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June 28, 2007

Testimony of James B. Fishman in Support of Intro 374-A

Mr. Chairman and members of the Committee, good afternoon. My name is James Fishman. I would like to thank the committee for this opportunity to testify today in support of Intro 374-A.

For the past 27 years I have been a lawyer representing tenants and consumers in New York City. For about the past 10 years I have specialized in issues relating to tenant privacy and identity theft. In that time we've seen the courts issue some very important rulings that have furthered tenant privacy rights in the areas of credit reporting, blacklisting and protection of Social Security numbers and banking and telephone records in response to demands from landlords for information.

Intro 374-A deserves passages because it furthers the interests of tenant privacy while, at the same time, balancing the legitimate needs of property owners to obtain certain, limited information about their tenants.

Over the past 10 years we've seen numerous instances where landlords have overreached in their efforts to acquire more and more personal and sensitive information about tenants and have sometimes crossed the line and breached their legitimate privacy rights. For example, many landlords routinely accessed credit reports on their current rent regulated tenants in an effort to find information to bring a non-primary residence challenge. In 1998 the federal court in Manhattan ruled that that practice violates the Fair Credit Reporting Act.

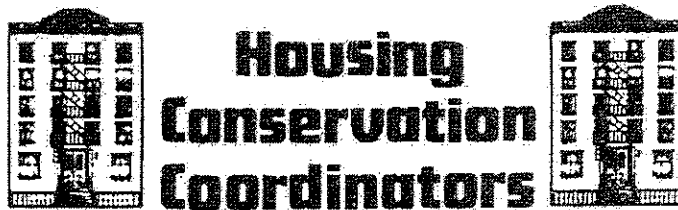
In another case a landlord created, and sent to its tenants, forms designed to look like they had been issued by HPD which demanded certain personal information. A State Supreme Court judge in Manhattan ruled that a tenant could pursue a suit alleging deceptive business practices against his landlord for engaging in this practice.

During the past few years we have also seen numerous instances where sensitive and financial data on millions of individuals that had been legitimately collected data by large companies and government agencies has been lost, stolen or misused leading to the very real threat of identity theft.

Intro 374-A recognizes the importance of protecting and securing personal information and it sends a very strong message that tenants in fact have important privacy rights that will be protected and enforced.

Having said that, there is one provision in the bill which I believe should be slightly modified, simply by changing one word. Section 27-2202 prohibits a landlord from **requiring** the provision of certain information. The word "require" should be replaced with the word "demand." That revision will prevent landlords from asking tenants for the prohibited information while failing to disclose that a response to the demand is voluntary. Without this modification, landlords will find ways to get around this prohibition and it will be rendered meaningless. Tenants will only be protected if landlords are barred from even asking for this information.

Thank you for your time and consideration.



777 Tenth Avenue, New York, New York 10019
(212) 541-5996 Fax (212) 541-5966

Testimony of John Raskin before the New York City Council on behalf of Housing Conservation Coordinators: June 28, 2007.

Thank you for allowing me the opportunity to address you today. My name is John Raskin, and I am the Director of Organizing at Housing Conservation Coordinators, Inc. (HCC), a not-for-profit organization based in Hell's Kitchen/Clinton that seeks to preserve and defend safe, decent and affordable housing.

The services that we provide include legal representation in Housing Court, organizing tenants to improve living conditions, installing energy efficient systems through our Weatherization Program, teaching training courses, and organizing around broader issues like this one that affect the entire community. I'm also here on behalf of Legal Services for the Working Poor, a coalition of neighborhood-based organizations that provide legal services for low-income New Yorkers.

I am here today to support Councilmember Garodnick's proposed legislation, Intro 374A, which imposes reasonable restrictions on the information gathered and disseminated in buildings where tenants access the premises through electronic keycards.

In our neighborhood, on the West Side of Midtown, only a few buildings currently provide access through keycards and those transactions have proven relatively benign for the tenants who live there, the drawbacks outweighed by the convenience and accessibility that keycards provide.

Given the popularity of the keycards, we expect for more buildings in our neighborhood to convert to a keycard system in the future, as the technology becomes cheaper and tenants and management alike become more comfortable using the system.

That is why Intro 374A is so appropriate at this time—before too many buildings switch over to a keycard system, we need to have reasonable regulations in place to protect tenants from invasion of privacy and other potential pitfalls of mechanized systems that track entry data.

This bill will protect thousands of tenants today in complexes all over the city, but its greatest effect will be on the thousands of tenants whose buildings will likely adopt keycards in the future. As the technology becomes more widespread, these common-sense protections will protect tenants for years into the future. We urge the Council to pass this responsible and forward-looking bill. Thank you.



MEMORANDUM IN OPPOSITION
INTRO 374-A

The Rent Stabilization Association (RSA) represents over 25,000 owners and managers of multiple dwellings in New York City who own or manage over one million apartments.

As an enhancement of existing legal requirements pertaining to building security, such as intercoms and locked entry doors, many building owners have installed and continue to install electronic access (also known as card key) systems to regulate access to their buildings more effectively. These systems are effective in ensuring that tenants and their guests can gain entry to their buildings while, at the same time, also ensuring that intruders and other unauthorized persons cannot do so.

