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May 2, 2007

Alternative Enforcement Program  
Int. No. 561

By way of explanation of my interest in Int 561, I wrote the City's initial procedures for the Emergency Repair Program, the City having taken the risk of employing me after I was counsel to the Harlem Rent Strike. It was that upheaval over housing conditions in the early 60's that gave birth to ERP.

I have a smidgen more of background on this topic I served two terms as a Housing Judge before retiring and prior to that nearly two decades at HPD in a variety of positions from Counsel/First Deputy Commissioner Rent and Housing Maintenance to creating and administrating the Office of Neighborhood Preservation and running HPD's building's Rehabilitation Finance

How to achieve maintenance of the existing housing has always fascinated me. I await, as I am sure this Committee does, enactment of the Governor's legislative proposal to allow municipalities to enforce housing maintenance through administrative proceedings. If authorized that legislation will certainly keep this Committee on tender hooks for some time. Rather than dealing with the annual handling of what I estimate to be roughly 29,000 violations under Int 561 the Committee will face the issue of how to achieve correction of half a million housing code violations annually.

Clearly my testimony is in favor of Int 561's underlying purpose. However, I believe its goals were better laid out in the April 12<sup>th</sup> NYTimes' story than in the language of the bill and its supporting memo. This bill was clearly drawn by "Committee" and while the Council members concerns for involvement were front and center the burden still rests on the bill's language to authorize its mission. There I believe the bill falters.

At the guts of the bill is I believe a weak definition of "a "related underlying condition"" [ k (i)] [7/21]. Can you install a sprinkler system under Int. 561's definition? What are the structural and related underlying condition that HPD found itself thwarted from correcting ? – the essence of what the bill is aimed at correcting [8/1] along with the specified "heating or plumbing system[s]." Without limitation can't Int 561 more definitively say more than "related underlying condition"? Right now is the time to put into a supporting memorandum details as to why the Council found the law as it stands today inadequate.

To me Int 561 reads as if final drafting was not placed on any one person's shoulders. One glaring aspect of the nature of judicial review is why in the same piece of legislation an expression differs from a similar one in the same legislation. This bill is full of such examples. I'll submit those on an appendix to these remarks.

It's pleasant to assume a willing, able and determined City agency dedicated to carrying out the Council's view, but it seems to me that a host of critical issues are broadly left in the category of :

we know what was meant, but failed to say so.

Rather, let's assume a litigious owner caught in HPD's distressed building list who doesn't want to be there. How many areas of litigation is Int 561 going to provide? Hopefully none, but surely as few as possible.

Powerful owners do own buildings with multiple violations. You'll recall the violation history of the proposed purchaser of Starrett City.

At this writing I'm told by HPD that a prospective list of 200 buildings isn't anticipated until September. So we have no idea who will be caught in the bill's web and importantly how distributed and in what neighborhoods. what neighborhoods.

Let us not presume that HPD's computer system is flawless. The bill is drawn without any giving conclusive force as to HPD's list nor a distinct time limitation when the list can be legally challenged. What if there are three hundred or even more buildings that meet the criteria? Can an owner of a listed building go to Court over why me not those others ( who are equally bad or worse )? How long would litigation tie up implementation of Int 561 ? And what about successive year's listing?

Instead of using a statutory provided provision of serving notices the bill introduces " notification". How is that to be done? Why leave it to speculation?

Right off the bat you have the department required to identify no fewer that two hundred distressed buildings. Then in "g" [5/4] the department within thirty days of the

effective date of this article shall provide written notification to the owner of any building etc Where is a comparable requirement for notification to the owners in the second, third and future years?

What if future City Administrations do not take to the idea behind this bill? Are they free to then ignore its requirements, as they are only mandated to make a list?

In my view an evaluation process of how this bill is working should be required from the start. Don't leave it to the fourth year [v] [12/7] to require the department to conduct a study of its effectiveness. That time lag makes it too far gone if the agency hasn't taken the collected data, reviewed it and most importantly undertaken preliminary analysis along the way. The bill provides for a report to the Council by February 15<sup>th</sup> each year [s] [11/8]. Why not require a preliminary evaluation study with each report ?

Again some other City Administrations may not be so keen on expending the money, staffing and effort to have this bill's concept fully implemented .

Int 561 doesn't tackle the issue of who manages these two hundred distressed buildings while the City is funding their system replacement and related underlying conditions. Who has the right to collect the rent.? If the City collects the rent who is in charge of managing the building? Who pays the superintendent? Who sees to it that garbage is collected? What incentive does an owner have to pay for maintaining the building when there is an anticipated loss of the building through City's lien foreclosure.

If the tenants go to Court to have an Article 7A Administrator appointed does that terminate their participation in Int 561's alternative enforcement program? [e]

[4/22]

While the City's is expending funds for the work under Int 561 are the tenants entitled to reduction of rent for breach of warranty?

If present law is a frustration to meaningful ERP then the task remains to place a fully workable Int 561 on the Mayor's desk.

## APPENDIX<sup>o</sup>

1 ) dropping mention of violations of the multiple dwelling law on occasion while other times reference is made to both violations of the HMC and MDL

enforce violations of this code and the multiple dwelling law  
2/17 5/15-16 11/21-22 12/1  
omits reference to MDL  
6/20 7/16

2) the different criteria for years one and two where it's "twenty-seven or more open hazardous or immediately hazardous violations of record" 3/3 but in the third year its "twenty-five or more ..." 3/16

3) while in the fourth year what was earlier "unpaid emergency repair charges" 3/10, 4/1 reads "emergency

repair charges, dropping the qualifier "unpaid", or 4/14

4) what is provided for is a thirty-day time frame for the department to prepare a scope of work

necessary to correct the violations and repair the related underlying conditions and cause the work to be commenced and expeditiously completed. 8/5 Surely not completed within thirty days.

