

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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November 8, 2017
Start: 10:22 a.m.
Recess: 1:05 p.m.

HELD AT: Council Chambers - City Hall

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

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

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

Francesc Marti, Assistant Commissioner
NYC Department of Housing Preservation & Development

Miriam Colon, Assistant Commissioner
Tax Credits and Incentives
NYC Department of Housing Preservation & Development

Dana Sussman, Deputy Commissioner for
Intergovernmental Affairs and Policy
NYC Commission on Human Rights

Warren Schreiber, Co-President
Bay Terrace Cooperative Section 1
President's Co-Op and Condo Council

Geoffrey Mazel, Attorney and Chairperson
Queens Bar Association, Co-op Condo Committee
Legal Adviser, President's Co-Op and Condo Council

Michael Kurtz, Treasurer
President's Co-Op and Condo Council
President, Clearview Gardens Corporation Co-Op

Bob Friedrich, President, Glenoaks Village
President, President's Co-Op and Condo Council

Craig Gurian, Advocate for Fair Play Legislation
Former Professor, Fair Housing Law and Practice
Fordham Law School

Fred Freiberg, Founder and Executive Director
Fair Housing Justice Center

David Tipson, Executive Director
New York Appleseed

Mary Ann Rothman, Executive Director
Council of New York Cooperatives and Condominiums

2 [sound check, pause] [gavel]

3 CHAIRPERSON WILLIAMS: Good morning,
4 everyone. Congratulations to my colleagues on
5 yesterday, and to everyone who was involved in the
6 election. My apologies on this hearing being the day
7 after the election at 10:00 a.m. [background
8 comment] My deepest, sincerest apologies. My name is
9 Council Member Jumaane Williams, Chair of the
10 Committee on Housing and Buildings, and I'm joined
11 today Council Member Rodriguez and Council Member
12 Cohen. We're here to hold a hearing on three bills--
13 and Council Member Grodenchik who is here. We're
14 here holding--we're here to hold a hearing on three
15 bills. The first two bills Intro No. 1458 Sponsored
16 by Council Member Lander and Intro No. 1467,
17 sponsored by myself, which regulated the application
18 and approval process for cooperative appointments.
19 Intro No. 1458 will require cooperative corporations
20 to provide specific reasons for withholding consent
21 to the sale of a cooperative apartment. And Intro
22 No. 1467 would regulate the application process for
23 cooperative apartments in order to ensure that
24 applicants receive timely approvals or denials by
25 informing prospective purchasers of the decision

2 within 45 days of receiving an application. The
3 third bill, a preconsidered intro sponsored by
4 Council Member Grodenchik, would increase the
5 assessed value limitation of J-51 tax abatement
6 eligible improvements for \$32,000 per dwelling unit
7 and would increase each year by the cost of living
8 adjustment percentage. I'd like to thank my staff
9 for the work they did to assemble this hearing
10 including Mike Toomey, my Legislative Director; Megan
11 Chin, Counsel to the committee; Jose Conde, Policy
12 Analyst to the committee; and Sarah Gastelum, the
13 committee's Finance Analyst. I'd like to remind
14 everyone who would like to testify to please fill out
15 a card with the sergeant-at-arms, and our first panel
16 with Francesc Marti, the Commissioner of HPD, Miriam
17 Colon, Assistant Commissioner for Tax Credits and
18 Incentives, and Dana Sussman, Deputy Commission for
19 Commission on Human Rights. If you could please
20 raise your right hand. Do you affirm to tell the
21 truth, the whole truth, and nothing but the truth in
22 your testimony before this committee, and to respond
23 honestly to Council Member questions?

24 DEPUTY COMMISSIONER SUSSMAN: Yes.

25 ASSISTANT COMMISSIONER MARTI: I do.

2 CHAIRPERSON WILLIAMS: Thank you. You
3 can begin in the order of your preference.

4 ASSISTANT COMMISSIONER MARTI: Good
5 morning, Chair Williams and members of the Committee
6 on Housing and Buildings. Congratulations on your
7 re-election. My name is Francesc Marti, and I am the
8 Assistant Commissioner of the Division of Government
9 Affairs with the New York City Department of Housing,
10 Development and Preservation. Here with me today is
11 Miriam Colon, Assistant Commissioner for Tax Credits
12 and Incentives. Thank you for the opportunity to
13 testify on the preconsidered introduction sponsored
14 by Council Member Grodenchik. This bill would
15 increase the J-51 assessed evaluation eligibility cap
16 for cooperatives and condominiums nearing recent
17 state legislation. The J-51 Benefit Program is a
18 property tax abatement and/or exemption given to
19 residential apartment buildings for certain
20 alterations or improvements. Boiler or window
21 replacements are common types of eligible work.
22 After doing the rehabilitation work, owners are
23 eligible for J-51—for a J-51 tax abatement and in
24 certain cases a J-51 tax exemption as well. The
25 abatement is an actual reduction in the amount of tax

2 an owner pays and is related to the cost of the work.
3 The exemption, on the other hand, effectively freezes
4 the building's assessed values so the owner doesn't
5 have to pay taxes on the increasing value resulting
6 from the rehab work. All J-51 recipients receive
7 abatements, but exemptions are only issued in cases
8 where the city determines that they J-51 eligible
9 renovation will lead to an increase in assessed
10 value. Since 2013, the only cooperative and
11 condominium units eligible for the program with
12 certain exemptions for governmentally assessed and
13 PHFL cooperatives are those units that have an
14 assessed—an average assessed value of less than
15 \$30,000 at the time of commencement of the
16 alterations or improvements. While HPD believes that
17 high priced condos should not receive the benefits of
18 the J-51 program, Chapter 388 of the State Laws of
19 2016 made modest reforms to the condo and coop AV cap
20 to keep up with inflation. Specifically, this new
21 state law allows the AV cap for condos and coops to
22 increase to \$32,000 and subsequent cost of living
23 increases after that can bring the cap to \$35,000
24 over time. This local enabling legislation drafted
25 to match the recent expansion in state law will

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2 enable the expansion of the J-51 Benefit Program to
3 some affordable co-op and condo owners. Therefore,
4 HPD supports this bill. There are some technical
5 amendments that—that we need to do to the bill, but
6 we are in support of the bill. Thank you again for
7 the invitation to testify on this bill. I look
8 forward to answering any question that you may have
9 at this time.

10 CHAIRPERSON WILLIAMS: [off mic]

11 DEPUTY COMMISSIONER SUSSMAN: Okay?

12 CHAIRPERSON WILLIAMS: [off mic] Yes.

13 DEPUTY COMMISSIONER SUSSMAN: Okay. Good
14 morning, Chair Williams and members of the Committee
15 on Housing and Buildings and Council Member Lander.
16 I'm Dana Sussman, Deputy Commissioner for
17 Intergovernmental Affairs and Policy at the New York
18 City Commission on Human Rights, and I'm here to
19 testify today on two bills: Intro 1458 and Intro
20 1467. Intro 1458 would create both a private right of
21 action and give jurisdiction to the Commission to
22 investigate and adjudicate claims by co-op applicants
23 who are not provided with a statement from the co-op
24 as to why it is denying a club application within
25 five days of making the determination. The bill

2 outlines what exactly must be included in the
3 statement including reasons why the application is
4 deficient, if any, and a report of the number of
5 applications received by the co-op, and the number of
6 applications rejected within the past three years.

7 Intro 1458 requires statutory damages
8 between \$1,000 and \$25,000 to the complaining party
9 for violations of its mandates, and requires punitive
10 damages if non-compliance is found to have been
11 willful.

12 Intro 1567 requires that Co-ops have a
13 standardized application and list of requirements for
14 all prospective purchasers and sellers, requires that
15 co-ops provide an acknowledgement of application
16 materials received within ten day of receiving them,
17 requires that co-ops issue a determination on an
18 application within 45 days, creates a private right
19 of action and gives jurisdiction the Commission to
20 adjudicated claims by co-op applicants if the process
21 I just described is not adhered to. The bill also
22 lays out a damages framework for each type of
23 violation. It is critical to note that under
24 existing law if anyone believes they were denied a
25 co-op or their application was rejected based on even

2 in a part a discriminatory reason, they can and
3 should bring their complaints to the Commission where
4 we can investigate the claim, require the co-op to
5 provide us with documentation regarding that
6 application and other applications, provide
7 information about any other individuals approved or
8 denied by the co-op, and any other relevant
9 documents. The Commission can also call witnesses in
10 for interviews and look at the building's financials
11 in order to determine whether there is probable cause
12 that discrimination occurred. If the Commission finds
13 liability, it may order civil penalties, compensatory
14 damages to the complainant or changes to policies,
15 posting requirements, training, and other forms of
16 affirmative relief. The Commission opposes these two
17 bills because neither bill expands existing civil
18 rights protections for applicants that these bills
19 purport to better protect. The Commission's
20 jurisdiction is exclusively tied to discrimination
21 based on articulated protected categories in the area
22 of employment, housing, public accommodations,
23 discriminatory harassment and biased based profiling
24 by law enforcement. To get the commission
25 jurisdiction over disclosure reporting and timing

2 requirements without any explicit connection to
3 discrimination would be unprecedented, would divert
4 resources away from the critical work of the agency
5 and require a dramatic shift in the workflow,
6 training skillset and dockets of the Law Enforcement
7 Bureau at the Commission. We are more than willing
8 to work with the bills' sponsors to address and root
9 out discrimination in co-ops and to think creatively
10 about how to make the process more transparent, but
11 we do not believe that giving the Commission
12 jurisdiction over such disclosure and reporting
13 requirements is the way to do it. Thank you, and I
14 welcome your questions.

15 CHAIRPERSON WILLIAMS: Thank you very
16 much. Are you given some testimony? (sic) Thank
17 you. So, I'm going to go directly past mine for—for
18 the time being, and go with Council Member Lander,
19 Grodenchik and—and then Cohen. We'll try to see if
20 we can do it without the timer for a second
21 particularly because it sponsor did not give an
22 opening statement, but if it gets too long and sort
23 of direct it and kind of bring us back on timing.
24 Thank you.

2 COUNCIL MEMBER LANDER: Thank you, Chair
3 Williams for convening this hearing and for working
4 together with me on these bills. Thank you both to
5 the commission and to HPD for hearing—being here to
6 testify, and Deputy Commissioner, you know, I have
7 great regard for you and for the Commission for
8 reasons I will explain. I'm really find this
9 testimony highly unpersuasive. I believe, and I'll
10 ask you some questions to whether you believe that
11 there is very real discrimination that takes place
12 against co-op applications—co-op applicants,
13 especially around race, but other protected classes
14 under the New York City Human Rights Law that they
15 are protected from, and that it is extremely
16 difficult to do anything about as we are currently
17 structured, and that—while that's not most people's
18 experiences, it is enough that we're compelled to do
19 something about it. It is harassment, it is against
20 the law, it is discrimination, and it leads to
21 segregation, and we know it, and we're doing
22 essentially nothing about it, and the tools we have
23 are completely inadequate. The tools we're offering
24 would actually be really helpful. They are entirely
25 relate to discrimination. We might have linked these

2 bills together instead of having them as two separate
3 bills, but they do—they're necessary to link together
4 to provide a framework where people of rights, and
5 where the reasons are provided in a way that make it
6 possible to have actionable investigation. So, I
7 guess just a few questions first. I mean do you
8 believe that there is very likely determination
9 taking place against co-op applicants, you know,
10 based on protected classes and categories under the
11 Human Rights Law in New York City/

12 DEPUTY COMMISSIONER SUSSMAN: I, you
13 know, our—our position on this bill is not related to
14 our belief that discrimination occurs in housing and
15 co-ops in rental units across the board. You know, I
16 don't think borough or zip code immune, but—but what
17 our—our position is—is not that discrimination does
18 not exist, and we should not being doing more, but
19 that this is not the way to get that problem.

20 COUNCIL MEMBER LANDER: [interposing] But
21 I mean to establish some baseline here.

22 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

23 COUNCIL MEMBER LANDER: Do you think it
24 exists in co-op market?

2 DEPUTY COMMISSIONER SUSSMAN: Absolutely.
3 We do not, we do not disagree with that. I don't
4 have—you know--

5 COUNCIL MEMBER LANDER: [interposing]
6 And—and how—what have we done about it? How many
7 complaints have you gotten? How many investigations
8 have you done, and in how many cases have we made
9 findings of any kind about discrimination in the co-
10 op market?

11 DEPUTY COMMISSIONER SUSSMAN: The—the
12 proportion of cases that involve co-ops at the
13 Commission across our housing docket is low—is small,
14 and we, you know--

15 COUNCIL MEMBER LANDER: [interposing]
16 How—how many?

17 DEPUTY COMMISSIONER SUSSMAN: I—I cannot
18 give you a number and our--

19 COUNCIL MEMBER LANDER: [interposing] So,
20 low that it doesn't find—it finds its way into the
21 annual reports?

22 DEPUTY COMMISSIONER SUSSMAN: It is not
23 our annual report, and the reason--

24 COUNCIL MEMBER LANDER: [interposing]
25 Because it's so low we don't measure.

2 DEPUTY COMMISSIONER SUSSMAN: Not
3 necessarily. We-it's because historically at the
4 Commission our case tracking system had no field for
5 it. We are moving forward with a-to track this
6 information, but we cannot actually track it
7 historically over the past 2, 3, 4, or 5 years. So,
8 moving forward, we are tracking that number. What I
9 can tell you is from conversations that I've had with
10 internally in preparation for this hearing, the
11 number is quite low, and I think there is a whole
12 host of reasons why that might be the case.
13 Certainly, we work with some of the most vulnerable
14 members of our community, and most of those folks are
15 seeking rental units, and so we-we are often-the vast
16 majority of our cases involve rental units. It's not
17 to say that, and this is not a priority.

18 COUNCIL MEMBER LANDER: [interposing] I'm
19 going to stop you there because if the suggestion is
20 that people of color, people with disabilities,
21 women, people who are LGBT don't face discrimination
22 in the cooperative--

23 DEPUTY COMMISSIONER SUSSMAN:
24 [interposing] That is not--

2 COUNCIL MEMBER LANDER: --marketplace
3 because they're not poor, that is--I it mean really
4 violates the spirit of the Human Rights Law.

5 DEPUTY COMMISSIONER SUSSMAN: That is
6 absolutely not what I'm saying here. What I'm saying
7 is that--

8 COUNCIL MEMBER LANDER: [interposing]
9 Sounds like it.

10 DEPUTY COMMISSIONER SUSSMAN: --the vast
11 majority of our cases right now I think a combination
12 of people who are coming to the Commission to file
13 complaints, the outreach and education and the work
14 that we're doing, and the vast majority of the market
15 in New York City involves rental units. So, I think
16 it's--it's a reflection of several different areas,
17 several different reasons, but we can certainly do
18 more education and outreach to folks who are seeking
19 to access the co-op market.

20 COUNCIL MEMBER LANDER: Okay. I mean
21 I'll just start by--I--I think your answer was we have
22 no data on--we have not done any measurable
23 enforcement. We don't have any measurable
24 complaints. We have not been able to do any
25 measurable investigations on discrimination in the

2 co-operative marketplace. We can agree or disagree.
3 Like it's not pro rata cooperative to rentals. We
4 just don't have any, and the reason we don't have any
5 is it's impossible to bring up meaningful right now
6 under our laws. So, I want to ask about rentals
7 first, right, because a law that we passed at the
8 beginning of this term and that you guys are
9 implementing in the rental market established
10 proactive investigations, right?

11 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

12 COUNCIL MEMBER LANDER: Can you tell me a
13 little bit about—about how you do proactive
14 investigations in the rental market?

15 DEPUTY COMMISSIONER SUSSMAN: Sure, so
16 we—there's—there's a few different ways that we do
17 it. We do it through matched pair testing, which
18 involves sending out someone that is a member of—of
19 protected category to seek housing and the someone
20 who is not, and we identify whether they're treated
21 differently, whether the—the unit is no longer
22 available or people are being, you know, derailed
23 into substandard housing. We also will—when we see
24 ads that are discriminatory on their face we can do
25 affirmative investigations and—and—and issue and to

2 Commission initiated case. That way so we don't need
3 someone to-to come in with a claim? We have
4 certainly expanded our Commission initiated work to
5 target largescale landlords that are engaging in
6 systemic pattern and practice discrimination, and
7 we've, you know, announced many of those, and we've
8 issued some of the highest penalties in those cases,
9 and we've been using them as sort of to make
10 examples. To-to show that that that kind of behavior
11 is unacceptable. So-so we have both the matched pair
12 testing component. We also just have affirmative
13 commission initiated investigations that we move
14 forward when we identify that there is, you know, a
15 systemic issue going on.

16 COUNCIL MEMBER LANDER: So, a few things
17 here. First, thank you and I want to praise that
18 work. The Commission is doing really good work
19 there. You have increased it dramatically under
20 Commissioner Wallace's and your leadership. The
21 Council is proud to be a partner in that, and we feel
22 really good about it. Second, for folks in the
23 audience who might feel like we're unfairly targeting
24 co-ops, I would just point out like this is something
25 we did together three years ago. We thought it was

2 critical to strengthen our investigation and
3 enforcement and testing in the rental marketplace for
4 the reasons that you've identified. It's very much
5 of the market. We are not targeting co-ops. We're
6 targeting housing discrimination. It takes place in
7 the rental market. We have some strategies for
8 dealing with. It takes place in the co-op market,
9 and we have no strategies for dealing with it. It's--
10 it infeasible to do matched pair testing or
11 significant testing in the co-op market, correct?

12 DEPUTY COMMISSIONER SUSSMAN: It is, yes,
13 and there we've--we've sort of discussed how that
14 might work, and it--it would be very, very
15 challenging.

16 COUNCIL MEMBER LANDER: We'd have to fake
17 people's bank records--

18 DEPUTY COMMISSIONER SUSSMAN:
19 [interposing] Right. It's faked higher. (sic)

20 COUNCIL MEMBER LANDER: --and fake where
21 they lived before. It's not like a resume that you
22 can do in employment or so.

23 DEPUTY COMMISSIONER SUSSMAN: Right.

24 COUNCIL MEMBER LANDER: So, we just don't
25 have that as a way of--of testing. So, and then even

2 if people come in with complaints because they're
3 confident that they were discriminated against, the-
4 the co-ops aren't required to keep any meaningful
5 information. So, you say here in the testimony that
6 you can require the co-op to provide you with
7 documentation. What documentation are they required
8 to keep?

9 DEPUTY COMMISSIONER SUSSMAN: We would
10 look at whatever--

11 COUNCIL MEMBER LANDER: [interposing]
12 What documentation are they required by law to keep?

13 DEPUTY COMMISSIONER SUSSMAN: I-I know
14 that co-ops are regulated on the state level. I-I'm
15 unfamiliar what that frame, with that, you know,
16 framework.

17 COUNCIL MEMBER LANDER: [interposing]
18 Nothing that would help investigate or prosecute a
19 case about discrimination. They might keep it--

20 CHAIRPERSON WILLIAMS: [interposing]
21 Council Member.

22 COUNCIL MEMBER LANDER: --and if they did
23 keep it--

24 CHAIRPERSON WILLIAMS: You've got about
25 eight minutes. So, if you can--

2 COUNCIL MEMBER LANDER: Okay. So, I
3 will—I will wrap up then. Well, I—one—because I do
4 have one or two more questions, but I—I guess I'll
5 just put them out there like this. You know, so
6 without any information it's very difficult to make
7 an investigation. All these bills would do is
8 require people to provide their reason to someone who
9 is rejected. So that then you would, in fact, be
10 able to get that information, and if someone used a
11 discriminatory reason, you would obviously have that,
12 and if someone liked, you'd have a place to start an
13 investigation. And if someone wrote the truth, it
14 would be very easy for that co-op to show that they
15 did not discriminate and that they made their
16 judgments based on non-discriminatory grounds. Not
17 hard for co-ops. Honestly, not hard for you. It
18 would not require a dramatic shift of resources.
19 There are not going to be tons of these cases. I
20 mean investigations super straight forward since all
21 you have to do is get the piece of paper about what
22 they gave their reasons on, and these things are
23 linked. It's true. Maybe we should have kept them
24 in one bill rather than two, but the whole idea of
25 the time line resulting in the defamation is so that

2 there is a paper trail, and so that it would be
3 available to you when people came with complaints.
4 So, I'll stop there, but it's a pretty modest burden
5 on co-ops. It's a pretty modest burden on the
6 Commission, and it's the only thing I've heard though
7 I'm inviting anyone today to give it that would
8 provide any meaningful protection to people who have
9 been discriminated against in the cooperative
10 marketplace.

11 CHAIRPERSON WILLIAMS: Thank you--

12 COUNCIL MEMBER LANDER: Thank you.

13 CHAIRPERSON WILLIAMS: --Council Member.

14 I just—I have a couple of questions then we'll have
15 Council Member Grodenchik. (coughs) What's the—do
16 you have complaints about anything related to
17 discrimination in the housing market that's not
18 rentals, purchasing homes, mortgages?