Intro.374-A would prohibit the use of certain components which are integral to these access systems. The elimination of these various components would effectively undermine these security systems in such a manner that would render such security systems ineffective and, therefore, useless. Because Intro.374-A would have the effect of decreasing, instead of increasing, security in residential buildings, RSA is opposed to this measure.

Contrary to popular perception, these residential access systems generally do not embed personal information, such as the tenant's social security numbers, date of birth or home address, in the card key. This information is, typically, on file with the management office since such information is obtained in the application process for the apartment or is necessary for security deposit interest payments. To obtain their card keys, legitimate tenants and their guests simply go to the management office to verify their status as residents or guests.

Intro.374-A would also require that where "any personal information has been or is at any time obtained through the operation of such system," such information is to be "purged." This requirement is overbroad because, as written, it would require an owner or manager to remove that vital information not only from the electronic access system but also "from any

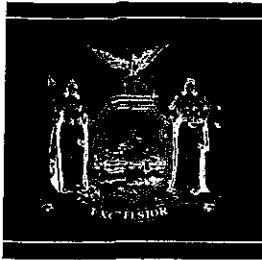
records maintained by the owner.” Owners would also be required to provide an affidavit once each year to tenants attesting to the fact that they have purged such data. By requiring owners regularly to purge their business records in this manner, they would no longer be able to determine who is a legitimate tenant and who is otherwise entitled to occupy an apartment. This would defeat the purpose of the system.

Another major provision of the bill would preclude the imprinting of photographs on access cards. This provision, too, would render the primary security aspects of the card useless. An essential element of these security systems is the ability of management and security personnel to determine whether the person in possession of the card is the same person that was issued the card. This aspect ensures that only authorized individuals are gaining access and that the cards have not been stolen or otherwise in the possession of other unauthorized persons. Again, this provision would undermine the utility of card keys and would render such systems useless.

Finally, the bill would mandate that, except for law enforcement purposes, all data collected “through the operation of an electronic access system” shall be purged after 30 days. Apparently, this provision would apply to the recording and deletion of entry-related information. It is difficult to ascertain why individuals, other than those who do not use their apartment as their primary residence or are illegal sublessees, would be concerned with a provision such as this one. Also, from an owner’s perspective, there may be instances when an owner may want to retain certain data for longer periods of time- there is no valid reason for precluding owners from doing so. In any event, most security systems of this type automatically overwrite existing data approximately 45-60 days after recording because of the storage size of the computer memory.

Currently, thousands of tenants in residential buildings are currently using card keys with their photos each and every day and the same is equally true for employees in commercial buildings in New York City as well. All these uses are without incident and there is no doubt that commercial and residential buildings are more secure because of card key security systems.

For the reasons stated above, RSA is opposed to Intro.374-A.



News from ...

SENATOR THOMAS K. DUANE

29TH SENATORIAL DISTRICT • NEW YORK STATE SENATE

TESTIMONY OF STATE SENATOR THOMAS K. DUANE
BEFORE THE NEW YORK CITY COUNCIL

HOUSING AND BUILDING
HEARING ON INT. 374-A

June 28, 2007

My name is Thomas K. Duane and I represent New York State's 29th Senate District, which includes the Upper West Side, Hell's Kitchen, Chelsea, Greenwich Village, and part of the East Side, including the East Village, Stuyvesant Town, Peter Cooper Village and Waterside Plaza. I am here today to testify in support of Int. 374-A, proposed by Council Member Garodnick, that would amend the administrative code of the city of New York, in relation to regulating the use of electronic access systems for certain multiple dwellings and the dissemination and retention of information obtained by such systems.

I have long had concerns about landlords' use of technologies to control access to residential buildings and, in fact, for the past several years have carried legislation in the State Senate that would prohibit the use of facial recognition technology in the entrances of most multiple dwellings. I am also supportive of legislation introduced by New York State Assembly Member Brian Kavanaugh, and recently passed in the Assembly, that prohibits the use of electronic entry cards that record identifying information as a means of access.

Tenants should simply not be required to provide personal identifying information, such as their photographs, addresses, dates of birth, and social security numbers, in order to obtain electronic devices, like key cards, necessary to access their own homes. Similarly, access to tenants' homes should not in any way be restricted if they choose not to obtain such devices.

Tenants deserve to feel safe in their own homes, not as if management is watching them. Electronic access systems invade tenants' privacy by tracking and recording their comings and goings and create serious civil rights concerns by gathering private information that could potentially be shared or become available to the public. Moreover, since there are enough reliable security systems currently available that do not infringe on the privacy of tenants, these electronic access systems are wholly unnecessary.