So why not say what you mean?

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<sup>o</sup> Page/line references are to line numbered bill versions attached



# Make the Road by Walking, Inc.

301 Grove Street, Brooklyn, NY, 11237; Phone: (718) 418-7690; Fax: (718) 418-9635

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## Testimony of Alicia Benitez Member of Make the Road by Walking

I have lived at 515 Wilson Avenue in Brooklyn for ten years. There are 263 violations on file and over \$4000 in unpaid emergency repair charges on my building. That's just what's on the books.

In 1999, I began to have a major mold problem in my apartment. It started with mold in my bedroom and in my kitchen. There is black mold all over the wall by my kitchen table and also all around the stove. Now it's also spread to the hallway, and one side of the living room.

There have been problems with the roof leaking since 2005. Every time it rains, I don't sleep because I have to run around wiping up the water and putting containers under leaks. After the last Nor'easter, I filled 15 two-liter coke bottles catching leaks around the apartment. Now there is water coming out of tiny fissures in the wall. It's very alarming to see water coming out of the wall because you can't catch that. I have to keep all my newspapers and circulators to use them to wipe up the water.

Tenants from my building have been calling 311 consistently for years. We thought the city would come and make repairs, but instead they just gave the landlord another chance. The landlord acted like they were going to make repairs, but haven't done anything. Every time we call the landlord, they say tomorrow, tomorrow. So far the city has not come and made repairs in my apartment. We've been trying to make a lot of repairs on our own.

I urge the City Council to pass Intro 561: the Safe Housing Act as soon as possible so that we don't have to live in these horrible conditions anymore. Thank you.

**Translated Testimony of Zhi Qin Zheng  
Member, Chinatown Tenants Union  
Hearing on Intro 561- Safe Housing Act  
Thursday, May 3, 2007**

Hello, my name is Zhi Qin Zheng. I have lived in Chinatown for over 20 years. In the last few years, we are facing more and more gentrification. Rents keep going up, and a lot of landlords want to kick out low-income tenants, renovate apartments, and then rent those apartments at a higher cost to white tenants.

Take for example, 61 Delancey Street where I live. The landlord bought the building and immediately started to kick out the tenants. He did not provide heat and hot water, and when we had collapsed ceilings and leaky faucets, he ignored us. We have a huge mice and roach problem and lots of violations. These are conditions we live with all the time.

Even though there is 311, because of language barriers it's still difficult for tenants to call. For those who do call, some calls can take 40-50 minutes. In my case, my kids are grown, but the inspector who comes often doesn't speak my language. If my kids are not home, I can only point to what's wrong. But some things are not visible to the eye, pointing is not good enough—for example I can't explain that the landlord constantly turns off heat in the evenings and on the weekend.

It is not unusual for HPD to take a week to follow-up on 311 calls. Last year I didn't have electricity for days, but it took HPD a week to call back to see if it had been restored. They never even came. When I had no heat and hot water, it took 5 days for an inspector to come. On the day they came, it was 60 degrees and we didn't need heat that day.

In my building and the building next door, there are a total of over 500 HPD violations. We called 311 for years, but it wasn't until we organized with the Chinatown Tenants Union that HPD finally agreed to sue the landlord.

These are my personal experiences, but I am not the only one that faces this issue. I hope you understand our problems, and pass the Safe Housing Act, giving us protections we need.

Thank you.





## **Housing Committee Hearing on Intro 561**

**Testimony by Chloe Tribich**

**Lead Organizer, Housing Here and Now**

**May 3, 2007**

Poor building conditions are an important element of today's housing crisis.

According to the Furman Center at NYU, in 2004 there were 41.1 C violations per 1,000 rental units citywide. Many neighborhoods far exceeded this count, with Bushwick in the lead at 184.1 C violations per 1,000 rental units. The neighborhoods with the most C violations are mostly poor neighborhoods of color with large immigrant populations.

Additionally, the Furman Center reported that 21% of all renter households in New York City had a severe affordability or quality problem. The Highbridge neighborhood in the Bronx was in the top five neighborhoods citywide for BOTH rent burden *and* percentage of C violations. The tenants who struggle hardest to pay their rent frequently also suffer from lack of maintenance and adequate enforcement. This shows the importance of addressing poor maintenance as part of the affordability crisis.

Recent HPD reforms, such as the Targetted Cyclical Enforcement Program and the Lead Law have been significant steps towards addressing poor conditions. But even

tenants in buildings lucky enough to receive HPD attention in the form of emergency repairs, litigation or roof to cellar inspections have often not gotten the sort of serious repair work that the conditions of their building require.

237 East 194<sup>th</sup> Street in the Bronx is one example. For at least two years, this building has received organizing assistance from experienced community groups as well as attention from HPD code enforcement and litigation. The mortgage holder has performed several inspections over the course of the past year and has leaned on the owner to do repairs. However, as of May 3<sup>rd</sup> 2007, this 25 unit building as had 70 violations documented in the past 12 months alone; 57 of these are B and C violations. Tenants continue to complain of inadequate hot water, poor security and leaks.

In many buildings, landlords perform quick repair work in response to HPD violations, but do not address root causes of the problems. For example, a leaky bathroom ceiling may be plastered and painted in time for HPD's violation dismissal inspection, only for the leak to reemerge in weeks. There is little data that documents the frequency of such cosmetic repair work, but experiences of organizers and tenants suggest that it is shamefully common. Ensuring that buildings with systemic failures –such as boiler or electrical problems – receive systemic repairs is a key element to ensuring that all New Yorkers have a decent place to live. I believe this is one of the most powerful aspects of the Safe Housing Act.

On behalf of Housing Here and Now, I strongly urge the Council to pass Intro 561, the Safe Housing Act.