19 DEPUTY COMMISSIONER SUSSMAN: We do. I
20 don't actually—you know, we also cover in addition to
21 sort of how the discrimination that most people are
22 familiar with we have sort of—there are prohibitions
23 against discrimination in—in lending and mortgage
24 terms and conditions and credit. So, we can—I don't

2 have those--those numbers, but we do have cases
3 involving --

4 CHAIRPERSON WILLIAMS: [interposing] Do
5 you know if the numbers are high or low?

6 DEPUTY COMMISSIONER SUSSMAN: I would say
7 that again the--the vast majority of our cases
8 involving sort of the housing transaction are--involve
9 rentals. So, those numbers would be on the low side.

10 CHAIRPERSON WILLIAMS: But that's--that--
11 that right there I mean just to what Council Member
12 Lander said, because we know for a fact particularly
13 in lending, and you mentioned that specifically that
14 in this past housing market, the vast majority of
15 people who lost the most in housing were Black and
16 Latino residents who were steered toward lending
17 products that they didn't need because they had very
18 high credit scores, and were very similar to their--
19 their White counterparts.

20 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

21 CHAIRPERSON WILLIAMS: And so, if we
22 don't have a lot of complaints there, that might mean
23 we don't have either the mechanism to collect it or
24 people don't know they can go to H-R. What's it
25 called now, CHR? CHR to make those complaints. So, I

2 know for a fact, and we all know for a fact that that
3 existed in lending. So, if you don't have the
4 numbers there, I'm not sure how to trust what you're
5 saying about the co-ops.

6 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

7 CHAIRPERSON WILLIAMS: Does that make
8 sense?

9 DEPUTY COMMISSIONER SUSSMAN: Sure. I
10 can—I can see if we can provide those numbers and get
11 back to you--

12 CHAIRPERSON WILLIAMS: [interposing]
13 Sure.

14 DEPUTY COMMISSIONER SUSSMAN: --after the
15 hearing.

16 CHAIRPERSON WILLIAMS: But just—even what
17 you said, you—your assumptions that would be very low
18 because most of what you have is rentals?

19 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

20 CHAIRPERSON WILLIAMS: So, we very well
21 may have just as large an issue in co-ops as we did
22 in the lending--

23 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

2 CHAIRPERSON WILLIAMS: --but they're just
3 not complaining for some of the reasons that Council
4 Member Lander said.

5 DEPUTY COMMISSIONER SUSSMAN: Right.

6 CHAIRPERSON WILLIAMS: So, I don't know
7 that the testimony that you've given suggests that
8 there is another problem. It may suggest that we
9 don't have the proper mechanisms to deal with it
10 right now.

11 DEPUTY COMMISSIONER SUSSMAN: Okay.

12 CHAIRPERSON WILLIAMS: And to, you also
13 mentioned that the bill would divert resources away
14 from the critical work for the agency. That--that
15 testimony is kind of weird because if we give you the
16 power to do it, this now becomes the work of the
17 agency. So, how would it divert?

18 DEPUTY COMMISSIONER SUSSMAN: So right
19 now, our--our agency is structured so that we are
20 doing broader and more deep investigations as
21 complaints come in. So the--we have attorney
22 investigators. When you have an appointment at the
23 commission to come in, you meet with an attorney
24 right away which I think is very I think unusual for,
25 you know for a government agency. We are doing

2 thorough investigations based on discrimination.

3 This would require us to track reporting, timing and

4 disclosures that don't have an overt link to

5 discrimination. So, it would—we—we could conceive of

6 this taking significant resources from our—our

7 administrative staff, and--

8 CHAIRPERSON WILLIAMS: [interposing] And

9 how conceive of cutting? (sic)

10 DEPUTY COMMISSIONER SUSSMAN: And not—we

11 would not—so our—we have limited administrative staff

12 for the—for our—for our attorneys to support the work

13 that the attorneys are doing, and instead of

14 supporting the cases, the—the investigations, the

15 prosecution of discrimination cases, they would be

16 handling the paperwork involved in these—with these

17 bills, and the requirements with these bills. So, we

18 would not want to divert it--

19 CHAIRPERSON WILLIAMS: [interposing] So,

20 would you need additional funding to—to do this is

21 what you're saying?

22 DEPUTY COMMISSIONER SUSSMAN: I think that

23 it could potentially divert resources away from the

24 work that the Commission is currently doing, and

2 working to make the Commission as robust as an agency
3 as possible.

4 CHAIRPERSON WILLIAMS: Alright. Back to
5 I'm—I'm just concerned because what I'm hearing is
6 not that there isn't discrimination in things other
7 than rentals, but that we have no mechanism in the
8 city to really capture it. That's even more
9 concerning to me, and more of a reason why I think a
10 bill like this will be necessary.

11 DEPUTY COMMISSIONER SUSSMAN: I think
12 there is—you know, we are certainly committed to, you
13 know, we—we agree that there are significant and
14 systemic issues with respect to co-ops with respect
15 to lending practices. We are committed to partnering
16 with—with—with both Council Members on education
17 outreach. We—you know, we can create forms that
18 people have so they know exactly who to contact if
19 they feel that they've been denied the co-op or the
20 application, but the terms of the application has
21 changes based on a discriminatory motivation. We
22 also just to remind folks, people do not need to come
23 to the Commission with a case wrapped up in a bow.
24 We—if people even have a suspicion that something
25 went awry based on their protected status--

2 CHAIRPERSON WILLIAMS: [interposing] But
3 again, because of I guess as Council Member Lander
4 said what's required for the board to keep--

5 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

6 CHAIRPERSON WILLIAMS: --is-is-is not
7 really clear or maybe minimum. I'm not even sure the
8 type case that can be built without laws like the
9 ones we're representing.

10 DEPUTY COMMISSIONER SUSSMAN: I think one
11 concern that we have around--around these reporting
12 requirements is that the paperwork will probably not
13 help give us much information to work with. That co-
14 ops will not be disclosing information that will be
15 fruitful for the Commission in their investigation.
16 And so, essentially, it's a requirement that we don't
17 think will further the Commission's investigations.

18 CHAIRPERSON WILLIAMS: Alright, thank
19 you. We've been joined by Council Member Mendez, and
20 we'll have Council Member Grodenchik, but I'll also
21 because the sponsor didn't give an opening try to
22 give some leeway in questioning and then--

23 COUNCIL MEMBER GRODENCHIK: [interposing]
24 Thank you.

2 CHAIRPERSON WILLIAMS: --we'll go to five
3 minutes for Council Member Cohen, and Council Member
4 Rosenthal if she comes up.

5 COUNCIL MEMBER GRODENCHIK: Mr. Chair,
6 thank you. I want to thank you for—you and your
7 staff for the quick movement on the city—on the 51-J.
8 I'm sorry. I'm losing my mind this morning. The
9 bill that will—that will—will give tax relief to
10 middle-income co-ops throughout the city of New York,
11 but I'm—right now I'd like to talk a little to the
12 Deputy Commissioner. She's getting some water. So,
13 if somebody feels in the City of New York that they
14 have been discriminated whether it's by a co-op or a
15 rental or any business, anybody, they can turn to the
16 Human Rights Commission. There are other outlets,
17 though, as well that they could turn to? The—the
18 state has a Commission on Human Rights, and I assume
19 that the AG will also take these complaints as well.

20 DEPUTY COMMISSIONER SUSSMAN: Sure,
21 again--

22 COUNCIL MEMBER GRODENCHIK: [interposing]
23 Can you describe that process a little?

24 DEPUTY COMMISSIONER SUSSMAN: So, I—I
25 won't represent that the exact process of my sister

2 agencies, but there is the New Yorkers State Division
3 of Human Rights, which his the state agency with
4 multiple locations in the city. The Attorney
5 General's Office of the Civil Rights Bureau, there
6 is, you know--

7 COUNCIL MEMBER GRODENCHIK: [interposing]

8 And the AG also oversees co-ops and condos as well is
9 my understanding. That may not be your
10 understanding, but that's my understanding.

11 DEPUTY COMMISSIONER SUSSMAN: My

12 understanding is limited so I defer to you.

13 COUNCIL MEMBER GRODENCHIK: [laughs]

14 DEPUTY COMMISSIONER SUSSMAN: So, there

15 are a host of different resources for individuals to
16 access if they feel like they've been discriminated
17 against. Different protect--the protections vary a
18 little bit. We like to say that the City Human
19 Rights Law is the broadest and most comprehensive in
20 many ways, but there are different frame-legal
21 frameworks that we-we operate under the city law.
22 The state obviously under the state law.

23 COUNCIL MEMBER GRODENCHIK: And I would

24 assume that since your agency has co-interest with
25 the other, with the AG's Office and with the state

2 division that from time to time you probably talk to
3 them about issued that are important to the people of
4 the state and city of New York. Would that be-

5 DEPUTY COMMISSIONER SUSSMAN: We do, yes,
6 yes.

7 COUNCIL MEMBER GRODENCHIK: And you
8 indicate in your testimony that you really have not
9 received many complaints about this issue regarding
10 discrimination from co-op or condo boards. Is that
11 correct as well?

12 DEPUTY COMMISSIONER SUSSMAN: That's-
13 that's right. It-it does represent a minority of,
14 you know, a small proportion of the cases in our
15 housing docket.

16 COUNCIL MEMBER GRODENCHIK: A very small
17 proportion?

18 DEPUTY COMMISSIONER SUSSMAN: I would say
19 so, yes.

20 COUNCIL MEMBER GRODENCHIK: Because these
21 are-these are-these are not-these are regulated by
22 the state, and they-they have to get approvals from
23 time to time from the AG for filing plans and all
24 those kind of things. So, I assume that it would be
25 a reasonable assumption when I hear from some of the-

2 the people in the co-op and condo industry a little
3 later when they testify. I think it's a reasonable
4 assumption that they don't want to run afoul of the
5 regulatory bodies. Would that be a reasonable
6 assumption?

7 DEPUTY COMMISSIONER SUSSMAN: I-I-I
8 certainly don't want to represent the--

9 COUNCIL MEMBER GRODENCHIK: [interposing]
10 Okay.

11 DEPUTY COMMISSIONER SUSSMAN: --the--the
12 beliefs of--of folks who will be testifying here
13 today.

14 COUNCIL MEMBER GRODENCHIK: Is it fair to
15 state, though, that this may be a--a solution looking
16 for a problem?

17 DEPUTY COMMISSIONER SUSSMAN: I would not
18 represent that either.

19 COUNCIL MEMBER GRODENCHIK: Okay.

20 DEPUTY COMMISSIONER SUSSMAN: I do think
21 there is a significant problem. I don't disagree
22 with Council Members Lander and Williams here on
23 this. I just think that we--we may have a difference
24 of opinion as to how best to address it.

2 COUNCIL MEMBER GRODENCHIK: Okay, I
3 appreciate that very much. I'm going to defer the
4 rest of my time to my colleague Mr. Cohen. I want to
5 thank you again, Mr. Chairman for moving the J-51
6 bill so quickly, and we'll be hearing from the co-ops
7 on that as well. Thank you.

8 CHAIRPERSON WILLIAMS: No problem. Thank
9 you. I did want to go back. I-I have to take a
10 second to review the language of the bill because
11 some-some of your testimony was confusing me. So,
12 did this divert resources issued. I'm confused
13 because the way you made it seemed as if you would
14 now have the proactive goal and look at a bunch of
15 paperwork, but the way the law is, you will be
16 responding to complaints. Is that your
17 understanding?

18 DEPUTY COMMISSIONER SUSSMAN: That's
19 right, that's right and I-and I do apologize if-if my
20 testimony and my answers to your questions
21 misrepresented that. We would essentially-our
22 jurisdiction would expand in a way that-that it has
23 not historically we are-we are regularly adding new
24 protections like the Fair Chance Act, the Credit
25

2 Discrimination Law, the Salary History Law, which we
3 enacted last—which went into effect last week.

4 CHAIRPERSON WILLIAMS: [interposing] So,
5 just—just—I just want to clarify basically you're
6 testifying that you don't want to respond to an
7 additional complaint of discrimination that may arise
8 from the passage of these bills talking about
9 discrimination?

10 DEPUTY COMMISSIONER SUSSMAN: No, no, no.
11 If I may, we—these bills do not address or the—the
12 disclosures and the reporting here would not—do not
13 identify or would not be tethered to a claim of
14 discrimination. This would simply be the commission
15 enforcing timing and disclosure requirement. So,
16 there would not be an investigation into
17 discrimination. We would—we would be tracking that
18 people are responding in a timely way, that they're
19 submitting paperwork in the proper format, and that
20 is something that has not been done—

21 CHAIRPERSON WILLIAMS: [interposing] I
22 see.

23 DEPUTY COMMISSIONER SUSSMAN: -- or
24 contemplated at this point.

2 CHAIRPERSON WILLIAMS: I see. Well--well
3 couldn't that be solved--I don't know. I haven't
4 spoken to my colleague, but if--if we made it so that
5 people would use this if they feel they've been
6 discriminated. Then they would then be connected to
7 a discrimination claim.

8 DEPUTY COMMISSIONER SUSSMAN: It--I think
9 that if we were to make the connection to
10 discrimination more explicit I think that could be a
11 way to, you know, to--to fold it into the work that
12 the Commission is situated to do.

13 CHAIRPERSON WILLIAMS: So, the language I
14 just said would actually make it more explicit?

15 DEPUTY COMMISSIONER SUSSMAN: I--I think
16 we would have to go back and kind of consult with our
17 teams to talk about what the language might look
18 like.

19 CHAIRPERSON WILLIAMS: I'm asking you if
20 the language I said made it more explicit?

21 DEPUTY COMMISSIONER SUSSMAN: I would--if
22 you don't mind--

23 CHAIRPERSON WILLIAMS: [interposing]
24 Basically saying to use this law, it would have to be

2 used only if someone believed they were discriminated
3 against?

4 DEPUTY COMMISSIONER SUSSMAN: I think
5 the--the issue here is that the requirement is on the
6 Co-op Board to provide the information, and so I
7 would be rather surprised that anyone would or a Co-
8 op board would identify discriminatory motivation in
9 the paperwork they're submitting. So--

10 CHAIRPERSON WILLIAMS: [interposing] But
11 that's not what I said, though. I said me as a
12 complainant will be bringing this in because I
13 believe I was discriminated against using these
14 things, and then I would bring it to the CHR.

15 DEPUTY COMMISSIONER SUSSMAN: Certainly,
16 if anyone believes they've been discriminated
17 against, with or without this--this--these bills, they
18 can come to the Commission, and we can initiate an
19 investigation. So, I-I think that as the bills are
20 drafted right now, which is really what I can speak
21 to, the--the bills are not--the are neutral with
22 respect to whether there is any sort of
23 discrimination--discriminatory animus of motivation.

24 CHAIRPERSON WILLIAMS: Well, I'm
25 committed to minimally making it a little less

2 neutral. So, hopefully that will solve the issue you
3 brought up, and also I guess the other part of the
4 complaint. Your other part of the pushback would be
5 a budgetary constraint, and perhaps you may want to
6 make a budgetary request to the Council if for some
7 reason. I don't know that these would have any
8 particular impact, but I want you to have a deluge of
9 complaints with—like we do with some of the others,
10 but if you did feel that way, there's always an
11 opportunity to make a budgetary request.

12 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.
13 Thank you.

14 CHAIRPERSON WILLIAMS: Council Member
15 Cohen for five minutes.

16 COUNCIL MEMBER COHEN: Thank you, Chair.
17 I'm really scratching my head here because I'm not
18 sure. Are we trying to regulate or are we concerned
19 about a few bad apples, or is there a systemic
20 problem here that we're trying to regulate and it
21 seems clear to me from sort of both sides of the
22 debate that no one has any idea if there's a problem
23 and what the scope of it is. Why are we placing a
24 potentially very burdensome regulation on co-ops when
25 we don't have any sense of the scope, if there's a

2 problem, and what the scope of it is, and I'm sort
3 of, you know, I know you've not been able to come up
4 with actual numbers, but I mean one avenue of relief
5 seems to be that you have a very, very small number
6 of complaints. So, I really am scratching my head
7 here. You know, maybe this an opportunity for
8 another important council reporting bill, but I-I
9 just can't see what we're—the problem, what the
10 problem is at this point. It seems very undefined
11 and again, I'm concerned about maybe, you know, there
12 may be bad apples. Maybe there is a systemic
13 problem. I have no idea, but I-I'm pretty clear on
14 the fact that I represent a lot of modest co-ops. I
15 don't represent Fifth Avenue or Park Avenue. I have
16 a lot of very modest Co-ops where the board members
17 are all volunteers, and adding an element of
18 litigation to these co-ops, they can't—they can't
19 bear that burden. They're volunteers. They're
20 people who come together to live, you know, in a—in a
21 co-op building. That's how it's designed. If the
22 board is not functioning, if the board is
23 discriminating, the board members, you know, you
24 can't sell their apartments for discriminatory
25 reasons. I would think that the board members would

2 be very unhappy about that. So, there is an
3 opportunity for self-regulation, and I really am just
4 scratching my head here as to what we're trying to
5 get at, and I think that this potentially could end.
6 You know, again maybe people on Fifth Avenue and Park
7 Avenue could survive with these—with this additional
8 level of regulation, but I think the modest co-ops
9 that I represent would really be placed under a
10 tremendous burden. I know there was no question in
11 there. I am sort of curious in terms of what kind of
12 evidence your agency would accept at a--at a hearing
13 like this. You mentioned that the evidence is--what
14 would be the kind of evidence that you hear?

15 DEPUTY COMMISSIONER SUSSMAN: Sure. So,
16 the--the Commission and sort of the first phase of--of
17 the work that we do is a neutral investigation. So,
18 our attorney investigators act as a neutral party
19 once a complaint is filed, and the--the cases vary,
20 you know, case by case, but certainly disclosure of
21 documents, As I mentioned, building financials we
22 would look at sort who is--who are the--the decision
23 makers of the co-op, the makeup of the building,
24 who's been denied. We can interview witnesses, both,
25 you know, complainant and complainant's identified

2 witnesses and—and members of the co-op board and
3 other decision makers from the respondent, the
4 management company, whoever may be relevant to
5 provide information. And we will sort of make an
6 assessment based on that—both documentation and
7 witness test—witness interviews and—and at that sort
8 of conclusion of the investigation we would issue
9 either a probable cause finding or a no probable
10 cause finding, which is essentially more likely than
11 not that discrimination occurred. At that point, or
12 any point along the process, we can negotiate a
13 conciliation, which is essentially a settlement
14 between the city, the complaining party and the
15 responding party similar to a settlement. And/or we
16 can go—once we issue probable cause we can go to
17 trial at OATH, and then there's—at that point once
18 the commission has issued probable cause, the
19 commission is no longer a neutral investigator, but
20 is litigating the case on behalf of the interest of
21 the complainant and the—and the city at large
22 including at discrimination. But again, anywhere
23 along that process we can negotiate a resolution,
24 which—which we regularly do, and that can involve
25 simply for smaller respondents, you know, education,

2 training requirements, disclosure requirements,
3 reporting requirements back to the commission and
4 posting notices of rights. Things like that ensuring
5 that the—the respondents are trained on the law and
6 know what their obligations are. It could involve
7 fines. It could involve damages the complaining
8 party, and other affirmative relief.

9 COUNCIL MEMBER COHEN: If a building is
10 or a co-op is—is relatively homogenous in its
11 population, is that evidence of discrimination?

12 DEPUTY COMMISSIONER SUSSMAN: I think
13 that alone might not. I mean again, it—it really
14 would be case by case. I think that if someone is
15 making an allegation that they believe that they are
16 otherwise qualified that the application is going
17 through, you know, seamlessly, and then they appeared
18 at the interview, something shifted, and then we
19 looked at the demographics of the apartment building
20 and it was, you know, did not have anyone of that
21 particular protected category. I think that would
22 be—I think that would be a factor certainly that we
23 would consider in the broader investigation, but I
24 wouldn't be able to speak to sort of broader
25 hypothetical. That alone may not be enough, but—but

2 I think it certainly would be a factor that we would
3 consider.

4 COUNCIL MEMBER COHEN: Thank you, Chair.

5 CHAIRPERSON WILLIAMS: Thank you. I just
6 want to make clear, you know, for the—the listeners
7 and the watchers at 2 o'clock in the morning because
8 some people do watch things, that the onerous
9 requirements we're talking about are—are really
10 timeframes. And so, 458 is requiring that within
11 five days of deciding to withhold consent from the
12 sale of a cooperative apartment to a prospective
13 purchaser to provide specific reasons for withholding
14 such consent. There are also some additional things,
15 but that is primarily what it is, and for 1467, would
16 need to inform a prospective purchaser of the
17 decision within 45 days of receiving and application
18 with the option of a 14-day extension with the
19 purchaser's consent. Now, we can argue I think about
20 what the time frame could be. I don't find any of
21 those to be overly cumbersome to be able to push
22 forward a sale or not a sale with specific reasons.
23 That doesn't seem to be overly cumbersome. It seemed
24 like it should be something's regulated so that
25 people aren't waiting forever to decide—waiting

2 forever to hear if they're allowed to purchase a
3 cooperative (sic) or not, and the reasons why they
4 shouldn't be. Based on the anecdotal evidence that
5 we have, those reasons—those things and the—the lack
6 of—the lack of structure there is allowing people to
7 discriminate for one reason or the other. I just
8 want to make sure I put that on the record because
9 we're discussing things as if we're providing some
10 brand new way of selling of some overly cumbersome
11 structure, and we're not doing that at all. And
12 again, I just want to point out that we both just in
13 this discussion have talked about other demonstrable
14 types of discrimination that has happened that CHR
15 does not have any particular record of, and has not
16 captured so that we know those types of things are
17 out there even if we don't have the numbers to show
18 it, and so it's important that we use information
19 we're getting as Council Members and people in the
20 field to address these concerns. I wanted to make
21 sure I put that on the record. I know Council
22 Member Grodenchik had an additional question. Then
23 we're going to go to Council Members Rosenthal and
24 Mendez for five minutes each.