That said, the courts have upheld landlords' right to implement these intrusive electronic access systems. Given their unfortunate legality, Int. 374-A is an important legislative effort to protect tenants by regulating the use of such systems. Among other things, it prohibits landlords who intend to install an electronic access system from requiring tenants or their guests to provide

TESTIMONY OF THE DEPARTMENT OF HOUSING PRESERVATION &
DEVELOPMENT BEFORE THE CITY COUNCIL'S HOUSING & BUILDINGS
COMMITTEE – THURSDAY, JUNE 28TH, 2007 – 1:PM

GOOD AFTERNOON, CHAIRMAN DILAN AND MEMBERS OF THE HOUSING AND BUILDINGS COMMITTEE. I AM BARBARA FLYNN, CHIEF OF STAFF OF INTERGOVERNMENTAL RELATIONS AT THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT (HPD) AND SITTING NEXT TO ME IS VITO MUSTACIUOLO, ASSOCIATE COMMISSIONER OF CODE ENFORCEMENT.

I AM HERE THIS AFTERNOON TO DISCUSS INTRO 374-A AND TO EXPLAIN WHY HPD BELIEVES THIS BILL DOES NOT BELONG IN THE HOUSING MAINTENANCE CODE. WHILE WE SUPPORT THE CONCEPT OF THE LEGISLATION, THERE IS NO ROLE FOR MY AGENCY TO PLAY IN THE REGULATION OF USE OF PERSONAL INFORMATION THAT MAY BE COLLECTED BY AN OWNER OR BY THE DEVICE ITSELF.

UNDER THIS BILL, OWNERS OF MULTIPLE DWELLINGS THAT HAVE INSTALLED ELECTRONIC ACCESS DEVICES MAY NOT REQUIRE THAT "LAWFUL OCCUPANTS" PROVIDE ANY PERSONAL INFORMATION, SUCH AS A SOCIAL SECURITY NUMBER OR PICTURE BUT MAY REQUIRE THEM TO ESTABLISH THEIR IDENTITY BEFORE RECEIVING A KEY CARD. THE BILL ALSO REQUIRES THAT ALL PERSONAL INFORMATION BE PURGED FROM

EVERY ELECTRONIC ACCESS DATA SYSTEM AND FROM ANY RECORDS MAINTAINED BY THE OWNER OR ANYONE THAT THE OWNER MAY HAVE SHARED AN OCCUPANTS' PERSONAL INFORMATION WITH, NO LATER THAN EITHER 30 DAYS FROM WHEN SUCH INFORMATION WAS OBTAINED OR 30 DAYS AFTER THE EFFECTIVE DATE OF THIS BILL.

THIS LEGISLATION REQUIRES OWNERS THAT HAD INSTALLED ELECTRONIC ACCESS DEVICES BEFORE THIS BILL WAS EFFECTIVE, TO REPLACE THE KEY CARDS WITHIN 30 DAYS IF RESIDENTS' PHOTOS AND/OR PERSONAL INFORMATION WERE EMBEDDED IN THEM.

WHILE THE BILL PROVIDES FOR AN ALTERNATIVE ACCESS FOR RELIGIOUS OBSERVANCE, IT DOES NOT CREATE A PROCESS FOR ENTERING THE BUILDING IN CASE OF A POWER OUTAGE.

THE BILL IMPOSES A CIVIL PENALTY OF BETWEEN \$1000 -\$10,000 IN A PROCEEDING BEFORE THE ENVIRONMENTAL CONTROL BOARD (ECB) OR A COURT. UNFORTUNATELY, HPD DOES NOT WRITE VIOLATIONS THAT ARE RETURNABLE TO ECB, EXCEPT ON BEHALF OF THE DEPARTMENT OF BUILDINGS (DOB). IN ANY CASE, IT IS UNCLEAR WHAT INSPECTION OR ENFORCEMENT MECHANISM WOULD BE EFFECTIVE IN DETERMINING COMPLIANCE WITH THE DISCLOSURE AND PURGING REQUIREMENTS OF THE BILL.

IT SHOULD ALSO BE NOTED THAT NYCHA HAS SUCCESSFULLY EMPLOYED A KEYLESS ELECTRONIC ACCESS DEVICE IN A LIMITED FASHION, SINCE 2003, AT ELEVEN BUILDINGS KNOWN AS THE BRONX MHOP DEVELOPMENTS. ALTHOUGH NYCHA DOES NOT TRACK THE COMINGS AND GOINGS OF ITS RESIDENTS, HUD REGULATIONS REQUIRE NYCHA TO COLLECT TENANT'S SOCIAL SECURITY NUMBER, ETC AND TO ANNUALLY CERTIFY THAT ONLY RESIDENTS LISTED ON THE LEASE RESIDE IN THE APARTMENTS.

NYCHA'S KEYLESS ENTRY SYSTEM USES KEY FOBS AND WAS INSTALLED AS PART OF A PROTOTYPE FRONT ENTRANCE DOOR REPLACEMENT CONTRACT THAT WAS PROCURED AND ADMINISTERED BY KRAUS, ONE OF NYCHA'S PRIVATE MANAGEMENT COMPANIES. THIS SYSTEM HAS WORKED WELL IN CONJUNCTION WITH A CCTV MONITORING SYSTEM THAT WAS ALSO INSTALLED IN THE BRONX MHOP BUILDINGS MANAGED BY KRAUS.