Good Afternoon, My name is Damon and I currently reside @ 251 Clifton Place in the Bed Stuy Section in Bklyn. I've lived there for 2 years. When I first viewed the apt. it seemed to be in the best of condition, but shortly after signing the lease and moving in I found out that the space needed major repairs. There were leaks in the ceilings and walls and bathroom fixtures needed to be replaced. At that time I called management. They would say that they will begin repairs soon, only to leave me to deal with the conditions for months.

Shortly thereafter, Pratt Area Community Council came to my buildings Rescue. They introduced us to the TCEP Program (Target Cyclical Enforcement Program) which began to put pressure on management. They sent out HPD Inspectors, handed out violation which forced all repairs.

Since TCEP the tenants have formed a tenants association and got the building involved in other programs such as the FTAP Program ( Federal Tresspass Affidavit Program) which will keep the lobby free of loiterers.

We are now living in a clean environment with new lobby doors that Lock!! And for that we the tenants of 251 would like to say thank you to PACC, council woman James, council man Vann, and all those who helped in our fight.

Thank you & Have a BLESSED DAY!!!!!!!!!!



■ COMMUNITY HOUSING IMPROVEMENT PROGRAM, INC.

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COMMUNITY HOUSING IMPROVEMENT PROGRAM  
TESTIMONY  
INTRO # 561  
ALTERNATIVE ENFORCEMENT PROGRAM

THIS TESTIMONY IS SUBMITTED BY PATRICK SICONOLFI, EXECUTIVE DIRECTOR OF THE COMMUNITY HOUSING IMPROVEMENT PROGRAM (CHIP). CHIP IS AN ASSOCIATION OF MEDIUM AND SMALL OWNERS OF RESIDENTIAL RENTAL PROPERTY. AMONG THE SERVICES CHIP PROVIDES ARE PROGRAMS DESIGNED TO AID OWNERS IN ACHIEVING AND MAINTAINING COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS. ACCORDINGLY CHIP HAS A LONG STANDING INTEREST IN FURTHERING REASONABLE EFFORTS AT COMPLIANCE.

INTRO 561 CREATES AN ALTERNATIVE ENFORCEMENT PROGRAM. THE DESIGN ENCOMPASSED TARGETS A CATEGORY OF BUILDINGS WHICH, DUE TO THE SEVERITY OF CONDITIONS DEFINED AND THE NUMBER OF BUILDINGS TO BE ADDRESSED, PROPERLY ENSURES THAT THE SCOPE OF THE PROGRAM IS CONSISTENT WITH REALITIES IN THE REAL ESTATE INDUSTRY.

ACCORDINGLY, CHIP SUPPORTS THE PASSAGE OF #561

IT IS USEFUL TO POINT OUT THAT THE GREAT MAJORITY OF BUILDING OWNERS ARE RESPONSIBLE STEWARDS OF THEIR PROPERTY AND THAT TODAY'S BUILDINGS ARE EXCEPTIONALLY WELL MAINTAINED BY HISTORICAL STANDARDS.

IN THIS REGARD IT IS USEFUL TO REVIEW THE FINDINGS OF THE 2005 HOUSING AND VACANCY SURVEY, 2005 BEING THE MOST RECENT SURVEY. THIS SURVEY IS CONDUCTED BY THE CITY'S OWN DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT PURSUANT TO STATUTE.

THE SURVEY SHOWED THAT BUILDING CONDITIONS AND HOUSING MAINTENANCE WERE SUPERIOR, ESSENTIALLY AT THE BEST LEVELS IN THE FORTY YEARS THE SURVEY HAS BEEN CONDUCTED. TO QUOTE:

“BUILDING CONDITION WAS EXTREMELY GOOD. ALMOST ALL HOUSING UNITS IN THE CITY WERE IN STRUCTURALLY GOOD BUILDINGS. OF ALL OCCUPIED UNITS (RENTER AND OWNER UNITS TOGETHER), A MERE 0.5 PERCENT WERE IN DILAPIDATED BUILDINGS IN 2005, AS IN 2002. THE DILAPIDATION RATE REMAINED AT AN ALL TIME LOW FOR THE FORTY-YEAR PERIOD SINCE 1965. THE DILAPIDATION RATE FOR RENTER OCCUPIED UNITS WAS 0.7 PERCENT IN 2005, WHILE IT WAS 0.6 PERCENT IN 2002. BUILDING CONDITIONS IN THE CITY IMPROVED TREMENDOUSLY SINCE 1965. THE RENTAL DILAPIDATION RATE WAS 4.0 PERCENT IN 1965, 3.4 PERCENT IN 1984 AND 1.3 PERCENT IN 1996.”

THE SURVEY GOES ON BY SAYING:

“HOUSING MAINTENANCE CONDITION REMAINED VERY GOOD. THE PROPORTION OF RENTER-OCCUPIED UNITS WITH FIVE OR MORE OF THE SEVEN MAINTENANCE DEFICIENCIES MEASURED BY THE HVS SINCE 1991 WAS EXTREMELY LOW, ONLY 4.9 PERCENT IN 2005. MAINTENANCE CONDITIONS HAVE IMPROVED SUBSTANTIALLY. THE RATE WAS 7.7 PERCENT IN 1991 AND IT WAS 4.0 PERCENT IN 2002.”

CHIP BELIEVES THE MEASURED APPROACH IN #561 IS APPROPRIATE TO THE TASK.

WE RECOMMEND CONSIDERATION BE GIVEN TO THE FOLLOWING POINTS. FIRST, THE BILL SHOULD CLARIFY WHAT HAPPENS WHEN A TENANT DENIES ACCESS FOR REPAIRS. TIME FRAMES ARE SHORT. A TENANT WHO DENIES ACCESS CAN FORCE AN OWNER INTO A PRECARIOUS SITUATION. THE TIME FRAMES TO RESPOND ARE CLEARLY TOLLED FOR THE DEPARTMENT IN ITS RESPONSE OBLIGATIONS. SECTION K (ii) 2 SHOULD CLARIFY THAT TOLLING APPLIES ALSO TO THE OWNER WHO HAS ATTEMPTED IN GOOD FAITH TO GAIN ACCESS BUT CAN NOT.

