify on Introduction 1269, which regulates Community Land Trusts (CLTs), and Introduction 1721, which expands the definition of harassment in the Housing and Maintenance Code.

I would like to start by explaining Community Land Trusts (CLTs). The Council has been an important partner in looking at CLTs as a model for affordable housing and ensuring long-term affordability. A CLT is a not-for-profit organization formed to own land and maintain control and oversight of houses or rental buildings located on the land. The CLT's land ownership, paired with a governance structure that reflects the interests of CLT housing residents, can offer a unique housing model that empowers residents and neighborhoods.

CLTs are a new model for HPD and are relatively untested in the City. There is only one example in operation to date, which is Cooper Square. HPD, with the strong support of advocacy groups and City Council Members, began looking into CLTs further in early 2016. We researched examples around the country, such as in Burlington, Vermont, to better understand how CLTs can help achieve affordable housing goals.

To further our work, HPD released the CLT Request for Expressions of Interest (RFEI) in January 2017 to learn what ideas local organizations had about how CLTs could be effective in New York City. HPD released the RFEI to identify qualified groups to form a CLT. All responses to the RFEI were required to describe the existing or proposed CLT's target geography

and constituency, plan for the creation and maintenance of rental and/or homeownership housing, the organization's governance structure and operations plan, the respondent's affordable housing experience, and any projected future requests for support from the City.

While the RFEI was pending, the City applied to and won a grant from Enterprise Community Partners, a national non-profit with strong roots in New York City to fund the growth of three CLTs and to create a Learning Exchange. The Learning Exchange will support nine additional community-based organizations interested in forming CLTs through the organization's new Community Land Trusts Capacity Building Initiative. All of the beneficiaries of the grant funds were respondents to the RFEI. Over the next two years, the grant will fund operations and start-up support while the CLTs work to identify sites for acquisition.

As we continue to look at this model of affordable housing, it is important to highlight that CLTS are just one tool in our toolkit for ensuring long-term affordability. The City also has many regulatory and financing mechanisms to accomplish the same long-term affordability goals, and CLTs would rely on the same public subsidies as other forms of housing to serve New Yorkers in need of affordable housing.

Before turning to the specifics of the bill, I want to first thank the primary sponsor of this legislation. Council Member Richards has tirelessly advocated for the formation of CLTs in his district and in July we were excited to jointly announce that $500,000 dollars would be used to create the Interboro CLT, a coalition of groups who plan to bring affordable housing options to Edgemere. This will help advance one of the goals of the Resilient Edgemere Community Plan, which was to identify City-owned sites in the neighborhood that could be developed by a CLT. Many other Councilmembers, including the Speaker, pushed the Department to build on our CLT work and we appreciate this interest and support.

Intro 1269 would require HPD to enter into regulatory agreements with CLTs. While we look forward to future discussions, Intro. 1269 as drafted would not further the intended goals of creating a more robust number of CLTs in New York City. Since HPD enters into Regulatory Agreements in most of its projects, we do not consider it necessary to legislate a requirement to enter into Regulatory Agreements with CLTs who apply for such agreements. At this time we are most interested in seeing the three CLTs that received grant funding get off the ground by identifying properties to acquire, putting together budgets, and ultimately working with us on financing and getting Regulatory Agreements signed. Moving forward, we plan to continue conversations with the Council and thought-leading non-profits in the community to discuss the best path forward if we want to expand the presence of CLTs further.

I will now speak on Intro. 1721, sponsored by Chair Williams, which amends the definition of harassment to include acts or omissions related to violations of the Housing Maintenance Code and construction code, including information related to occupancy, information in construction documents, repeated failures to correct construction code violations, false

certification of construction code corrections, and violating the permit section of the construction code in a way that negatively impacts tenants.

We thank Chair Williams for his partnership and leadership to prevent tenant harassment, which not only can put the safety of tenants at risk, but also threatens to destabilize families and communities while the City loses affordable housing. HPD works diligently with a number of agencies to address this concern and is committed to doing all it can to root out illegal activity. We have continuously worked with the Council to address tenant harassment and are proud of the steps we've taken together including the formation of the Tenant Harassment Prevention Task Force, our work to deter harassment before it starts, penalizing bad landlords, and supporting victims of such harassment.

HPD supports the intent of Intro. 1721. We want to ensure that tenants have all of the tools they need to address the many forms harassment may take, including an owner using poor maintenance as a means of harassment. For example, falsifying occupancy status and falsely certifying corrections of a violation have serious implications for tenants' quality of life and we believe should be added to the definition of harassment. We do want to express concern that some provisions in this bill are too broad. Failure to correct violations as a standalone issue may be a signal of a struggling owner or an owner unfamiliar with HPD or DOB rules or regulations, **not** the sign of an owner who is intent is harassment. The Council has often acknowledged that small owners can especially struggle financially with repairs. For example, many of the buildings in our Alternative Enforcement Program have been small properties with significant violations because of the difficulty to maintain property not because of an intent to harass tenants. Broad language regarding violations would result these types of struggling property owners to be found guilty of tenant harassment for having just two violations for the same non-emergency condition. We have developed multiple programs, including the Landlord Ambassador's Program and various preservation tools, to assist these small property owners and continue to provide them support whenever possible. We urge the Council to review the specific language of the bill to ensure that it appropriately captures instances of harassment and work with HPD to address these unintended consequences.

Thank you again for the opportunity to testify and have public discussion on these bills. We look forward to answering any questions you may have at this time.

RENT STABILIZATION ASSOCIATION • 123 William Street • New York, NY 10038

MEMORANDUM IN OPPOSITION TO INTRO. 1721, RELATING TO THE DEFINITION OF HARASSMENT

This Memorandum in Opposition to Intro. 1721 is provided to the Council on behalf of the 25,000 members of the Rent Stabilization Association who own or manage approximately one million apartments throughout the City of New York.

Intro. 1721 proposes significant changes to the provisions of the Housing Maintenance Code authorizing harassment claims by tenants against property owners. These changes further expand the already tangled web of laws relating to harassment and increase the likelihood that innocent mistakes, especially by unsophisticated, smaller property owners, will become the basis of harassment proceedings.

Once again, we remind the Council that there are already **14** separate and distinct State and local laws relating to harassment. Those laws penalize owners criminally with felony and misdemeanor prosecutions, civilly through court actions which can be result in the appointment of administrators to take control of the building, and administratively by prohibiting the issuance of alteration or demolition permits at buildings for years. Most recently, the Council enacted **18** local laws amending the Administrative Code to add even more teeth to the City's laws relating to tenant harassment. At what point have enough harassment-related laws been passed by the Council? Is it truly possible that all of these many laws have not had their intended effect? Despite all of those laws, is harassment truly widespread?

The reality which the Council has ignored time and time again is that, except for the most notorious cases which are reported in the media, harassment does not occur systemically among property owners. Based upon HPD's prior testimony, since the enactment of the legislation creating the tenant cause of action for harassment ten years ago, only a relative handful of cases have resulted in harassment findings, the vast majority of which involved owners of buildings with four or fewer units. Similarly, based upon HPD's records, out of **423** applications for certifications of no harassment reviewed by HPD over the past three years, there were findings of harassment in only **5** of those cases.

Intro. 1721 would expand the harassment law to include within the definition of harassment instances in which owners knowingly provide "false or misleading information relating to occupancy of the unit or whether such unit is or will be maintained in a habitable and safe condition." The bill does not give any indication as to what this provision even means in practice.

The bill then goes on to make even more open-ended the potential range of cases that can be brought. For example, Intro. 1721 would no longer require that where there is an interruption of services that those services be "essential." In other words, an owner would be subject to harassment claims based upon mere minor inconveniences to a tenant rather than conditions of consequence. Does the Council really want to open this can of worms?

Intro. 1721 would also authorize harassment claims where an owner repeatedly fails to correct violations within the time required. Again, there is no correlation with the seriousness of the conditions at issue. Does the Council really want to equate non-hazardous Class A violations with immediately hazardous Class C violations? Does the Council understand that violations can be corrected timely even though the owner may not file certifications of correction timely?

Lastly, Intro. 1721 would include within its coverage instances where the owner is "engaging in conduct within the building which negatively affects the use and occupancy of the dwelling unit or public areas...." It would be difficult for this provision to be any vaguer.

There does not seem to be a harassment-related bill that the Council can resist. The Council seems intent on continuing to enact harassment-related legislation regardless of the merits and regardless of the need. Presumably, if the tenant advocates have their way, property owners will end up with a scenario in which virtually any action or inaction by a property owner can result in a harassment-based claim by the tenant.

Based upon the foregoing, RSA opposes Intro. 1721

REBNY
REAL ESTATE BOARD OF NEW YORK

MEMORANDUM OF OPPOSITION

INTRO NO: 1721

SUBJECT: A Local Law to amend the administrative code of the city of New York, in relation to amending the definition of harassment

SUMMARY: Amends the definition of harassment to include acts or omissions relating to violations of the construction code

SPONSORS: Williams, Lander, Menchaca, Rosenthal

DATE: October 19, 2017

The Real Estate Board of New York (REBNY), representing over 17,000 owners, developers, managers and brokers of real property in New York City recognizes the importance of maintaining a tenant's right to quiet enjoyment, but is concerned that Intro No. 1721's bill language is vague and captures behavior that does not give rise to harassment.

Intro No. 1721 penalizes owners for repeated interruptions of services. This provision allows tenants to bring suit for any type of service interruption, including common interruptions necessary for regular maintenance and inspections on fire alarms or boiler equipment, for instance. Furthermore, current law already limits the implication of harassment to interruptions of essential services which pose the greatest threat to a tenant's quiet enjoyment[1].

The provision classifying the act of providing false or misleading information as harassment is overly broad. For example, the bill could apply to owners who communicate when a utility has scheduled for gas service to be restored to a unit. These owners would be penalized if the appointment was later cancelled or rescheduled by the utility without notice to the owner. There needs to be greater clarity with regard to what is meant by providing false or misleading information–and more importantly, whether that information is material to the tenant's quiet enjoyment.

There is a multitude of laws on the books that protect tenants from harassment and which can result in criminal, punitive and administrative consequences for owners. Most recently, the Council passed 18 additional anti-tenant harassment bills, one of which creates a presumption of guilt against the landlord for any acts or omissions that may cause a person to vacate or surrender his or her legal right to the dwelling. In its hearing testimony, HPD acknowledged that most owners respect the rights of their tenants and uphold their standards.[2] Correspondingly, REBNY urges the Council to analyze how widespread the issue of tenant harassment is and whether the recently enacted bills will reduce instances of tenant harassment once they take full effect.

For these abovementioned reasons, **REBNY OPPOSES Int. No. 1721.**

[1] See section 27-2004, paragraph 48 (b) of the New York Administrative Code.

[2] Hearing Testimony of the NYC Department of Housing Preservation and Development. Committee on Housing and Buildings. NYC Council. Delivered April 19, 2017.

Carl Hum | Senior Vice President of Management Services & Government Affairs | (212) 616-5233 | chum@rebny.com

Cooper Square HDFC Community Land Trust, Inc.

59-61 East 4th Street, 4th Floor,

New York, NY 10003- (917) 509-5617

Testimony to the Committee on Housing and Buildings on Intro 1269, amending the NYC Charter and Administrative Code in relation to the creation of Regulatory Agreements with Community Land Trusts

Thank you, Committee Chair Williams and members of the Committee, for holding this hearing allowing the public to testify about Intro 1269, amending a portion of the NYC Administrative Code. My name is Valerio Orselli, and I am the Project Director of the Cooper Square Community Land Trust. (CS CLT).

Cooper Square CLT is the owner of the land underneath 21 formerly City-owned multiple dwelling buildings that make up the Cooper Square Mutual Housing Association, a non-profit scatter-site housing cooperative in Manhattan's Lower East Side. We are a party to a forty-years Article XI Regulatory Agreement between the NYC Housing Preservation and Development and Cooper Square MHA. We have also executed a ninety-nine year Ground Lease between CS CLT and CS MHA. We are also members of and fully support the position of the NYC Community Land Initiative regarding the proposed legislation, with additions.

By bringing some 21 buildings into a single cooperative structure, the CSMHA can share income- both commercial and residential- amongst all its buildings. It can purchase fuel and supplies, insurance and services at a discounted price. It is also able to charge an economic rent sufficient to cover all expenses plus set aside some additional income to fund a common reserve

fund. When time comes, for example, to replace a building boiler, funds to cover the cost come not from the individual building but from all the 21 buildings in the cooperative. This creates an economy of scale that helps to ensure the long-term affordability of the housing.

Unfortunately, this economy of scale is not sufficient to ensure permanent affordability. Much depends on the integrity of the governing body of a rental project or a cooperative. Such governing bodies have often failed to fulfill their fiduciary responsibilities; water and sewer taxes are not paid, necessary major capital improvements are not carried out, and maintenance fees are not raised on an annual basis to cover building expenses. Apartments are sold or rented out under the table for market value. The affordable housing is no longer affordable. That is where the Community Land Trust comes in as an important addition to a Regulatory Agreement.