THIS BILL APPEARS TO HAVE BEEN WRITTEN IN RESPONSE TO LANDLORDS INSTALLING THESE NEW SECURITY DOORS AND REQUIRING TENANTS TO PROVE THAT THEY ARE THE PRIMARY RESIDENTS IN A BUILDING. WE BELIEVE THIS IS A LANDLORD/TENANT ISSUE ADDRESSED THROUGH A

TENANT'S LEASE OR A CO-OP'S PROPRIETARY LEASE AND NOT RELATED
TO HPD'S MISSION.

THANK YOU.

**UNIVERSITY TOWERS APT. EVICTION SCAM GROWS IN
BROOKLYN, FORT GREENE**

On 1/28/05, I was illegally evicted from my RENT STABILIZED home(apt.) of 25++ yrs. without Notice or Court Order/Warrant by marshal Bruce Frankenberg using his NYC marshal badge and BOGUS papers into the cold, icy, freezing 22+ inch. Snow covered streets of Brooklyn.

Marshal Frankenberg changed the locks to the apt. and gave the keys and the entire content of the apt. to Deletina Robertson and Michael Urena, Secretary and Property Manager of University Towers Apt. Corp. "The Co-Op". Since then Judge George Heymann JHC. Kings County Landlord Tenant Court have DENIED me Trial, Hearing on the Service of the Court papers, and my Counter Claim against the landlords heard in a Court of Law. I have also been DENIED the Right to see the alleged Court Order/Warrant issued to the marshal in 12/04 almost two (2) months before my illegal EVICTION. There is NO copy/original Order/Warrant in the Court's file nor can one be provided by the marshal, landlords, Michael Rothenberg (agent), their illegal agents or their lawyer Eliot Cherson and Michael Rosenthal.

I have also been DENIED the Right to remove my personal private documents, court papers, files, MAILS, valuables, car and the entire content of my 2Br. Apt. I was not permitted to remove not even my BIBLE

I have also been DENIED the Right to file a POLICE Report with the local 88th, and other local Precincts nor with PC Ray Kelly since 1/29/05.

I am not a Crack Head, Prostitute, involved in Organized Crimes, or Drug Dealer, yet the landlords, their illegal agents, lawyers, and marshal acting as Hitler and his Gestapo have searched and stolen my property in violation of my Bill of Rights and Landlord/Tenants Laws in the State of New York.

Why have they been protected by One (1) Police Plaza and the local Police Precincts? Why are they above the Law?

This is all happening because of the color of my skin (Black), gender, religious affiliation, without inside Court contact, lobbying power in City Hall, Borough Hall and in Albany.

My Case on appeal with papers SERVED and filed with a Clerk of the Appellate Terms Court since 8/05 has been BLOCKED from being placed on the Court's calendar for Arguments since 8/05 (10 months)

Please call DA Charles Hynes, AG Eliot Spitzer, PA Gotbaum and other Gov/City Officials and ask why the DOUBLE STANDARD. Thanks

ON Letitia James (718) 260-9191
DA C HYNES = (718) [250-2805]
AG E. SPITZER = (212) 416-8790
PA B. Gotbaum (212) 669-7700

PAT SENIOR
(INVESTIGATIONS)
DEP AG ISRAEL

PLEASE SHOW YOUR SUPPORT AT MY NEXT COURT HEARING
DATE: JUNE 18, 2007 @2:30PM
PLACE: BROOKLYN SUPREME COURT, ROOM 461

JUSTICE FOR \$ALE

On 2/03/05, approximately five (5) days after my illegal EVICTION, Chief Clerk STEWART FEIGEL, JUDGE M. PINCKNEY, CLERK RENEE RUDDER and others of the Kings County Civil Court were FETED to a LUNCHEON AWARD at the Brooklyn, Marriott with all expense paid by the landlord's lawyers LAW FIRM. (See copy of invitation below) Was Out of County Marshal Frankenberg, Badge #30 invited?

On 12/03/05, I was assaulted and falsely arrested and imprisoned and physically removed from the apartment building lobby at the address 191 Willoughby Street, Bklyn, by NYPD Gestapo from the 88th Precinct and taken to their selected Hospital Emergency Dept. and was labeled as an EMOTIONAL DISTURBED PERSON. My Complaints to NYPD extension CCRB, have all gone UNINVESTIGATED AND COVERED - UP BY THEIR inside Informants. This is JUSTICE FOR ALL BLACK PEOPLE LIVING IN BROOKLYN, NY 2005 - 2006.

The Kings County Housing Court Bar Association

proudly invites you to our

Fourth Annual Awards Luncheon

to be held on **February 3, 2005**
at the **Brooklyn Marriott**
from **1 p.m. to 3 p.m.**
honoring:

Hon. Michael Pinckney

Stewart Feigel

(Chief Clerk of Kings County Civil Court)

Renee Rudder

(Chief Clerk Kings County Housing Court)

cover charge \$75.00 per person/payable in advance

Please return an RSVP with your cover charge payable to KCHCBA to:
Michael C. Rosenthal/KCHCBA
Rappaport, Hertz, Cherson & Rosenthal
118-35 Queens Boulevard/9th Floor
Forest Hills, New York 11375

will be pleased to attend

Good Afternoon Mr. Chairman and members of this committee, my name is John Marsh and I am a resident of Peter Cooper Village. I have 15 years of experience in data security and privacy regulatory compliance. Eight of those years were with American Express, where my chief responsibility was to protect the privacy of over 32 million Card members worldwide.