SECOND, EITHER THE BILL, OR THE HPD RULES WHICH FOLLOW, SHOULD CLARIFY THE DISPOSITION OF HPD'S ORDER AND INSPECTION WHEN, PURSUANT TO K (ii) 2 AND 3, THE SCOPE OF WORK IS “ECONOMICALLY INFEASIBLE.” THIS IS NOT NOW ADDRESSED.

THIRD, THERE NEEDS TO BE RECOGNITION OF THE FACT THAT BUILDINGS DISPLAYING THE VIOLATION PROFILE WHICH CAUSES THEM TO BE PART OF THE ALTERNATIVE ENFORCEMENT PROGRAM ARE TYPICALLY DISTRESSED BUILDINGS. THESE ARE USUALLY BUILDINGS WHERE THE FINANCES ARE IN CRISIS BECAUSE COLLECTABLE INCOME DOES NOT SUPPORT THE DESIRED LEVEL OF INVESTMENT IN THE BUILDING. THE

RENT GUIDELINES BOARD, IN ITS 2007 INCOME AND EXPENSE REPORT ISSUED ONLY LAST WEEK, FINDS THAT FULLY 11% OF BUILDINGS ARE "DISTRESSED" A TERM THE BOARD USES TO DESCRIBE BUILDINGS THAT HAVE OPERATING COSTS IN EXCESS OF GROSS INCOME. 11% IS A VERY HIGH PROPORTION. TROUBLINGLY, THIS NUMBER HAS SHOWN A LONG TERM INCREASE, NEARLY DOUBLING SINCE REACHING A LOW POINT IN 1999. ACCORDINGLY, THE ADMINISTRATION OF THE PROGRAM WHICH FOLLOWS FROM THIS BILL NEEDS A MECHANISM TO ASSESS WHETHER BUILDINGS IN THE PROGRAM ARE THERE BECAUSE THEY ARE DISTRESSED.

AGAIN, CHIP SUPPORTS PASSAGE OF #561.

TESTIMONY OF THE DEPARTMENT OF HOUSING PRESERVATION AND  
DEVELOPMENT TO THE COUNCIL'S HOUSING AND BUILDINGS COMMITTEE  
THURSDAY, MAY 3<sup>RD</sup>, 2007 – 1PM

Good afternoon Chairman Dilan and Members of the Housing and Buildings Committee.

My name is John Warren and I am First Deputy Commissioner of the Department of Housing Preservation and Development. Sitting next to me are Luiz Aragon, Deputy Commissioner of Preservation Services and Barbara Flynn, Chief of Staff of HPD's Office of Intergovernmental Affairs.

We are pleased to be here today to discuss intro 561, the safe buildings act, and explain how we intend to implement the program. As you know, this bill is the result of a long and intense debate about how to improve conditions in rental housing in the city. We believe that this bill results in a program that will fill an important role in the city's enforcement strategy and will strengthen what is already the broadest and most comprehensive housing code enforcement program in the country.

Let me begin by putting the new Alternative Enforcement Program in the context of HPD's enforcement strategy. The comprehensive approach that we utilize includes a number of programs and tools that have been developed over the years to address challenges faced in maintaining the city's rental housing stock. The coordinated efforts of agency staff in the Office of Preservation Services, which includes the Divisions of Code Enforcement, Housing Litigation, Neighborhood Preservation and Maintenance, allow us to focus on distressed properties with a variety of different tools. These tools include the Emergency Repair Program (ERP), the 7A Administrator Program, the Third Party

Transfer Program, Voluntary Repair Agreements and the Targeted Cyclical Enforcement Program.

Each program was developed to address conditions in the city's rental housing stock where a landlord is unwilling or unable to maintain property in good condition. It is important to note that these situations, unacceptable as they are, represent a very small portion of the housing stock in the city. As we have mentioned in recent testimony before the council, conditions in the city's housing stock, as measured by the housing and vacancy survey are the best they have been since the survey was begun in 1965. That said, there is still work for us to do to make sure that all tenants receive the level of service that they deserve and that the code mandates.

The particular challenge that the Alternative Enforcement Program is designed to address is the case in which buildings develop recurring maintenance problems that must be cured through HPD's Emergency Repair Program. The first activity of this program is to identify those buildings with a record of serious code violations and emergency repair expenditures by HPD. Once the buildings have been identified and the owners notified, the program creates an incentive for the owner to address the violations and the underlying conditions that lead to those violations. If the owners do not step in to clear these violations, they will face two penalties. First, there are higher fees assessed against owners who are targeted for enforcement in this program. Second, HPD will make more systemic repairs meant to address the underlying conditions that caused the violations.



This is a shift from the current practice of the emergency repair program, where violations are cured by HPD in the least intrusive way possible. I would like to emphasize that, for the vast majority of work performed in ERP, the original practice will continue. ERP work performed in this manner has been very effective. In the case of buildings selected for this program, however, we believe that a more aggressive intervention is appropriate. We believe this because these properties have a history of HPD activity and making the same repairs more than once through ERP is not efficient for the residents or HPD. A more systemic approach will minimize the number of visits by HPD inspectors and, more importantly, ensure that tenants' apartments are maintained in better condition.

I would like to speak briefly about how the program will work. Every year, HPD will create a list of 200 different buildings that meet the criteria outlined in the bill. In the first two years of the program, the criteria include: (1) at least five hazardous (Class B) and immediately hazardous (Class C) violations per unit over the last two years; (2) \$100 of unpaid Emergency Repair Program charges per unit over the last two years, and (3) 27 open B and C violations that were issued within the last two years. In the third year of the program, the first two conditions will remain the same and HPD will include buildings with 25 open B and C violations. In the fourth and succeeding years, the criteria will include \$100 of *both* paid and unpaid ERP charges that were incurred in the prior two years.