By owning the land underneath various properties, the CLT can monitor compliance with a Regulatory Agreement., pursuant to the terms of a Ground Lease A paper document is not self-enforcing. The Ground Lease can be and often is stricter than the City's Regulatory Agreement and it is for 99 years, much longer than any Regulatory Agreement. By the terms of the Ground Lease, the CLT can appoint members to the governing body of an HDFC and hence provide guidance and active stewardship over the affordable housing. The Ground Lease also serves as a deterrent to speculation by denying an "under the table" purchaser clear title. If a governing body violates the Regulatory Agreement, the CLT can remove the governing body and appoint a new and temporary board to bring the HDFC back into compliance. This is not a hypothetical scenario. This is our experience. The Regulatory Agreement with NYC HPD requires that the housing be affordable to families at or below 80% of NYC AMI. Our internal goal is of 50% of AM I. Our current affordability levels range from 29% to 37% of AMI.

This is why we urge this committee and the full City Council to support Intro 1269 as an initial and positive step so. that projects provided with funding, land or buildings, tax benefits, etc. fulfill what should be its mandated purpose: permanently affordable housing.

We also support additional legislation giving the CLT a preferential option in the disposition of any City-owned property, as well as Real Estate tax relief or exemption for CLT's. I understand that this will require State action, but we would like the City to express its support for such legislation.

Thank you very much

My name is Mychal Johnson, and I am a member of the Board of Directors of a South Bronx-based community land trust, the Mott Haven-Port Morris Community Land Stewards, and I am a member of the Board of the New York City Community Land Initiative (NYCCLI). I am here to testify in support of Intro 1269 and ask that you extend its scope to be more comprehensive, particularly in line with the suggestions put forth by NYCCLI.

My community in the South Bronx, Mott Haven-Port Morris, is a diverse and vibrant community struggling to overcome decades of environmental injustice and economic neglect that have caused the highest asthma and obesity rates in the country. Our community is currently ranked as the worst NYC community in which to raise children based on indicators such as health, education and economic security.

The community is also now fortifying itself against the loss of culture in the face of hyper gentrification. More than two dozen new luxury developments (and six hotels) are near complete or have building permits in hand which will bring thousands of high end residential units - touting sky-lit indoor swimming pools, doggie daycares and wine bars - into a community in which 38% of its residents and 49% of its children live in poverty, with an average median income of $19,454 (the lowest in the state) and an unemployment rate more than three times the national rate.

It is for these reasons we formed a local community land trust, whose mission is to acquire and hold in perpetuity real property and to assure that such property is forever used to promote pathways to meaningful self-determination for, and to combat community deterioration in, Mott Haven-Port Morris. Specifically, we seek to:

i. promote the development, rehabilitation, and maintenance of housing that is safe, secure and permanently affordable for underserved people;
ii. provide permanently affordable homeownership opportunities for underserved people, while preserving the quality and affordability of the homes for future underserved residents;
iii. promote economic opportunities for underserved residents;
iv. create space for cultural, social, artistic and educational venues, projects and activities that improve the quality of life;
v. support efforts to empower the community to use the democratic process, including community efforts to organize for the purpose of providing, acquiring or advocating for improved social and other services, for enforcement of housing, labor and other laws that protect underserved families, and for other efforts to improving their safety and well-being; and
vi. protect and restore the natural environment, to promote the ecologically sound use of the land and other natural resources, and to promote the long-term health and safety of the Matt Haven-Port Morris Community.

Community land trusts are the natural opposing force to unchecked real estate speculation and a vital tool in which to create true community engagement, empowerment and stewardship of local resources. Thank you.

Testimony of Community Solutions, Inc.
on Intro 1269, amending the NYC Charter and Administrative Code
in relation to the creation of regulatory agreements with community land trusts

New York City Council Committee on Housing and Buildings

October 19, 2017

Good morning and thank you for this opportunity to speak. My name is John Napolitano and I offer this written testimony in support of the intent behind City Council Intro Bill 1269, on behalf of Community Solutions and its local initiative, the Brownsville Partnership.

"All power comes from the land, while all absolute power comes from God". These prophetic words, spoken by Charles Sherrod in the movie Arc of Justice, served as the spark of the Community Land Trust movement that began nearly fifty years ago. For those unfamiliar with the movie, it is a documentary that speaks about the courageous work of a farm collective, on approximately five thousand acres in Lee County Georgia that advocated for the long term protection of this land to serve as a safe haven for the black farmers that inherited it from their slave ancestors. This campaign, led by civil rights activists Charles and Shirley Sherrod, led to the formation of New Communities, Inc. and became one of the original models for community land trusts in the United States. Today, the land is fully protected and serves as a functioning farm, market and educational institution that is self-sufficient and whose vision can be summed in three words – preserve, farm, culture.

At the heart of this inspiring story, speaks about one community's perseverance to protect one of its most important assets: its land. In Brownsville Brooklyn, where my organization is based, we are venturing to establish a community land trust – with the support of Enterprise Community Partners, the New Economy Project and HPD - whose vision builds upon the goals and strategies of the new Brownsville Plan. Within its 1.2 square mile radius, exists 91 vacant lots, where approximately 850,000 un-built square feet could produce 1,000 dwelling units, according to HPD. If combined with new community facility uses, to support important service delivery around health, education, and workforce development, these sites could render even more valuable square footage to utilize for its local stakeholders. Despite the ultimate aim of repurposing this land as housing whose affordability is perpetually protected, our broader goal is to strengthen the capacity of the community-based organizations that wish to remain in Brownsville for generations and invest in the people that make it the special place it is to so many. This was the vision of our founder, former New York Knick Gregory Jackson, which centered on community mobilization to build the local infrastructure to support the collective problem solving around Brownsville's most complex challenges. Through a new Brownsville Community Land Trust, Community Solutions and its community partners would endeavor to influence the ongoing discourse around community development and investment. It would also utilize the community land trust local ownership framework to steward several key large scale pipeline projects that 1) promote mixed use corridors; 2) connect Brownsville residents to jobs; and 3) improve social and physical connections in the neighborhood in and around its eighteen public housing campuses.

We applaud the City Council for their focus with this bill to support the work of future community land trusts in Brownsville and across the city. The Community Land Trust (CLT) model would help communities reclaim their most valuable land assets while providing much-needed stewardship and oversight to guide their long-term investment. The success of the model depends on its flexibility, responsiveness and innovation, to lessen the financial burden of government while permitting CLTs to serve as fiduciary agents of the communities they were meant to serve. We ask the Council to bear this ideal in mind, as it contemplates the most effective framework through which organizations like ours can fulfill the community vision of its founder in the same spirit as Charles Sherrod's words.

Thank you.

THE LEGAL AID SOCIETY

Employment Law Unit
199 Water Street
New York, NY 10038
T (212) 577-3300
www.legal-aid.org

Direct Dial: (212) 577-3363
Fax: (646) 616-4716
E-mail: kcacace@legal-aid.org

October 19, 2017

Testimony of The Legal Aid Society, Civil Law Reform Unit

Presented Before the New York City Council Committee on Housing and Buildings

Presented by Jennifer Levy, Supervising Attorney, Civil Law Reform Unit

Thank you for the opportunity to present this testimony. We want to thank Chairperson Williams for his leadership on legislation that fosters the creation and preservation of affordable housing and protects low-income tenants. We also want to thank the entire City Council for its visionary approach to meeting the needs of New Yorkers facing the devastating impact of this City's affordability crisis.

The Legal Aid Society is the oldest and largest legal services provider for low-income families and individuals in the United States. Annually, the Society handles more than 300,000 cases and legal matters for low-income New Yorkers with civil, criminal and juvenile rights problems, including some 48,500 individual civil matters in the past year benefiting nearly 126,000 New Yorkers as well as law reform cases which benefit all two million low-income families and individuals in New York City.

Through a network of neighborhood and courthouse-based offices in all five boroughs and 21 city-wide and special projects, the Society's Civil Practice provides direct legal assistance to low-income individuals. In addition to individual assistance, The Legal Aid Society represents clients in law reform litigation, advocacy and neighborhood initiatives, and provides extensive back up support and technical assistance for community organizations.

Introduction

New York City is in the midst of a crisis. That crisis, precipitated by a lack of truly affordable housing has resulted in a record-breaking number of homeless families. While the current administration is striving towards the laudable goal of creating or preserving 200,000 units of affordable housing, those units, if they follow the affordable housing models that preceded them, will not be permanently affordable, and will not solve the City's housing or homelessness crisis. This is for two reasons: first, the patchwork of

subsidy programs that make up the City's affordable housing landscape do not ensure permanent affordability and, second, the housing that is being created does not satisfy the demands of those in the lowest income tiers.

Intro 1269 is a first step towards creating a model that would ensure permanent affordability. For that reason, we urge its' adoption. However, with a definition of affordability that permits occupancy by households earning up to 165% of Area Median Income (AMI), it does not go far enough in mandating the creation of truly affordable housing.

The Need for Permanent Affordability

Rent Stabilization accounts for the main stock of affordable rental housing but the City has lost at least 151,222 rent-stabilized housing units in the last 22 years, primarily due to high-rent vacancy deregulation.[1] The scarcity of available rent-stabilized housing is a part of an overall decline in the availability of affordable housing. A combination of market forces and governmental decision-making has worked together to have a devastating effect on low and moderate income New Yorkers. The declining number of vacant units available for rent, the fact that housing expansion has not kept pace with population growth,[2] and the ongoing public housing crisis have all contributed to the housing crisis.

We have lost 445,000 Mitchell-Lama units to buyouts since 1985.[3] Units made affordable as a result of participation in the Low Income Housing Tax Credit Program (LIHTC) are due to become deregulated at a rate of 11,000 units a year starting this year, 2017.[4] And, HUD subsidies or insurance on privately owned federally subsidized projects are due to expire on more than 330 developments between now and 2030.[5] These models, in which private landlords opt in to a time-limited subsidy, encourage speculation and when clusters of buildings have subsidies that expire within the same time frame, their expiration results in instant gentrification.

Permanent affordability permits stability, but models approximating permanent affordability are drastically underfunded and under-resourced. The lack of truly and permanently affordable housing is reflected in the demand for public housing units: 257,143 families are on the waitlist for conventional public housing, with 146,808

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[1]NYC Rent Guidelines Board, *Changes to the Rent Stabilized Housing Stock in New York City in 2015*, 9, 13. (As noted in the report, these numbers are a floor or a minimum count of units lost as registration of deregulated units with DHCR is voluntary).

[2] Margery Austin Turner, *Current Rental Housing Market Challenges and the Need for a New Federal Policy Response: Statement before the Committee on Appropriations, Subcommittee on Transportation, HUD, and Related Agencies, US House of Representatives*, 2.

[3] NYC Rent Guidelines Board, *2016 Housing Supply Report*, 8.

[4]Association for Neighborhood Housing and Development, *Time to Fix the Affordable Housing Crisis*, Oct. 8, 2015, available at https://anhd.org/time-to-fix-the-expiring-affordable-housing-crisis/. Data accessed Oct. 2017.

[5] NYU Furman Center, *The Location of New York City's Expiring Affordable Housing,* Dec. 2016, available at http://furmancenter.org/thestoop/entry/coredata-visualization-mapping-expiring-affordable-housing-in-new-york-city. Data accessed Oct. 2017.

applicants on the waiting list for Section 8 housing vouchers in New York City, though no new additions have been made to the wait list since 2007.[6]

We strongly support Intro 1269 for legislating a model that promotes permanent affordability.

Real Affordability

While the City works to achieve its goal of building and preserving affordable housing, much of the development built or proposed is simply not affordable to our clients who are below 50 percent of AMI. Based on the City's population and demographics, at the beginning of this administration, there was a 700,000 unit shortage for those earning less than 50 percent of AMI.[7] The Mayor's housing plan, while ambitious, will not and cannot come close to closing that gap.

Predictably, the lowest income tier households are disproportionately rent burdened, or pay more than 30 percent of household income in rent. This lowest income tier represents almost half of all rent burdened households. In the first year of the Mayor's ambitious housing plan, only 14 percent of newly created or preserved units serve that income band.[8]

With a definition of "affordability" that sets the bar at the highest income band in the Mayor's plan, at 165 percent of AMI, Intro 1269 does not go far enough. The Council must use every opportunity to address the needs of those who are most in need. Only then can we hope to stem the flow of families entering our shelter system on a daily basis.

Conclusion

In conclusion, The Legal Aid Society commends the City Council's efforts to advance innovative solutions to the City's housing crisis and we thank you for the opportunity to testify today.

Respectfully Submitted:

Jennifer Levy
Supervising Attorney
Civil Law Reform Unit

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[6] New York City Housing Authority, "Facts about NYCHA," available at https://www1.nyc.gov/assets/nycha/downloads/pdf/factsheet.pdf. Acessed Oct. 2017.
[7] Real Affordability for All, *Real Affordable Communities: Mayor Bill de Blasio and the Future of New York City*, available at http://alignny.org/wp-content/uploads/2016/09/Real-Affordable-Communities-Final-Report-for-September-21-2015-1.pdf. Accessed Oct. 2017.
[8] Association for Neighborhood Housing and Development, *How Does Housing New York Measure up to New Yorkers' Needs*, Sept. 2017, available at https://anhd.org/how-does-housing-new-york-measure-up-to-new-yorkers-needs/. Accessed Oct. 2017.

The Legal Aid Society
199 Water Street, 3rd Floor
New York, New York 10038
(212) 577-3363
JLevy@legal-aid.org

PICTURE THE HOMELESS

Jose L. Rodriguez
Testimony on Intro 1269
October 17th, 2017

Good morning, my name is Jose Rodriguez, and I am a member of Picture the Homeless and a Banana Kelly residents' council member. I want to thank Melissa Mark-Viverito for supporting the East Harlem/El Barrio Community Land Trust, and the progressive caucus of the City Council for making this a priority in 2018.