Today I am testifying in support of Intro 374. At present, we have a limited set of laws to protect sensitive personal information. One example is the Financial Privacy Protection Act for our banking and securities information, the other, HIPAA for protecting our medical privacy. But we have no such law for protecting data being gathered by landlords via access control systems. This data in many ways is even more sensitive than those I have mentioned. Knowledge of when a resident customarily comes home can, over a period of time, lead to knowing when a resident is not home. Both indicators are dangerous in the wrong hands. Intersecting that with the resident's name, address, date of birth, social security number and income -- elements already on file and under the direct control of the landlord -- creates a uniquely sensitive and valuable dataset ripe for misuse or loss.

Almost all corporate computers are networked and in the blink of an eye a compromised file can be transferred across the world without the thief ever setting foot on the premises. Today's disks are so capacious that an entire database could be burned onto a DVD and pocketed by a disgruntled employee. This past April our landlord made public the theft

of two laptops stolen from the management office. And of course we hear all the time about other large-scale data breaches from organizations with much greater data security experience than the typical landlord.

As for mandatory pictures on access control cards, I would like to emphasize that there are over 200 unmanned building entrances in Peter Cooper Village and Stuyvesant Town. A picture is only helpful in an environment where you have manned security at the building entrance. Pictures on residential access control cards without such a human presence increases a resident's risk of being a victim of crime. A resident unaware of a lost or stolen access card is now at risk of walk-behind robbery or a push through mugging, because a potential criminal can now visually track the victim. A key should always be anonymous. An access card doesn't need a picture to be revoked if reported lost or stolen. My mother always said don't put anything on your house keys that can lead someone back to your home. Thank you.

JOHN MARSH



June 28, 2007

**Re: Int. 34: Increasing Fines For Illegal Conversions
New York City Council
Housing and Buildings Committee Hearing**

Good afternoon. I am Adam Friedman, Executive Director of the New York Industrial Retention Network (NYIRN). NYIRN is a citywide economic development organization that works with manufacturers to promote a diverse economy to provide employment opportunities for all New Yorkers.

NYIRN strongly supports the efforts of the City Council and the Bloomberg Administration to strengthen enforcement of zoning, now embodied in Intro. 34 introduced by Councilmember Reyna.

Effective zoning enforcement is essential to community empowerment, to the safety of residents, and to the economic wellbeing of workers. Communities and this Council spend a tremendous amount of time and energy reviewing zoning changes and seeking ways to balance the City's need for housing, open space and jobs, and to reflect the uniqueness of each neighborhood. All that good work will be lost, however, if the City cannot enforce the subsequent zoning decisions.

The illegal conversion of industrial space results in the loss of viable well-paying manufacturing jobs. The City's Industrial Business Zones are full to capacity with vacancy rates of less than 5%, lower than the office market in Midtown. When a company is evicted because their building owner wants to convert that space, there may be literally no place for them to go.

A NYIRN study of the East Williamsburg In Business Zone found that 27 industrial buildings had been illegally converted, representing a loss of 500,000 SF of manufacturing space, or enough space to house 1,000 jobs. Who is hurt by illegal conversions and job losses?

78% of the production workforce is composed of people of color; and

63% of the production workforce is immigrant.

The goals for addressing this problem should be to preserve space for jobs but, at the same time, protect the tenants who have moved into the illegal space.

The first step in addressing this problem is to have meaningful penalties that deter illegal conversions. NYIRN's study found that buildings which had been illegally converted for residential use typically rented for as much as three times the price as for industrial space. Meaningful penalties need to be created to outweigh that incentive. The study found that of the 27 buildings with illegal conversions, only 14 had received fines. Of those 14, only 4 had received multiples fines though DOB could have done that in every case.

The second step, which is just as relevant as meaningful penalties, is effective enforcement. The Department of Buildings has taken very positive steps including stricter review of building plans

and additional resources for inspection but this is a complex problem involving other agencies and more needs to be done.

The nature of the fines must be changed such that they can be treated like an *in rem* proceeding for failure to pay taxes. For example, NYIRN studied an illegal conversion at 255 McKibbin Street. Had DOB aggressively pursued those violations, fines could have totaled \$422,500. In fact, only \$6,150 had been issued and of that only \$1,150 had been collected, barely a cost of doing business. That means that 99.75% of the revenue opportunity from the fines was lost.

Another part of the study found that of \$18,000 in fines imposed by ECB, only \$7,983 had been collected by the Department of Finance.