At the commencement of the program, and each year thereafter, HPD will send written notification to the owners of 200 buildings that meet the established criteria. In addition,

the occupants of the building and the council member in whose district the building is located will be notified. I would like to note that we expect to work closely with tenants and council members throughout this process to keep everyone informed and solicit feedback as work is performed. After notification, the owner will have four months to correct the violations, pay outstanding municipal charges and register the building with HPD. When the violations are repaired, the owner will request a re-inspection by HPD. If HPD determines that the owner has substantially complied, then we will provide a written determination to the owner that the building has been discharged from the program.

The legislation defines the term 'substantially complied' to mean that all heat and hot water violations and 80% of all B and C violations have been corrected. In order for the building to be discharged from the program, the owner must also pay all outstanding municipal charges and liens and register the building with HPD, if it is not already validly registered. HPD will then notify the owner, the occupants of the building and the local Council Member that the building is being discharged from the program. HPD will continue to monitor these buildings at least quarterly for one year. If an owner has not substantially complied, the building will continue to be in the alternative enforcement program.

Owners will be charged fees for any inspection, re-inspection or other action taken during the time period that the building is in the program. Any unpaid expenses or fees imposed by HPD will become a lien on the property.

After the initial four month period, HPD will perform a building-wide inspection on all remaining buildings whose owners did not substantially correct violations. After the inspection, HPD will issue an order to correct violations and repair related underlying conditions. The order will be filed in the office of the county clerk where the building is located.

Once an order is issued, HPD will prepare a scope of work and prepare to perform the necessary repairs. At this point, an owner can still correct the violations and the underlying conditions. If they do so, the department will assess the progress of repairs at quarterly intervals and determine if repairs are progressing. If after six (6) months, HPD determines that repair work is not progressing in a timely fashion, then the agency will complete the work.

As noted above, the department may discharge a building from the program after substantial compliance, payment of fees and all outstanding ERP charges, including liens, and registration of the building. When a building has been discharged, HPD will provide a written notice to the owner, the occupants of the building, and the council member in whose district the building is located, and will file a rescission of the order in the county clerk's office.

The owner, managing agent or designated representative of a building will be required to participate in a training program on building operations and maintenance to complete the discharge process.

By February 15th of each year, HPD will prepare a report on the alternative enforcement program which will include:

- The address and owner of each building;
- The Councilmember in whose district the building is located;
- The aggregate number of open class B and C violations for each building;
- The ratio of such violations and unpaid emergency repair charges to the number of units; and
- Whether or not the building has been discharged from the program and the building's status;

Not later than four years after the program begins, HPD will conduct a study to evaluate the program, and will examine:

- The program's cost effectiveness;
- Whether the established criteria are appropriate or should be changed; and
- Whether the monitoring is adequate or should be changed.

HPD will make a determination, based upon its findings, whether the program should be modified or continued and the reasons. The outcome of the study will be included in the annual report.

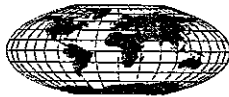
The proposed legislation also contains a section providing for electronic certification of violations. The City's Department of Information Technology and Telecommunications

is the lead agency in developing this technical application. HPD will implement this section as soon after the technology is available as is practicable.

While HPD supports the basic framework of the Alternative Enforcement Program, there are a few aspects of the legislation that should be modified. First, the legislation should provide flexibility for the agency to modify the criteria used to include a building in the program. Secondly, the legislation should include a sunset provision, since its efficacy and ultimate costs are as yet unknown.

We estimate that it will cost \$10 million year to operate the program, although we will ultimately receive fee and judgment revenue that will offset some of these expenses. Despite these costs, which are significant, we are optimistic that this program will be another important tool in our enforcement efforts. Collectively, these enforcement tools ensure that New York City tenants are provided with essential building services while holding recalcitrant property owners responsible when they fail to maintain their buildings up to code.

In closing, I would like to note that the development of this program has benefitted from a collaborative effort between the City Council and the Administration. We look forward to continuing that close collaboration as the program is implemented. Once again, thank you and we would be happy to answer your questions about this initiative.



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***Testimony of Ericka Stallings, Housing Advocacy Associate for the New York Immigration Coalition, before the New York City Council Committee on Housing and Buildings Education on the Department of Housing Preservation and Development-Code Enforcement***

***May 3, 2007***

Good afternoon. I would like to thank the committee on Housing and Buildings as well as the members of the City Council, for allowing our organization to testify at this hearing on Code Enforcement. My name is Ericka Stallings, and I am the housing advocacy associate of the New York Immigration Coalition, a policy and advocacy organization with more than 200 member groups throughout New York State that work with immigrant communities.

We are very pleased that legislation has been introduced to strengthen New York City's housing code enforcement system. We would like to express our appreciation to Council member James for sponsoring the Safe Housing Act as well as to Speaker Quinn and other Council members who have supported the legislation. This is an important and welcomed effort to protect New York City's tenants.

Poor housing conditions resulting from negligent property management is a problem that disproportionately affects immigrant New Yorkers. Immigrants who are limited English proficient are particularly vulnerable as they often have difficulty accessing city housing services and, on average, have lower incomes than other city residents. Low-income immigrants generally have very limited housing options, which too often causes immigrant families to live in substandard conditions. The 2005 Housing and Vacancy survey indicates that while the City's median rent has increased 8.3%, the median income has actually decreased 6.3%. The lack of housing in the City that is both safe and affordable to low-income families, places immigrants, in particular, at risk because they make up two-thirds of the City's low-wage workers. As a result, New York's immigrant renters are 62% more likely to live in dangerous housing conditions and are three times as likely to live in overcrowded conditions than native-born residents, according to a recent study by the Urban Justice Center and the New York Immigration Coalition.