I'm excited to see interest in CLT by HPD and the City Council. PTH has been working for many years promoting CLTs, understanding the potential for making a major shift in displacement and gentrification policies.

The CLT model is one of many ways to utilize vacant property to provide deeply affordable housing for the homeless and those most at risk of becoming homeless. The housing not warehousing act is another way. By having a yearly count of empty properties and recommendations attached for housing on all city state and federal properties. I had the opportunity to see first-hand how Cooper Square CLT is able to keep residents in low income apartments and allow small businesses to thrive and compete with large franchises. CLTs ensure that nonprofit community organizations and property owned by the city can best serve long established community residents. Human beings should not be looked down upon because of their economic struggles. Everyone should be able to have basic needs like a roof over their head, food, and the opportunity to pursue the things in life that make them happy.

Every single property that is vacant or mismanaged can have an impact in resolving the homeless crisis, with a priority given to CLTs and MHAs. When housing is being developed by nonprofit community based organizations, the community's needs are met.

With respect to this bill, PTH is asking:

- Language recommending that CLTs and MHAs housing models get first priority disposition for city state and federal vacant and mismanaged property.
- Language to the definition of CLTs that clarifies those CLTs should be strictly non-profit entities with a mission to keep housing out of the speculative market for life.

This bill is an important first step, and we have a lot more work to do. PTH is looking forward to continuing to work with you on CLTs and other solutions to the homelessness crisis.

Association for Neighborhood & Housing Development

TESTIMONY OF EMILY GOLDSTEIN, BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING AND BUILDINGS CONCERNING THE DEFINITION OF TENANT HARASSMENT

October 19, 2017

Good Morning. Thank you to Chairman Williams and to the members of the Committee on Housing and Buildings for the opportunity to testify.

My name is Emily Goldstein and I am the Senior Campaign Organizer for the Association for Neighborhood and Housing Development (ANHD). ANHD's mission is to advance equitable, flourishing neighborhoods for all New Yorkers. A coalition of 100 community-based affordable housing and equitable economic development organizations in New York City, we work at the intersection of organizing, policy, advocacy, and capacity-building. Our extensive network has build over 120,000 units of affordable housing by advocating for policy and research, training community organizers, and supporting the expansion of necessary funding.

For the past several years, ANHD has coordinated the Coalition Against Tenant Harassment, which includes community organizations that work in all 5 boroughs to prevent tenant harassment and displacement. We have been particularly organizing for a Citywide Certificate of No Harassment law, which we hope will be voted on by this City Council in the next month. In relation to that campaign, we have also advocated for the legal definition of tenant harassment to be updated and expanded to better cover the range of tactics commonly used by landlords looking to push out existing residents in search of higher rents.

I'm here today to voice our strong support for Intro 1721, amending the definition of harassment. Repeated violations are one of the most common signs of tenant harassment. Over the past 8-10 years, as organizing strategies, local laws, and enforcement programs have responded to some of the more egregious forms of tenant harassment, many landlords have unfortunately adapted their behavior and developed ways to sidestep those forms of harassment most clearly addressed in the original Tenant Protection Act and subsequent laws. The proposed bill will make it easier for tenants to fight back against landlords who use refusal to make repairs and denial of essential services to try to push tenants out. We are also hopeful it will discourage landlords from falsifying information to both tenants and the City, which happens with alarming frequency.

I'd also like to state my support for Intro 1678-A, specifically addressing discriminatory threats and requests for proof of citizenship status. We all know immigrant communities are under attack. The proposed bill will help to provide tenants, both residential and commercial, facing specific harassment and threats based on their real or perceived immigration status to have safety and security in their homes and to prevent unscrupulous landlords from using fear to drive families out of their communities.

Thank you again to the committee and to Chairman Williams for bringing both of these bills to a hearing. I appreciate the opportunity to testify, and encourage you to pass them in the hope that they can come to a vote by the full council before the end of the session.

50 Broad Street, Suite 1402, New York, NY 10004 | Phone: 212.747.1117

www.anhd.org | @ANHDnyc

URBAN JUSTICE CENTER

Testimony of Bianca MacPherson before the
New York City Council Committee on Housing and Buildings
Thursday, October 19, 2017

Good morning and thank you to Chairperson Jumaane Williams and the Committee on Housing and Buildings for the opportunity to testify today. My name is Bianca MacPherson, and I am a housing paralegal at the Community Development Project at the Urban Justice Center (CDP-UJC). CDP-UJC supports Intro. 1721 and Intro. 1678-A.

Intro. 1721 would expand the definition of harassment to include acts or omissions related to violations of the construction code. The Stand for Tenant Safety Coalition was proud to work with the New York City Council to pass 12 bills that provided tools for tenants to fight back against construction as harassment. This bill would build on the Stand for Tenant Safety Act by holding landlords accountable for more of their unjust actions.

CDP-UJC has dealt with many landlords who deliberately withhold services, falsify documents to the Department of Buildings to obtain permits, and correct violations in a haphazard manner. When caught, landlords get away too lightly for these actions. This bill would allow tenants and their advocates to pursue more legal remedies and also deter landlords from engaging in this conduct. The law would also more closely mirror what tenants and advocates consider to be harassment, such as landlords asking tenants to miss work to provide access dates without making meaningful repairs or only providing adequate heat when an HPD violation is placed.

Intro. 1678-A would expand the definition of harassment to include discriminatory harassment. While no New Yorker should feel unsafe in their home, we often see that landlords mobilize individuals' and institutions' bigotry to harass our most politically and economically marginalized clients, including people of color and immigrants. Upon purchasing a building, a Brooklyn landlord brought frivolous eviction cases against all of the long-term black tenants in a building, claiming that they had been squatting in apartments where they had lived for decades.

Landlords also use complaints and threats of complaints to law-enforcement agencies to selectively antagonize tenants of color and immigrants. One landlord in Sunset Park posted notices in all of his buildings advising tenants to "cooperate with ICE officers when they knock on your door." A landlord in Morningside Heights brought an eviction case against an undocumented tenant, using her immigration status as the basis for the case. Some landlords deliberately increase tensions between white tenants and tenants of color. These

123 William Street, 16th Floor • New York, NY 10038
P: 646 602 5600 • F: 212 533 4598 • urbanjustice.org • @urbanjustice

practices are unacceptable, and passing Intro. 1678-A will send a strong message to landlords that New York City will not tolerate discriminatory harassment.

CDP-UJC is also working with the Coalition Against Tenant Harassment to pass a Citywide Certificate of No Harassment program that would create a strong disincentive to tenant harassment by preventing landlords with a history of harassment from getting permits to renovate their buildings from the New York City Department of Buildings (DOB). An expanded definition of harassment would help make the CONH legislation, Proposed Int. No. 152-B, a better tool to prevent displacement, and to generate new affordable housing when harassment has occurred.

Thank you for the opportunity to testify.

Bronx Legal Services

Legal Services NYC

TESTIMONY OF LEGAL SERVICES NYC REGARDING AMENDING THE DEFINITION OF HARRASSMENT TO INCLUDE DISCRIMINATORY THREATS & REQUESTS FOR PROOF OF CITIZENSHIP STATUS (Int. No. 1678-A)

New York City Council
Committee on Housing and Buildings & Committee on Immigration
October 19, 2017

My name is Norey Lee Navarro and I am a staff attorney at Legal Services NYC. Legal Services NYC is one of the largest providers of legal services for low income people in New York City. With five borough offices and numerous outreach sites, Legal Services NYC's mission is to provide expert legal assistance that improves the lives and communities of low income New Yorkers. Legal Services NYC annually provides legal assistance to thousands of low income clients throughout New York City. Historically, Legal Services NYC's priority areas have included housing, government benefits and family law. In recent years, Legal Services NYC has vastly expanded services in areas of need critical to our client base, including consumer issues and foreclosure prevention, unemployment, language access, disability, education, immigration, and bankruptcy.

Legal Services NYC welcomes the opportunity to give testimony before the New York City Committee on Housing and Buildings, and the New York City Committee on Immigration. Intro No. 1678-A will update the Housing Code's definition of harassment to include: (i) threatening any tenants based on … alienage or citizenship status, (ii) refusing to accept a government-issued ID, and (iii) requesting citizenship documents when valid ID has already been provided. We congratulate the Speaker and the City Council for recognizing that landlord harassment of tenants based on immigration status is an important problem requiring corrective legislation and we strongly urge the City Council to pass Intro No. 1678-A.

Bronx Legal Services
349 East 149th Street, 10th Floor Bronx, NY 10451
Phone: 718-928-3700 Fax: 718-292-2857 (10th floor) 718-402-7585 (9th floor) 718-292-8715 (7th floor) 718-292-7963 (5th floor) 718-292-7105 (4th floor)
www.LegalServicesNYC.org
Jane Aoyama-Martin, Project Director
Joseph P. Moodhe, Board Chair

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Our offices regularly advocate on behalf of low-income tenants who would benefit from the protections afforded by Intro No. 1678-A. The cases we handle on a daily basis illustrate how the amendment of harassment laws to include discrimination based on immigration status is critical to the preservation of affordable housing in New York City, particularly in today's political climate.

One case involved a family of immigrants – a US citizen as the tenant of record and his two immigrant cousins as roommates – living in a rent stabilized three bedroom apartment, who were sued in a holdover case. The two immigrant roommates were previously screened and approved as the tenant of record's roommates. The landlord later claimed that the two roommates were never properly screened or approved, and now needed to provide specifically United States passports as proper identification. Luckily this family retained Legal Services NYC as counsel and their attorney was able to convince the landlord that the two roommates should be approved based on the previously submitted valid forms of government ID.

Another case involved a superintendent who specifically preyed on and terrorized various immigrant tenants. Recently one of our staff attorneys represented a tenant living in a rent stabilized building with a tenants association and a substantial number of Bengali tenants. The superintendent in that building was known for putting up signs around the building encouraging tenants to report any alleged suspicious behavior to the United States Immigration & Customs Enforcement ("ICE") and would even make comments to specific tenants in the building's tenant association about reporting such tenants to ICE. This attorney in this case is representing one of the tenants with a pending Human Rights Commission complaint against the landlord of this building.

Our office has also experienced various incidents of landlords discriminating against immigrants openly in Housing Court. Recently while negotiating for an abatement on behalf of a client, one of our attorneys overheard a landlord say to his attorney "An abatement? He is lucky that I don't report him to ICE!" The client in question is actually a US citizen and the landlord was likely referring to the client's live in family member who is a Lawful Permanent Resident.

Bronx Legal Services
349 East 149th Street, 10th Floor Bronx, NY 10451
Phone: 718-928-3700 Fax: 718-292-2857 (10th floor) 718-402-7585 (9th floor) 718-292-8715 (7th floor) 718-292-7963 (5th floor) 718-292-7105 (4th floor)
www.LegalServicesNYC.org
Jane Aoyama-Martin, Project Director
Joseph P. Moodhe, Board Chair

LSC

Bronx Legal Services

Legal Services NYC

Such acts of unacceptable immigration discrimination are unfortunately common in all five boroughs in New York City. By amending the definition of harassment, this bill will make it easier for immigrant tenants to respond against such forms of discrimination by giving immigrant tenants the power to file harassment claims directly against their landlord in Housing Court. Although tenants may currently file complaints with the Human Rights Commission or the Division of Housing & Communal Renewal ("DHCR") about landlord harassment, such complaints typically take a long period of time to resolve and rarely result in findings of harassment or penalties assessed against landlords. Such current procedures also place an unnecessary burden on tenants by requiring them to participate in an additional administrative proceeding, rather than efficiently addressing landlord harassment in Housing Court where the tenant may already be seeking repairs or defending him / herself against frivolous landlord claims. Moreover DHCR procedures provide no relief to low income tenants in buildings not covered by rent stabilization or rent control – for example, a tenant who is a recipient of Section 8 in unregulated housing. Accordingly low income tenants in all types of housing would greatly benefit from the passing of Intro No. 1678-A.

The proposed Intro No. 1678-A is an important measure that will help combat landlords seeking to harass tenants out of their long term and affordable homes based on immigration status. We thank the City Council for addressing these important issues, and look forward to working with the Committee in providing effective protections to vulnerable low income immigrant tenants.

Respectfully submitted,
Norey Lee Navarro Esq.
Bronx Legal Services
349 East 149th Street, Floor 10
Bronx, New York 10451

Testimony of Paul Epstein, Northern Manhattan Community Land Trust Working Group, to the New York City Council Committee on Housing and Buildings, on "Intro 1269: Community Land Trust Regulatory Agreements"

October 19, 2017

Contact: *Paul Epstein: paul@RTMteam.net or 212-349-1719.*

I am Paul Epstein. I represent the Northern Manhattan Community Land Trust Working Group which responded to HPD's January 2017 RFEI on CLTs through Faith in New York and was chosen to be one of the CLTs "in formation" to receive training and technical assistance through NYCCLI's CLT Learning Exchange. I thank Chair Williams and the committee for the opportunity to testify.