2 COUNCIL MEMBER GRODENCHIK: Thank you,
3 Mr. Chair. To discriminate--for a board of directors
4 of a co-op to discriminate would take collusion,
5 wouldn't it of at least a majority of the board to
6 deny somebody base on sex, race, religion, you know,
7 gender, or any of those things? It would take a lot
8 of work to discriminate, wouldn't it?

9 DEPUTY COMMISSIONER SUSSMAN: I--again, I
10 can't speak to that. I think it--it--it would vary.
11 It could be one--one person. It could be a group of
12 people. I don't think it's particularly difficult to
13 discriminate. I think there's--there is both explicit
14 discrimination happening in the city. There's--and
15 also implicit bias that I think we encounter, and
16 many of us are, you know, a party to every single
17 day. So, I--I--I don't think that it is a--it would be
18 sort of a massive, collusive effort on the part of
19 the--of the co-op or to discriminate necessarily, but
20 again, these would be case-by-case scenarios that we
21 would investigate each individually.

22 COUNCIL MEMBER GRODENCHIK: For it to be
23 systemic, though, you would need to have people
24 willing to sustain discrimination over a longer
25 period of time than maybe one case, and obviously one

2 case is one too many, but we don't seem to have a
3 vast amount of cases coming to—to your agency or the
4 AG's office or the state office, do we?

5 DEPUTY COMMISSIONER SUSSMAN: While our
6 number may e small, I think that we've sort of
7 identified here is that—that these cases are harder
8 and more complicated than denial of rental units for
9 example, and sometimes those cases involve quite
10 explicit discrimination. Whereas, I think because,
11 and I, you know, I understand the Council Member's
12 concern here around the lack of transparency in the
13 co-op process, and so I think that these cases are
14 harder. But again, we are—and we are committed to—to
15 sort of rooting out discrimination wherever it occurs
16 whether it's in co-ops, condos, rental, lending
17 practices, but all these cases do look, they do look
18 different depending the facts of the case, the
19 structure of the—of the building, and how the—the
20 building operates.

21 COUNCIL MEMBER GRODENCHIK: And I think
22 we're all committed, all of my colleagues here,
23 everybody on the Council, all 51 members we're all
24 committed to rooting out discrimination. I think,
25 though, that the burden that would be placed on

2 individual members of co-op boards, on individual co-
3 ops I have approximately maybe even more than 20,000
4 families that live in co-ops, and as my colleague Mr.
5 Cohen said these are not wealthy people generally.
6 They are middle income families. Typically, they're,
7 you know, they may be a firefighter married to a
8 school teacher. They may be a police officer. They
9 may be a correction officer, city employees. Many
10 people who work in private industry. LIJ is a huge
11 employer, but they provide a wonderful way of life in
12 my community with some of the best schools in the
13 nation. I stack my schools up against anybody. I'm
14 very proud of them. My last question is to you, can
15 you tell me the last time there was a sustained
16 judgment against the co-op board discrimination in
17 the city of New York by your agency?

18 DEPUTY COMMISSIONER SUSSMAN: I cannot. I
19 can find that out for you, and get back to you.

20 COUNCIL MEMBER GRODENCHIK: Okay. I
21 appreciate that. Thank you, Commissioner.

22 CHAIRPERSON WILLIAMS: Council Member
23 Rosenthal and Council Member Mendez five minutes
24 each.

2 COUNCIL MEMBER ROSENTHAL: Thank you so
3 much, Council Member Williams. You know, I'm sitting
4 here listening and—and being very aware of the
5 different between all of our districts, and what we
6 each including, you know, the sponsors of these bills
7 what—what we experience in our districts, and—and
8 draw from that, but and—and there's no question that
9 accountability for the cooperatives is incredibly
10 important. So, I—I do thank Council Members Williams
11 and—and Lander for taking the issue on. That being
12 said, I've heard a lot of concerns from my
13 constituents about these bills as they are drafted,
14 but they would put a real strain, and I understand
15 your point about number of days, but that in total
16 they would put a real strain on the functioning of
17 the co-op. On the functioning of the co-op whether
18 it's a large co-op or a small one, and so, I—I'm—I'm
19 hoping to be a voice today that calls for a way to
20 address the critical goal of those legislations, but
21 in a way that works for the cooperatives. So, in
22 other words, is there another way to achieve these
23 goals? One constituent, and not that I have a great
24 suggestion or alternative, but I want the
25 alternative, and I'm hoping that we can get at the

2 alternative in this hearing. One-one constituent
3 raised the possibility that if forced to come up with
4 a uniform set of standards, the co-op board will just
5 raise the income and the wealth requirements, and
6 thus make it more a systemic now problem. It's going
7 to—the risk is that it will be obviously even harder
8 for less wealthy applicants to make it through the
9 process. I guess that was a statement, but could I
10 hear your thoughts about that.

11 CHAIRPERSON WILLIAMS: So, just before
12 you do, we have a class of students upstairs from PS
13 899 from Council Member Espinal's District. Just
14 want to say hey hope you guys are having a good time.
15 [cheers/applause/laughter]

16 DEPUTY COMMISSIONER SUSSMAN: So, I—I
17 think that raises a huge concern. You know, I think
18 that there is—there is economic segregation. There's
19 racial segregation. There's, you know, a whole host
20 of issues in the housing market. I think we're all
21 familiar with them. I think that they're incredibly
22 serious, and something that, you know, I know the
23 administration, I know the City Council is committed
24 to addressing. I, you know, it sounds like this is
25 potentially a challenge for your constituents in the

2 communities that you serve. I-I can't speak to that.
3 I-I just, you know, from the—from the Commission's
4 perspective, you know, we certainly want there to be
5 access to co-ops, access to apartments for all types
6 for people and, you know, I think there—we're
7 committed to figuring out a solution and a way to
8 address this, and—and think creatively with all of
9 you about how to do that.

10 COUNCIL MEMBER ROSENTHAL: Well, I really
11 appreciate that. I mean I guess, you know, as I'm
12 hearing you talk about, you know, for the Upper West
13 Side, it's sort of the easy solution was just, you
14 know, it's, you know, these are people who are
15 volunteers, who have a load to take on, and they're
16 just going to make it easy for themselves by
17 establishing criteria that are going to have
18 unintended terrible consequences and, you know, we
19 already have, you know, it's already pretty darn
20 expensive, and we are losing. If you look at the
21 census over time, we're already losing our low-income
22 families, and our minorities, minority populations,
23 and I don't want to inadvertently do anything that
24 perpetuates that trend. You know, how are we going

2 to make it easier for lower income families to have
3 homeownership without legislating that--

4 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

5 COUNCIL MEMBER ROSENTHAL: --or maybe we
6 have to legislate it. I don't--you know, better minds
7 than mine, but, you know, I--I'm--I'm--I want to express
8 my real concern about that. Thank you.

9 CHAIRPERSON WILLIAMS: Thank you.
10 Council Member Mendez.

11 COUNCIL MEMBER MENDEZ: Thank you, Mr.
12 Chair. Is it morning still? Good morning, good
13 afternoon, whatever it may be. First, I want to echo
14 my agreement with a lot of the statements made by
15 Council Member--he's still here--Andy Cohen, and look--
16 well, you know, I'm--I'm in a unique position because
17 I actually represent a lot of people on Fifth Avenue,
18 the East Side of Fifth Avenue and--and I represent a
19 lot of wealthy co-op and condo owners in Gramercy
20 Park, but I also represent a lot of limited equity
21 cooperatives, HDFCs in the Lower East Side in East
22 Village. So, I think that what we're trying to
23 achieve by this legislation is a good goal, but I
24 don't know that this gets us where we need to be, and
25 I do worry that it's burdensome. So, as someone who

2 resides in a limited equity cooperative of seven
3 units, it's--it's rather small. When an apartment
4 became available in the building, and we had a very
5 short period to accept applications, we got a lot of
6 them. So, if you live in a big building like in Andy
7 Cohen's district over Skyview where there is like 300
8 units in one building and there are I don't know how
9 many buildings over there, you have multiple
10 apartments being vacant and being pup for sale, and
11 how do you get in touch with all those people that
12 may apply for all of those different apartments? I
13 think that puts a stain, you know, on a--on these
14 middle-income coops, and on limited equity
15 cooperatives. While I've had some issues with what
16 HPD wants to do with the regulatory agreements, I
17 have concerns of how these limited equity
18 cooperatives would manage this legislation. If
19 they're having trouble managing their buildings, and
20 HPD wants to do this regulatory agreements to have a
21 clearer oversight, and--and clear indicators of
22 financial mismanagement, how do we get them to all
23 the paperwork? I think it does become burdensome
24 and I want--and my question will be is: Do you agree
25 that this will become burdensome for limited equity

2 cooperatives, and as well as middle income and even
3 no clear boundaries for even cooperatives that have
4 good financial standing in our high income
5 individuals?

6 DEPUTY COMMISSIONER SUSSMAN: I'm afraid
7 I can't speak to the--the level of burdensomeness on--
8 on--on co-ops and of co-ops of varying size. That is
9 not a--

10 CHAIRPERSON WILLIAMS: Sorry. Maybe HPD
11 might be able to.

12 DEPUTY COMMISSIONER SUSSMAN: Oh, excuse
13 me.

14 CHAIRPERSON WILLIAMS: So, thank you.

15 ASSISTANT COMMISSIONER MARTI: So, HPD
16 does not have the power to intervene in cases like
17 these--these so, we would direct them to the Human
18 Rights Commission. I mean apart of the problem that--
19 -

20 COUNCIL MEMBER MENDEZ: [interposing]
21 Yes.

22 CHAIRPERSON WILLIAMS: [interposing] I
23 think the Council Member's question was.--

24 COUNCIL MEMBER MENDEZ: [interposing]
25 But--but the part--

2 CHAIRPERSON WILLIAMS: --would it be
3 burdensome not really--

4 COUNCIL MEMBER MENDEZ: [interposing]
5 You--you guys are going to have some oversight under
6 your proposals. You would have oversight over who
7 the management would be, and it has to be a third-
8 party manager. Wouldn't that put an extra burden on
9 the limited equity cooperatives as well as on HPD
10 because you would have to give the cooperatives
11 guidance and some structure and oversight?

12 ASSISTANT COMMISSIONER MARTI: I mean
13 part of--part of the problem is that we have very
14 limited supervising ability right now. So, our
15 visibility is very limited. So, so--

16 COUNCIL MEMBER MENDEZ: [interposing] I
17 know that all too well.

18 ASSISTANT COMMISSIONER MARTI: Right,
19 right. So, I think that it hinders my ability to
20 answer your question accurately, but I'm happy to get
21 back to you.

22 COUNCIL MEMBER MENDEZ: Okay, I think
23 you've answered the question for me at least. I feel
24 confident what the answer is that it would be a big

2 burden but, you know, the three minds could come to a
3 different conclusion on that.

4 CHAIRPERSON WILLIAMS: Thank you very
5 much.

6 COUNCIL MEMBER MENDEZ: [interposing] Is-
7 I'm sorry. Is there anything that you would like to
8 add from the Commission?

9 DEPUTY COMMISSIONER SUSSMAN: No, I-I'll
10 let my colleague at HPD take that one. Thank you.

11 COUNCIL MEMBER MENDEZ: Thank you very
12 much.

13 CHAIRPERSON WILLIAMS: Thank you. I do
14 want to say one, I just appreciate the discussion
15 that's going, and I think it's thoughtful. I do want
16 to separate out two different things that I thought
17 of in the hearing. One is skepticism if this type of
18 discrimination is actually happening in a meaningful
19 way from the way the bills are trying to get it added
20 and the burden that it would cause. So, the first
21 one is just there's no doubt in my mind that there is
22 this type of discrimination that is occurring, and
23 for the other two as I've said before and my
24 colleagues said, if there are other-if there are
25 other tools that people think we should be using, I'm

2 happy to hear them. In the absence of that, we have
3 decided that that these tools are helpful, and maybe
4 now we're more serious there might be some other
5 options that come, but they haven't come so far.
6 (coughs) I will say that every time we discussion
7 discrimination, and pathways to try to fix it, these,
8 there are similar arguments that occur all of the
9 time. Not-not some of the time, not once in a while.
10 All of the time it is a question of is just bad
11 actors? Is it a few people? Is it a sledge hammer
12 we're using that's going to be over burdensome? The
13 same thing with the Fair Chance Act and the about.
14 These-these are always what repeatedly comes in.
15 We've always actually found that it hasn't been
16 overly burdensome, and wasn't a sledgehammer, and it
17 was more than just a few bad applies. So-but I do
18 want to say as I represent a lot of co-ops as well
19 and-and as far as my bill, I'm-I'm always happy to
20 talk about how to make I better. Perhaps the time
21 issue is one that's-that's written. Maybe something
22 to look at, but it seems to me that to say that it's
23 burdensome to provide any-the answer to providing any
24 timeline is infinitum, or you can just-you can just
25 keep it as long as you want. That seems like that's

2 absurd. So, my hope is that there is a way that we
3 can discuss this in a way that it is between what
4 we're—we're looking for and absurdness is—which is—
5 which is what we have right now. So, I'm going to go
6 to Council Member Lander for three minutes and
7 Council Member Rosenthal for three minutes.

8 COUNCIL MEMBER LANDER: Thank you, Chair
9 Williams and I actually just feel the need to under
10 score like what—what's being called burdensome is
11 letting—writing people a letter or a postcard within
12 45 days to let them know about a decision, and when
13 decline someone explain the reasons why. That's what
14 we're calling the depth, and you don't have to prove
15 that you did those things proactively or file an
16 annual report. It's just if someone makes a
17 complaint that they were discriminated against, you'd
18 have to show that you had done it, and if you hadn't
19 done it, you might be vulnerable to a discrimination
20 complaint. If that's too burdensome to protect New
21 Yorkers from discrimination in the cooperative
22 marketplace, I don't know what would not be. And
23 honestly, unfortunately the only other thing I've
24 heard here is we could give them the Commission's
25 phone number. Like that's the only other solution so

2 far that has been proposed. So, one question is in
3 the rental marketplace, is it the vast majority of
4 rental owners that discriminate that you find? I
5 mean the-

6 DEPUTY COMMISSIONER SUSSMAN:

7 [interposing] We couldn't-I mean we-we couldn't
8 prosecute me out of that problem.

9 COUNCIL MEMBER LANDER: [interposing] You
10 have a very small percentage of rental owners--

11 DEPUTY COMMISSIONER SUSSMAN:

12 [interposing] Yes.

13 COUNCIL MEMBER LANDER: --in which case
14 there is discrimination, and we don't say well let's
15 just stop worrying about discrimination in the rental
16 marketplace because only a small percentage of owners
17 do it, do we?

18 DEPUTY COMMISSIONER SUSSMAN: Certainly
19 not.

20 COUNCIL MEMBER LANDER: Okay, and I don't
21 think we should do it in the cooperative marketplace
22 either. I grant the vast majority of co-operative
23 owners do not discriminate, but a small percentage do
24 and we ought to provide some protections, and this
25 thing being called a burden is a-is a tiny, tiny

2 burden, but again, write people a postcard in 45 days
3 and explain the reason. So, one thing is what are
4 reasons that would be discriminatory to decline
5 someone in a co—for a co-op?

6 DEPUTY COMMISSIONER SUSSMAN: Again, I-I--

7 COUNCIL MEMBER LANDER: [interposing]

8 Just a few examples.

9 DEPUTY COMMISSIONER SUSSMAN: I can't
10 imagine. So, again, I can't imagine that a
11 disclosure requirement would get at—would identify
12 discriminatory motivation. So, I think that the
13 disclosure requirement, and—and the--

14 COUNCIL MEMBER LANDER: [interposing]

15 That wasn't what I asked. What are reasons that
16 would be discriminatory to decline someone's
17 application?

18 DEPUTY COMMISSIONER SUSSMAN: If someone
19 was motivated even at least in part based on one's
20 membership in a protected group, which is, you know,
21 over a dozen different categories in the—in the
22 housing protection.

23 COUNCIL MEMBER LANDER: So, would it be
24 discriminatory to say you didn't have the financial,

2 you know, wherewithal needed to purchase the
3 apartment?

4 DEPUTY COMMISSIONER SUSSMAN: On its face
5 no, but if someone was being held to a different
6 standard because of their membership in a protect
7 group—

8 COUNCIL MEMBER LANDER: [interposing]
9 Exactly. So, would it be discriminatory to say, we,
10 you know, past people you lived with said you were
11 terrible to live with, would that be discriminatory?

12 DEPUTY COMMISSIONER SUSSMAN: Not on its
13 face, but again if being held to a different
14 standard.

15 COUNCIL MEMBER LANDER: Exactly. So, all
16 you'd have to do if you weren't holding people
17 illegally to a different standard is explain one of
18 these very many, and I could probably come up with 25
19 more totally reasonable reasons you could write on
20 your postcard and send it to the person. And so long
21 as you had not actually discriminated against people
22 based on them being a member of a protected class,
23 would you have anything to worry about under this
24 law?

25 DEPUTY COMMISSIONER SUSSMAN: Likely not.

2 COUNCIL MEMBER LANDER: [interposing] You
3 would not.

4 DEPUTY COMMISSIONER SUSSMAN: Likely not.
5 However, the law actually doesn't require that there
6 be discrimination. So, I think you had stated a
7 little earlier that if someone brought a claim of
8 discrimination to the Commission then we would look
9 at these documents, but if you don't, the law--the--
10 proposed legislation doesn't actually require that.
11 So, the Commission would have--and--there'd--be also be
12 a private right of action here as well. So someone
13 could go to State Court, but the Commission would
14 have jurisdiction over the timing and form of these
15 disclosures whether or not discrimination occurred.

16 COUNCIL MEMBER LANDER: [interposing]
17 Sure.

18 DEPUTY COMMISSIONER SUSSMAN: So, there's
19 that penalty schedule and everything laid out in the
20 proposed bill--

21 COUNCIL MEMBER LANDER: [interposing] So
22 that everyone--

23 DEPUTY COMMISSIONER SUSSMAN: [interposing]
24 because even if there was not discrimination the
25

2 Commission, as proposed the Commission would have
3 authority to get to that. (sic)

4 COUNCIL MEMBER LANDER: [interposing] So,
5 you've identified one issue [bell] Council Member
6 Williams already agreed to work on, but I think
7 you've also articulated why this would be such
8 sensible legislation to have. So, I'll leave it
9 there. Thank you.

10 CHAIRPERSON WILLIAMS: Thank you.
11 Council Member Rosenthal and Council Member Cohen for
12 three minutes each.

13 COUNCIL MEMBER ROSENTHAL: So, can you
14 explain what you were just saying again. I'm not a
15 lawyer. So, you're saying that under the bill you
16 would bring cause or something if they didn't meet
17 the letter of the law, which is to send out a
18 postcard within five days with--

19 DEPUTY COMMISSIONER SUSSMAN:
20 [interposing] So, I think--

21 COUNCIL MEMBER ROSENTHAL: --something
22 like, you know, didn't meet the financial
23 requirements, and that's what you could, you know--I
24 never got a postcard, and then you would go after
25 that person--that building?

2 DEPUTY COMMISSIONER SUSSMAN: Right. So,
3 the—the framework that's set out in the two bills
4 would provide people with either private right of
5 action so they could to state court or they could
6 come to the Commission based on failure to comply
7 with the disclosure reporting and reporting—I-I
8 would—I'll call it a disclosure requirement on both
9 the timing and the form of the—of the disclosure.

10 COUNCIL MEMBER ROSENTHAL: Right, but
11 what about content? Because then everyone will just
12 have pre-made postcards with five quote/unquote
13 "legitimate reasons" and they'll just check some
14 things and everyone will get a postcards. Then
15 what's the value of addressing real discrimination in
16 doing these if they're so easy actions?

17 DEPUTY COMMISSIONER SUSSMAN: Right, I
18 think that is one of the challenges that we have at
19 the Commission in—in taking on these kinds of cases.
20 Our cases are—and our—and our workflow and our—the-
21 the attorney's work is focused on assessing whether
22 discrimination occurred. This would actually be
23 separate and apart from that. The—I understand the
24 need to--

2 COUNCIL MEMBER ROSENTHAL: [interposing]

3 I mean I guess my question is what can we do in the
4 law to make it valuable to you so that you could be
5 identifying a real problem? It doesn't strike me
6 that what's in here. A law gives you the bandwidth.
7 You know, it's a nice cover, and says, you know, look
8 we're doing something about discrimination, but if we
9 really wanted to do something about discrimination it
10 sounds like it's not this. What is it? I mean what
11 tools do you need to really go after discrimination?