The third step is to develop a means of taking residential buildings which have been illegally converted and making them into affordable housing. We recognize that these illegal residential buildings are not going to be converted back to industrial. To strike the right balance, the City should seek ways to deprive owners of their illegally obtained profits, protect the tenants and remove incentives for future conversions and job losses. Affordable housing would strike the right balance.

Finally, the current building process does not necessarily lead to a final inspection which is necessary to ensure the safety of residents. The study found that a very common way of illegally converting space was for the owner to file a building permit but then do work well beyond the permit's scope. I suspect the same ploy is used in illegal multi-family residential conversions. DOB doesn't have to inspect the completed work unless invited back by the owner. DOB never discovers the illegal conversion or the residents whose safety is jeopardized.

We appreciate the work that the Council is doing on this issue and look forward to collaborating in this effort.

Thank you.



Testimony from STATE SENATOR

LIZ KRUEGER

New York State Senate • 26th District

TESTIMONY OF STATE SENATOR LIZ KRUEGER
BEFORE THE NEW YORK CITY COUNCIL'S HOUSING & BUILDINGS
COMMITTEE REGARDING INTRO 374-A &
ELECTRONIC ACCESS SYSTEMS
JUNE 28, 2007

My name is Liz Krueger and I represent the 26th Senate District, which includes the Upper East Side, East Midtown and Midtown areas of Manhattan. I want to thank Chairman Dilan and the members of the Housing and Buildings committee for providing me with the opportunity to testify on this critical piece of legislation, Intro 374-A, which provides some basic limitations and regulations on the use of electronic access systems, also known as "electronic keycards." This bill, which has been introduced by my colleague, Council Member Dan Garodnick, provides necessary safeguards to protect the privacy rights of tenants across the city.

As the use of electronic keycards has spread and increased, particularly in large developments throughout the city, the problems associated with these electronic access systems and the lack of any guidelines or restrictions on their use have become apparent. Owners and management companies have been able to utilize the vast amounts of information and data that can be held on these cards in any manner they choose with tenants having no knowledge of how it is being used or to whom it is available. This legislation deals with a number of serious issues. By amending the New York City Administrative Code to limit the collection, storage and retention of data on electronic access systems to no more than 30 days, this bill addresses the possible civil liberties concerns of some tenants. This is a fair and reasonable standard and insures that a tenant's movements cannot be tracked by an owner or managing agent for long periods of time.

Additionally, this legislation also clearly states that an owner or managing agent cannot require that a tenant or a guest provide or disclose any personal information such as a Social Security number, date of birth, biometric information, place of residence, or a photograph in order to obtain access to the building. Some developments had been requiring that all types of sensitive personal information be revealed when they first began to introduce these cards. This was particularly troublesome to tenants and others concerned about basic privacy rights and the risks of identity theft, especially when this information is not required for issuance of these cards. A positive feature of this bill -- that will protect the privacy of tenants who have already provided this information -- is that it requires owners purge previous data. Limiting the personal information that can actually be placed on the card such as a photograph or identification number and requiring replacements for cards that already have this information is a critical protection that increases safety and further protects the privacy of tenants.

One of the more negative features of key cards is that individuals are sometimes not able to use them during certain time periods of religious observance. Requiring owners to provide alternative access procedures during these time periods is another important feature that is addressed in this legislation. This bill has a strong notice requirement which mandates that an owner must notify the tenant of all of the different types of information collected and whom will

have access to it. This is a very important feature that provides for increased accountability and transparency. It will also hold owners and management companies responsible for any potential misuse.

One of the most important aspects of providing basic protections and regulations are the enforcement and penalty mechanisms. Owners and management companies that violate these provisions will face stiff penalties either through the Environmental Control Board (ECB) or through civil action. The escalating nature of these penalties will send a strong message that government is concerned and committed to safeguarding tenant privacy and protections. This will become especially important as the amount of personal information and data that is available in our electronic age continues to grow.

I strongly support this legislation and would encourage its passage by the City Council. Thank you.

TENANTS & NEIGHBORS

THE STATEWIDE CENTER OF POWER FOR TENANTS

Testimony of Natasha Winegar New York State Tenants & Neighbors Coalition

New York City Council Committee on Housing and Buildings
June 28, 2007

Good afternoon. My name is Natasha Winegar and I am the Rent Regulation Coordinator for the New York State Tenants & Neighbors Coalition, a 30 year old organization of tenants, tenant associations and other community organizations that fights for tenants' rights and affordable housing.

I would like to thank the Chairman and members of the committee for the opportunity to testify today on behalf of Tenants & Neighbors in support of Intro 374-A, a bill that would place basic limitations on the use of electronic access systems for multiple dwellings.

New York City is in the midst of a housing crisis. Rents are rising and incomes are dropping. Almost 30% of households in the city are paying over half of their income in rent. Homelessness and overcrowding numbers are hitting record highs. The largest stock of affordable housing, rent regulated housing, is being lost at an annual rate of 20,000-30,000 units. As a result, moderate and low income tenants are being forced from their homes and the city.

The aforementioned statistics and patterns make it clear that this housing crisis is marked by an imbalance of power between tenants and landlords. Like the out of control rising rents and poor building conditions, the current lack of regulations on the use of electronic access systems is a frightening example of this imbalance of power.