I am pleased that the Council wants to give CLTs recognition in the City's administrative code. I have several comments on Intro 1269 which I hope you can use to improve the bill before referral to the full Council. First, for context: In New York City there is only one CLT in one neighborhood (Cooper Square) with significant experience owning and leasing land for affordable housing and other community uses. Two others have recently incorporated and others, such as ours, are in development. So, it is essential that Council legislation and administration implementation do not create a rules-based environment, but rather a learning environment that leads to a rich variety of experiments by CLTs with different land uses and practices across the city which can be evaluated, shared, and improved as CLTs learn from each other. That leads to my first three recommendations:

1. At or near the start of the bill, add a statement of purpose that says: "It is the intention of this Act to enable and encourage broad experimentation with a wide variety of CLT practices for affordable housing and other uses across the city."
2. On the last line of the current bill, strike the words ", including the promulgation of rules" so you do not encourage rule-making by HPD at this time.
3. Specify in the bill that HPD work with CLTs on regulatory agreements that vary on a case-by-case basis for specific projects and uses, and that both the agency and CLTs evaluate how different arrangements in agreements work over time to improve future agreements.

Next, while the affordable housing crisis may have been the catalyst for new CLTs forming, housing is not the only possible way CLTs can contribute to neighborhood improvement. In Northern Manhattan, for example, in addition to affordable housing, CLT land could add great community value if used to help preserve and promote local small businesses by keeping their rents affordable and to provide affordable, sharable space to arts, culture, and performing arts organizations that never have the space they need. Other possible CLT land uses for community benefit will vary by neighborhood. Also, while the primary purposes of CLTs will be to lease land for *affordable* residential and other uses, CLTs should have the freedom to allow some projects developed on their land to be used to generate more revenue if it creates cross-subsidization to keep most housing affordable for qualifying households, especially those at lower income levels. That leads to my next two recommendations:

4. Do not limit references to CLTs to leasing land only for housing. Add to the end of the definition of a CLT language such as "and for other community benefit purposes." If the Council wants to reference somewhere in the bill that the need for affordable housing was the

prime driver of the bill, that's fine. But please acknowledge in the bill that there are other possible CLT land uses that can benefit city neighborhoods.

5. Acknowledge somewhere in the bill that CLTs may sometimes allow projects on their land that involve higher costs to users than those considered "affordable" in order to cross-subsidize more affordable housing, especially for lower income households, and to keep affordable housing and other affordable uses of CLT land financially stable.

Also, while any definition of a CLT in the bill should be kept very broad—again, to encourage experimentation—a clear emphasis on community control and land stewardship should be added. Leading to my sixth recommendation:

6. Revise the definition of a CLT to say that it is not *any* "not-for-profit … that leases land" but that the CLT is community-controlled with a key purpose to provide stewardship of land for the benefit of the community.

In order to encourage experimentation among CLTs with different forms of governance and operations, I would *not* recommend making the definition of a CLT any more specific than by adding the language I have suggested in recommendations #4 and 6 above. However, if the Council wants to be more specific about what "community control" means, perhaps the Council can add language specifying that a majority of the CLT's board of directors should live or work in the geographic area served by the CLT.

There are various useful model CLT plans and bylaws that specify more about governance, including several that our CLT Working Group has been consulting in drafting our bylaws. But now is not the time to legislate a specific form of a CLT, other than to say they should be community controlled. Let the various CLTs in-formation determine their own best paths to community control, and after a period of years for experimentation and evaluation, the City or perhaps a consortium of CLTs may determine if it is necessary to specify the definition any further.

Finally, Intro 1269 provides no funding, which CLTs need to get off the ground faster and grow. Leading to my final recommendation:

7. The Council should establish a fund to enable CLTs to develop and grow more rapidly, and to learn from each other as they do. The fund may support, for example, starter capital to enable CLTs to leverage grants or loans; assistance developing as organizations; administrative and staff support to sustain community-controlled governance and other activities such as community organizing; and ongoing evaluations and sharing to help CLTs learn from each other and improve quickly as they develop.

URBAN JUSTICE CENTER

COMMUNITY DEVELOPMENT PROJECT

Testimony to the Committee on Housing and Buildings
On Intro 1269: A bill in relation to the creation of regulatory agreements with community land trusts.
October 19, 2017

Good morning. My name is Paula Segal. I am speaking today as an Attorney in the Equitable Neighborhoods practice of the Community Development Project (CDP) at the Urban Justice Center. CDP works with grassroots groups, neighborhood organizations and community coalitions to help make sure that people of color, immigrants, and other low-income residents who have built our city are not pushed out in the name of "progress." We work together with our partners and clients to ensure that residents in historically under-resourced areas have stable housing they can afford, places where they can connect and organize, jobs to make a good living, and other opportunities that allow people to thrive.

Our clients overwhelmingly recognize community land trusts (CLTs) as a property stabilization tool that is a key to keeping their communities whole and in the places that they have made valuable with decades of labor. They and we want to thank the Committee and Council Member Richards on their leadership in putting CLTs on the City agencies' agendas and paving the route to collaboration between local leaders and government as we set up structures for neighborhood affordability that will endure. In the face of expiring Urban Renewal Plans, extinguishing deed restrictions, the removal of units from rent stabilization via vacancy decontrol and sun setting regulatory agreements that are exposing hundreds of thousands of thousands of homes that were reliably affordable for decades suddenly vulnerable to the market forces that threaten to make New York City impossibly expensive for our clients, the focus on CLTs is a breath of air and a commendable commitment to permanence.

CLTs allow community members and City agencies to explicitly contract for stewardship and to plan for what happens when regulatory agreements expire, for when rent laws are changed, and even for when the CLT itself is no longer operating.

Carefully drafted ground leases include reverter provisions that direct what will happen to properties on CLT land if the CLT is no longer able to steward and allow us to decide at the outset to protect properties from the open market for the duration.

The bill before you today could be the foundation upon which we build a regulatory framework posited on the notion that CLTs can and should be used to protect both public and private investment in affordable housing. We urge the Committee to recommend changes to make the foundation a more solid one.

An amended bill could direct Housing Preservation and Development (HPD) to alter its Request for Proposals and Request for Qualifications processes across all existing HPD programs disposing of public land and buildings to give priority to disposition strategies that include a CLT. It should also be extended to agencies beyond HPD, as the Economic Development Corporation and others play a key role in deciding the terms under which public assets become private commodities.

Similarly, the Council could direct HPD to affirmatively open the Third Party Transfer (TPT) program to existing and emerging CLTs by re-opening the process for TPT Prequalification as soon as practicable, creating a mechanism for the Prequalification of CLTs as eligible to receive *in rem* properties from the City without having to pre-establish its development partners in the Prequalification Application, and prioritizing the disposition of TPT properties to development teams that include a CLT, whether or not the CLT itself is Prequalified.

The Community Development Project endorses the New York Community Land Initiative and would like to echo the Initiative's suggestions for improving the bill as well: include a definition of CLT that sets out democratic and representative governance as a minimum requirement and narrow the income bands for which HPD must enter into regulatory agreements with CLTs to match the existing regulatory framework for Housing Development Fund Corporations (HDFCs). These changes will ensure that CLTs truly are a vehicle for creating and preserving housing for low income New Yorkers and not a side door through which developers building for families making up to 165% of our Area Median Income (AMI) can enter to avail themselves of preferential property tax treatment.

Thank you so much for your time this morning.

chip

COMMUNITY HOUSING IMPROVEMENT PROGRAM, INC.

FOR THE RECORD

Community Housing Improvement Program (CHIP) is a trade association representing more than 3,500 residential building owners in New York City. CHIP has been a key player in city and state housing policy for over 50 years. We thank the City Council for its time and consideration, in giving CHIP the opportunity to testify concerning the following two bills.

Testimony of Community Housing Improvement Program In Opposition to Int. 1678-2017-A
(expands definition of tenant harassment—intent rebuttably presumed—to include: (1) discriminatory "threatening"; (2) refusing to accept any type of government ID, foreign or domestic; and (3) requesting ID from any lawful occupant "which would disclose the citizenship status of such person," when such person has already produced a valid government ID)

The first operative clause of this bill has the laudable goal of deterring residential building owners from "threatening" tenants "based on [their] actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation or alienage or citizenship status," by adding any such "threat" to the statutory list of acts that trigger a rebuttable presumption of intent to coerce the tenant to vacate the apartment.

But the fatal problems with the above-quoted provision—which, we argue, makes it void for vagueness under the New York City Charter (Chap. 45, §1046(c)(1)), the New York State Constitution (Art. I, §6), and the United States Constitution (14th Amendment)—are: 1) the failure to define the term "threatening"; and 2) the failure to define the nexus between an owner's knowledge or perception of a tenant's membership in a protected group, other than "based on," which can mean a very strong nexus, a very weak nexus, or anything in between. Hence, this provision puts owners on unconstitutionally insufficient notice of what it is that

gives rise to the devastating rebuttable presumption of intent to harass. Does "threatening… based on" include warning a tenant, as the law requires, that the failure to cure a nuisance by a date certain will result in eviction proceedings, which the tenant interprets as discriminatory based on intemperate (or even jesting) words uttered on a different occasion by one of the owner's agents? What exactly is the modicum of evidence required to prove discriminatory intent? Some tangible record, such as a printout of a text message? The tenant's hearsay account of a past event? Or even a third party's account of a past event, allegedly demonstrating the owner's intent to discriminate against that particular tenant, or any tenant of that tenant's age, race, creed, etc.? Unless the Council will add language to Int. 1678-2017 that puts all the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

The second operative clause of this bill adds another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "refusing to accept any type of valid government-issued personal identification" from a tenant, roommate, sub-tenant, or other lawful occupant. But note that the bill contains no exception for ID's from foreign countries which are impossible for the owner to validate, e.g., because they are entirely in Cyrillic, Arabic, Hindi, Korean, or another form of writing that the owner simply cannot read. Hence, as it stands, this provision of Int. 1678-2017-A forces the following Hobson's choice upon building owners: either place yourselves and the rest of your tenants in danger by housing unidentified "lawful occupants" who can only produce unverifiable foreign ID's, or be tarred with a rebuttable presumption of intent to harass, with all the potential civil and criminal liabilities that (thanks to this Council's past work) flowing therefrom.

The third operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "requesting identifying documentation for any [lawful occupant] which would disclose the citizenship status of such person, when such person has provided the owner with valid government-issued personal identification". But this provision plainly conflicts with an owner's right to request either a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN) for the purpose of maintaining the tenant's security deposit account (say in a situation where the previous owner failed to do so); and to request a successor tenant's SSN or ITIN for the same purpose. Under this provision of Int. 1678-2017-A, the owner would be presumptively guilty of harassment for requesting this information which she is legally compelled to request, because, in producing either an SSN or an ITIN, the tenant would be all but

disclosing his immigration status, given that no citizen or resident alien would produce an ITIN instead of an SSN.

Furthermore, this provision exacerbates the dilemma created by the second operative clause of this bill, in that, while the second operative clause forces owners to accept a tenant, roommate, or sub-tenant's foreign-issued "municipal identification card, consular identification card, or passport," NYC Admin. Code §21-908(a)(3), that the owner cannot validate or even read, this third operative clause forbids the owner from even requesting an alternative government-issued ID that can be validated and/or read (e.g., the IDNYC freely available to any New York City resident), on pain, once again, of being tarred with the rebuttable presumption of intent to harass, with all the potential civil and criminal liabilities that (thanks to this Council's past work) flowing therefrom.

Finally, both the second and third operative clauses of this bill grossly offend the due process rights of residential property owners, in that they apply NYC Admin. Code §27-2004(a)(48)'s rebuttable presumption of intent to harass to acts (an owner's refusal to accept an ID that she cannot validate, or an owner's request for an alternative ID that happens to reveal a person's "alienage or citizenship status") that bear no "rational connection between the facts which are proved," i.e., an owner's intent to verify a lawful occupant's identity, "and the one which is to be inferred with the aid of the presumption," i.e., an owner's intent to coerce said person to vacate the apartment. People v. Leyva, 38 N.Y.2d 160, 165, 379 N.Y.S.2d 30, 341 N.E.2d 546 (1975), *citing* Tot v. United States, 319 U.S. 463, 469, 63 S. Ct. 1241, 87 L. Ed. 1519 (1943); *see also* People v. Pacienza, 91 A.D.3d 672, 672, 935 N.Y.S.2d 896, 2012 N.Y. Slip Op. 227 (2d Dept. 2012) ("the rebuttable presumption set forth in Penal Law §250.45(3)(b) [*mens rea* of unlawful surveillance] is not a violation of due process rights, as there is a rational connection between the facts proved and the fact presumed").

We at CHIP therefore urge the Council to either radically amend or reject this bill, based not only on its fatal constitutional infirmities vis-à-vis the rights of owners, but based on the danger that it poses to New York City tenants.