12 DEPUTY COMMISSIONER SUSSMAN: I think we
13 can have a whole separate conversation about--about
14 that. I-I do think that transparency in the process
15 is helpful. I don't--

16 COUNCIL MEMBER ROSENTHAL: [interposing]
17 Sure.

18 DEPUTY COMMISSIONER SUSSMAN: --know if-if
19 this is the way to do it, but I-I agree that these
20 co-op cases are incredibly challenging. They are
21 similar, in fact, to failure to higher cases in
22 employment where someone has had a very limited
23 amount of information because they're not in the
24 workplace, or they're not in the housing, you know,
25 unit or the--or the building to see the discriminatory

2 activity happen or to-to be witness to it. So, these
3 are-people who are operating with an absence of
4 information, and I know that that is frustrating,
5 [bell] and-and challenging and-and so these cases are
6 hard. And I think we're committed to trying to think
7 creatively about ways to make the process more
8 transparent to give people more tools, but I don't
9 disagree with you in the fact that I'm not sure this
10 will give the Commission the information it would
11 need necessarily to move forward. And again, this
12 would not-on its face we would get these documents
13 and we would just be-we would just be checking that
14 they met the requirements of the bill. We would not
15 be necessarily going digger deeper if someone didn't
16 come with a connected claim or, you know, an
17 allegation of discrimination.

18 COUNCIL MEMBER ROSENTHAL: Thank you.

19 CHAIRPERSON WILLIAMS: Thank you, the
20 bill about the legislation has the instances of
21 people filing complaints against employee
22 discrimination going up since the bill has been
23 passed?

24 DEPUTY COMMISSIONER SUSSMAN: The Fair
25 Chance Act.

2 CHAIRPERSON WILLIAMS: Yes

3 DEPUTY COMMISSIONER SUSSMAN: Yes,
4 significantly.

5 CHAIRPERSON WILLIAMS: You say
6 significantly. How-how much was it before?

7 DEPUTY COMMISSIONER SUSSMAN: Well, I
8 have—I just have our 2016 Annual Report with us, but—
9 so I don't have comparison data on the Fair Chance
10 Act, but the—the numbers have climbed from 2015 to
11 2016 and I anticipate they will reflected. An
12 increase will be reflected in the 2017 data as well.

13 CHAIRPERSON WILLIAMS: I—I mean I don't
14 know if it would be labeled insignificant before, but
15 based on what you're saying, they're no significant
16 increase, which could parallel the type of increase
17 that can happen once we pass these bills, and get
18 people a larger opportunity is one, and two, with
19 that bill, we didn't make discrimination illegal. It
20 was already illegal. What we do is put a mechanism
21 in which there was some kind of trigger that someone
22 can say I have now been discriminated against. The
23 same with the co-op bills that we have here. We're
24 not making something illegal, but there is no trigger
25 that—that nothing to—to—to cause a light switch to go

2 off because right now there does not have to be any
3 response at all. And so we believe putting a trigger
4 in will help someone say okay now that this trigger
5 is here, this hasn't happened or this such and such
6 happened. I may have been discriminated on, and now
7 could make more complaints come to CHR. I say that
8 because again, I just want to remind every time that
9 we try to do something like this, the same type of
10 complaints go up, but what we find is once it's done,
11 it is very beneficial. And so, I'm into trying to
12 see how we can make these bills reflect to what's
13 actually on the ground with co-op owners, but saying
14 that we—we do nothing and keep it the way it is,
15 which is what it sounds like a lot of what I'm
16 hearing, it's just not the way to go and not the
17 answer.

18 COUNCIL MEMBER ROSENTHAL: I have a
19 response to that actually if you want.

20 CHAIRPERSON WILLIAMS: No.

21 COUNCIL MEMBER ROSENTHAL: Third round.

22 CHAIRPERSON WILLIAMS: Sure, Council
23 Member.

24 COUNCIL MEMBER ROSENTHAL: Council Member
25 Williams, I really appreciate what you're saying, and

2 I appreciate where it comes from a thousand percent,
3 and I-I really thought I made that clear in my
4 comments. We something. I'm not sure this is the
5 something and, you know, I'm spit balling, but would
6 it be, you know, if-if finances are the biggest issue
7 for a cooperative, right-should be the biggest issue
8 of an incoming owner, the thing you really should
9 care about is can you sustain your apartment and
10 sustain payment to the cooperative. Is there
11 something where-and maybe this is for the Department
12 of Finance, but where if-if that would be a required
13 question that you would put to all prospective
14 buyers. You know what are your financials, and then
15 you just submit to the DOF or an appropriate agency?
16 You know, here is a list of financials for all the
17 people who applied, and the circle the one you chose
18 and that's it. And that-maybe it goes to you, and
19 then the trick-you somehow that and with privacy in
20 mind, that something else be a trigger. I just want
21 to- I don't personally say that to demonstrate to
22 you let's think creatively about a good solution.
23 I'm not sure what's on the table is it, but please
24 walk away knowing that I-I'm determined to get to a
25 solution just like you, but I don't want to falsely

2 make people feel like we just took care of
3 discrimination and we can walk away from this when we
4 didn't. It's a serious problem, and it needs a
5 serious solution. So-so, I just want to make that.
6 I'm with you. It's just I'm not sure it's this.

7 CHAIRPERSON WILLIAMS: Thank you, um--

8 COUNCIL MEMBER LANDER: [interposing]

9 Chair, can I ask one more question.

10 CHAIRPERSON WILLIAMS: Alright. Hold on.

11 One.

12 COUNCIL MEMBER LANDER: Of the--of the
13 witness in the debate.

14 CHAIRPERSON WILLIAMS: Go ahead, and I
15 thank you for that comment. I definitely want to
16 continue the conversation and we will. I have a few
17 questions. I'm going to ask one, and then I'm going
18 to allow Council Member lander to ask his one, and
19 then I have a couple more on J-51, then we're going
20 to call it quits for the time being. Does the
21 Commission provide any guidance to co-op boards
22 regarding discrimination concerns?

23 DEPUTY COMMISSIONER SUSSMAN: We do
24 outreach and education to housing providers of all
25 types. So, we provide what we call Know Your

2 Obligations trainings and workshops, and we do
3 specific ones for housing providers. So-so yes. We
4 don't have specific written guidance, but we provide
5 education and presentations and work shops to
6 associations, to essentially who—who asks, and we a
7 host of outreach on that as well.

8 CHAIRPERSON WILLIAMS: Thank you. Okay,
9 I have some different—more questions, but I'm going
10 to go into a fourth round here. So we have Council
11 Member Lander and Council Member Cohen, two minutes
12 each for at least one question.

13 COUNCIL MEMBER LANDER: So, you and—and
14 others you have questions the value of this, and I—I
15 guess what I want to just ask in my closing isn't a
16 basic principle of anti-discrimination work that you
17 often prove your case by showing pretext, the
18 offering of false reasons? Don't—aren't you in a lot
19 better shape in proving discrimination if it existed.
20 If someone gave a false reason than if someone gave
21 no reason at all?

22 DEPUTY COMMISSIONER SUSSMAN: I think—I—I
23 mean again we're—we're talking in hypotheticals.

24 COUNCIL MEMBER LANDER: I'm talking
25 generally here about anti-discrimination.

2 DEPUTY COMMISSIONER SUSSMAN:

3 [interposing] I think you.

4 COUNCIL MEMBER LANDER: Is that a common
5 thing you would—you would investigate—

6 DEPUTY COMMISSIONER SUSSMAN:

7 [interposing] Very—

8 COUNCIL MEMBER LANDER: --is the offering
9 of a false reason?

10 DEPUTY COMMISSIONER SUSSMAN: Very few
11 people will openly admit to a civil enforcement
12 agency that they have discriminated against someone
13 based on a protected category. So, yes we do deal
14 with pretext and mixed motive cases all the time.

15 COUNCIL MEMBER LANDER: would you rather
16 begin an investigation with the possibility of
17 investigating a false reasons, a pretext or would you
18 rather begin an investigation where someone had-
19 didn't have to say anything at all?

20 DEPUTY COMMISSIONER SUSSMAN: I--

21 COUNCIL MEMBER LANDER: [interposing] In
22 general not in relationship to this bill?

23 DEPUTY COMMISSIONER SUSSMAN: I think
24 generally we would—we would work with the—we would
25 start with the proffered reasons. So, if the

2 proffered reason was pretextual, we would start with
3 that reason, and we would work to determine if that
4 was legitimate, if that was credible or it was put
5 forth as a way to mask underlying discrimination.

6 COUNCIL MEMBER LANDER: So, I mean just
7 being straight on this again putting the bill aside,
8 so what you're saying is you would certainly—if there
9 was discrimination, do you think you'd have a better
10 case, a better chance of proving it if a false reason
11 were offered than if the person had never offered a
12 reason and didn't have to? I think that's what you
13 us said.

14 DEPUTY COMMISSIONER SUSSMAN: I think if
15 we had a proffered reason that would be a very good
16 place to start, and sort of a cross-examination of
17 the bill. (sic)

18 COUNCIL MEMBER LANDER: [interposing] So,
19 that I would just say is if this is the entire point
20 of this of this bill, we have nothing. This would
21 get us proffered reason. You just said a proffered
22 reason was valuable, and still no one has offered
23 anything else. So, I would just say to my
24 colleagues, this is a minor burden, and it's not
25 nothing. It's actually something that the Deputy

2 Commissioner just said strengthens your ability to
3 prove discrimination.

4 DEPUTY COMMISSIONER SUSSMAN: I-I think
5 our-I think our concern though is that this would be
6 an unprecedented mechanism that the Commission would
7 be regulating, and that it would be--

8 COUNCIL MEMBER LANDER: [interposing] I
9 get your point about timeline. I-I think the Chair
10 said this, too, I think your point that the timeline
11 requirements with no allegation of discrimination is
12 unusual to have sit at the-at the commission. I take
13 your point on that. The Chair said it was something
14 that-that we would look at together after the
15 hearing.

16 CHAIRPERSON WILLIAMS: Council Member
17 Cohen.

18 COUNCIL MEMBER COHEN: Thank you, Chair.
19 I-I will just make the point that I think that the
20 proffered reason becomes no reason if it's-if it's
21 going to be a standardized form in which boxes are
22 going to checked we rejected you for these three
23 reasons, and it's going to be industry wide, and
24 it's-that will ultimately be no reason at all first
25 of all. And I just want to also make clear that I

2 think I'm—I'm concerned about the other side of the
3 equation. The purchaser never walks away and says,
4 you know what, the board was right. I really am not
5 financially qualified to live in this building. It's
6 going to be just a cause. You know, having a document
7 has the potential of I'm going to go to the Supreme
8 Court. I'm going to pressure these people into
9 yielding to letting me in whether I have the
10 financial wherewithal to be in this building or not
11 out of fear of litigation. I don't think that's the
12 way to proceed, and again, I think that that is the
13 burden that I'm very concerned about, not—it's not
14 the four corners of the bill. It's ultimately
15 opening up Pandora's Box to—to litigation against
16 these co-ops, which I—I do think does actually
17 threaten their ability to do what they're charged to
18 do. So, that's really what my concern is on this
19 legislation, and again I don't think I asked a
20 questions, but I appreciate your time. Thank you.

21 CHAIRPERSON WILLIAMS: Thank you. The
22 last question from Council Member Grodenchik.

23 COUNCIL MEMBER GRODENCHIK: The last—
24 well, I just—I just want to say that you're going to
25 hear in a few minutes from people who will speak much

2 more eloquently about—as—as my colleague Mr. Cohen
3 said, the Pandora's Box that we—we would be opening
4 here, and I know from working with the over 20,000
5 co-ops and condos in my district the burden that has
6 been placed on them by runaway property taxes by the
7 city, which has nothing to do with—with the Human
8 Rights Division, but has everything to do with the
9 city of New York, and I am worried that this will
10 create burden on people that are not doing anything
11 wrong. They're just trying to provide housing for—
12 for middle income people. So, we may hear from some
13 very smart people in a little while that are going to
14 testify, but I just wanted to—to associate myself
15 with—with Mr. Cohen's remarks. Thank you, Mr. Chair.

16 CHAIRPERSON WILLIAMS: Thank you very
17 much. With J-51, how many buildings currently
18 receive J-51 benefits? [pause]

19 ASSISTANT COMMISSIONER MARTI: So there—
20 so I'm going to give you the numbers for co-ops for
21 the entire co-op because that's like the—the Tax Law,
22 the tax entity (sic), and then for condo for the
23 condo units. So, there's 611 condo developments—co-
24 op developments and 19,038 condo units receiving J-
25 51.

2 CHAIRPERSON WILLIAMS: Is there an
3 estimate for how many will receive the J-51 benefits
4 when the assessed value eligibility limit is
5 increased?

6 ASSISTANT COMMISSIONER MARTI: Yes, we—we
7 estimate that about a dozen co-ops—I call it co-op
8 buildings, and about 200 condo units would utilize
9 those benefits of the expanded AB (sic) level.

10 CHAIRPERSON WILLIAMS: How is the cost of
11 living adjustment percentage calculated and what is
12 the typical value?

13 ASSISTANT COMMISSIONER MARTI: I'm sorry.
14 Could you repeat the question?

15 CHAIRPERSON WILLIAMS: How is the cost of
16 living adjustment percentage calculated, and what is
17 the typical value?

18 ASSISTANT COMMISSIONER MARTI: The—the
19 cost of living adjustment is—is—is spelled out in
20 both in both State Law and in the local enabling
21 legislation, and it—and it references a federal cost
22 of living adjustment, and it's going to be—we
23 calculated that will be around 2% a year roughly.

24 CHAIRPERSON WILLIAMS: How much does the
25 program currently cost, and what is the expected cost

2 to the city with the increase of the eligibility and-
3 the eligibility limit?

4 ASSISTANT COMMISSIONER MARTI: So, the-
5 the current tax expenditure for the program is \$287
6 million, and we expect that the increased tax
7 expenditure resulting from this expansion is going to
8 be \$1.4 million in the first year; \$2.4 million in
9 the second year; and \$3.6 million in the third year.

10 CHAIRPERSON WILLIAMS: Thank you very
11 much for your testimony. Actually, I appreciate all
12 the discussion we had here from all of my colleagues
13 and hope we—we take it back, and come up with
14 something that makes sense for everybody because I
15 don't think we can go on with addressing the issue,
16 but I appreciate the testimony, and I trust that
17 someone from the administration is going remain for
18 the duration of the hearing so that we can hear the
19 rest of the conversation. Am I correct in that
20 assumption? Alright, thumbs up. Thank you very
21 much. We have our next panel Geoffrey Maisel-Mazel
22 from the President's-President's Co-Op and Condo
23 Council; Albert Friedrich, President's Co-Op and
24 Condo Council; Warren Schreiber, President's Co-Op
25 and Condo Council; Michael Kurtz, President's Co-Op

2 and Condo Council; and the next, the next and last
3 panel. After this panel will be David Tipson, New
4 York Appleaseed; Mary Ann Rothman, Council of New
5 York-New York Corporation Condominiums; Fred
6 Friedberg-Friedberg of the Fair Housing Justice
7 Center; Craig Gurian, Fair Play Legislation, and
8 Barbara Ford New York City Association of Realtors.
9 They will be on the next panel. Please get read when
10 this panel is complete. [pause] [background comment,
11 coughing] May you each please raise your right hand.
12 Do you affirm to tell the truth, the whole truth, and
13 nothing but the truth in your testimony before this
14 committee, and to respond honestly to Council Member
15 questions?

16 PANEL MEMBER: Yes, I do.

17 PANEL MEMBER: I do.

18 CHAIRPERSON WILLIAMS: You each have two
19 minutes to give your testimony, and you can each
20 begin in the order of your preference. Hold one
21 second. I'm sorry. Okay, you can begin.

22 [background comment]

23 WARREN SCHREIBER: Okay. Good morning.

24 Good morning Chairperson Williams and committee

25 members. I thank you for the opportunity to testify

2 in opposition of Intro 1458 and Intro and intro 1467.

3 I current serve as Co-President of the President's
4 Co-Op and Condo Council, which represents more than
5 seven--

6 CHAIRPERSON WILLIAMS: [interposing] Did
7 he give his name.

8 WARREN SCHREIBER: --properties in Queens
9 with a population of approximately 100,000 residents.

10 CHAIRPERSON WILLIAMS: Mr. Schreiber,
11 just for the record, can you please say your name.

12 WARREN SCHREIBER: Oh, sure, Warren
13 Schreiber, its S-C-H-R-E-I-B-E-R. Okay, thank you,
14 Mr. Chairman. A population of 100,000 residents. In
15 addition for the past 18 years I have been serving as
16 the president of Bay Terrace Cooperative Section 1.
17 Most sales interviews are conducted with ten days of
18 a membership application being submitted. During my
19 18-year tenure as president, rejected applications
20 can be counted on one hand. The rejections in all
21 instances were based on financial disqualification.
22 Intro 1458 and Intro 1467 will make it more difficult
23 and in some instances impossible for struggling
24 middle-class families and individuals on fixed
25 incomes to achieve the goal of ownership in a

2 cooperative housing development. In order to protect
3 the corporation, its shareholders and board of
4 directors, Bay Terrace Cooperative Section 1 have-has
5 resolved to adopt the following policies upon the
6 passage of Intro 1458 or Intro 1467. Intro 1467
7 concerning the timing of decisions for sales of
8 cooperative apartments, any and all sales
9 applications for cooperative apartments that for any
10 reason cannot be acted upon within 25 days after
11 being received by Bay Terrace Cooperative Section 1
12 will be rejected. This policy-this policy will be
13 [bell] will strictly adhered to. Intro 1458
14 concerning the sales of cooperative apartments.
15 Extreme vetting measure for all applicants and other
16 reside-and others residing in the apartment will be
17 put into place. Private investigators will be
18 retained to perform an exhaustive background checks.
19 The corporation's legal counsel will be present at
20 all interviews. All interviews will be video
21 recorded. Applicants will be provided to provide
22 certified tax returns, which can take 45 to 60 days
23 to obtain. Financial requirements must be met.
24 There will be no financial forgiveness.

2 CHAIRPERSON WILLIAMS: I have to ask you
3 to give a closing sentence.

4 WARREN SCHREIBER: Yes. Okay, the
5 additional costs associated with these measures are
6 going to be passed onto the applicant. So, many
7 applicants who are right on the financial threshold
8 they will no be—no longer to be able to afford this
9 housing. The affordable housing will stop being
10 affordable, and also just last year, and really
11 importantly, I want to question the City Council's
12 authority and the jurisdiction to put into place this
13 type of legislation because as you know, we are
14 authorized to act under State Business Corporate Law,
15 and this legislation will be changing our business
16 model.

17 CHAIRPERSON WILLIAMS: Thank you. We'll
18 have to—we'll be doing some interaction there.

19 WARREN SCHREIBER: Okay, and I could see
20 that going to court.

21 CHAIRPERSON WILLIAMS: Thank you.

22 WARREN SCHREIBER: Thank you.

23 [background comment, pause]

24

25

2 GEOFFREY MAZEL: [off mic] Hello, my name
3 is Geoffrey Mazel, and I'd like to thank you for the
4 opportunity to speak.

5 CHAIRPERSON WILLIAMS: The mic is not on.

6 GEOFFREY MAZEL: [on mic] Is that
7 better?

8 CHAIRPERSON WILLIAMS: Yes. Better. Oh,
9 okay. My name is Geoffrey Mazel, and I would like to
10 thank you for the opportunity to speak before the
11 Council on this extremely important issue. By way of
12 background, I'm a practicing attorney for over 30
13 years and I represent over 100 co-op and condo boards
14 representing over 12,000 units of co-op housing. I'm
15 Chairperson of the Queens Bar Association, Co-op
16 Condo Committee and legal advisor to the President's
17 Council, and one other qualification I need to
18 mention is I was actually rejected by a co-op board.
19 As a young law student, I was applying for a co-op in
20 Brooklyn and was rejected. So, I do have experience
21 on both sides of this issue. In addition, I
22 represent buyers and sellers, and shareholders alike.
23 So, my vantage point is—is vast experience and from
24 all sides of the issue. I'd also like to just put on
25 the record that myself, Mr. Schreiber, and several

2 groups from the brokers, NYSAR, did meet with Mr.
3 Jumaane, Council Member Jumaane, we did meet with
4 your office, an extensive meeting. Mr. Toomey took
5 copious notes, and I suggest you look at them, and
6 we'd be more than willing to meet again to come to
7 some sort of meeting of the minds if possible. If
8 not, so be it, but please. We did meet with you and
9 not one suggestion that was made was included in this
10 legislation. I'm going to go off my testimony my-my
11 written testimony for a second just to address
12 certain issues that were raise. A proffered reason
13 is an invitation for a lawsuit. There's no reason
14 for it. It serves no purpose because once a Human
15 Rights claim is filed, you have to give a reason at
16 that point, and that's the time and place that such a
17 reason should be made. In addition I heard several
18 of the council men talk about the simple statement
19 that has to be submitted where you check a box on a
20 postcard. I-I-I-I ask you to read 8-1202, and what
21 is required to be submitted when rejecting an
22 applicant for a co-op. It is a sophisticated
23 document that's going to require legal expertise
24 because any reason that's not included in there,
25 you're-you're barred, you're time limited from giving

2 a reason. Your-your-you cannot give a reason
3 thereafter, and finally and the most important issue
4 is the punitive measures of this-of the statute are
5 insult to the Co-Op and Condo community. No one
6 mentioned it from the City Council today. Please read
7 the punitive measures. They are extensive. I don't
8 know any other law where if you're one day late in
9 submitting a document you have a \$5-you're subject to
10 \$5,000 to \$25,000 penalty.