Many immigrants are unaware of their rights and often find it prohibitively difficult to access the city's housing services, because of a lack of outreach in their own language. Consequently, many immigrants are vulnerable to disreputable landlords, as they are often unable to report violations or otherwise advocate for themselves when housing violations

occur. Immigrant tenants are frequently targets for abuse and discrimination by landlords who prey on this vulnerability.

The Safe Housing Act is one step in the right direction of correcting the problem of unsafe and substandard housing conditions. The legislation, which targets the City's worst 200 buildings, provides additional disincentives for landlords to abandon their properties and the tenants who live in them. The Safe Housing Act will require landlords to correct violations and if they fail to do so, authorizes HPD to make the repairs and charge the landlord for the cost of those repairs.

Immigrant tenants report living with insecure front doors, rats, roaches, bed bugs and mold. Some tenants have lived for years without adequate heat and hot water. These conditions have contributed to a host of health problems such as asthma attacks, yet complaints, in many cases, result only in continued inaction on the part of landlords and managing agents. This new legislation will provide real consequences for landlords who ignore violations and fail in their duty to keep their properties safe and in good condition. The Safe Housing Act will allow HPD to closely scrutinize the worst landlords, insuring that repairs are made using acceptable workmanship and address problems at the source rather than superficially.

We urge the city council to support efforts to reform the city's code enforcement system by continuing efforts to outreach to immigrant communities, and passing Intro 561, the Safe Housing Act, to ensure that dangerous housing violations, which jeopardize the health and safety of tenants, are resolved once and for all.

Thank you.

Testimony of Ray Brescia  
Associate Director  
Urban Justice Center  
In Support of Intro 561, the Safe Housing Act

Good afternoon, my name is Ray Brescia, and I am the Associate Director of the Urban Justice Center, which provides free legal assistance to low-income and working poor families from throughout the city. We are also a member of the Legal Services for the Working Poor coalition; a substantial percentage of the work of that Coalition is the provision of free legal assistance to tenants to obtain housing repairs and avoid eviction.

As someone who has, for the last 15 years, represented tenants in housing court for enforcement of the Housing Maintenance Code, let me express my unconditional support for the passage of Intro 561, the Safe Housing Act. The Act will provide the City's Department of Housing Preservation and Development with the authority it needs to ensure that the worst conditions in the worst buildings are fixed. The powers the Act authorizes, if properly wielded by HPD, will make it clear to the landlords of these buildings that if they do not clean up their act, HPD will make the repairs itself, and saddle those landlords with the bill. While I could talk at length about how important these heightened powers are, I would like to spend my time this afternoon highlighting the fact that the Act is not only sound policy in terms of promoting *safe* housing, it is also a highly effective strategy for preserving *affordable* housing.

As you all know, New York City has one of the most complex rent regulatory structures in the country, if not the world, which, when functioning



properly, helps to hold down rents and keep them affordable for low-income and working families. According to the rent laws, however, when an apartment becomes vacant, a landlord can claim extensive renovations, and tack a percentage of the cost of those renovations onto the legally collectible rent. When one adds this surcharge to the 20% vacancy increase the landlord can take on a new, two-year lease, and those additional charges raise the rent to over \$2000 a month, that apartment becomes deregulated forever, and subject to the vagaries of the city's robust – and merciless – market.

Given this incentive structure, if a landlord wants to obtain a significant rent increase, all he or she needs to do is to get current tenants to vacate their apartments. An all-too-common tactic of such landlords is to allow the condition of the housing stock to deteriorate to such a point that the tenants fear for their safety and that of their families, and must seek other housing options, including seeking space in a public shelter, or doubling or tripling up with friends or family.

As a result of these perverse incentives, as conditions deteriorate, tenants are more likely to leave; and I cannot tell you how many times my clients have told me that when they raised concerns about the conditions in their apartments, their landlords have retorted: “you don't like it, move.”

In no uncertain terms, Intro 561 can start to relieve some of the pressures on tenants in the worst buildings, so that they can stay in their homes and their rent regulated rents can be preserved.

Annexed to this testimony is a map, generated by the Furman Center for Real Estate and Urban Policy at NYU, which highlights the neighborhoods with

the most serious housing violations. This is a map we all know too well. The neighborhoods with the worst housing conditions are also the neighborhoods populated by the city's poor and working poor, from which the residents of the city's shelters most frequently come, and where the highest childhood asthma rates can be found. They are also the neighborhoods experiencing serious stress from gentrification, with aggressive landlords seeking to ride the housing wave that has reached virtually every corner of the city.

Over the next five years, Intro 561 will empower HPD to go into 1000 of the city's worst buildings, in the neighborhoods with the worst housing conditions, and get the repairs done, whether the landlord or HPD makes them. Should HPD make the repairs, the costs to the City will be passed on to the landlord in the form of a lien, which can be foreclosed on should the landlord not satisfy it. Yet even if HPD does not recover the moneys it expends – and I certainly hope it will be aggressive about doing so – the cost to the City of renovating these buildings, and maintaining the rent regulated status of those units because the tenants will remain housed, will be far less than the cost of building new affordable housing.