These electronic access systems, or key cards, threaten a tenant's right to privacy as well as their personal safety. In contrast, they provide the landlord with a rich dataset containing the tenant's personal information including their photo, date of birth, social security number and a record of every time the tenant enters or leaves the building.

-over-

The retention of this type of information by anyone, especially a landlord, without any kind of regulations or limitations on dissemination is dangerous. If this information is lost or stolen from an unprotected database, it can make a tenant a target for identity theft or other crimes.

Moreover, it encourages landlords to use the information by bringing baseless and costly legal actions against tenants. These legal actions could include primary residence challenges and attempted evictions based on the presumption that a tenant is charging their roommate more than a proportionate share of the rent.

Baseless challenges like those mentioned are already causing an eviction epidemic across the city as many landlords work to push out their stabilized tenants in order to convert to market rate. If surveillance systems like the key cards become commonplace, this epidemic is likely to worsen.

The key cards used in many building complexes, including Peter Cooper Village, contain a photo of the tenant as well as their address and apartment number. The use of key cards like this, especially in buildings without doormen, is incredibly dangerous. If a tenant loses their key, the finder of that key has instant access to that tenant's home.

Additionally, because guests, caregivers and family members that frequent the apartment must also have a key card, this system takes away a tenant's historic right to give their keys to anyone who they wish to be able to enter their apartment at any given time.

Tenants & Neighbors has hundreds of members in at least seven building complexes throughout the city that already have key card access systems. Many of these tenants have organized against the key card conversion and are strongly opposed to their landlord retaining such personal and important information about them. In fact, seventy percent of the tenants at Peter Cooper Village – an affiliate of Tenants & Neighbors- signed a petition in opposition of the key card system when their landlord, Met Life, moved to implement the system.

I urge the committee and council to pass Intro 374-A, which would place important limitations and restrictions on the type of information that landlords could keep and distribute in relation to the electronic key card system. This important action could help restore some balance to the alarmingly imbalanced

relationship between tenants and landlords. It would also help bring us one step closer to addressing the city's housing crisis.

**THE COUNCIL OF THE CITY OF NEW YORK
COMMITTEE ON HOUSING AND BUILDINGS
JUNE 28, 2007**

My name is Alvin Doyle and I am the President of Stuyvesant Town-Peter Cooper Village Tenants Association and I am here to support passage of Intro #374-A.

I was born in Stuyvesant Town in 1952. My parents were original tenants of the Stuyvesant Town complex and my mother still resides in Stuyvesant Town.

Our landlord has instituted a Building Access System in Peter Cooper Village and shortly in Stuyvesant Town that requires tenants to use an electronic keycard to gain access to the apartment building at the lobby entrance. Tenants are also required to use this electronic keycard to gain access to the building's laundry room. This ~~new~~ access system also requires tenants to register guests, relatives and caregivers with the landlord in order to obtain a keycard for their use. And everyone gets their picture taken.

This keycard system ~~will~~ tracks in a computerized record, the dates and times that each tenant arrives at their apartment building, and the date and time of entry of guests, relatives and caregivers.

The landlord will also have a complete record of when tenants wash their clothes in the laundry room.

This keycard system obligates every tenant to be photographed and become part of a gallery of digital photographs.

This system obligates tenants to carry their photographic keycard at all times. The landlord implies that the photographic keycard be produced upon request of Security or Management personnel.

Whatever the purpose of this photo identity keycard system, using personal information on the key to our home is inherently a bad idea. The tenant's photograph and the name of the complex in which we live appear on the keycard. I believe this detracts from safety if the keycard is lost or stolen.

On a more personal level, I participate in the Ready New York Emergency Preparedness program and I am a member of my Community Emergency Response Team in Manhattan Community Board 6. I have a "go-bag" and one of the recommended items for a "go-bag" is an extra set of house keys. My go-bag has my metal apartment door key but I cannot put an extra keycard in my go-bag because my landlord won't issue me an extra keycard.

I am glad to see that this legislation addresses the religious concerns of those who observe the Jewish Sabbath.

In closing, I am grateful for this opportunity to address the Committee and I thank you for your time and attention.

Alvin Doyle

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FOR THE RECORD

Testimony of Louise Seeley, Executive Director
City Council Committee on Housing and Buildings
Hearing on Intro 374-A
June 28, 2007

Good afternoon Council Members and thank you for the opportunity to speak today about Intro 374-A. My name is Louise Seeley and I am the executive director of the City-Wide Task Force on Housing Court.

The Introduction you are discussing today is directly relevant to what happens in the city's Housing Courts every day. First though, let's be clear: Electronic keycards are touted as a means to ensure building security, but they are not a sound approach to doing that for many reasons.

First and foremost, electronic keycards do not ensure building security any greater than any other type of key. Landlords who are interested in building security could hire additional security personnel and could participate in any of the New York Police Department's public safety efforts that are geared toward enhancing apartment building security. Every precinct in the city has patrol programs to improve security for landlords and tenants.