11 CHAIRPERSON WILLIAMS: Thank you.

12 MICHAEL KURTZ: Good afternoon. I want
13 to thank you for the opportunity to give testimony
14 today. My name is Michael Kurtz. I'm the Treasurer
15 of the President's Co-Op and Condo Council, and
16 President of Clearview Gardens Corporation's Co-Op, a
17 garden apartment complex comprising of 1,788 units.
18 Allow me to explain how the interview process works
19 at Clearview Gardens. When a prospective purchaser
20 first comes to the office, they have a one-on-one
21 meeting with the administrator at which time they are
22 given the application, which was all the
23 requirements. The administrator then explains each
24 one. When the prospective purchase is returned with
25 the completed application, it is again reviewed in

2 its entirety, and any missing documentation is
3 pointed out and an interview is scheduled pending
4 receipt of whatever was missing. Any missing
5 documentation is subsequently brought in and the
6 administrator issues an okay that we can proceed with
7 the interview at the scheduled date and time. This
8 will no longer be the case. The proposed legislation
9 will impact the process as the co-op must send
10 written notification of what is missed—what is
11 missing. When the prospective purchaser has acquired
12 the documentation, they provide it to the co-op who
13 must then document what was provided, and that all is
14 order again, and document what is still required.
15 The Corp has ten days to provide each one of these
16 responses. Then the written form what is needed.
17 Each documentation is provided. Forty 45 days can
18 slip by pretty quickly if I have ten days at each
19 time. We conduct—we conduct interviews the second
20 and fourth Monday of each month. We hold board
21 meetings the second and fourth Tuesday of each month,
22 except for July, August and December. After the
23 interview committee meets with the prospective
24 purchaser, a recommendation is decided on. The
25 committee has three options: Approval, request

2 additional information or denial. The recommendation
3 is then brought before the board the following
4 evening and the full board votes on the
5 recommendation. Our attorney is informed on the
6 decision the following Wednesday [bell] and
7 immediately notifies the prospective purchaser. The
8 prospective purchaser is notified within two days of
9 the interviews. Not much room for improvement. On
10 those months where the board has only one meeting to
11 grant the president the authority to act on their
12 behalf on approvals. Many years ago, we noticed the
13 phenomenon where prospective purchasers had sold
14 their homes for various reasons. Children moved
15 away, they're tired of mowing lawns and shoveling
16 snow.

17 CHAIRPERSON WILLIAMS: I'm going to have
18 to ask to give a closing—a closing sentence.

19 MICHAEL KURTZ: Okay in closing this will
20 make it more restrictive for us to approve people
21 because now we have a time limit. We have to give
22 reasons. It—it—it's detrimental to the people who
23 are trying to buy in, in our opinion.

24 CHAIRPERSON WILLIAMS: Thank you.
25

2 BOB FRIEDRICH: My name is Bob Friedrich.
3 I'm President of Glenoaks Village, the largest garden
4 apartment co-op in New York. It is home to 3,000
5 working class families many who are city workers. An
6 important point to keep in mind is that we're in the
7 business of bringing folks into our resident
8 communities, not keeping them out. I'm also co-
9 President of the President's Co-Op and Condo Council,
10 a think tank of co-op board presidents that represent
11 almost 100 co-ops. Let me begin by emphatically
12 stating what you already probably know, there is
13 absolutely no data supporting the allegation of
14 systemic discrimination in residential co-ops. It
15 doesn't exist. Law should be written to rectify
16 prove problems and not written based up hunches,
17 assumptions or feelings. These two bills are a
18 solution in search of a problem, and they need to be
19 rejected. Ending perceived discrimination in co-op
20 housing is the reason these two bills have been
21 proposed. So, let me here and now lay to rest the
22 idea that discrimination is pervasive in co-op
23 houses. For it to exist, the following extraordinary
24 events would all have to take place simultaneously:

2 1. Co-op owners would have to elect a
3 majority of inherently dishonest individuals to their
4 board.

5 2. A typical board of nine would require
6 five colluding board members to break the law and
7 discriminate.

8 3. The co-op management company would
9 have to part of the law breaking collusion, and

10 4. All of these colluding individuals
11 would have to bring the co-op attorney into their
12 ring of collusion in order to achieve an unlawful
13 denial.

14 This scenario simply does not happen.
15 The elaborate hierarchy of checks and balances among
16 these individuals all of whom have a fiduciary
17 responsibility to the co-op to act in a lawful and
18 proper manner is the reason that there is no data to
19 support systemic discrimination in housing co-ops.
20 So, in summary, numerous and [bell] redundant
21 safeguards to ensure that co-op applicants receive
22 the fullest protection of the law and the ability to
23 defend themselves against real discrimination already
24 exists. These two bill add nothing to that equation,
25 but will simply make it more difficult and expensive

2 for prospective applicants to purchase a cooperative
3 apartment. They need to be rejected. Thank you.

4 CHAIRPERSON WILLIAMS: I—I find this
5 amazing because we have a panel of probably the least
6 diverse representation of the co-ops ended by someone
7 who's telling us that discrimination just simply
8 doesn't exist in co-ops and condos.

9 BOB FRIEDRICH: Glenoaks Village is
10 probably one of the most diverse communities—

11 CHAIRPERSON WILLIAMS: [interposing] No,
12 no, wait. Hold on—hold on, sir. The New York State—

13 BOB FRIEDRICH: [interposing] Doesn't it
14 matter? Doesn't it--?

15 CHAIRPERSON WILLIAMS: Sir, sir.

16 BOB FRIEDRICH: The data—

17 CHAIRPERSON WILLIAMS: Sir, I'm chairing
18 the hearing. Thank you.

19 BOB FRIEDRICH: Okay.

20 CHAIRPERSON WILLIAMS: Your statement in
21 particular gave a breakdown of why discrimination
22 does not occur in co-ops and condos. Yours in
23 particular. I don't know the breakdown of your co-op
24 or condo. I do know for a fact that discrimination
25 does occur, and the breakdown that you gave made it

2 seem that we have to have some CIA or Kremlin like
3 intelligence to able to discriminate in co-op and
4 condo purchase. That's absurd. Like I don't even
5 know what to like—I'm going to start from there
6 because all of the testimony wasn't even as absurd as
7 that. I found it the most absurd to say that we
8 cannot discriminate in housing unless we have some
9 CIA intelligence to craft together a procedure in
10 which we do so. That should be rejected on its face.

11 BOB FRIEDRICH: Actually, that wasn't
12 what I said. What I--

13 CHAIRPERSON WILLIAMS: [interposing] I-I
14 would—maybe I misread. Maybe I misunderstood your—
15 your statement, and if I did, I apologize, but what
16 it sounded like you said in order for discrimination
17 to occur you gave of things that would have to happen
18 that seemed insurmountable. Did I hear that wrong?

19 BOB FRIEDRICH: In order for
20 discrimination to exist in a co-op that has a board
21 of directors would require the collusion of a
22 majority of board members, and I—with all due
23 respect, although you think it exists the data simply
24 does not support your allegation of systemic--

2 CHAIRPERSON WILLIAMS: [interposing]

3 Sure.

4 BOB FRIEDRICH: --discrimination I
5 cooperative housing.

6 CHAIRPERSON WILLIAMS: Okay, let me just
7 withdraw my apology because I didn't hear you
8 incorrectly. I just—I did absolutely heard you
9 correctly and what you're insinuating is that no
10 discrimination--

11 BOB FRIEDRICH: [interposing] No systemic
12 discrimination.

13 CHAIRPERSON WILLIAMS: Now, hold on.
14 [pause] I know what I heard and you repeated it, and
15 it's absurd on its face. I want to get into a
16 discussion after my colleagues about whether or not
17 we have the appropriate tools to address that
18 discrimination. It's hard to discuss whether we have
19 appropriate tools if there are people who believe it
20 doesn't even exist. I don't know what your
21 definition of systemic, but most of the bills that we
22 pass her dealing with discrimination is not for the
23 vast majority of people who aren't discriminating.
24 It is for the people who are, period. So, maybe you
25 have not experienced it, but I'm here to tell you

2 that it does exist, and it's not even a question on
3 an argumentable—I'm not even—I'm not going to have a
4 back and forth.

5 BOB FRIEDRICH: Okay.

6 CHAIRPERSON WILLIAMS: On its face value
7 that portion of your testimony was absurd.

8 BOB FRIEDRICH: [interposing] Just to—

9 CHAIRPERSON WILLIAMS: [interposing] I'm
10 going to move forward to Council Member Lander for
11 three minutes of questioning, Council Member
12 Rosenthal, and Council Member Grodenchik.

13 COUNCIL MEMBER LANDER: So, my first
14 question is whether the four of you are aware the
15 Suffolk County and the Village of Hempstead have
16 legislation very, very similar to what's proposed
17 here, and if you are, are you aware--? I mean I have
18 not seen evidence that there's massive litigation and
19 people stop refusing, starting refusing to serve on
20 co-ops so that any Pandora's Box has been opened, and
21 I—I suspect you guys would know if it had. So, are
22 you aware of that and—and have I missed the fact that
23 the Pandora's Box was opened by it?

24 WARREN SCHREIBER: But, so if I—if I many
25 Council Member I don't think that there can be a

2 comparison made between New York City and Nassau
3 County or Suffolk County. I mean even when you go
4 into the state, it always talks about cities with a
5 population of a million or more. There's only one--

6 COUNCIL MEMBER LANDER: [interposing]

7 Well, there's no co-ops with a population of a
8 million or more.

9 WARREN SCHREIBER: There's only one of us
10 and where I'm from in Queens we have a population of
11 almost 2-1/2 million people.

12 COUNCIL MEMBER LANDER: [interposing] Co-
13 ops are of similar size. So, anyway, I guess. So,
14 were any of you--let me start there. Were any of you
15 aware that Suffolk County and the Village of
16 Hempstead have very similar legislation?

17 WARREN SCHREIBER: Yes, yes, we're aware
18 of it.

19 COUNCIL MEMBER LANDER: And are you aware
20 it having being caused big problems?

21 WARREN SCHREIBER: I'm not aware of--

22 COUNCIL MEMBER LANDER: [interposing]

23 Thank you.

24 WARREN SCHREIBER: --any problems.

25 However, there's 11,000 co-ops and condos in Suffolk

2 County. This organization represents 100,000 and the
3 punitive measures that you put in here are—are not in
4 those---is not in that litigation, and that's got to
5 be reconsidered because they are extraordinarily high
6 numbers penalizing boards. We penalize the
7 shareholders. So, the people you're trying to
8 protect are going to get hurt also.

9 COUNCIL MEMBER LANDER: So—but you guys
10 aren't aware. So, I mean so it's only 11,000 but if
11 it had caused massive Pandora's Box and you aren't
12 aware of any significant problems having been caused
13 by the Suffolk or the Hempstead Legislation.

14 WARREN SCHREIBER: [interposing] Well, we
15 haven't spoken to them.

16 COUNCIL MEMBER LANDER: Let me move onto
17 my second question, because actually-

18 WARREN SCHREIBER: [interposing] I'm
19 trying to answer—I'm trying to answer your answer.

20 COUNCIL MEMBER LANDER: Well, I'm going
21 to move onto a different question for you.

22 WARREN SCHREIBER: Okay.

23 COUNCIL MEMBER LANDER: So, my question
24 for you just so you're clear is the law doesn't
25 presume systemic or pervasive discrimination. The

2 law is to be able to root out discrimination when and
3 where it occurs. So, I'm going to give you a chance
4 to clarify. Are you saying that no discrimination
5 occurs in New York City cooperatives?

6 WARREN SCHREIBER: No. I-I-I based my--

7 COUNCIL MEMBER LANDER: [interposing] You
8 think it does occur?

9 WARREN SCHREIBER: I base my statements
10 on data. Can you show me data that shows this--

11 COUNCIL MEMBER LANDER: [interposing] I'm
12 asking because the way this works is that I get to
13 ask the questions. If you want to run for Council
14 you can do that, but 'til then, I get to ask the
15 questions. I'm not--look, I don't believe there's
16 systemic or pervasive discrimination.

17 WARREN SCHREIBER: [interposing] I think
18 you argued--

19 COUNCIL MEMBER LANDER: [interposing] Are
20 you arguing that no discrimination occurs?

21 WARREN SCHREIBER: I will answer your
22 question. I think there maybe some bad apples.
23 Okay, there are bad apples in every--in every facet
24 of--of life.

2 COUNCIL MEMBER LANDER: Okay. So, that's
3 great that we actually have some common ground.

4 WARREN SCHREIBER: [interposing] But you
5 have --

6 COUNCIL MEMBER LANDER: [interposing] You
7 agree some discrimination occurs, and we're proposing
8 some modest legislation to try to make sure that when
9 it occurs, those people have the ability to do
10 something about it. I'm going to come to Bay Terrace
11 just because I think you actually helped me
12 understanding how easy this will be to comply with.
13 You said that you've only had a handful of
14 rejections. (coughing) I'm assuming they were not
15 based on discrimination, and that they were based on
16 people's income or financial wherewithal. Is that
17 correct?

18 WARREN SCHREIBER: In every single
19 instance that's correct. They were based on their
20 financial. They were not able to meet our financial
21 requirements.

22 COUNCIL MEMBER LANDER: So, you
23 understand all we're asking is for you to have
24 written a letter to those people saying you lack the
25 financial wherewithal.

2 WARREN SCHREIBER: But that-but that's
3 actually not-Council Member, with all due respect,
4 that's not what the-what the legislation says. It
5 says here that we have to give you-actually asking
6 for a-a statement, and I believe it-it said it was a-
7 a certified statement. So, it shall include a
8 certification by an officer of the cooperative
9 corporation sworn or affirmed under penalties of
10 perjury that the statement is true, complete and
11 specific recitation. That is a lot different than
12 checking a box there.

13 COUNCIL MEMBER LANDER: [interposing] Do
14 you know that this morning-this morning when you came
15 to sit on this panel, I mean you-the-the Council
16 Member swore you in on a sworn or affirmed statement
17 as that a member of the co-op board give the reason,
18 and-and say it's true, and not-and that it's not
19 false.

20 WARREN SCHREIBER: Sure but as a-but as a
21 volunteer board members, I am now and my other board
22 members we are putting ourselves in legal liability
23 to this very litigious-litigious society that people
24 will--

2 COUNCIL MEMBER LANDER: [interposing] But
3 just no more so than coming today to testify.

4 WARREN SCHREIBER: --sue for anything.
5 So, if we have to put this in writing that is very,
6 very problematic for us. Now, also--also let me--

7 COUNCIL MEMBER LANDER: [interposing]
8 Help me understand why if it's true, why would it be
9 problematic.

10 CHAIRPERSON WILLIAMS: Thank you--thank
11 you Council Member.

12 WARREN SCHREIBER: [interposing] Also--
13 also when--when you're talking about the applicant
14 terms and the applicant being able to correct any
15 deficiencies that may take place. So, if we reject
16 somebody because their--their financials are \$20,000
17 or \$25,000 short, and now we have to give them an
18 opportunity to make that up, first of all, it's--it is
19 almost--they have almost--

20 COUNCIL MEMBER LANDER: [interposing] You
21 don't have to give them an opportunity to make that
22 up.

23 CHAIRPERSON WILLIAMS: Council Member.

24 COUNCIL MEMBER LANDER: That's just not
25 in the law.

2 WARREN SCHREIBER: That is.

3 COUNCIL MEMBER LANDER: This is not.

4 CHAIRPERSON WILLIAMS: Mr. Schreiber, you
5 can just finish your statement.

6 WARREN SCHREIBER: Okay, that's what the
7 legislation says--

8 COUNCIL MEMBER LANDER: [interposing] No,
9 it isn't.

10 WARREN SCHREIBER: --or Council Member
11 Brander or Lander, but also--

12 COUNCIL MEMBER LANDER: [interposing]
13 That's just false.

14 WARREN SCHREIBER: --but also what
15 happens is during that time it puts the sale of that
16 apartment in limbo. So, the--the seller they cannot
17 move forward because now they're waiting for the
18 buyer to make good on that.

19 CHAIRPERSON WILLIAMS: [interposing]
20 Alright, thank you.

21 COUNCIL MEMBER LANDER: [interposing]
22 That's just not correct. You're saying things that
23 are not in the law.

24 CHAIRPERSON WILLIAMS: [interposing]
25 Council Member.

2 COUNCIL MEMBER LANDER I might need a
3 second question and ask for extreme vetting.

4 CHAIRPERSON WILLIAMS: Okay, thank you.
5 Mr. Friedrich, your-your statement and others have
6 mentioned about bad apples, that get repeated every
7 single time when do discrimination policing housing.
8 It's always just a few bad-bad apples. At some point
9 there's a bushel, and I don't know what that is, but
10 I'm tired of hearing all the damn bad apples that
11 exist that doesn't result in actual discrimination.
12 So, we at some point have to get off this stupid bad
13 apples thing, and seeing that there is problem, then
14 we have to address. Now, I'm willing to say we have
15 the appropriate tools to do that, but we always have
16 to get to the bad apple part, and there's always
17 people who are not doing things, and maybe if those
18 people who were doing those things would call out
19 those apples a little bit better or self-correct
20 themselves, we would have to do it. But that doesn't
21 happen particularly when there's people like you who
22 are saying that there's not even discrimination that
23 is occurring, which is what you originally testified,
24 but if you're going to change your testimony, I'm
25 willing to hear it, but what you originally said is

2 there a bar--there is a bar so insurmountable that it
3 will be almost impossible for a co-op or condo board
4 to discriminate.

5 BOB FRIEDRICH: Yes.

6 CHAIRPERSON WILLIAMS: And that--that
7 just--that leads me to believe that you don't even
8 want to acknowledge--

9 BOB FRIEDRICH: [interposing] Mr.
10 Williams.

11 CHAIRPERSON WILLIAMS: --a problem. So,
12 it's hard to fix that.

13 BOB FRIEDRICH: Mr. Williams.

14 CHAIRPERSON WILLIAMS: Yes, Mr.
15 Friedrich.

16 BOB FRIEDRICH: I--I--I--I under--I
17 understand what you're saying, but we generally make
18 laws here based upon data. Not based upon your
19 hunches--you hunches, your assumptions or your
20 feelings.

21 CHAIRPERSON WILLIAMS: Uh-hm.

22 BOB FRIEDRICH: I understand what you
23 feel and what you think, but this is absolutely not
24 supported by data, and you know that. You're sitting
25 here and you know that. You know there is absolutely

2 no data that shows any systemic discrimination in
3 housing co-ops. You have the Human Rights Commission
4 here tell you—tell you at this meeting that it was
5 basically infinitesimal the number of allegations in
6 co-ops, and by the way, people from Council and the
7 Human Commission any time can make a claim, and once
8 they make a claim, the burden of proof is not on them
9 to prove discrimination, but it the burden of prof is
10 on the co-op to prove that they did not discriminate.

11 CHAIRPERSON WILLIAMS: Sure, you—you--

12 BOB FRIEDRICH: [interposing] So, your—
13 you—so—so, you also heard--

14 CHAIRPERSON WILLIAMS: [interposing] You
15 also heard the HRC, the Human Rights Commission? You
16 also heard them say the—I think her word was
17 exponential increase in discrimination claims when we
18 passed the Fair Chance Act. So, if we had this
19 conversation before, your line of argument may have
20 also existed and we would not have done it, and we
21 would not have gotten to where we are today. You
22 also heard her mention that they don't get too many
23 complaints about mortgage related discrimination even
24 though they have the authority of it. So you agree
25 that there has been mortgage discrimination?

2 BOB FRIEDRICH: Of course there has been.

3 CHAIRPERSON WILLIAMS: Okay.

4 BOB FRIEDRICH: And you know I agree
5 because I've seen the data to support that.

6 CHAIRPERSON WILLIAMS: Which part did you
7 see?

8 BOB FRIEDRICH: I seen the data to
9 support that previously seen data.

10 CHAIRPERSON WILLIAMS: Where did you see
11 it? Where did you see it?

12 BOB FRIEDRICH: I've read about it. I've
13 gone online. I've researched it.

14 CHAIRPERSON WILLIAMS: Okay, most of that
15 came about after people lost—lost their homes and
16 people started to do research in the type of
17 mortgages that they were being steered into. There
18 was a lot of anecdotal information before that, and
19 perhaps if there were some people who stepped in
20 before that, this wouldn't have occurred. We have
21 the same kind of anecdotal information now when it
22 comes to co-ops and condos. We want to step in
23 before that. Now, perhaps you don't know the people
24 who are affected by this. So, it doesn't matter if
25 we step in it—in it before or after because you won't

2 be affected, but many of us do. And so we want to.
3 We—we want to respond to much of the information that
4 we have heard in a way that is not already
5 burdensome. So, I want to say I'm hearing Mr. Mazel,
6 Mr. Mazel about the punitive measures. It's not my
7 bill, but I'd like to look at that. I know we did
8 have a meeting and I want to go back and review that
9 because I actually listen when people are saying
10 things are going to be overly burdensome, and I want
11 to try to address that. That is different to me than
12 someone saying there is nothing to be address—

13 GEOFFREY MAZEL: [interposing] Can I
14 just—

15 CHAIRPERSON WILLIAMS: --and I just want
16 to be clear.

17 GEOFFREY MAZEL: I'll just expand on that
18 one point. Not only the punitive measures. There's
19 the legal fee provisions here, too, which opens up
20 and I'm a lawyer and I love legal fees, but it opens
21 up a cottage industry for people to run out and get a
22 lawyer who's going to sue co-ops to get, you know,
23 nuisance because the co-ops are now exposed. So,
24 those are things that are counterproductive, don't
25 solve any problems and really need to be looked at.