5 Hanover Square, Suite 1605 New York NY 10004
Tel (212) 838 7442 Fax (212) 838 7456 www.chipnyc.org

occupancy of such unit or whether such unit is or will be maintained in a habitable and safe condition"; (4) "making a false statement or misrepresentation as to a material fact in any application or construction documents for a permit for work which is to be performed in the [lawful occupant's] building"; (5) "repeated violations, interruptions or discontinuances of [any] service for an extended duration or of such significance as to substantially impair the habitability of such [lawful occupant's]… unit"; (6) "an interruption or discontinuance of [any] service that (i) affects such [lawful occupant's]… unit and (ii) occurs in a building where repeated interruptions or discontinuances of [any] services have occurred"; (7) "repeated failures to correct violations of [Housing Maintenance Code or NYC Construction Codes]... relating to the [lawful occupant's]… unit and the common areas of the building... within the time required for such corrections"; (8) "repeated false certification that a violation of [Housing Maintenance Code or NYC Construction Codes]... relating to the [lawful occupant's]… unit... has been corrected"; and (9) "engaging in conduct within the building which negatively affects the use and occupancy of the [lawful occupant's]… unit or the public areas which is in violation of [NYC Admin. Code §28-105.1: work requiring a permit]")

The first operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "using... unlawful acts" against a lawful occupant. But the fatal problem with the above-quoted provision—which, we argue, makes it void for vagueness under the New York City Charter, the New York State Constitution, and the United States Constitution—is the lack of any definition of the terms "using" and especially "unlawful acts". Do civilly unlawful acts (e.g., torts or Housing Maintenance Code violations) count as "unlawful", or only criminally unlawful acts? Need the "unlawful acts" be directed against anyone in particular? Does "using" embrace only the owner's conduct, or the conduct of parties other than owner? Does "using" require any particular intent, or no intent? And what exactly is the modicum of evidence required to prove the commission of the "unlawful acts"? Some tangible record of the allegedly "unlawful act" or its alleged result? A tenant's hearsay account of a past event, or even a third party's account of a past event, allegedly "unlawful"? Unless the Council will add language to Int. 1721-2017 that puts all the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

The second operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "making express or implied threats to use... unlawful acts" against against a lawful occupant. But like the foregoing provision, this one is unconstitutionally vague, owing to the lack of any definition of the terms "threats", "use", and especially "unlawful acts". Once again, do civilly unlawful acts (e.g., torts or Housing Maintenance Code violations) count as "unlawful", or only criminally unlawful acts? What is the difference between an "implied threat" and a hypothetical, or a threat made in jest? And what exactly is the modicum of evidence required to prove the "making" of a "threat"—in particular an "implied threat"? A tenant's hearsay account of being delivered correct information on a proper subject by the

owner, but in an implicitly threatening manner? Or even a third party's account of a past event, allegedly "threatening"? Unless the Council will add language to Int. 1721-2017 that puts all the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

The third operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "knowingly providing to [a lawful occupant] false or misleading information relating to the occupancy of such unit or whether such unit is or will be maintained in a habitable and safe condition". But like the foregoing provision, this one is unconstitutionally vague, owing to the lack of any definition of the phrases "misleading information," "occupancy of such unit," and "habitable and safe condition". By what criteria will the trier of fact deem "information" to be "misleading"? What does "occupancy" mean? And according to whose opinion does any given "information" regarding a unit suggest that it will or will not be maintained in a "habitable and safe condition" (and by whom)? Any modicum of proof required here, or will a tenant's hearsay account of being delivered "misleading" information concerning an allegedly needed repair suffice to trigger the rebuttable presumption of intent to harass, with all the potential civil and criminal liabilities that flow therefrom, thanks to this Council's past work? Unless the Council will add language to Int. 1721-2017 that puts all the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

The fourth operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "making a false statement or misrepresentation as to a material fact in any application or construction documents for a permit for work which is to be performed in the [lawful occupant's] building". But like the foregoing provisions, this one is unconstitutionally vague, owing to the lack of any definition of the phrases "material fact" and "construction documents". By what criteria will the trier of fact deem a fact in a permit application to be "material"? Are purchase orders for demolition equipment "construction documents"? Unless the Council will add language to Int. 1721-2017 that puts the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

The fifth operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "repeated violations, interruptions or discontinuances of [any] service for an extended duration or of such significance as to substantially impair the habitability of such

[lawful occupant's]… unit". But like the foregoing provisions, this one is unconstitutionally vague, owing to the lack of any definition of "violations" and "service". Further, does it matter if the "violations" (however defined) are tenant-caused, dismissed, or promptly cured? (Note that it is not the gross number of violations that indicate any irresponsibility on the part of the owner, but the failure to promptly cure violations.) Finally, does it matter if the "service" in question is defined as *de minimis* under the New York Rent Stabilization Code §2523.4(e), or an amenity such as free access to a fitness room, roof, or storage facilities? Unless the Council will add language to Int. 1721-2017 that puts the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

The sixth operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "an interruption or discontinuance of [any] service that (i) affects such [lawful occupant's]… unit and (ii) occurs in a building where repeated interruptions or discontinuances of [any] services have occurred". But this provision is afflicted by the same fatal due process infirmity as the one that precedes it, owing to the lack of a definition of "service". Again, does it matter if the "service" in question is defined as *de minimis* under the New York Rent Stabilization Code, e.g., worn carpeting, a few missing lightbulbs in common areas, or discontinuance of recreational roof access? Unless the Council will add language to Int. 1721-2017 that puts the foregoing question to rest, CHIP respectfully urges that this provision be stricken from the bill.

The seventh operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "repeated failures to correct violations of [Housing Maintenance Code or NYC Construction Codes]... relating to the [lawful occupant's]… unit and the common areas of the building... within the time required for such corrections". But this provision fails to account for the fact, of which every New York City building owner is constantly and painfully reminded, that the statutory cure periods, especially for conditions deemed "hazardous" or "immediately hazardous", is often unrealistically brief, failing to account for the necessary logistics of arranging with the tenant to grant access, hiring a qualified contractor to remedy the condition, and actually performing the work in a safe and responsible manner.

Further, this provision is no less unconstitutionally vague as those that precede it, owing to the lack of a definition of "repeated". By what criteria will the trier of fact deem violations to be "repeated"? An alleged

violation any provision of the Housing Maintenance Code, followed six months later by an alleged violation of any provision of the NYC Construction Codes? Three roughly similar violations of the NYC Construction Codes over the course of eight weeks? Does it matter if some or all or these "repeated failures to correct violations" are tenant-caused, e.g., through a failure to grant access to make repairs or to exterminate bedbugs? Unless the Council will add language to Int. 1721-2017 that puts the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

The eighth operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "repeated false certification that a violation of [Housing Maintenance Code or NYC Construction Codes]... relating to the [lawful occupant's]… unit... has been corrected". But this provision is as unconstitutionally vague as those that precede it, owing not only to the lack of a definition of "repeated", but to the failure of the statute, as drafted, to inform the trier of fact of the criteria, and the modicum of proof, for determining that a "certification that a violation… has been corrected" is "false". Is a tenant's hearsay claim of false certification sufficient? Or must there have been a conviction of the criminal offense of filing a false instrument? Purely circumstantial (and grossly insufficient) evidence, in the form of a city agency's assessment of a violation's alleged recurrence? Unless the Council will add language to Int. 1721-2017 that puts the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

The ninth operative clause of this bill adds yet another new item to the statutory list of acts that trigger the rebuttable presumption of intent to harass: "engaging in conduct within the building which negatively affects the use and occupancy of the [lawful occupant's]… unit or the public areas which is in violation of [NYC Admin. Code §28-105.1: work requiring a permit]". But this provision is as unconstitutionally vague as those that precede it, owing not only to the lack of a definition (or minimum threshold) of "negatively affects the use and occupancy", but to the failure of the statute, as drafted, to inform the trier of fact of the criteria, and the modicum of proof, for determining whether a violation of NYC Admin. Code §28-105.1 (work without a required permit) has even occurred. Is a tenant's hearsay claim of work without a required permit sufficient? A mere pending, alleged violation of NYC Admin. Code §28-105.1? Or a violation of that provision in judgment

against the owner, without or without a pending appeal? Unless the Council will add language to Int. 1721-2017 that puts the foregoing questions to rest, CHIP respectfully urges that this provision be stricken from the bill.

Finally, all nine operative clauses of this bill grossly offend the due process rights of residential property owners, in that they assign NYC Admin. Code §27-2004(48)'s rebuttable presumption of intent to harass to acts (such as contesting an erroneous or tenant-caused code violation, making a clerical error on a purchase order, or discontinuing recreational roof access for the tenants' own safety) that bear no "rational connection between the facts which are proved," e.g., an owner's intent to defend her business against erroneously assessed violations, "and the one which is to be inferred with the aid of the presumption," i.e., an owner's intent to coerce lawful occupants to vacate their apartments. People v. Leyva, 38 N.Y.2d 160, 165, 379 N.Y.S.2d 30, 341 N.E.2d 546 (1975), *citing* Tot v. United States, 319 U.S. 463, 469, 63 S. Ct. 1241, 87 L. Ed. 1519 (1943); *see also* People v. Pacienza, 91 A.D.3d 672, 672, 935 N.Y.S.2d 896, 2012 N.Y. Slip Op. 227 (2d Dept. 2012) ("the rebuttable presumption set forth in Penal Law §250.45(3)(b) [*mens rea* of unlawful surveillance] is not a violation of due process rights, as there is a rational connection between the facts proved and the fact presumed").

We at CHIP therefore urge the Council to either reject this bill in its entirety, or remedy the dire constitutional infirmities of the current draft, as catalogued above.

Thank you again for your time and consideration.

5 Hanover Square, Suite 1605 New York NY 10004
Tel (212) 838 7442 Fax (212) 838 7456 www.chipnyc.org

Habitat for Humanity® New York City

Testimony of Habitat for Humanity New York City

To the New York City Council Committee on Housing & Buildings

Intro 1269-2016: A Local Law to amend the administrative code of the city of New York, in relation to the creation of regulatory agreements with community land trusts

October 19, 2017

Testimony respectfully submitted by:
Matthew Dunbar
VP, Government Relations & Advocacy
Habitat for Humanity New York City
Check against comments

Good afternoon. My name is Matthew Dunbar, VP of Government Relations and Advocacy with Habitat for Humanity New York City. I want to begin by thanking Chair Williams, Councilmember Donovan Richards and the full Committee on Housing & Buildings for the invitation to testify on Intro 1269 and the important role Community Land Trusts can have on New York City's affordable housing landscape.

Habitat NYC applauds the Council for highlighting the critical role CLTs can play in retaining NYC's valuable affordable housing stock and the Administration for the strong steps that have already been taken to integrate the model into the Mayor's affordable housing plan. We would like to publicly thank the Administration on the recent investment it made in existing and emerging CLTs in partnership with Enterprise Community Partners and the Attorney General's office. As a founding partner in the newly established Interboro Community Land Trust, we know this support will increase the value of investments in our City's affordable housing market and maximize the public benefit in current and future developments.

Three years ago, we testified in front of this committee that the City needed to increase its investment in affordable homeownership and implement strategies that would preserve these investments for future generations of lower income, first-time homebuyers. Passage of Intro 1269 and the City's incorporation of CLTs with existing homeownership programs will be a significant step forward in achieving this goal.

Habitat for Humanity New York City knows the power and importance of affordable homeownership as we've spent the past 33-years building and preserving more than 650 homes with low-income families in all five boroughs. Habitat homeowners build side-by-side with volunteers to complete their home and the homes of their neighbors, concluding the process with a 30-year, 2% fixed-interest mortgage with only 1% down.

However, despite significant investments of sweat equity and community resources, many of the homes built over the years have only retained affordability for the first generation of homeowners. This is in large part due to evaporating restrictive mortgages coinciding with tax relief expiring within 20-years of purchase. Upon expiration of these tax abatements, even homes restricted to below market sales prices may be taxed at market rate, leading to the current or future homeowners potentially being unable to afford their home.

Community land trusts have the ability to extend affordability by separating ownership of land from ownership of the improvements. A nonprofit CLT owns the land and provides a long-term lease to homeowners and buildings under the conditions that the home be kept affordable for future homebuyers. The mission of the CLT is to steward the land and maintain the quality and affordability of the housing for future generations, using the ground lease as an enforcement

mechanism. By permanently removing land from the private market, the CLT structure eliminates much of the speculation, profit-seeking, and gentrification pressure that drives the increase in housing costs in so many of our communities.

The Community Land Trust model will alter the City's course and create an alternative, permanently affordable marketplace for generations of low-income homeowners. To fully implement this type of model, mechanisms must be put in place to adjust tax assessments to ensure the land value is removed and resale restrictions are taken into consideration.

However, despite there being nearly a dozen CLTs across the state including at least three in New York City, there are currently no statutory references to the model at either the state or local levels. This means there are no current guidelines on how homeownership properties on CLTs should be taxed in accordance with their re-sale restrictions. Intro 1269 remedies this oversight by adding Community Land Trusts to the Administrative Code and gives the go-ahead to the Department of Housing Preservation and Development to establish a regulatory agreement with CLTs in coordination with the long-term ground leases.

As the State has taxing authority and the City is unable to create new tax exemptions or abatements, the only mechanism the City has at its disposal to direct tax assessors to provide fair assessments of permanently affordable, re-sale restricted homes outside of HDFC cooperatives is through a regulatory agreement. By establishing a renewable regulatory agreement that covers all of the land stewarded by a CLT for a term of 99-years, properties that may currently receive tax relief through Article XI or UDAAP exemptions and abatements will be guaranteed fair taxation commensurate with the ground leases' re-sale restrictions upon expiration of benefits. By establishing a regulatory agreement behind the ground lease, CLT homeowners required to sell their homes to another homebuyer of modest means will have the proper structural backing to ensure their home is not assessed at market rate.

The City Council should support Intro 1269, while giving HPD adequate flexibility to establish the necessary rules and restrictions to ensure success of CLTs, their residents, and the City at large.