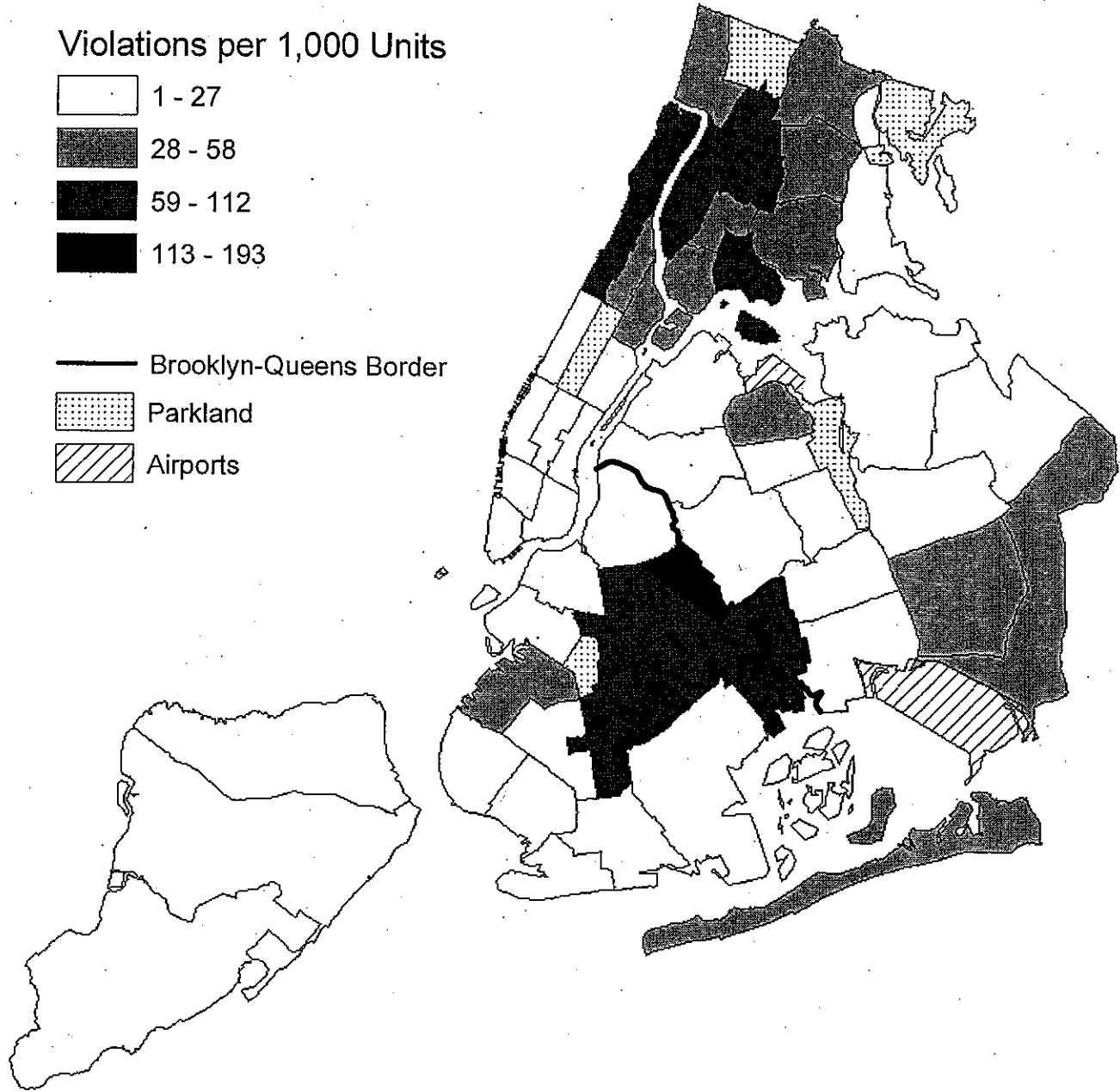
Indeed, the cost of constructing a single unit of affordable housing is approximately \$400,000. The cost of preserving a unit of existing, affordable housing stock would be a mere fraction, at most perhaps 10% of the cost of new construction, even for major rehabilitation work. For buildings requiring less than gut rehabilitation, the cost will be pennies on the dollar. With the Bloomberg Administration committing literally billions for the construction of affordable housing over the next 5 years, which I applaud, Intro 561 is still a far less costly

method for preserving what affordable housing we still have. When you add in the fact that the cost of the repairs in question is passed on to the landlords who have let their buildings deteriorate, Intro 561 makes clear fiscal and moral sense.

Others speaking today have spoken, and those who will speak, have and will extol the virtues of Intro 561 as sound housing policy in terms of the preservation of decent, safe and sanitary housing in this city. It is respectfully submitted that the wisdom of Intro 561 as an affordable housing strategy is also readily apparent, and it is for all of these reasons that I support its passage by the Council, wholeheartedly and without reservation.

Thank you all for your hard work on this important legislation; I look forward to it becoming law and working with the Council and HPD to ensure its effective enforcement.

# Map 8-5 Serious Violations per 1,000 Rental Units, New York City Community Districts, 2003



Source: Department of Housing Preservation and Development



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**TESTIMONY OF  
DAVID B. HANZEL, POLICY DIRECTOR BEFORE  
THE NEW YORK CITY COUNCIL  
COMMITTEE ON HOUSING & BUILDINGS**

May 3, 2007

Good Afternoon. Thank you, Chairman Dilan and committee members, for this opportunity to testify about Int. 561 "The Safe Housing Act," which will further enhance New York City's code enforcement efforts.

My name is David Hanzel and I am the Policy Director at the Association for Neighborhood and Housing Development (ANHD).

Some Committee Members here may be familiar with ANHD, and all certainly know our member groups.

ANHD is a membership organization of NYC- neighborhood based housing groups- CDCs, affordable homeownership groups, supportive housing providers and community organizers. Our mission is to ensure flourishing neighborhoods and decent, affordable housing for all New Yorkers. We have over 90 members throughout the five boroughs who directly operate over 30,000 units, providing housing for 100,000 people.

*Housing Quality Remains a Problem in the City*

New York City tenants lodge almost 600,000 complaints about maintenance conditions in their apartments each year and there remain almost 2.8 million open maintenance violations known to the City's Department of Housing Preservation and Development. According to the Furman Center for Real Estate and Urban Policy, the number of "serious code violations" per 1,000 rental units in the City jumped from 38.1 in 2002 to 57.8 last year. Furthermore, according to the most recent census survey, over 75,000 apartments were severely distressed, with five or more hazardous maintenance violations. While many of these conditions are meant to harass and displace rent stabilized tenants, the majority of the repairs go uncorrected due to the City's inability to follow-up on violations or assess fines.