2 CHAIRPERSON WILLIAMS: I hear you. The
3 punitive measures thing. It's not my bill, again,
4 some of my colleagues, but that has more weight to me
5 than this because I've heard that—I've heard about
6 cottage industries when I passed it by space policing
7 bill that hasn't occurred. I heard about cottage
8 industry when passed the Fair Chance Act. That
9 hasn't occurred--

10 GEOFFREY MAZEL: [interposing] Well, I--

11 CHAIRPERSON WILLIAMS: --at all even a
12 little bit. I'm just saying--

13 GEOFFREY MAZEL: [interposing] The Fair
14 Debt Collection Act I've had experience with that--

15 CHAIRPERSON WILLIAMS: Okay.

16 GEOFFREY MAZEL: --and--and that has built
17 a cottage industry--

18 CHAIRPERSON WILLIAMS: [interposing] Okay

19 GEOFFREY MAZEL: --for lawyers suing
20 other lawyers and--

21 CHAIRPERSON WILLIAMS: [interposing] I
22 want to—I do want to address a—an issue of how to fix
23 the problem as opposed to no problem exists at all.
24 That's just where I'm coming from. I—I did have one
25 question. It seemed that there is some opposition to

2 let's pretend discrimination on the side, that there
3 is some opposition to setting a time frame of which
4 people should be responded to. Why is there a
5 particular objection to that?

6 GEOFFREY MAZEL: Well, the way these are
7 written and the time frame work, is-is-is not what
8 realistic. We have met with NYSAR. This group has
9 met with NYSAR and discussed reasonable time
10 framework that may work down the road. In addition,
11 all contracts do have a provision that if the board
12 doesn't react within 30 days after the law date in
13 the contract that the buyer may terminate the
14 contract. So, this notion that contracts go on
15 forever and ever is not-is not true. So, it's not
16 necessary I don't believe in my opinion.

17 CHAIRPERSON WILLIAMS: [interposing] And
18 saying that the-that the buyer may come-may terminate
19 doesn't help them get in.

20 GEOFFREY MAZEL: It doesn't help them get
21 in, but it helps them get out.

22 CHAIRPERSON WILLIAMS: Yes.

23 GEOFFREY MAZEL: Out of the deal.

24 CHAIRPERSON WILLIAMS: I got you.

2 GEOFFREY MAZEL: The—the—the complaints
3 I've heard, and I'm sure you'll hear testimony for
4 this later is that the co-op board holds it up so
5 long that there's a negative effect on the parties
6 involve, but there is—there is contractual solutions,
7 too.

8 WARREN SCHREIBER: But can I—can I add to
9 that?

10 CHAIRPERSON WILLIAMS: Sure.

11 WARREN SCHREIBER: Okay, the—the time
12 frames are so rigid in the legislation that what's
13 going to happen, and when I said rigid, rigid in the
14 definitive time and that there to be certified
15 letters going back and forth. That's what's going to
16 happen is because the co-op is going to be so afraid
17 of violating, as we said before, even one day that
18 what the co-op is going to do is basically say that
19 if they don't have the full panoply of information in
20 the application, they're just going to outright
21 reject it, which is going to end up hurting
22 applicants. So, the problem—the problem is the
23 rigidness in that time frame and the consequences of
24 that. I know, you know, the intentions were going,
25 but it's going create—and one other thing that to do

2 is sometimes people who are apply for a co-op might
3 need a little additional time because of a bank, you
4 know, may need extra times or they may have to get
5 their finances in order. In the past a co-op was
6 very flexible in working with them. Flexibility will
7 be a thing of the past because the co-op will never
8 treat one person different than another. In order
9 words if person A needed ten more days for their bank
10 to approve their application, we would not approve it
11 because we would then be fearful that we will now be
12 discriminating—we would be—we would be sued for
13 discrimination because we didn't provide that
14 additional ten days. So, it's rigid. It's going to—
15 it's going to hurt those individuals that you're
16 really trying to help, which those who are most
17 vulnerable we're trying to get into a co-op
18 apartment.

19 CHAIRPERSON WILLIAMS: I do want to go
20 back to some of those notes. I mean I—I and the
21 rigidity. I want to welcome some more conversations
22 if folks have a discussion about how we could less
23 rigid and—and really get to where we're trying to get
24 at. Again, that's different than say that there's no
25 problem. So, I want to have that—that discussion and

2 then we're going to go to Council Member Rosenthal
3 and Council Member Grodenchik.

4 GEOFFREY MAZEL: And I think three is a
5 way to get there, by the way.

6 CHAIRPERSON WILLIAMS: Thank you.

7 COUNCIL MEMBER ROSENTHAL: I-I actually
8 am going to echo my colleagues comment by referring
9 to Sheakespeare: Me thinks thou dost protest too
10 much. You know, New York City is the most segregated
11 city in the country because of choices that people
12 have made. So, you know, there is a problem. That's
13 not the question. The question is how do we get at
14 it in a meaningful way? I think something that would
15 be helpful to me anyway, and it sounds like my
16 colleagues have done a lot of research on this
17 already, but I challenge each of you to consider
18 going to the--the last round of sales in each of your
19 buildings, the last sale, most recent sale in your
20 building, redact the names, redact the dollar
21 amounts. I'm not interested in an address. I'm not
22 interested in any single person's personal history.
23 I'm interested to know what you wrote on that
24 document, and to see why it so thoroughly addresses

2 what we're trying to get at. Is that something you
3 would consider doing?

4 WARREN SCHREIBER: Sure, if I-if I could
5 answer that, I-I certainly would, but it would be
6 very boring because there's nothing that we ever
7 write on the application. We're very-we're very--

8 COUNCIL MEMBER ROSENTHAL: [interposing]
9 So that tells me something right there.

10 WARREN SCHREIBER: Well, I mean we're
11 very-we're-we're very-we've very cautious about what
12 we do with the--

13 COUNCIL MEMBER ROSENTHAL: [interposing]
14 Okay.

15 WARREN SCHREIBER: --application, and
16 like when you have to --

17 COUNCIL MEMBER ROSENTHAL: [interposing]
18 So, turn in your boring document.

19 WARREN SCHREIBER: It's a boring
20 document, and it's just--

21 COUNCIL MEMBER ROSENTHAL: [interposing]
22 Just all I'm asking is do you-would you feel
23 comfortable turning in your most recent sale
24 document, whatever you sent to the-- Look, I'm not
25 in real estate so help me with the words, but

2 whatever you disclose to whoever you disclose it to,
3 that that paperwork redacting any private personal
4 information?

5 GEOFFREY MAZEL: I-I don't understand the
6 question.

7 WARREN SCHREIBER: I-I don't. I mean--

8 COUNCIL MEMBER ROSENTHAL: It's hard for
9 me. I'm not in real estate, but--

10 WARREN SCHREIBER: Right. With-without
11 completely understanding the question, I don't see
12 (coughs) why-why-why--

13 COUNCIL MEMBER ROSENTHAL: [interposing]
14 Well, help me understand where you sit.

15 WARREN SCHREIBER: Okay, I-I don't see
16 why the--

17 COUNCIL MEMBER ROSENTHAL: Okay.

18 WARREN SCHREIBER: --why, the why record
19 these questions.

20 COUNCIL MEMBER ROSENTHAL: So, let-help
21 me understand why you say that by turning in the
22 document.

23 WARREN SCHREIBER: Sure, that-that-that
24 wouldn't be-that wouldn't be a problem.

2 BOB FRIEDRICH: Okay, can I respond to
3 that?

4 COUNCIL MEMBER ROSENTHAL: [off mic]
5 Okay.

6 BOB FRIEDRICH: Okay, in the last--

7 COUNCIL MEMBER ROSENTHAL: [interposing]
8 And where I'm going is you—you made this comment
9 right at the end of your testimony with Council
10 Member Williams. What is the right way--

11 BOB FRIEDRICH: Right.

12 COUNCIL MEMBER ROSENTHAL: --to get at the
13 answer to this question because we know by definition
14 there is systemic discrimination against women,
15 against people of color, against any disadvantaged
16 group. That's why it's called a disadvantaged group,
17 right?

18 BOB FRIEDRICH: Sure.

19 COUNCIL MEMBER ROSENTHAL: And we know
20 New York City is the most segregated city in the
21 world.

22 BOB FRIEDRICH: [interposing] Okay.

23 COUNCIL MEMBER ROSENTHAL: So, what is
24 the thing that we need to be looking at?

25

2 BOB FRIEDRICH: Let me—let me just
3 respond—respond to that. I'm here to—to do battle
4 with—with you guys, but a co-op is a very different
5 entity than a rental apartment and a single-family
6 home. Let me—let me—let me just--

7 COUNCIL MEMBER ROSENTHAL: [interposing]
8 It's not helpful.

9 BOB FRIEDRICH: --so my—my words are
10 not misinterpreted, for a co-op application to be
11 rejected by a board of directors, it does require a
12 majority of the board to reject, which means if
13 somebody was rejecting an application for
14 discriminatory reasons at the collusion among the
15 majority. In Glenoaks Village we have reviewed over
16 the last two years, 232 applications, and we've done
17 232 interviews, and you know how many rejections
18 we've had? Zero, zero.

19 COUNCIL MEMBER ROSENTHAL: Me thinks thou
20 dost protest too much.

21 CHAIRPERSON WILLIAMS: Council Member,
22 thank you. We have Council Member Grodenchik for
23 three minutes.

24 COUNCIL MEMBER GRODENCHIK: Thank you,
25 Mr. Chair. Thank you. I do want to say firstly

2 before I—I ask some questions, I've had the pleasure
3 of being at Glenoaks Village on many occasions in my
4 almost two years in the City Council I was recently
5 there a Mr. Friedrich's invitation for the Fall
6 Festival, the Fall Family Festival. It's an
7 incredible display of diversity. I think that
8 perhaps of—of all the parts of my district, and it's
9 certainly born out by the population of PAD—PS—I'm
10 sorry, PS 186 Queens, which is directly across the
11 street from Glenoaks and--and serves the children of
12 Glenoaks at the grammar school level. That is the
13 most diverse school that I have in my district.
14 You'd be walking into the United Nations, if you
15 walked into that school, and I'm very happy to have
16 that. I would welcome any of you. If you'd like to
17 take tour, I'm sure Mr. Friedrich would be very happy
18 to provide us with a tour of what is really a model
19 of middle-class living in Eastern Queens. And
20 secondly, I don't think that anybody here, Mr.
21 Chairman, I think we all understand that
22 discrimination does occur whether it's in housing.
23 Whether it's co-op or rental housing or—or—single-
24 family home sales, and we've all been stung with that
25 on various occasions. I've heard the story of my

2 father growing up in the Bronx about, you know, sings
3 in the windows on the street of Bronx, the United
4 States in the mid '30s: No Jews/No Irish need apply
5 for jobs. So, that's touched us all, but I am
6 concerned that this legislation as it's currently
7 drafted and I think that the members of this panel
8 who I have come to know over the years--I don't
9 represent all of them. I only represent one of them--
10 -have worked very hard, and they're all volunteers
11 with the exception of Mr. Mazel, but he doesn't
12 charge too much. So, but I--I do want to ask this
13 question, which I think is very important. It cuts
14 to the heart of the matter where we don't want to make
15 this overly burdensome, and what I am concerned and
16 I'll ask this question to any of the three gentlemen
17 of just maybe perhaps Mr. Mazel. What kind of costs--
18 additional costs would you expect to have if this
19 legislation--both of these pieces of legislation were
20 passed into law? How much more would that add to
21 your bottom line or take away from your bottom line
22 very year, because we--I know that you work very, very
23 hard to cut costs and I know that you have worked
24 very hard on the other piece of legislation that's
25 here today, the J-51--the exemption. So anybody.

2 Warren, you seem like you're reaching for the
3 microphone.

4 WARREN SCHREIBER: Yeah, I'm—I'm
5 [laughter]. Right, so I'm not—I'm not sure that it
6 would—it would cut into the—the corporate bottom
7 line. We may have some, you know, additional costs
8 as far as legal costs or the, you know, the attorneys
9 on retainer. But I think that it would cut into the
10 costs for the prospective purchaser because we would
11 have to--

12 COUNCIL MEMBER GRODENCHIK: [interposing]
13 That's my second—that's my second question.

14 WARREN SCHREIBER: Right, because we
15 would have to put additional safeguards in place, and
16 that might add. I've spoken to my property manager,
17 and it could be anywhere \$3 to \$4,000 additional for
18 the application fee, which to some families, middle-
19 class families, people on fixed income that could be
20 the difference between buying or not buying.

21 COUNCIL MEMBER GRODENCHIK: Mr. Mazel,
22 would you concur with that assessment?

23 GEOFFREY MAZEL: Yeah, because again,
24 just again their statement—the written statement that
25 we discussed before, it is not a simple postcard

2 where you check the boxes. That's not true at all.

3 It's—it's—it's a complicated treatise that if you

4 leave out a reason for a rejection you can't bring it

5 up later, and even in a discrimination case, you're

6 barred from testifying to a different reason. So

7 it's a—it's a sophisticated document that will

8 probably need professional guidance in drafting.

9 CHAIRPERSON WILLIAMS: Thank you very
10 much.

11 COUNCIL MEMBER GRODENCHIK: Thank you
12 very much. Thank you, Mr. Chair. I—I don't know if
13 Mr. Kurtz is—

14 MICHAEL KURTZ: No.

15 COUNCIL MEMBER GRODENCHIK: Ok.

16 CHAIRPERSON WILLIAMS: Thank you, Council
17 Member. One, we were joined by Council Members
18 Espinal, Torres and now Council Member Cornegy. I
19 just want to be clear I don't know Glenoaks. It
20 could be most diverse. It could be the most diverse
21 place in the country It doesn't take back what I'm
22 saying, and what we have tendency to do is look at
23 individual examples, which are great because they
24 can—they do serve a purpose, but the more we go up to
25 the bird's eye view is where we see the problem. And

2 so, again, Mr. Friedrich, your testimony seemed to
3 indicate that that problem is not that much, and in
4 order for the discrimination to occur, they have to
5 have some kind of collusion that's, you know,
6 Trumpian like in order for there to be rush
7 collusion. Their whole would have to like—it's just
8 this crazy insurmountable thing, and that's
9 ridiculous, right? So, these—these—I don't—I don't
10 think it's that hard to discriminate, as you
11 mentioned, and some of the board members who are
12 voting may not even be a part of whatever that is.
13 They're just voting because they're part of the
14 board. I don't know, but I do know your testimony
15 negates a whole host of experiences that occur. And
16 I do just want to say my—in terms of the bad apple
17 things I've been hearing, the one thing that I think
18 happened that is good with what happened last
19 November in the ascension of the orange man is that
20 we now see that it's not just a few bad apples. That
21 there are a lot of people who will come out of hiding
22 will have these issues for a very, very long, and it
23 flies in the face of all the people who said we were
24 crazy because we want post-racial America. We know
25 that we're not. And so hopefully, we can just

2 acknowledge that to be begin to move forward and stop
3 going back to this oh, it's just some bad apples, and
4 we are the ones that are over exaggerating or
5 exaggerating, and over reacting. In government we
6 have to step in because these things don't correct
7 themselves without some attention. We do have to
8 step in carefully because we don't want to I guess
9 over-step is the right word. We don't want to make
10 it overly burdensome, and so I found that we are very
11 careful in trying to weigh out addressing the issues
12 that we know are real even when people are telling us
13 they're not real, and making sure that we're not
14 harming the particular industry--

15 BOB FRIEDRICH: [interposing] Well, one
16 thing--

17 CHAIRPERSON WILLIAMS: A great case in
18 point is the Fair Chance Act.

19 BOB FRIEDRICH: No, I and something--one
20 thing I just want you just to keep in mind when you
21 write bills like this, and I'm talking very honestly
22 about where we are as--as co-ops. When you--when you
23 write a bill like this what we're going to be very
24 nervous about there are lot of what we call predatory
25 lawyers out there who will seek to take anything and

2 to the co-ops. So, the co-op is going to be very
3 defensive to make sure that it protects itself from
4 exposure because when it has to pay these bills it's--
5 it's really the burden on all the individuals who
6 live there. We do a lot of things as co-ops to try
7 to get people in. There are some people whose
8 financials are just on the cusp. They're just below
9 what we require. We don't want to kick them out
10 because we're in--we're in the business of--of housing.
11 So, some people will say to them is that listen if
12 you can put some money in escrow so we are satisfied
13 that you will be able to meet your monthly
14 maintenance obligations, you know, we can then look
15 at that and approve. When you pass a bill like this
16 what that does it tells a co-op you can no longer
17 give any--any amount of flexibility towards
18 individuals. So, in the end, what you end up doing,
19 and this is in the real world, you end up hurting
20 those people that you really--that--that really need
21 the most help. So, I just want people just to be
22 cognizant of that when we do this because we want to
23 bring people in, but we--we are always afraid if we--
24 when we get a bill like this if you treat anyone
25 slightly different, then I'll be held-- And you

2 don't do the same thing to the next person, it's
3 going to be shown as discrimination. So, what will
4 happen is we'll stop doing that liability.

5 CHAIRPERSON WILLIAMS: So, so Mr.
6 Friedrich that--that was actually a very I believe
7 intelligent thing you just said, and intelligent to
8 move the conversation forward, which is much
9 different than the nonsensical part that I heard you
10 say there was no discrimination that exists in the
11 beginning. So, when you--when you start up on the
12 absurdity, sometimes clouds and fogs the mind, but I
13 want to separate the absurdity that you originally
14 said with the intelligent thing that you just said a
15 little while ago, which I'm happy to consider as we
16 move forward.

17 BOB FRIEDRICH: And we could--we--we really
18 can.

19 CHAIRPERSON WILLIAMS: But I'll--I would
20 say also even with the example that you just gave,
21 you'd probably just write that down as to why you
22 weren't discriminated against because if financials
23 didn't meet, and you would have satisfied these
24 bills. And so, that example even wouldn't be a
25 problem with the--

2 BOB FRIEDRICH: [interposing] But the
3 next--let's--let's say somebody else came in, okay, and
4 for--for--maybe there's a whole host of other reasons
5 why we wouldn't do that. I--I don't know what they
6 are. I don't want to speculate, but if we didn't do
7 that, we would then be fearful because we did it for
8 one. We now have to do it for everybody else--

9 CHAIRPERSON WILLIAMS: [interposing] Not
10 really.

11 BOB FRIEDRICH: --and if we don't do it--
12 but you're saying not really, but the lawyers will
13 tell us that that would be discrimination then
14 because you can't treat one different than somebody
15 else.

16 CHAIRPERSON WILLIAMS: No, no, what this
17 law says then that you have to write down why you
18 didn't give the apartment--the co-op to the next
19 person, and again, you would have satisfied what the
20 law requires.

21 GEOFFREY MAZEL: Can I just say one last
22 thing?

23 CHAIRPERSON WILLIAMS: Sure.

24 GEOFFREY MAZEL: Okay, just by--I--I heard
25 the Commissioner--the Assistant Commissioner of Human

2 Rights say they don't have any written guidance from
3 the agency regarding co-op boards and co-op board
4 members. I think that's an essential document. As-
5 as a lawyer for co-op boards, a lot of the education
6 comes to me. We have Mary Ann Rothman here. They
7 have seminars, but I think that's something needs to-
8 I-I think board members do need more education just
9 to-just to understand what issues you're mentioning
10 and how to avoid them.

11 CHAIRPERSON WILLIAMS: Sure.

12 GEOFFREY MAZEL: I know when there are
13 human rights complaints, they do have some-they do
14 have training a part of the settlement, but maybe
15 that's something that could be more proactive. You
16 know, both a policy-a written-a written policy from
17 Human Rights and perhaps courses in-in discrimination
18 or anti-discrimination training or whatever you may
19 want to call it.

20 CHAIRPERSON WILLIAMS: Thank you. I
21 think that's a good point. There are some people
22 here from the Administration. I would say that these
23 bill will go a long way to provide some guidance as
24 well. So--

25 GEOFFREY MAZEL: Agree to disagree.

2 WARREN SCHREIBER: If I may, just--just
3 backtracking a little bit.

4 CHAIRPERSON WILLIAMS: Sure.

5 WARREN SCHREIBER: You said this
6 particular example that Bob cited where if someone
7 was short \$10,000, we have a perfect reason for
8 writing. We're not discriminating. The issue is
9 that person wouldn't come into the co-op. Where if
10 we weren't worried about this, the person we could
11 work with and we could develop a process where he
12 could show us he could come in. So, now--

13 CHAIRPERSON WILLIAMS: [interposing] But
14 why--why he cannot have a process that shows that he
15 could come in now or she?

16 MALE SPEAKER: Rejected on the
17 application.

18 WARREN SCHREIBER: Again, that's right,
19 and underwriters were rejecting him on financials.
20 We have financials. This is the minimum standard.