Habitat NYC recommends the following amendments to the bill as written to clarify and strengthen it for maximum impact:

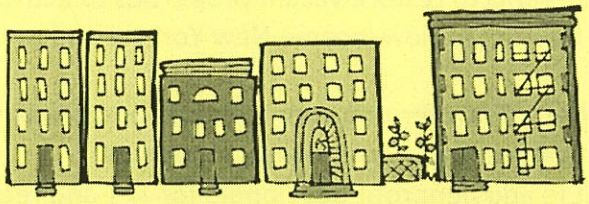
- Amend the definition of "homeownership project" from affordability at 30% of household income to 33% to fit HPD current allowable underwriting guidelines
- Specify restrictions being at time of sale so as not to imply or allow ongoing means testing of homeowners

- Consider a more detailed definition for Community Land Trust that more clearly articulates CLTs as not-for-profit organization formed to own land and to maintain control and oversight of homeownership or rental buildings located on the land in order to steward and preserve the long term affordability of its housing
- Recommend the establishment of only one (1) regulatory agreement that encompasses all of the land thereon rather than require individual regulatory agreements be issued for every property The single regulatory agreement can thereby be updated when properties are added that adhere to the HPD approved ground lease that covers the restrictions with the regulatory agreement
- Include language around requirements for CLTs That homeowners, HDFC cooperative buildings, or rental building owners for properties located on land owned by the CLT enter into an HPD approved 99-year ground lease agreement with the CLT that shall include, but not be limited to, the following requirements:
    - maintains restrictions on the resale, subletting or assignment of any such structural improvement or part thereof, ,
    - retains the first option to purchase any structures or improvements on land it owns
- Include language providing prioritization of projects for funding/disposition awards when the project identifies a CLT partner to achieve permanent affordability.

Thank you for the opportunity to testify today. We believe passage of Intro 1269 will provide structural support and endorsement from the City that will help advance the model's success in the five boroughs.

We look forward to continuing our partnership with the City in serving low-income families in need of affordable homeownership and strengthening the Mayor's plan in a way that will truly benefit current and future generations and communities.

NYC community land initiative



Fighting for vibrant, equitable and sustainable housing and neighborhoods through community ownership of land

2017-2018 Policy Recommendations

NYCCLI's housing and community development policy recommendations for New York City are:

1. **Incorporate the following core principles into all new and existing programs:**
   - **Affordability for low- and extremely-low income households.** Current methods for developing affordable housing shut out those most in need.
   - **Permanent affordability that can be enforced**. We must ensure that the resources we spend today on affordable housing keep working many decades from now.
   - **Community-led planning, development, and preservation** to maximize the provision of stable housing for New Yorkers excluded from the housing market.
   - **Fair Housing**. Equal opportunities to access affordable housing for all New Yorkers.

2. **Use city-owned property as a resource to promote housing development and preservation for the lowest income New Yorkers.** City-owned property is the single most valuable resource to create housing for low- and extremely-low income people. The City has a critical responsibility and opportunity to prioritize the disposition of city-owned and regulated properties—including distressed and vacantproperties—for truly affordable housing:
   - Prioritize CLTs for disposition of city-owned properties, as well as distressed properties under city oversight.
   - Ensure that housing created on formerly city-owned properties is and will remain affordable to the existing residents of the neighborhood.
   - Issue a moratorium on the disposition of city-owned properties in East Harlem, the South Bronx, the Lower East Side, and other communities with existing or actively developing CLTs. These properties, both vacant and occupied, could form critical components of these CLTs.

3. **Pass the Housing not Warehousing Act (Intros 1034, 1036 and 1039)**. Vacant properties, which frequently remain empty and contribute to neighborhood blight while owners wait for development opportunties, could be used for affordable housing and other community uses. The City does not currently have a database for tracking vacant properties and is unable to develop an appropriate plan for addressing vacancy.
   - Require property owners and mortgage-holders to register vacant property with the City and state a reason for the vacancy. The legislation should include adequate enforcement provisions, including fines for failure to register and an escalating fee for registration based on length of time a building is vacant.
   - The City should create a community reporting mechanism to enable the public to report vacant properties in their communities.
   - Prioritize census/property count in neighborhoods with high concentrations of vacancy.

- Develop programs to restore vacant properties to active uses that contribute to the supply of affordable housing for low income New Yorkers and to community resources.

4. **Use the Third Party Transfer program to create and preserve permanently affordable housing for very low income people and community resources.**
   - Prioritize CLTs and nonprofit developers for TPT and require permanent affordability for buildings.
   - Broaden the pool of properties eligible for entry into TPT and other preservation pathways.
   - Use TPT and related preservation and enforcement programs to more effectively transfer buildings in the Alternative Enforcement Program to responsible, preservation-minded ownership. Where possible, cluster troubled buildings in AEP by geographic area, to form mutual housing associations on CLTs.

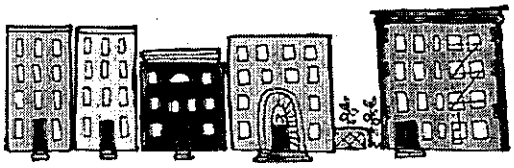
5. **Revise existing affordable housing programs to address the needs of extremely low-income and homeless New Yorkers.**
   - **Redefine "affordable."** Move away from the use of the Area Median Income, which does not reflect local neighborhood incomes. Instead, affordable housing projects should reflect both neighborhood and citywide housing needs, particularly in neighborhoods with high rates of shelter entry and displacement.
   - **Shift public spending from shelters to deeply affordable housing.** Currently, the city dedicates between $2,500-$4,500 per month to support a growing and unsustainable shelter system—five to seven times the operating cost of a nonprofit rental apartment. Instead, the city should invest in housing for households most at-risk of homelessness, which represent nearly 1 in 5 NYC households, to prevent shelter entry and ease transition out of shelter.
   - **Reserve public subsidies—including public land—for projects that reach deep and *permanent* affordability.** Public funding—including disposition of public property, tax abatements and exemptions and other forms of subsidy—are critical tools that should be used to incentivize production and preservation of deeply affordable housing that can stem homelessness and displacement. Too often, these subsidies are granted to projects that do not meet the housing needs of local communities, at affordability levels that could be achieved without subsidy.

6. **Limit the use of upzonings to neighborhoods where added density will increase rather than eliminate housing opportunities for residents of the lowest incomes.** All rezonings should prioritize deep and permanent affordability, and should increase housing opportunities and access for residents of very-low and extremely-low income. Additionally, rezonings should offer significant benefits to local community members (and residents citywide who are systematically excluded from the housing market), based on a substantive community planning and input process, and with mitigation commitments by city agencies monitored and enforced .

7. **Create a housing trust fund with a dedicated revenue stream to support the creation and preservation of permanently affordable housing for the lowest income New Yorkers.** We must invest more in housing for New Yorkers who are most in need of housing and have the least political capital. To address this gap, the City should create a housing trust fund, supported by a dedicated revenue stream generated by increasing the property taxes on vacant and luxury properties.

8. **Clarify tax assessment policy for land owned by a CLT and improvements on that land**. Ensure that people and entities leasing land from a CLT are taxed fairly based on an adjusted actual value of the land, not the market rate.

NYC community land initiative



Fighting for vibrant, equitable and sustainable housing and neighborhoods through community ownership of land

Testimony of the New York Community Land Initiative (NYCCLI)
on Intro 1269, in relation to the creation of regulatory agreements with community land trusts

NYC Council Committee on Housing and Buildings

October 19, 2017

Good morning, and thank you, Committee Chair Williams and the other members of the Committee, for the opportunity to testify about Intro 1269. My name is Deyanira Del Rio, and I am a board member of the New York City Community Land Initiative (NYCCLI), an alliance of community, base-building, affordable housing, and economic justice groups, as well as longstanding and emerging community land trusts (CLTs) across NYC. Our alliance advocates for CLTs as a mechanism to support the creation and preservation of deeply and permanently affordable, community-controlled housing and other critical community needs. For more than five years, we have engaged in extensive coalition and community organizing, community education and outreach, research and policy advocacy to build a movement CLTs in New York. We are thrilled to see growing support for CLTs in the NYC Council.

NYCCLI thanks Council Member Richards, chief sponsor of Intro 1269, for his leadership and support of CLTs. We outline below important changes to the bill that are needed before it moves forward.

We also are pleased to highlight in our testimony the rapidly-expanding landscape of CLTs in our city and additional policy recommendations by our alliance. We understand that Intro 1269 is a first step toward strong local policymaking to advance CLTs, and we look forward to continued dialogue with the Council.

CLTs provide a flexible, widely-recognized and progressive model for land and housing development. CLTs are nonprofit, tax-exempt corporations that own and steward land for the public good. CLTs lease use of the land for affordable housing development and other community needs -- typically through 99-year renewable leases that the CLT enforces and that establish affordability, resale and other restrictions. By separating ownership of land from what is built on top, CLTs curb speculation, lower costs of housing and other development, and create mechanisms for long-term community engagement and oversight. At the same time, CLTs prevent extraction of critical public subsidies and ultimately help preserve the city's vital affordable housing stock. For all of these reasons, NYCCLI has for years called on NYC to embrace and incorporate CLTs into the City's housing and economic development framework, to address the unprecedented housing crisis and create a more equitable city.

Indeed, in recent years CLTs have taken root in low income neighborhoods and communities of color across NYC. Groups are pursuing CLTs in East Harlem, the South and Northwest Bronx, Inwood, Cypress Hills, Brownsville and beyond, as a strategy to remove land and housing from the speculative market; foster community decision-making over neighborhood development; and create and sustain deeply and permanently affordable housing, commercial and community space and other critical needs. These gains reflect major grassroots investment in the CLT model.

This year, NYCCLI celebrated a major victory when HPD announced that it was channeling $1.65 million to local CLTs. The funds, which were earmarked for CLTs in a NYS Attorney General bank settlement, will support ~~three~~ two newly-established CLTs -- the East Harlem/El Barrio CLT, ~~Mott Haven-Port Morris Community Land Stewards,~~ and Interboro CLT -- as well as the long-standing Cooper Square CLT on Manhattan's Lower East Side. NYCCLI is also receiving support to lead a two-year "Learning Exchange" to build capacity at nine community-based organizations to organize, steward and sustain CLTs.

The community land trust model has sparked a citywide movement, with the potential to shift our relationship as a city to housing and neighborhoods. As the number of CLTs in NYC grows, their viability and effectiveness will require concerted policy and programmatic support by NYC agencies and officials. NYCCLI was pleased to see CLTs included in the Progressive Caucus's 18 Policy Priorities for 2018, and to see HPD showing support for the model. We are eager to build on this growing momentum and to work with the Council to support legislation that can facilitate the formation of a strong and sustainable CLT landscape, to ensure accountable housing and community development.

Concerns and recommendations with respect to Intro 1269

NYCCLI urges the City Council to amend and improve Intro 1269, to ensure that it supports CLTs that are community-led and working to reach deeper housing affordability, particularly for very- and extremely-low income New Yorkers who are underserved by both the private market and the administration's housing plan.

Intro 1269 would explicitly define and permit HPD to enter into regulatory agreements with CLTs. NYCCLI supports these aims. We are concerned, however, that the bill currently defines CLT too broadly – omitting, for example, key governance and community representation requirements that are fundamental to CLTs.

We also are concerned that the bill, in its current form, could inadvertently result in weaker affordability standards for housing on CLTs than provided for in HPD's existing regulatory agreements with, for example, Housing Development Fund Corporations (HDFCs).

To address the above concerns, NYCCLI urges the City Council to:

- **Amend the definition of a "community land trust" to reflect the unique stewardship and governance structure of a CLT.** The bill should establish obligations with respect to representation of leaseholders in the CLT board structure -- a fundamental aspect of CLTs, and one that is critical to ensuring community control and stewardship. This is glaringly absent in the bill's current definition of a community land trust. Expanding the

definition in this way would additionally align the City's definition with federal definitions of CLTs. Attached to our testimony, please find a proposed definition, which NYCCLI developed as part of our model CLT enabling bill.

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NYCCLI is excited to work with the Council on what we believe is one of the most promising innovations in New York City's housing landscape. Our alliance has developed a number of policy recommendations to advance and sustain CLTs in New York, which I am attaching here.

We look forward to continued dialogue and partnership to expand the CLT model and its benefits for New Yorkers and their neighborhoods.

Definition of Community Land Trust, from a model bill developed by NYCCLI:

"Community Land Trust (CLT)" means a nonprofit, community-based organization that draws its leadership and governance from the communities it serves with the purpose of ensuring community ownership of land as a means to help communities preserve and control land for public benefit, and

§ (1) has a primary, yet not exclusive, purpose of stewardship of land to facilitate the provision of permanently affordable limited equity homeownership and rental housing for extremely low-income, very low-income, low-income and moderate-income persons; and that

(A) acquires parcels of land for such purpose, to be held in perpetuity, primarily for conveyance under long-term ground leases;

(B) transfers ownership of any structural improvements located on such leased parcels to the lessees of the land on which they are situated; and

(C) retains the first option to purchase any structures or improvements on land it owns at a limited-equity price calculated as set forth in the ground lease, and maintains restrictions on the resale, subletting or assignment of any such structural improvement or part thereof, to ensure that the improvement remains affordable as housing to extremely low-, very low-, low- and moderate-income families, or serves another recognized community purpose; and

§ (2) provides in its bylaws that

(A) the board of directors is composed of equal numbers of (1) lessees or residents of housing located on land owned by the community land trust; (2) lessees or residents of housing located in the particular geographic area specified in the bylaws of the organization but not on land owned by the community land trust; and (3) any other category of interested persons described in the bylaws of the organization and not living on land owned by the community land trust; and

(B) any adult person who supports the community land trust's goals and purposes is eligible to serve on the board of directors.