*Targeted Cyclical Enforcement Program*

ANHD, working with City Council and HPD, created the T-CEP program in 2005 to proactively identify buildings in poor condition, conduct roof to cellar inspections, and provide follow-up to ensure landlords make necessary repairs ..

In T-CEP's first year, HPD completed comprehensive inspections in 270 buildings (4,697 units) in twelve out of 51 Council Districts. 14,634 new violations (3.1 per unit) were identified. More importantly, by entering into Voluntary Repair Agreements (VRAs) with landlords who expressed their willingness to make repairs or by initiating litigation against negligent landlords, HPD has begun to send the right message to landlords: we will hold you accountable for correcting violations and will require you to provide quality housing. During the first year,

- 23% of landlords in T-CEP inspected buildings were sent to litigation,
- 19% of landlords signed VRAs, and
- 54% of landlords received HPD assistance to certify violations.

We thank the Council for allocating \$300,000 in its FY 07 Expense Budget for T-CEP expansion. With this new money, T-CEP will be able to serve 6 additional Council Districts a year, which represents 2,400 more units.

The T-CEP program has shown that improving housing conditions is possible if sufficient resources are committed, if the efforts of the Council, HPD and neighborhood groups are coordinated and if landlords recognize that follow up will occur.

*Intro 561: Safe Housing Act*

ANHD thanks Speaker Quinn, Council Members Dilan, James and Brewer, and HPD for expanding the City's commitment to code enforcement through the introduction of the "Safe Housing Act." ANHD believes that Intro 561 will build on the success of T-CEP and will bring about repairs in 200 additional residential buildings; buildings suffering from the most egregious safety violations. The \$10 million, multi-year initiative, the "Safe Housing Act" will go a long way to ensuring New York's low- and moderate-income households enjoy safe, decent housing.

**ANHD supports passage of Intro 561, the Safe Housing Act.** Thank you for this opportunity to testify.



**Testimony of Christopher Schwartz, Esq., Neighborhood Preservation  
Project, MFY Legal Services, Inc., Before the City Council Committee on  
Housing and Buildings, May 3, 2007**

Alan Mansfield  
*Board Chair*

Lynn M. Kelly  
*Executive Director*

Jeanette Zelfhof  
*Deputy Director*

Ramonita Cordero  
Sara Fulton  
Andrew Goldberg  
Kenneth Lau  
Christopher Schwartz  
*Supervising Attorneys*

Good afternoon, members of the Committee. Thank you all for inviting us to speak to you about the proposed local law to establish the Alternative Enforcement Program. My name is Christopher Schwartz, and I am the supervising attorney for the Neighborhood Preservation Project at MFY Legal Services, Inc.

MFY's Neighborhood Preservation Project has served the City's low-income tenants for decades through legal representation, advocacy, and tenant organizing. One of the most vital areas in which we provide services to tenants is the never-ending quest to compel the landlords of low-income units to maintain them in accordance with the Housing Maintenance Code. It is an undeniable fact that the landlords of rent-stabilized and rent controlled housing units are less willing to spend money for repairs and maintenance on the units that provide them with the least income, and that the cumulative effect of such neglect is to force their tenants to choose between either abandoning their affordable housing or bear, for years on end, conditions which are not only illegal, but which many of us would consider practically unlivable. When one considers the ever-growing need of providing the people of New York with affordable housing, it becomes readily apparent that the maintenance of existing housing in a habitable condition must be a top priority for all of us.

The Alternative Enforcement Program is a step in the right direction for the preservation of affordable housing. While it is necessarily small in scope, it emphasizes the importance of inspection, reinspection, and monitoring buildings in crisis so that the impact of false certifications are minimized and that the owners of the selected housing stock are made certain that they may no longer act, or fail to act, with impunity.

The Program appears to focus on the 'worst-of-the-worst' housing stock in the City. The buildings sought must have many open violations of the most severe class, as well as unpaid fines and emergency repair charges stemming from those violations. The owners of these buildings will be notified by HPD and given time to affect repairs and pay off any outstanding charges and liens to HPD. After the owners represent that all outstanding repairs have been completed, HPD will reinspect the premises to ensure that the work has been done, possibly completing any remaining repairs at the owner's expense. Throughout the process, HPD will monitor the selected buildings to ensure their owners comply with the requirements of the Alternative Enforcement Program.

Such strong enforcement and monitoring of the City's affordable housing stock is absolutely necessary. However, the fact that there exist buildings with many multiple immediately hazardous violations that have been open, in some cases, for a period of years, speaks to the necessity of providing increased resources for the purpose of maintaining housing in habitable condition not only in the very limited scope of this program, but for all housing stock citywide. In short, the process of inspection,



reinspection, continuous monitoring, and performing repairs where an owner won't shouldn't be considered alternative enforcement. Rather, it should be the standard and the norm and extend to all housing and thereby wake-up owners who have been reluctant to maintain their rent regulated property.

The Department of Housing Preservation and Development (HPD) has historically existed in large part to protect the current stock of affordable housing. Tenants rely on HPD to take their complaints, inspect their apartments and buildings, and place and enforce violations of the Code when they are found. The problem with this scheme is far too many landlords have ignored HPD violations for years on end. Furthermore, landlords are able to certify on their own that violations have been addressed, and reinspections by HPD may be extensively delayed due to budget and personnel limitations. We would therefore also suggest that HPD be given more resources to devote to the many buildings that will not be selected for the AEP but which are well on the road to neglect.

On behalf of MFY Legal Services, Inc., I thank you for your invitation to testify and voice our support of the proposed Alternative Enforcement Program.