21 CHAIRPERSON WILLIAMS: Sure.

22 WARREN SCHREIBER: We're trying to work
23 with them because maybe they have an unburdened--they
24 have a large credit card debt. We'd say, no we--

2 CHAIRPERSON WILLIAMS: Why can you not
3 work with them now with this bill in place?

4 BOB FRIEDRICH: We would--the--the fear
5 would be that if you're now making an exception or
6 some flexibility to you pre-established financials
7 for one, you would have to do it for everybody else.

8 CHAIRPERSON WILLIAMS: No.

9 BOB FRIEDRICH: Okay. Well, that's--that's
10 what we believe based upon talking to attorneys that
11 if we don't do it for somebody else--

12 CHAIRPERSON WILLIAMS: Mr. Mazel, is that
13 what you believe that that this law.

14 GEOFFREY MAZEL: Well, as--an attorney for
15 a co-op we--we always encourage obviously all
16 applications to be treated equally and the same.

17 CHAIRPERSON WILLIAMS: Sure, but this
18 bill has nothing to do with what you just said. You,
19 there are a myriad of reasons of why you can reject
20 someone over another. The example you gave has
21 nothing to do with this bill. That's the decisions
22 that the person--that each particular co-op has to
23 decide over a plethora of reasons. So, I can't--I
24 mean I don't know, but if you deny some financials
25 for one, doesn't mean you have to accept them for

2 another. I don't—I'm not sure what example you were
3 given and why you would not be able to work with
4 them, but we encourage you to work with everybody,
5 and if you deny people, you just are going to say why
6 you denied them. That's primarily what's happening
7 with these bills.

8 WARREN SCHREIBER: Council—Council
9 Member, if I—if I could it's just to follow up on
10 what Bob was saying, though is we've always felt that
11 in order to avoid claims of discrimination it's
12 important that we be consistent.

13 BOB FRIEDRICH: Yes.

14 WARREN SCHREIBER: Okay, that there be
15 absolute--

16 CHAIRPERSON WILLIAMS: [interposing]
17 That's what you believe right now.

18 WARREN SCHREIBER: --that there be ab--
19 that there be absolute consistency. So, when we--

20 CHAIRPERSON WILLIAMS: [interposing] I
21 just want to be—I want to be clear. That's what you
22 believe right now?

23 WARREN SCHREIBER: Yes, that's correct.

24 CHAIRPERSON WILLIAMS: So the law doesn't
25 change that.

2 WARREN SCHREIBER: That's a--that's a
3 policy that we try to adhere to so that we do avoid
4 discrimination. So that there's consistency. So
5 that everybody is treated equally.

6 CHAIRPERSON WILLIAMS: But if you believe
7 that now, your example is already problematic with
8 what you're currently doing. SO, why would these
9 bills make or more problematic?

10 BOB FRIEDRICH: Because the bill lays out
11 a whole framework of what discrimination is, and if
12 you read the bill--I--I hear what you're saying.
13 You're saying that, you know, we encourage it.

14 CHAIRPERSON WILLIAMS: [interposing] But
15 wait. No, no. Just hold--hold one second. They just
16 said that you--

17 BOB FRIEDRICH: [interposing] Sure

18 CHAIRPERSON WILLIAMS: --right now
19 currently insist on consistency to prevent the
20 appearance of discrimination.

21 BOB FRIEDRICH: I'll give you the--

22 CHAIRPERSON WILLIAMS: [interposing] So,
23 the example you just gave, goes against what you
24 already do. Is that correct?

25 BOB FRIEDRICH: No, it's not correct.

2 CHAIRPERSON WILLIAMS: Okay, why is it
3 not correct?

4 BOB FRIEDRICH: I'll tell you why because
5 if your bill—I'll give you a perfect example.
6 Somebody is \$1,000 short or whatever. We then put it
7 in escrow and we work with them—flexibility and now
8 they get in. Okay, now your bill is passed into law.
9 Okay, and we have to give a reason for the—on the
10 denial of the—now the second person, the denial is
11 financials. That person can then come back and say
12 wait a second, you're discriminating against me
13 because you just treated Person A who had a financial
14 situation differently than me. Your bill—

15 CHAIRPERSON WILLIAMS: [interposing]

16 Well--

17 BOB FRIEDRICH: Let me just finish. Your
18 bill--

19 CHAIRPERSON WILLIAMS: No, I need—I want
20 to understand. So, I need to pause right there.

21 BOB FRIEDRICH: Okay.

22 CHAIRPERSON WILLIAMS: Because basically
23 what Mr. Schreiber said, you wouldn't do that because
24 we have to treat them both equally currently.

2 BOB FRIEDRICH: No. Under your bill, if
3 I have to--

4 CHAIRPERSON WILLIAMS: [interposing] But
5 before my--don't get to my yet.

6 BOB FRIEDRICH: Okay.

7 CHAIRPERSON WILLIAMS: I'm talking about
8 what you currently do now.

9 BOB FRIEDRICH: We will try to be
10 flexible because we're in the business of bringing
11 people into our communities and--

12 CHAIRPERSON WILLIAMS: [interposing] And
13 that flies in the face of what Mr. Schreiber said.
14 So, I don't know which one is true. You're either
15 treating everybody consistently or you try to be
16 flexible.

17 BOB FRIEDRICH: We treat people
18 consistently, but when they're on the margins on the
19 cusp--in other words, they're very, very close, we
20 will try to offer some flexibility to bring them
21 because again we're a housing cooperative. We want
22 to extend the community.

23 CHAIRPERSON WILLIAMS: [interposing] I
24 got you.

2 BOB FRIEDRICH: But your bill, but your-
3 but the bill--

4 CHAIRPERSON WILLIAMS: So, you don't
5 treat--there are points where you don't treat people
6 con--consistently because you want to help them come
7 in?

8 BOB FRIEDRICH: If they are just on the
9 margin.

10 CHAIRPERSON WILLIAMS: I didn't ask you
11 to lie. I just said there are reasons.

12 BOB FRIEDRICH: I'm answering your
13 question.

14 CHAIRPERSON WILLIAMS: There are times in
15 that--

16 BOB FRIEDRICH: [interposing] I'm am
17 answering your questions.

18 CHAIRPERSON WILLIAMS: Yeah, is that
19 right, Mr. Schreiber?

20 WARREN SCHREIBER: No, I don't--I--I don't
21 agree with you--with the way you--with the way you're
22 wording it, Mr. Chair.

23 CHAIRPERSON WILLIAMS: I'm not wording
24 everything you said.

2 WARREN SCHREIBER: Okay, but-but we treat
3 everybody consistently in that we will look at
4 everybody. What we always-what we always try to do
5 in my co-ops--

6 CHAIRPERSON WILLIAMS: [interposing] This
7 is happening.

8 WARREN SCHREIBER: In-in my co-op, what
9 we try to do when we receive an application, and we
10 happen to see that there might be a slight deficiency
11 in income--

12 CHAIRPERSON WILLIAMS: Uh-hm.

13 WARREN SCHREIBER: --we try to find a way
14 to make it work.

15 CHAIRPERSON WILLIAMS: Yes.

16 WARREN SCHREIBER: Okay, how can we make
17 it work? Because we don't want to deny people We
18 want to give people housing.

19 CHAIRPERSON WILLIAMS: Okay.

20 WARREN SCHREIBER: So, we always look at
21 it how can we make this work, and that is why we--

22 CHAIRPERSON WILLIAMS: [interposing] You
23 should continue to do that if these bills pass. I'm--
24 I'm confused why these bills will prevent you from
25 doing--

2 WARREN SCHREIBER: [interposing] Because
3 I—I think that if this bill was to pass, if we were
4 to allow one person to put money into escrow--

5 CHAIRPERSON WILLIAMS: Right.

6 WARREN SCHREIBER: --to make sure that
7 they were able to meet their financial obligations--

8 CHAIRPERSON WILLIAMS: Uh-hm.

9 WARREN SCHREIBER: --and in another
10 instance for whatever reason, we did not allow
11 another applicant to do that, we could be--

12 CHAIRPERSON WILLIAMS: [interposing] What
13 would be the reasons--?

14 WARREN SCHREIBER: --liable for charges
15 of discrimination.

16 CHAIRPERSON WILLIAMS: What would be the
17 reason that you didn't do that?

18 WARREN SCHREIBER: I mean it could be--

19 GEOFFREY MAZEL: [interposing] It could be
20 a low—a low--

21 WARREN SCHREIBER: It could be any number
22 of reasons. It could be that they had additional
23 financial obligations that there is--

24 CHAIRPERSON WILLIAMS: [interposing]
25 Yeah, but my guess is before the law was passed, you

2 still would not allow them to do that for the same
3 reason.

4 WARREN SCHREIBER: Right, sure. Sure.

5 Let me still look at it, but

6 CHAIRPERSON WILLIAMS: [interposing]

7 Alright.

8 WARREN SCHREIBER: --but--but this could

9 be open--

10 CHAIRPERSON WILLIAMS: [interposing]

11 Alright, I got it. I'm clear.

12 WARREN SCHREIBER: --to charges of

13 discrimination--

14 CHAIRPERSON WILLIAMS: [interposing] I

15 got it.

16 WARREN SCHREIBER: --and that would be a

17 problem for us.

18 CHAIRPERSON WILLIAMS: Whatever you're

19 doing now, you can continue to do after the bill. So,

20 I-I hear you. Thank you so much. I appreciate you

21 all taking the time to come up and help and explain

22 how a lot of these things work, and illuminating some

23 other things. Appreciate it. So, we have our final--

24 Oh, I'm sorry, you had a question?

25

2 COUNCIL MEMBER GRODENCHIK: No, no
3 problem.

4 CHAIRPERSON WILLIAMS: Our-our final
5 panel David Tipson, Mary Ann Rothman, Fred Freiberg,
6 and Craig Gurian. We've been joined by Council
7 Member Barron. [background comments, pause]
8 (coughing) So, we have Craig, we have Mary Ann
9 Rothman. Okay, everybody. Alright, please raise
10 your right hand. Do you affirm to tell the truth,
11 the whole truth, and nothing but the truth in your
12 testimony before this committee, and to respond
13 honestly to Council Member questions?

14 PANEL MEMBERS: [in unison] I do.

15 CHAIRPERSON WILLIAMS: You have two
16 minutes to give your testimony. You can begin in the
17 order of your preference. Thank you very much.

18 [background comment]

19 CRAIG GURIAN: My name is Craig Gurian.
20 I'm appearing today on behalf of Fair Play
21 Legislation. I've been doing anti-discrimination
22 work, primarily fair housing work. This is now my
23 30th year of doing that. (coughs) I've been the
24 principal author of many of the landmark changes to
25 New York City Human Rights laws starting with the

1 comprehensive 1991 revision to the law. I've—I have
2 in the past taught for a number of years Fair Housing
3 Law and practice at Fordham Law School. I should—so
4 the first thing I could say is our problem is not
5 that there's too much fair housing enforcement. I've
6 handed up two documents. One is the statement from
7 the only national fair housing organization, National
8 Fair Housing Alliance, in support of Intro 1458, and
9 the other is a debunking. That's documented because,
10 Mr. Chairman, this bill and versions of this
11 disclosure bill have been around from a long time,
12 and there's—there's a script that the industry has to
13 describe burden. There's—this bill is easy to comply
14 with, but it's hard to evade. So, there are—there
15 are a series of reasons. It's said that there is
16 preemption of the bill by the state that's full. In
17 fact, the state is not at all focused on trying to
18 preserve secrecy. I heard somebody in the audience
19 say today it's a First Amendment problem to have this
20 bill. That was a new one on me. The person
21 apparently doesn't realize that what's being
22 regulated by discrimination law is conduct and not
23 speech, and apparently doesn't realize that the Fair
24 Credit Reporting Act has been on the books for
25

2 decades. So, here's the situation, Mr. Chairman,
3 Council Member Lander: If you're turned down for a
4 department store credit card. Under federal law for
5 the last decade, you're then entitled to find out the
6 sources of information. [bell] If you're turned down
7 for your home, you can't find it out. I'm going to
8 try to wrap it up pretty quickly, but there hasn't
9 been a lot of civil rights here.

10 CHAIRPERSON WILLIAMS: You can give a
11 closing statement. We're going to go back and forth.
12 So, you'll have more opportunity.

13 CRAIG GURIAN: Okay. The reason why
14 there's an industry wide practice of secrecy is
15 because secrecy is effective. It's effective in
16 deterring people from applying in the first place,
17 and the whole thing comes down to not wanting to have
18 your reason for rejection nailed down. Co-ops like
19 other discrimination defendants want to have the
20 flexibility to come up with after-the fact reasons.
21 It's not appropriate, and I hope particularly any
22 members who have stayed, if there are any, who know
23 all the members who oppose the bill have left, I-I
24 hope that those who have concerns about the bill will
25 ask us about those concerns.

2 CHAIRPERSON WILLIAMS: Thank you, Mr.
3 Gurian.

4 FRED FREIBERG: My name is Fred Freiberg.
5 Mr. Chairman, thank you very much for the opportunity
6 to make a presentation today. I'm the Founder and
7 Executive Director of the Fair Housing Justice
8 Center. We're a regional civil rights organization.
9 We serve all of New York City, and seven surrounding
10 New York Counties. We have a full service Fair
11 Housing Program, and we speak today in support of
12 Intro 1458. In our view this bill will (coughs)
13 bring greater fairness, accountability and
14 transparency to a process that has for too long been
15 cloaked in secrecy. (coughs) I have a lot of
16 questions I hope were—or a lot of statements I'd like
17 to make that I hope will be addressed in the question
18 and answer period, but I do want to say that over the
19 past decade our organizations receive dozens of
20 complaints from individuals who are seeking to
21 purchase shares in or rent from housing cooperatives.
22 Most of these complaints have alleged race, national
23 origin, disability, family status, age or sexual
24 orientation discrimination. I do want to address
25 later I hope. I hope I'll have the opportunity to

2 address later the issue of numbers, and what numbers
3 mean or what they—they don't meant, but I—I want to
4 state for the record that numbers whether you're
5 looking a complaints we've received or complaints
6 government agencies receive do not usually reflect
7 the actual amount of discrimination the marketplace,
8 and I can illustrate that with a number of examples
9 based on our work. We have one of the most
10 sophisticated testing programs in the nation, and I
11 don't want to up my colleague here, but I've been
12 working on housing discrimination for 42 years in
13 this nation, and—and I can tell you that there is
14 systemic discrimination based on race and national
15 origin in virtually all segments of the housing
16 market yet, and we haven't done enough to eliminate
17 it. I do think the Fair Residential Cooperative
18 Disclosure Law requires cooperatives to identify and
19 disclose in a timely manner the specific reasons or
20 reason for rejecting an applicant is a good thing.
21 Once a rejected applicant receives a clear reason or
22 reasons for denial, the consumer can better evaluate
23 whether they have any reason to believe that unlawful
24 discrimination has occurred. In closing, under this
25 law, should a consumer decide to pursue a housing

2 discrimination complaint or lawsuit, a co-op can
3 defend itself based only on the reasons provided to
4 the applicant. We believe this would bring greater
5 transparency, accountability, and equity to the
6 process. We urge you to pass this law. It's a
7 reasonable piece legislation consistent with the
8 spirit and letter of the city Human Rights Law.

9 FRED FREIBERG: And it will help to
10 ensure that Fair Housing Rights of New Yorkers are
11 protected in Housing cooperatives.

12 CHAIRPERSON WILLIAMS: Thank you.

13 Good afternoon, Chair Williams (coughs)
14 and members of the committee. My name is David
15 Tipson. I'm Executive Director of New York Appleseed,
16 a non-profit organization, which advocate for
17 integrated schools and communities, and has
18 specifically addressed the problem of school
19 segregation in New York City for the last seven years
20 in partnership with two of the sponsors of this bill.
21 I am testifying today in support of Intro 1458, the
22 Fair Residential Cooperative Disclosures Law, which
23 would require cooperative corporations to provide
24 prospective purchasers with a written statement of
25 each and all it's reasons for withholding consent to

1 a sale. New York City is one of the most segregated
2 cities in the nation. The New York Times found in
3 2012 that the New York City public school system is
4 the third most segregated urban district in the
5 nation. These stats are not accidents, but the
6 result of intentional and official policies that have
7 been from—that have promoted and perpetuated
8 segregation over more than a century. We cannot
9 continue to put our heads in the sand in the face of
10 undeniable evidence but racism continues to severe—to
11 limit severely the housing options available to—to
12 people of color. While housing segregation is far
13 from the only cause of school segregation in New York
14 City, it is unquestionably the primary cause. New
15 York Appleseed's work has revealed that the street
16 and an block one lives on can determine sometimes
17 decisively one's access to educational opportunity.
18 Living in predominantly white areas typically affords
19 far greater access to the most successful and popular
20 schools. Only through strong and consistent
21 enforcement of local, state and federal fair housing
22 laws can we overcome the shameful history of
23 residential segregation in New York City and maintain
24 hope for a truly integrated school system. New York
25

2 Appleseed—New York—New York Appleseed fully supports
3 the testimony of the Fair Housing Justice Center and
4 the Anti—Anti-Discrimination Center, and their
5 analysis of the proposed legislation. Intro 1458 is
6 long overdue and common sense legislation requiring
7 simple disclosure of the reasons that an otherwise
8 qualified buyer is denied access to a housing
9 cooperative. Co-op boards complying with the Fair
10 Housing Laws have nothing to fear.

11 CHAIRPERSON WILLIAMS: Thank you. Mr.
12 Rothman, I think they put you on the wrong panel,
13 but—[laughs]

14 MARY ANN ROTHMAN: Okay. I'm flexible.
15 [laughs] My name is Mary Ann Rothman. Good
16 afternoon, Mr. Williams, members of the committee and
17 congratulations to everyone on four more years as of
18 yesterday. You have my written testimony. I will
19 give selections from it to try to stay within the two
20 minutes that I no longer have, and then a couple of
21 comments. Kind of a little bit more from the heart.
22 My name is Mary Ann Rothman. I'm Executive Director
23 of the Council of New York Cooperatives and
24 Condominiums, which is a membership organization
25 providing information, education and advocacy to

2 cooperative and condominiums located throughout the
3 five boroughs of New York City and beyond. More than
4 170,000 New York families make their homes in our
5 member buildings, which range from very modest income
6 restricted buildings, house-buildings to solid
7 middle-class garden apartments, and some very upscale
8 dwellings. The common thread is that all of these
9 buildings are owned by their residents and operated
10 as self-governing representative democracies
11 providing a wide range of homeownership options to
12 thousands of diverse New Yorkers, and responsibility
13 is a key word. Buying into a cooperative is
14 significantly different from buying a house. The
15 prospective cooperative or unit owner acquires a
16 living space, of course, but they also commit to the
17 community or we hope that they will. We ask that
18 they participate in the gov--the governing structure
19 of their new home, which may include attending
20 meetings other obligations serving on committees, and
21 sharing their expertise, being an integral part of
22 the what makes the co-op or condo work, not a mere
23 resident [bell] of the unit with the good view. May
24 I--?

2 CHAIRPERSON WILLIAMS: You can give a
3 closing sentence.

4 MARY ANN ROTHMAN: Well, I'd like to
5 close among other things by saying that we strongly
6 support Mr. Garodnick's bill, and that--that co-ops--
7 housing cooperatives have proven that nobody approves
8 of discrimination, and we are more than happy to work
9 with you to find good tools to root it out. But
10 housing cooperatives have proven their work again and
11 again as viable homes, as places where people work
12 together as communities. The admissions process has
13 proven in the Great Recession that it really, really
14 works. Very few individual cooperators have faced
15 failure in very hard times, and cooperatives
16 themselves have survived and turned around and
17 thrived. I'm a real true believe in co-ops, and I
18 hope that you'll understand the strong sense of
19 community and togetherness--

20 CHAIRPERSON WILLIAMS: Thank you.

21 MARY ANN ROTHMAN: --that--that all kinds
22 of cooperatives have, and that does and should exist.

23 CHAIRPERSON WILLIAMS: Thank you.

24 Appreciate it, and my colleagues probably have some
25 questions. The only thing I do want to say is

2 actually the most illuminating thing here is I think
3 is—giving your statement it's easy to comply with but
4 hard to evade, and just for the sake of the other
5 side, even if it's a little harder to comply with, I
6 think the hard to evade part is where all of this
7 comes from, and that you just illuminatingly said it,
8 and I appreciate it. The same thing with the Fair
9 Chance Act. We didn't do much except say we have to
10 change where you ask a question, and that made it
11 hard to evade when there's only discrimination
12 against someone. And this right here again is just
13 hard to evade that you have to—you have to do
14 something, and it may—it may illuminate some things
15 people don't want to illuminate. So, I think that's—
16 that's very telling, and the exchange that we had
17 with the—with the last panel, although I respect it
18 in the doing it, it just of reinforced that. There's
19 this—there's this—there's this thing that we don't
20 want to force people to say something or do something
21 when it comes around discrimination issues, and I
22 think that's—that's a problem. We just have to
23 contain it to—to barrel through. But I'm going to my
24 colleague for the three minutes of questions.