CENTER for NYC NEIGHBORHOODS

Testimony Before the New York City Council Committee on Housing and Buildings:
Int. No. 1269 - In relation to the creation of regulatory agreements with community land trusts.
October 19, 2017

Good morning. My name is Christie Peale, and I am the Executive Director of the Center for NYC Neighborhoods. I would like to thank Committee Chair Williams for holding today's hearing on critical affordable housing issues.

About the Center for NYC Neighborhoods

The Center promotes and protects affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities. Established by public and private partners including the City Council, the Center meets the diverse needs of homeowners throughout New York State by offering free, high quality housing services. Since our founding in 2008, our network has assisted over 40,000 homeowners. We have provided approximately $33 million in direct grants to community-based partners, and we have been able to leverage this funding to oversee another $30 million in indirect funding support. Major funding sources for this work includes the New York City Council, the Governor's Office of Storm Recovery, and the Office of the NYS Attorney General, along with other public and private funders.

The Need for New Models of Affordable Homeownership

Home prices in New York City are at record highs, and the majority of New Yorkers earn nowhere near enough to be able to buy a home in today's market. The cost of New York City real estate has dramatically outpaced incomes, with home sale prices rising 200 percent over the last 25 years, while real incomes, when adjusted for inflation, have actually declined 11 percent.[1] This means that for the half of New York City's households who earn $55,000 or less, only 9 percent of homes sold in 2014 were affordable.

Even households making substantially more are being priced out of the market. In 2016, less than one-fifth of home sales in NYC were affordable to a family of three making $100k or about 120 percent of area median income. And about a third of those homes were bought by investors or flippers rather than homeowners. When families can't buy, they remain tenants, which contributes to the crush of demand for rental units in the city.

At the same time, the persistent shortage of affordable homeownership opportunities available to lower-income families has only been exacerbated by the foreclosure crisis, which hit communities of color disproportionately hard, and widened the gap between New York's rich and poor. Many working- and middle-class homeowners are still struggling to avoid foreclosure today.

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[1] NYU Furman Center/Citi Report on Homeownership & Opportunity in New York City, August 2016

CENTER for NYC NEIGHBORHOODS

Shared Equity Homeownership and the Community Land Trust

A CLT is a community-controlled nonprofit that retains ownership of land and sells or rents the housing on that land to lower-income households. Because the CLT owns the land, it can dictate the conditions of development on it, ensuring that what is built is truly affordable for the community in which it is based and that homes retain their affordability over time. We believe that one of the most essential benefits the expansion of CLTs will bring to New York City is to create new homeownership opportunities for families that would otherwise have to rent and thus miss out on the wealth-building and stabilization benefits of homeownership. In the face of gentrification, CLT homeownership is the best way to lock in the benefits of a neighborhood's economic revitalization for longtime residents.

CLTs are great vehicles for expanding affordable homeownership. Unlike traditional subsidized homeownership programs, public investments in CLT homes are recycled from one homeowner to the next - they are not lost when a homeowner sells, perhaps at a windfall profit. CLTs also act as stewards, not only of land and property, but also of homeowners' and communities' well-being. In addition to pre-purchase education, CLTs can provide homeowners with financial literacy training, assistance with repairs, and financing oversight and support to prevent foreclosures. In this way, CLTs help prevent families from getting in over their heads and safeguard against predatory lending, scams, and foreclosure.[2]

Homeownership on a CLT can take the form of single family homes or multifamily cooperatives, both offer buyers a chance to steadily build equity while guaranteeing the affordability of the home when the owner decides to sell.

Interboro Community Land Trust

In light of the severe challenges posed by our housing market, the Center for NYC Neighborhoods, Habitat for Humanity New York City, the Mutual Housing Association of New York (MHANY), and the Urban Homesteading Assistance Board (UHAB) are partnering to create the Interboro Community Land Trust (Interboro CLT), New York City's first citywide community land trust with a primary focus on creating permanently affordable homeownership opportunities for lower-income households.[3]

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[2] According to Center for American Progress, compared to those in the conventional market, CLT homeowners were 10 times less likely to be in foreclosure proceedings at the height of the foreclosure crisis in 2009 and 6.6 times less likely to be at least 90 days delinquent.

[3] Interboro CLT has received critical founding support from Citi Community Development. The Interboro CLT partners were also awarded funding by Enterprise Community Partners and the NYC Department of Housing Preservation and Development in the summer of 2017.

CENTER for NYC NEIGHBORHOODS

Interboro CLT will work closely with HPD and New York State Homes and Community Renewal to identify, finance, and steward projects to ensure the homes developed on the CLT remain affordable for future generations of New Yorkers. Interboro CLT will incorporate residents and community members onto its board to reflect the needs and aspirations of the CLT's surrounding neighborhoods.

The Opportunity to Recognize Community Land Trusts through Intro. 1269

We commend Councilmember Richards for championing the CLT model and introducing legislation that we think can lay the groundwork for the growth of permanently affordable housing through CLTs in New York City.

Intro. 1269 will officially acknowledge community land trusts as a distinct entity in New York City law, and in doing so, will allow for future policy initiatives and regulatory agreements that recognize the value of CLTs and support their formation. The bill presents an important step towards taxing CLT housing fairly. While existing city regulatory agreements such as Article 11 can give tax benefits to rental and cooperative housing on CLTs, they are not well suited to single family homes which we believe could be a critical element of CLTs outside of Manhattan. The CLT model can also be used to preserve housing for New Yorkers at risk of losing their homes, such as families threatened by foreclosure or seniors struggling with taxes and other expenses. A CLT could also be a critical support to 1-4 family homes in flood prone areas, making sure that homeowners and properties are resilient, safe, and in compliance with various insurance and construction standards.

We also believe that the current language in Intro. 1269 is a starting point that can be built upon further by Councilmember Richards, HPD, and advocates. We recommend the following additional reforms: first, the bill should call on HPD to give developers a preference in the Request for Proposal process if they commit to working with a CLT and thus keep new housing permanently affordable. Such a practice has already been implemented in Boston, and it would align well with the priorities of Mayor de Blasio and the City Council, namely, that affordable housing receiving public subsidies should remain affordable for the long term. Additionally, we recommend building language into the bill that ensures that the city's definition of a CLT only makes benefits available to truly mission-driven organizations with community voices on their boards. Finally, regulatory agreements created in conformity with this bill should be designed to work with the unique characteristics of CLTs and not create undue burdens. For CLTs to succeed, regulatory agreements will need to be crafted to allow for the addition of properties and facilitation of resales without honorous requirements from HPD.

Thank you very much for the opportunity to testify today. We look forward to working with you to promote permanently affordable housing and the community land trust model.

Testimony of Jennie Stephens-Romero
Make the Road NY

Housing and Buildings Joint Committee Hearing

October 19, 2017

My name is Jennie Stephens-Romero and I am a housing advocate and law graduate at Make the Road New York (MRNY), a non-profit organization based in the communities of Bushwick, Brooklyn; Jackson Heights, Queens; Port Richmond, Staten Island; and Brentwood, Long Island. MRNY builds the power of immigrant and working class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services, which includes legal services. Our organization consists of more than 18,000 members, most of whom are immigrants and many of whom live in substandard housing. Our legal services department routinely represents low-income tenants facing harassment and chronic conditions of disrepair. I submit this testimony on behalf of MRNY and I thank the Committee for the opportunity to participate in this hearing.

Make the Road New York is a member of the Coalition Against Tenant Harassment, which was formed to advocate for the create of a city-wide "certificate of no harassment." This committee held a hearing on Intro 152-A on February 22, 2016. Council Member Lander and the Department of Housing Preservation and Development then convened a working group to refine this legislation. Tenant advocates, legal services providers, agency representatives, and real estate trade associations all participated in the working group process, which included a subgroup devoted to improving the definition of harassment. Intro 1721 is the result of this extensive effort and collaboration over nearly two years.

Our organizers and legal team work with so many tenants who face harassment from landlords who want to push them out, renovate their apartments, and double or triple the rent. One of the buildings we are working in is 1217 Halsey Street, where the landlord failed to make basic repairs for more than two years. The tenants live with leaks, mold, broken windows, and stairs that feel like they will collapse with every step. Instead of properly repairing these conditions, the landlord makes superficial repairs, clears the HPD violation, only for the condition to resurface a short while later. Or they falsely certify that the condition was repaired when it actually still exists. This type of harassment makes tenants want to give up calling 311 to report violations, and it makes them want to leave the apartment altogether.

Under Intro 1721, the tenants at 1217 Halsey Street could point to specific provisions of the law to demonstrate the acts of harassment their landlord has committed. It is a stronger tool for tenants to use in fighting for their rights.

An additional issue that came up in the Tenant Harassment Working Group, that did not make it

into Intro 1721, is the increasing use by landlords of threats based on immigration status. Many landlords take advantage of the fear and vulnerability in which many tenants live by threatening to call ICE if they assert their rights. Therefore, MRNY supports Intro 1678-A, which would help protect many tenants in New York City, including our members.

Another building in which we are working is 175 Wyckoff Avenue, where all the tenants in the building are immigrants who have also faced these threats from their landlord, who has threatened to call ICE or the police when they complain about appalling conditions in their building. Intro 1678-A sends a message that New York City will stand up for immigrant tenants like Ms. Green and help them fight these discriminatory threats.

Make the Road New York fully supports this legislation, which is a step forward in protecting tenants against landlord harassment and displacement. Thank you Chair Williams for scheduling this important legislation for a hearing today.

MOBILIZATION FOR JUSTICE

TESTIMONY IN SUPPORT OF

INTRO 1721-2017 – IN RELATION TO AMENDING THE DEFINITION OF HARASSMENT.

PRESENTED BEFORE:

THE NEW YORK CITY COUNCIL'S
COMMITTEE ON HOUSING AND BUILDINGS

PRESENTED BY:

SHI-SHI WANG
STAFF ATTORNEY
MOBILIZATION FOR JUSTICE, INC.

OCTOBER 19, 2017

MOBILIZATION FOR JUSTICE, INC.
100 William Street, 6th Floor
New York, NY 10038
212-417-3700
www.mobilizationforjustice.org

Introduction

My name is Shi-Shi Wang, and I am a Staff Attorney in the Housing Project of Mobilization for Justice, Inc, ("MFJ," formerly MFY Legal Services). MFJ envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy and bringing impact litigation. We assist more than 20,000 New Yorkers each year.

Specifically, MFJ's Housing Project annually serves more than 3,600 tenants, almost all of whom live in rent-regulated housing and have lived in their homes and in their communities for many years. We are committed to fighting community displacement through both affirmative and defensive litigation.

Our Clients' Experiences and the Importance of the Bill Under Consideration

We sincerely thank the Committee on Housing and Buildings for holding this hearing on **Intro 1721** – in relation to amending the definition of tenant harassment to include the following:

- Subsection a-1 – knowingly misrepresenting information related to the occupancy of a dwelling unit or knowingly misrepresenting the condition of a dwelling unit as habitable and safe when the dwelling unit is actually unsafe and uninhabitable;
- Subsection a-2 – knowingly misrepresenting specific work to be performed in a permit application that does not reflect the actual work done after the permit has been approved;
- Subsection b-2 – specifically finding that repeated failures to correct violations – by itself – is *per se* harassment under the admin code;
- Subsection b-3 – specifically finding repeated false certifications of a housing violation having been corrected when it hasn't – again by itself – is *per se* harassment;
- Subsection b-4 – engaging in conduct within the building which negatively affects the use and occupancy of the dwelling unit or public areas in violation of the certificate of occupancy of the building.

As is well-known to New York City tenants, predatory landlords use a wide array of tactics to harass and deceive rent regulated tenants in all boroughs. By passing **Intro 1721**, the City will move in the right direction and penalize those who engage in these common abuses. Landlords will not be unfairly burdened by the law's requirement that they make honest representations to tenants and potential tenants about the conditions of the units, and that they make necessary repairs and improvements as already required by law.

For example, MFJ is currently representing rent-regulated tenants at **336 West 17th Street.** Tenants in the building have not had cooking gas since April 2015. DOB and HPD promptly placed violations on the building. To this day, however, the gas remains off and the residents fear another Thanksgiving will come and go where they can't have the simple pleasure of a home cooked meal. In addition, when two prospective tenants inquired about the status of the gas outage and when the gas would be restored, the former owner promised to restore gas service immediately, but never did. The current owner has also failed to restore gas service since HPD issued multiple violations for that problem since he became the owner about one year ago. Tenants in this building include a family of three living on an annual income of $28,000 and a 90-year-old great-grandmother who has lived in her apartment for over 40 years. Subsection x would . . .

In addition, the landlord of **336 West 17th Street** falsely certified that the building was not rent regulated and had no tenants. Similarly, the landlord of **29 East 29th Street**, another building represented by MFJ, also falsely stated in several DOB applications that the building has no rent-regulated tenants but, by MFJ's estimation, there are approximately 50 rent-stabilized tenants living in Single Room Occupancy ("SRO") units. Subsection a-2 of Intro 1721 would characterize these false certifications as tenant harassment.

Another example of MFJ's work on the very problems Intro 1721 is designed to combat is shown in a group HP action on behalf of the tenants of **192-194 1st Avenue**. Since purchasing the property in 2016, the new owner of the two buildings has engaged in a campaign of illegal construction in both buildings, including illegally removing the hallway stairs, completely removing the bulkhead/fire escape leading to the roof, and submitting false and misleading documentation related to gas line work in the hallways. Intro 1721 would characterize the owner's behavior as not just an ECB violation, or a DOB violation, or an HPD violation – but by doing actual work that has *no relation* to the work described in the owner's applications would certainly meet subsection a-2's definition of harassment.

In addition, Ms. Antoinette Tuzzio of **176 Hester Street** has not had cooking gas for 18 months. She is a 69-year-old rent controlled tenant who has resided in her apartment for all 69 years of her life. Judge Wendt, in his Decision/Order denying the landlord's request for extension of time to restore cooking gas to the building, issued a written decision specifically finding fraud in the landlord's DOB permit application, stating that a "false statement on the [DOB permit application] was a misdemeanor punishable by a fine, imprisonment, or both." Intro 1721 would recognize this type of behavior as tenant harassment.

Finally, MFJ currently represents a low-income tenant at **3968 Bronx Boulevard** who moved into a basement unit in a two-family house. In order to receive NYCHA Section 8 payments of $1,200 per month, the landlord falsely represented to the tenant and NYCHA that the unit is legal and in habitable condition. However, soon after the tenant moved in, the hot water was shut off and DOB found that the basement apartment does not have a valid certificate of occupancy. The landlord's misrepresentations here would fall within the definition of harassment under subsections a-1, a-2, and b-4 of Intro 1721.

Conclusion

Unfortunately, these are just a few examples of the deceitful and often dangerous acts that landlords take against New York City tenants. On behalf of our clients, and as a member of the Stand for Tenant Safety Coalition, MFJ supports Intro 1721-2017 as a simple but necessary means by which to protect tenant safety and preserve affordable housing.

ABO would like to be on record opposing Intros. 1678A and 1721.

Intro 1721 proposes to make “unlawful acts” illegal. The criminal and administrative codes already deal adequately with unlawful acts, by definition. Beyond that, Intro 1721 criminalizes unintentional false statements. Say, for example, that an owner knows that a boiler repair is planned, but indicates to a prospective tenant that the building has a working HVAC system. It is working. It will be repaired. And it will continue to work. But there may be a day or a few days when it is offline for repair. Is that a knowing false statement? What about if the owner or their representative submits a permit application indicating that certain work will be done at a certain time and the contractor doesn’t show up; or a part that should have been available is out of stock when needed. Was that a false statement on an application? The provisions are unworkable and unfair.

Intro 1678A has similar problems. Threatening someone is already addressed under the law, whether it is a physical threat or, say, an extortionate one. As for documentation requests, one of the most common requests by a landlord is for a social security number or tax i.d. number which is a legal requirement for a security deposit account. The nature of the tax i.d. has implications for citizenship status. There is really no way around it.

Dan Margulies
Associated Builders and Owners
Community Housing Improvement Program
5 Hanover Sq., Suite 1605
New York, NY 10004
212.385.4949 o.
914.834.1897 c.
dan@abogny.com

NYC community land initiative

Fighting for vibrant, equitable and sustainable housing and neighborhoods through community ownership of land

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on Intro 1269, in relation to the creation of regulatory agreements with community land trusts

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To address the above concerns, NYCCLI urges the City Council to:

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We look forward to continued dialogue and partnership to expand the CLT model and its benefits for New Yorkers and their neighborhoods.

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Definition of Community Land Trust, from a model bill developed by NYCCLI:

"Community Land Trust (CLT)" means a nonprofit, community-based organization that draws its leadership and governance from the communities it serves with the purpose of ensuring community ownership of land as a means to help communities preserve and control land for public benefit, and

§ (1) has a primary, yet not exclusive, purpose of stewardship of land to facilitate the provision of permanently affordable limited equity homeownership and rental housing for extremely low-income, very low-income, low-income and moderate-income persons; and that

(A) acquires parcels of land for such purpose, to be held in perpetuity, primarily for conveyance under long-term ground leases;

(B) transfers ownership of any structural improvements located on such leased parcels to the lessees of the land on which they are situated; and

(C) retains the first option to purchase any structures or improvements on land it owns at a limited-equity price calculated as set forth in the ground lease, and maintains restrictions on the resale, subletting or assignment of any such structural improvement or part thereof, to ensure that the improvement remains affordable as housing to extremely low-, very low-, low- and moderate-income families, or serves another recognized community purpose; and

§ (2) provides in its bylaws that

(A) the board of directors is composed of equal numbers of (1) lessees or residents of housing located on land owned by the community land trust; (2) lessees or residents of housing located in the particular geographic area specified in the bylaws of the organization but not on land owned by the community land trust; and (3) any other category of interested persons described in the bylaws of the organization and not living on land owned by the community land trust; and

(B) any adult person who supports the community land trust’s goals and purposes is eligible to serve on the board of directors.

NYC community land initiative

Fighting for vibrant, equitable and sustainable housing and neighborhoods through community ownership of land

2017-2018 Policy Recommendations

NYCCLI's housing and community development policy recommendations for New York City are:

1. **Incorporate the following core principles into all new and existing programs:**
   - **Affordability for low- and extremely-low income households.** Current methods for developing affordable housing shut out those most in need.
   - **Permanent affordability that can be enforced**. We must ensure that the resources we spend today on affordable housing keep working many decades from now.
   - **Community-led planning, development, and preservation** to maximize the provision of stable housing for New Yorkers excluded from the housing market.
   - **Fair Housing**. Equal opportunities to access affordable housing for all New Yorkers.

2. **Use city-owned property as a resource to promote housing development and preservation for the lowest income New Yorkers.** City-owned property is the single most valuable resource to create housing for low- and extremely-low income people. The City has a critical responsibility and opportunity to prioritize the disposition of city-owned and regulated properties—including distressed and vacantproperties—for truly affordable housing:
   - Prioritize CLTs for disposition of city-owned properties, as well as distressed properties under city oversight.
   - Ensure that housing created on formerly city-owned properties is and will remain affordable to the existing residents of the neighborhood.
   - Issue a moratorium on the disposition of city-owned properties in East Harlem, the South Bronx, the Lower East Side, and other communities with existing or actively developing CLTs. These properties, both vacant and occupied, could form critical components of these CLTs.

3. **Pass the Housing not Warehousing Act (Intros 1034, 1036 and 1039)**. Vacant properties, which frequently remain empty and contribute to neighborhood blight while owners wait for development opportunties, could be used for affordable housing and other community uses. The City does not currently have a database for tracking vacant properties and is unable to develop an appropriate plan for addressing vacancy.
   - Require property owners and mortgage-holders to register vacant property with the City and state a reason for the vacancy. The legislation should include adequate enforcement provisions, including fines for failure to register and an escalating fee for registration based on length of time a building is vacant.
   - The City should create a community reporting mechanism to enable the public to report vacant properties in their communities.
   - Prioritize census/property count in neighborhoods with high concentrations of vacancy.

- Develop programs to restore vacant properties to active uses that contribute to the supply of affordable housing for low income New Yorkers and to community resources.

4. **Use the Third Party Transfer program to create and preserve permanently affordable housing for very low income people and community resources.**
   - Prioritize CLTs and nonprofit developers for TPT and require permanent affordability for buildings.
   - Broaden the pool of properties eligible for entry into TPT and other preservation pathways.
   - Use TPT and related preservation and enforcement programs to more effectively transfer buildings in the Alternative Enforcement Program to responsible, preservation-minded ownership. Where possible, cluster troubled buildings in AEP by geographic area, to form mutual housing associations on CLTs.

5. **Revise existing affordable housing programs to address the needs of extremely low-income and homeless New Yorkers.**
   - **Redefine "affordable."** Move away from the use of the Area Median Income, which does not reflect local neighborhood incomes. Instead, affordable housing projects should reflect both neighborhood and citywide housing needs, particularly in neighborhoods with high rates of shelter entry and displacement.
   - **Shift public spending from shelters to deeply affordable housing.** Currently, the city dedicates between $2,500-$4,500 per month to support a growing and unsustainable shelter system—five to seven times the operating cost of a nonprofit rental apartment. Instead, the city should invest in housing for households most at-risk of homelessness, which represent nearly 1 in 5 NYC households, to prevent shelter entry and ease transition out of shelter.
   - **Reserve public subsidies—including public land—for projects that reach deep and *permanent* affordability.** Public funding—including disposition of public property, tax abatements and exemptions and other forms of subsidy—are critical tools that should be used to incentivize production and preservation of deeply affordable housing that can stem homelessness and displacement. Too often, these subsidies are granted to projects that do not meet the housing needs of local communities, at affordability levels that could be achieved without subsidy.

6. **Limit the use of upzonings to neighborhoods where added density will increase rather than eliminate housing opportunities for residents of the lowest incomes.** All rezonings should prioritize deep and permanent affordability, and should increase housing opportunities and access for residents of very-low and extremely-low income. Additionally, rezonings should offer significant benefits to local community members (and residents citywide who are systematically excluded from the housing market), based on a substantive community planning and input process, and with mitigation commitments by city agencies monitored and enforced .

7. **Create a housing trust fund with a dedicated revenue stream to support the creation and preservation of permanently affordable housing for the lowest income New Yorkers.** We must invest more in housing for New Yorkers who are most in need of housing and have the least political capital. To address this gap, the City should create a housing trust fund, supported by a dedicated revenue stream generated by increasing the property taxes on vacant and luxury properties.

8. **Clarify tax assessment policy for land owned by a CLT and improvements on that land**. Ensure that people and entities leasing land from a CLT are taxed fairly based on an adjusted actual value of the land, not the market rate.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1259 Res. No. _____

☑ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Valerie Orsell

Address: 16 2nd Ave

I represent: Cooper Square CLT

Address: 61 E 4 n St

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1268 Res. No. _____

☑ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Leo Goldberg

Address: _____

I represent: Center for NYC Neighborhoods

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: A. Mychal Johnson

Address: _____

I represent: _____

Address: _____

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☑ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: Christie Peale

Address: _____

I represent: Center for NYC Neighborhoods

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☑ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: JENNY ARCHIN

Address: _____

I represent: PICTURE THE HOMELESS/NYCCLI

Address: 104 E. 126th St

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☑ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Jennifer Levy

Address: 199 Water St

I represent: Legal Aid Society

Address: _____

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☒ in favor ☐ in opposition

Date: 10-19-17

(PLEASE PRINT)

Name: JOSE RODRIGUEZ

Address: _____

I represent: PICTURE THE HOMELESS

Address: 104 E. 126th St

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1721 & 1678-A Res. No. _____

☐ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: Bianca MacPherson

Address: 123 William Street, 16th Fl, NY, NY 10038

I represent: Community Development Project at Urban Justice Center

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☑ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: Deyanira del Rio

Address: _____

I represent: New Economy Project

Address: 121 W. 27th St. #804 NY NY 10001

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1678 Res. No. _____

☐ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: Bitta Mostofi, Acting Commissioner

Address: _____

I represent: NYC Mayor's Office of Immigrant Affairs

Address: 253 Broadway

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1721/1269 Res. No. _____

☐ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: Jordan Press

Address: _____

I represent: HPD

Address: 100 Gold

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1678 Res. No. _____

☐ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: Dana Sussman, Deputy Commissioner

Address: 22 Reade St.

I represent: NYC Commission on Human Rights

Address: _____

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☐ in favor ☐ in opposition

Date: Oct. 19, 2017

(PLEASE PRINT)

Name: Paul Epstein

Address: 60 Cooper St. #4G, NY, NY 10034

I represent: Northern Manhattan Community Land Trust Working Group

Address: —

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☑ in favor ☐ in opposition

Date: 10/19/2017

(PLEASE PRINT)

Name: John Napolitano

Address: 519 Rockaway Ave, Brooklyn NY

I represent: Community Solutions / Brownsville Partnership

Address: 519 Rockaway Ave, Brklyn NY

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☑ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Matthew Dunbar

Address: 111 John St. NY, NY

I represent: Habitat for Humanity NYC

Address: _____

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1721 + ~~1678~~ 1678 Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Emily Goldstein

Address: 50 Broad St, Suite 1402

I represent: ANHD

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1721 - 2017 Res. No. _____

☒ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: Shi-Shi Wang, Esq.

Address: 67 W. 109th St Apt 5D NY NY 10025

I represent: Mobilization for Justice, Inc.

Address: 100 William St, 6th Fl, NY NY 10038

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1721, 1678A Res. No. _____

☒ in favor ☐ in opposition

Date: 10/19/2017

(PLEASE PRINT)

Name: Jennie Stephens-Romero

Address: 301 Grove St. Brooklyn, NY 11237

I represent: Make the Road NY

Address: 301 Grove St. Brooklyn, NY 11237

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1269 Res. No. _____

☒ in favor ☐ in opposition

Date: 10-19-17

(PLEASE PRINT)

Name: Paula Segal

Address: _____

I represent: Community Development Project @ UJC

Address: 123 William St. 16th Fl NY NY 10038

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1678-A Res. No. _____

☒ in favor ☐ in opposition

Date: 10/19/17

(PLEASE PRINT)

Name: Norey Lee Navarro

Address: 349 E. 149th St. Fl. 10 Bronx NY

I represent: Bronx Legal Services / Legal Services NYC

Address: _____

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