2 COUNCIL MEMBER LANDER: Thank you, Mr.
3 Chair. Mr. Freiberg in your written testimony, you
4 have a couple of examples that you didn't have time
5 to saw, and it does seem to me that something we
6 always didn't bring into the room at the—at the top,
7 and that—you know, I think that's part of why it's
8 like hard to understand why this matters, but it
9 matters because it—it affects real people's lives. I
10 just wonder if you could—if you give us a couple of
11 those examples of complaints that have been brought
12 to you where people were—believed strongly they had
13 been discriminated against in cooperative
14 applications.

15 FRED FREIBERG: [off mic] Well, we've had
16 a number of—[on mic] Excuse me. We've had a number
17 of complaints involving the LGBT community where
18 people have shown up for their interviews, and
19 they've treated rudely, and—and ultimately rejected
20 without a reason given. Sometimes outrageous
21 comments have been made. In one case, a woman who
22 was openly Lesbian, said, Well, you're not really
23 what we were expecting when she entered the room,
24 and—and if they had some notion of what she would
25 look like because they had been informed ahead of

2 time that it was for her and her partner that they
3 were seeking a co-op. And—and I, you know, whether
4 it's somebody who was—we had a South Asian man who
5 was ultimately turned down and—and one person on the
6 board was alleged to have said, If his name was
7 easier to pronounce he might have been accepted, and
8 there's inferences and suggestions that these people
9 come to us with that discrimination may have
10 occurred, but they're given nothing. No reason at
11 all, and they're not obligated to give a reason under
12 the law right now as to why they were—were turned
13 down. And so, they believe and—and this—in the case
14 of the South Asian man, I can tell you his financials
15 were impeccable. The best I've ever seen for anyone
16 trying—attempting to purchase a co-op. So, it
17 certainly wasn't a financial issue in this case. I
18 know we've heard these sterling examples of diverse
19 co-ops in earlier testimony today, but there's a lot
20 of co-ops that are racially homogeneous in this city,
21 and there's no reason to believe that in such
22 situations that bias doesn't infect the process from
23 time to time, and the processes don't take place
24 exactly as was represented by the last panel. There
25 are lots of different ways in which co-ops operate.

2 Some are very informal. They operate in a basement
3 with a few members present to interview prospective
4 applicants, and so we've seen discrimination over and
5 over again, but the problem really is that there is
6 no way people feel confident about pursuing their
7 claims because they don't have a reason, and if they
8 were given a reason whether it was pretext or not, it
9 would give them a better way to evaluate whether
10 their civil rights had been violated and whether it
11 was worth while to pursue any kind of complaint.

12 COUNCIL MEMBER LANDER: And I just want
13 to underline kind of this to be as sort of the key
14 point. I mean you guys have been doing fair housing
15 and anti-discrimination litigation in housing for
16 decades. You believe based on all that experience
17 that the difference between pursuing a successful
18 case, assuming there was discrimination in the—you
19 know, in those cases, would be very substantial from
20 where these two individuals chose not to pursue a
21 claim because they just didn't have anything to go
22 on. They would have been stuck with total he
23 said/she said, and a situation where even if a false
24 pretextual reason had been given, they would have had
25 a much strong ability to pursue a claim.

2 FRED FREIBERG: Absolutely.

3 CRAIG GURIAN: Absolutely, it's-it's at
4 every stage of the process. So, it's the personal
5 who has been turned down having something to look at
6 and say does this add up? It's the ability to get
7 counsel. I-I think something happened to me. Well
8 what? You know, I don't know what it is. If I may,
9 I want to just give another example of a kind of
10 discrimination that occurs and why it's not always on
11 its face, and why Mr. Chairman there's no CIA plot or
12 collusion that's required. I'm-I've had a
13 circumstance, and actually, I dealt with this not as
14 an attorney, but in a-in a different context where
15 I'm-that I'm familiar with where an individual member
16 of a board actually did not wan the applicant because
17 the applicant had a young a child, and the person on
18 the board felt that there would be noise running
19 around over her head. It didn't take a campaign on
20 her part to get a majority of the board to say we're
21 against children. What she did was become the prime
22 mover of raising objections. She was motivated by a
23 discriminatory reason, and then she took upon herself
24 to trash the application on other grounds. So, a

2 single board member can infect the process with
3 discrimination as well.

4 FRED FREIBERG: I would agree with that,
5 Council Member Lander, and I would also add that
6 (coughs) because you raised this earlier is when you
7 were talking to the Commission about their testing
8 program, and, you know, that you can't test in this
9 world. Well, I know better than anyone that you
10 can't do testing in the co-op scenario that you—you
11 can't go far enough into the process to really
12 compare treatment, and—and if there was a way to do
13 that I mean a lot of people might say there's not a
14 lot of systemic race discrimination in the rental
15 market in New York City, if you were to base it only
16 on complaints filed with government agencies. But I
17 know from having sent testers in the neighborhoods in
18 Brooklyn, in the Bronx and Queens and other places,
19 that there systemic racial discrimination in the
20 marketplace. But, it's so subtle, so cleverly
21 accomplished that no one can—no ordinary consumer can
22 detect that discrimination is taking lace.

23 COUNCIL MEMBER LANDER: And I'll just
24 leave it here, but I—I do want to—this helps me make
25 a closing point that I do want to make about

1 cooperatives in general. I love cooperatives. I
2 help set up some of the equity cooperatives when I
3 was at the Fifth Avenue Committee. I think it's a
4 marvelous form of ownership. I wholeheartedly agree
5 we did rental discrimination first. That's why we
6 passed that bill a couple of years ago on this. We
7 don't believe that it's more or less pervasive in the
8 cooperative marketplace. We're not targeting
9 cooperatives for anything. We just--when we thought
10 that there was more discrimination in the rental
11 marketplace than we were--than we were aware of, we
12 had a tool for it. We passed a law to strengthen and
13 require the Commission and they've moved forward on
14 that tool, and what we're looking to do here is to
15 provide some protections against that discrimination
16 taking place in cooperatives. So, you know, we may
17 disagree about whether this a modest burden, and what
18 the consequences will be. I will say we have
19 evidence of that from Suffolk and Hempstead, and if
20 anybody would show me one cooperative board in
21 Suffolk or Hempstead that found this law too
22 difficult to comply with, I'd be glad to talk to
23 them. So, I think the evidence suggests it's where
24 there is evidence, and the panel before talked about
25

2 it, the evidence suggests that this law is not a
3 heavy burden, and that it will provide a modest
4 remedy, but it's certainly not the case that we're
5 seeking to target cooperatives. We're just trying to
6 make a fairer city.

7 MARY ANN ROTHMAN: I'm—I'm comforted,
8 Brad, but my—I know I'm not supposed to ask questions
9 from here [laughter] but in the instance that the
10 gentleman just cited of an individual board member
11 with their own agenda throwing up other barricades,
12 the—the—the reason that would be given for the
13 rejection probably wouldn't be the true reason if
14 that woman were clever enough to have disguised it.
15 So, how would one get to the truth?

16 CRAIG GURIAN: [interposing] In fact, you
17 shouldn't have a panel if this, if this is--

18 COUNCIL MEMBER LANDER: [interposing] You
19 should have a panel to decide.

20 CRAIG GURIAN: [interposing] --if this is--
21 if this is -if this is-if this per-if this is
22 permissible, Mr. Chairman, this-this came up a little
23 bit earlier in a colloquy that Council Member Lander
24 had with a member of a panel that it's precisely the
25 provision of the reasons that enables someone to say,

2 well, I guess I didn't—I guess I didn't have twice
3 the purchase price in remaining—in remaining assets.
4 What is true—what is true about the circumstances,
5 once the reason is provided as the representative
6 from the Commission on Human Rights said, that's a
7 very good starting point. Let's say that the reason
8 given is you haven't had the same job for at least
9 two years. Well, the first think that the person
10 does is say, well, that—that can't be—that can't
11 true. I have had the job, or they may wind up saying
12 well, that's interesting because Mrs. Jones in 3-B
13 who a broker has also sold the apartment to, she
14 didn't have her job for as much as two years, and she
15 was let in. It's the ab—it's the absence of reasons,
16 and—and really, let's try to bring this back down to
17 earth. What the co-ops are looking for, whether it's
18 put in terms of vulnerability to litigation or just
19 the desire to help everyone--I know that's not your
20 point, Ms. Rothman—is co-ops like other entities
21 would love it or do love the situation where you have
22 flexibility to invent after the fact reasons, post-
23 talk reasons for your conduct. You can shape the
24 reasons provided if a discrimination case ever comes
25 up. And what this bill does is it does take away

2 flexibility. It says that the people—it is very
3 important, Mr. Chairman, in terms of this burden
4 question. It's no mystery what happens. Members of
5 a co-op board are sitting in a room. They talk about
6 the application or the applicant. They make a
7 decision. They know sitting in that room what the
8 reasons were, and all that's being said is, we don't
9 want to be pinned down to those reasons. That should
10 not be comforting. This is the only industry that I
11 have ever heard of that says if people knew why we do
12 what we do, our industry would be ruined.

13 COUNCIL MEMBER LANDER: Let me just—

14 CHAIRPERSON WILLIAMS: Council Member.

15 COUNCIL MEMBER LANDER: --make a final
16 statement and not a question, and the turn it back
17 over because I do agree that there is some—a flaw in
18 this bill, which is that there will be many
19 situations of some situations where a person was
20 genuinely discriminated against, but where the reason
21 that's provided in the letter stands up at the Human
22 Right Commission, and sometimes people who were
23 genuinely victims of discrimination will not be able
24 to win redress under the law because even though in
25 that small number of cases, where there was really

2 active discrimination, if you had a video tape
3 everybody would know it. Still, they will provide
4 that letter. The Human Right Commission will see it,
5 the letter will stand up, and they will be granted no
6 remedy, and I'll be sad about that because those will
7 be victims of discrimination who we didn't help, but
8 at least in some situations where there was
9 discrimination, this would provide a remedy or a path
10 to remedy, which was not-which does not today exist.
11 So, the whole point that the reasons might sometimes
12 be false, it is a good criticism of the bill. It's
13 just-it's a criticism of the bill that it won't be
14 strong enough to solve the problem, and not that it's
15 too big a burden.

16 CHAIRPERSON WILLIAMS: Thank you.

17 COUNCIL MEMBER LANDER: Thank you.

18 CHAIRPERSON WILLIAMS: I do want to say
19 just, Ms. Rothman, just so we're clear because in the
20 Fair Chance Act, it did two things. All we did was
21 we changed when you have to ask the question because
22 everybody said obviously this would ruin everybody's
23 ability to-to be in business. It also it's not-it's
24 not necessary because discrimination is illegal, and
25 they also said that they're not discriminating

2 against because some had a criminal history. What we
3 found is that when they—when they asked the question
4 up front, the applications went into the circular
5 file. There is no real—at least the garbage can.
6 There were no real reasons given of why this person
7 wasn't being hired. We couldn't figure out whether
8 the person was explicitly discriminated against
9 except we had a lot of anecdotal evidence that
10 decided that, and what we said is only that you
11 cannot ask whether you have a criminal history.
12 After you've evaluated the person, you can then ask
13 the question, and you deny them, you have to give the
14 reasons if it's connected to criminal history. That
15 one act exponentially increased the amount of people
16 who were saying they were discriminated against.
17 Because now there was something that we can hold
18 onto, and say you discriminated against me because
19 you asked this question either earlier, or you liked
20 me up until this one point. And so, having a reason
21 or having a thing that you can hold onto does begin
22 to germinate the ability to now say perhaps I was
23 discriminated against because the reason that was
24 given isn't true, or I can prove that it wasn't the
25 same as someone else. So there'—there's a long

2 litany of things that you can now do once that reason
3 is given that you couldn't do before, which is why I
4 thin the hard to evade part is what gives people the
5 most consternation. And I want to ask you, is that a
6 part—a big part of why you're—like to me this seems
7 to be two things going on here. One is people just
8 don't like the time frame that we had, and then—and,
9 of course, well more that. There's the penalty.
10 There's the timeframe and there's this you have to
11 give a reason. What in your mind is the biggest
12 problem of giving a reason why someone is denied?

13 MARY ANN ROTHMAN: The biggest problem?

14 Well, I think—I'm—the-what I tried to elicit from the
15 gentleman at the end is that his story had—it's one
16 person with a false—with a discriminatory motive who
17 moved the rest of the board by diversion really. So,
18 the reasons will, if I understand it, would require
19 the board to give as reasons the consensus, which she
20 brought them to, and wouldn't ever divulge—if she
21 were clever at what she had done, wouldn't really
22 include her motivation.

23 CHAIRPERSON WILLIAMS: Sure.

24 MARY ANN ROTHMAN: So, there's a--

2 CHAIRPERSON WILLIAMS: And what's wrong
3 with that?

4 MARY ANN ROTHMAN: Well, we won't get at
5 the truth. I mean the truth is in his example, one
6 person made a--

7 CHAIRPERSON WILLIAMS: [interposing] So,
8 that aside, let's--let's pretend we're all just
9 foolish, crazy people. We won't get to the truth.
10 What's wrong still with requiring that there's a
11 reasons given why someone is denied?

12 MARY ANN ROTHMAN: Well, I guess the
13 decades of case law have affirmed our right not to
14 give reasons. So, I would like that to prevail. I
15 don't know to what degree the reasons given would
16 indeed be accurate or complete. So, I don't know how
17 productive such a bill--

18 CHAIRPERSON WILLIAMS: [interposing] I
19 see.

20 MARY ANN ROTHMAN: --would be. The
21 punitive aspect is draconian.

22 CHAIRPERSON WILLIAMS: [interposing] I
23 want--I just want to stick--

24 MARY ANN ROTHMAN: --first of all from my
25 point of view.

2 CHAIRPERSON WILLIAMS: [interposing] Wait
3 I just want to stick on the part.

4 MARY ANN ROTHMAN: [interposing] At the
5 one part--

6 CHAIRPERSON WILLIAMS: No, no. The one
7 part of--

8 MARY ANN ROTHMAN: [interposing] I guess
9 the worst--the worst part about it is that it will
10 discourage good capable people from volunteering to
11 serve their co-op community, and to be board members.

12 CHAIRPERSON WILLIAMS: I just have to say
13 that I have heard no reason why people shouldn't put
14 in writing why someone is not being allowed to be put
15 in the co-op. What you just said I think might have
16 been the worst reason, which is that the decades
17 ability to not give a reason should remain without a
18 reason. So, that's just--it says to me that really
19 this is about being able to continue to evade certain
20 things and being able to not have to give a reason
21 just because we've--we've been doing it that way,
22 which says to me that it might be something, you
23 know, implicitly clandestine about it even if it
24 isn't explicit. But there's a problem there if no
25 one can give me a reason as to why they should not be

2 able to provide a reason to someone who's being
3 denied. That--that just sounds kind of bad. I don't
4 know how else to put it. There should be a reason
5 and there should be an explanation of why we think
6 giving a reason to someone who is denied somehow
7 hurts the co-op.

8 MARY ANN ROTHMAN: Perhaps if your bill
9 were not so incredibly punitive--

10 CHAIRPERSON WILLIAMS: I see

11 MARY ANN ROTHMAN: --and didn't force
12 board members to face the possibility of both private
13 right of action, and city investigation, possibly
14 people might feel less threatened, and--and enormous
15 fines. Possibly people might feel less threatened by
16 it.

17 CHAIRPERSON WILLIAMS: I do want to look
18 at the punitive part of it. I will say without those
19 private right of actions, without punitive things
20 occurring, people don't out of the goodness of their
21 heart do the things that we ask them to do, and so,
22 without the stick nothing happens.

23 MARY ANN ROTHMAN: You'll end up with the
24 wrong--

2 CHAIRPERSON WILLIAMS: [interposing] But
3 I just want to say let's—if we—if we operate from
4 the—from the thought process that discrimination—
5 although not every panelist agrees, but if we operate
6 from the thought, the point of view that
7 discrimination does happen, and we want to prevent it
8 from happening, if we put something up there that
9 says if you do this, and we can help with the
10 discrimination issue, and we say if you don't do it,
11 nothing happens, I don't really believe that
12 discrimination is going to stop. You have to have a
13 stopgap there, and so, the—the punitive nature is it
14 does that. Ando, I—I want to look at--

15 MARY ANN ROTHMAN: [interposing] The very
16 example that we've been given here unfortunately,
17 your bill doesn't give us a shot at getting at the
18 truth or the—the hard--

19 CHAIRPERSON WILLIAMS: [interposing] No,
20 you're going to another question. I'm—I'm not even
21 going to that. I'm just saying what—what's presented
22 doesn't seem overly punitive on its face value
23 providing a reason why you're denying someone. No
24 one has given me a reason, or no one has given me a
25 reason why we shouldn't do that. The other part is

2 we believe it will at least begin to help someone
3 make a case if they've been discriminated against,
4 and in order for them to be able to build their case,
5 you have to do the thing we asked you to do, and
6 you're not going to do it if nothing happens if you
7 don't do it, and that's just the way it is. So,
8 everyone of these things, the Fair Chance Act, the
9 Biased Base Policing Bill. Everybody has wanted us
10 to take out the ability to sue for some reason or
11 other, and if we take it out, the teeth are gone. At
12 least with the Biased Base Policing as of last year,
13 we were told the whole world was going to crumble,
14 and so officers were going to get sued. They were
15 going to lose their home, all kind of foolishness.
16 There--there were zero lawsuits as of last year and
17 they are changed by now. So, this--the world doesn't
18 generally crumble when these things occur. There's
19 some positive things that happen. So, we want to see
20 those positive things occur. If there's issues
21 around timing for some reason or issues around the
22 punitive damages as that's not my bill (sic), I
23 actually want to hear them, but in terms of putting
24 something in writing, no one has given me any reason
25 why we shouldn't do that except we just don't want to

2 because we want to remain everything in secrecy,
3 which we can't do any more. The last thing I want to
4 mention in terms of diversity, and I believe that a
5 lot of those comments were earnest and certain
6 examples. What I attend to found and--tend to find,
7 and this covers everybody in terms of diversity--but
8 what I tend to find, and I want to make sure this is
9 on the record when people talk about diversity, it
10 usually excludes Black families and Black people, and
11 so I just want to make sure that we put that on the
12 record because it's usually diversity other than
13 that, and we want to make sure we include them as
14 well. With that--

15 CRAIG GURIAN: [interposing] Mr.

16 Chairman. I--I apologize, Mr. Chairman.

17 CHAIRPERSON WILLIAMS: Sure.

18 CRAIG GURIAN: May I just put one data--
19 one data point the record that hasn't been discussed--
20 -

21 CHAIRPERSON WILLIAMS: Sure.

22 CRAIG GURIAN: --yet--yet today? Many
23 years ago when a bill varies or almost identical to
24 this one was pending, that was when Mayor de Blasio
25 was in the Council and was a co-sponsor of the

2 disclosure bill. We had a professional survey
3 organization do a survey of co-op owners, and it's
4 always a very—it is a very particular survey. It-it-
5 it definitely skewed why it was co-op owners of
6 private co-ops in Manhattan below 96th Street who
7 were themselves co-op board members. In other words,
8 the people that the panelists you've heard hear today
9 purport to represent. In a—in a survey, those co-op
10 members themselves supported disclosure by a margin
11 of 2 to 1. The opposition here comes from a very
12 small, but very vocal part of an industry, board
13 members and its organizations and agents. This is
14 not the broad view of co-op owners overall, and the
15 survey data show that.

16 CHAIRPERSON WILLIAMS: Thank you. Ms.
17 Rothman.

18 MARY ANN ROTHMAN: Excuse me, but it's
19 the responsibility of every shareholder in a co-op to
20 be part of the governments of their co-op, and to
21 take their turn serving on boards or on committees or
22 otherwise sharing their expertise. So, it isn't and
23 us and them, it's an us, us, us, us, us in a properly
24 run co-op community. So, to—to to have hunted out
25 people who have never—who have lived in a co-op for a

2 length of time, but had never served on their board,
3 is kind of disappointing to me.

4 CHAIRPERSON WILLIAMS: Well, you're-
5 sorry. It's okay. I got-I got your point. Thank
6 you, Ms. Rothman for your point as well. I-I do want
7 to say I-I-I'm actually leaving this hearing more
8 wanting to pass these bills than I entered in the
9 hearing. I'm aghast at some of the things that I
10 heard and some of the reasons that were put forth
11 that really were not intelligent as in terms of why
12 we shouldn't do certain portions of this. There are
13 certain portions that I want to look at and-and make
14 sure we adjust, but there were some that they were
15 just-they just-there was no basis for-for the
16 opposition except for there's an industry that
17 doesn't want admission of disclosure and wants to
18 remain in secrecy. Maybe some of them changed my
19 mind to that, but that certainly-opposition to that-
20 to what I just said hasn't come across in any of the
21 testimony that I've heard, and people have had ample
22 time. The fact that people don't want to just say
23 why they denied somebody doesn't hold up any argument
24 anywhere except for people just want to remain
25 secrete and why I don't know. So, with that for the

2 record we have Associated Builders and Owners of
3 Greater New York, the Broadmoor Co-op and New York
4 State Association of Realtors, and I think this panel
5 for taking the time to come up. I know Ms. Rothman
6 has a tough job, and I appreciate the work that you
7 do as well. With that, the hearing is now closed.
8 Oh, I want to thank the sergeants as well for their
9 job. Thank you. [gavel]

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C E R T I F I C A T E

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



Date November 19, 2017