In some of the apartment buildings where electronic keycards have been foisted upon tenants, it is a very dubious proposition that building security was the primary interest of the landlord. In Stuyvesant Town, for example, CompStat reports show no rash of crimes in the area that the property owners are apparently hoping to quell with keycards. The city's continued decrease in crime makes landlords' sudden interest in keycards highly suspect.

Our concern is that landlords adopting the use of electronic keycards are merely seeking another way to collect information on tenants in order to harass and intimidate them out of their apartments. There is no question that unscrupulous and greedy landlords are seeking to vacate rent stabilized apartments in order to increase rents on new tenants. News reports have clearly documented patterns of harassment intended to achieve this end and the continued red hot rental market makes doing that a good way to make more money off of these apartments. Statistics from the Office of Court show that Holdover Cases – cases in which the landlord is seeking to remove the tenant for reasons other than non-payment of rent – are up five percent from last year with 1392 more holdovers filed in 2006 than 2005. Actual residential evictions are also up city-wide from 21,945 to 23,669 - an increase of 1754.

An effective way to harass a tenant out of an apartment is to sue her in Housing Court, where she will most likely be un-represented because she cannot afford an attorney or obtain a free one. The types of cases in which key-card information is used to harass tenants are called holdovers. These cases are incredibly difficult to defend against without an attorney. The thought of losing

one's home is terrifying and is one reason why people who do not have attorneys fare so poorly in Housing Court, at times signing agreements to vacate their homes even when they have every right to remain. For landlords, especially large landlords, Housing Court is virtually painless: They are almost always represented by attorneys who are on retainer and who have years of experience and extensive knowledge of the many and complex laws that govern housing in the city.

One particular feature of some keycards actually threatens tenants' security: Putting their photos on the keycards. This is a ludicrous and dangerous idea. A tenant who loses her keycard would obviously be not only handing over access to her building to whoever found the keycard but also allowing that person to identify her easily. This does not improve her security – it threatens it.

Intro 374-A does not actually eradicate the use of keycards. That is what is really needed. But it does address some of the problems caused by the use of keycards. Requiring landlords to erase data collected via the use of keycards after 30 days will preserve a modicum of privacy for tenants. It will discourage landlords from filing frivolous lawsuits against tenants at Housing Court to some degree. Taking photos of tenants off of keycards will also diminish the threat to their security. And allowing tenants an exemption from their use due to religious reasons is a laudable testament to the tolerance and acceptance of diversity that has always made New York City a vibrant and vital city for everyone who lives here and everyone who visits.

Thank you for your time and I would be happy to respond to any of your questions.

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TASK FORCE

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REPRESENTING

The Lower East Side, Union Square
Gramercy, Stuyvesant Town
Peter Cooper Village, Waterside Plaza
Kips Bay, Murray Hill, Tudor City



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**Testimony of New York State Assemblymember Brian Kavanagh
Before the New York City Council Housing and Buildings Committee
Regarding Intro. 374A: Regulating the Use of Electronic Access Systems**

June 28, 2007

My name is Brian Kavanagh and I represent the 74th Assembly District, which includes the Lower East Side, Union Square, Gramercy, Stuyvesant Town, Peter Cooper Village, Waterside Plaza, Kips Bay, Murray Hill, and Tudor City. I want to thank Chairperson Dilan and the members of the committee—especially my Councilmember, Rosie Mendez—for the opportunity to testify today. I'd also like to express my appreciation to Councilmember Dan Garodnick for sponsoring Intro. 374A and for his advocacy on behalf of tenants regarding the issues raised by electronic access systems.

I would like to express my strong support for the Committee's decision to take up this issue and my hope that the Council will enact strict regulation of the use of personalized electronic entry cards in residential settings. The issues that Councilmember Gardonick's bill would address are very serious concerns for many of my constituents in the 74th Assembly District, especially those of Stuyvesant Town, Peter Cooper Village, and Waterside Plaza. As you know, electronic access cards are in use in each of these complexes, over the objection of many of the residents. My office receives numerous phone calls and correspondence expressing great concern from residents regarding their ability to access their own homes without compromising their privacy. Tenants are apprehensive about the ability of electronic systems to collect personal data, particularly data on when they enter their homes and monitoring of their guests. I share their concerns and believe that keycard systems that track personal information represent a clear danger to people's privacy, in the setting where we ought to have the greatest expectation of privacy, our own homes.

The landlords who have implemented these systems on the eastside of Manhattan have asserted that they have done so in an effort to improve the security of residents. However, this rationale does not justify the collection and retention of personal data on residents and their legitimate guests. Landlords and tenants have a common interest in ensuring that intruders are not allowed to enter buildings. But key card systems do not track the time and date that trespassers enter buildings. They only track the movement of legitimate tenants and their guests. There is very little chance that tracking the precise time of day that a resident chooses to enter his or her own home—or the precise time that a caregiver comes to check on a sick relative—will help prevent or solve a crime.

For those of you on the committee who do not have a lot of high-rise multiple dwellings in your districts, I would ask you to imagine how you might react if your local neighborhood watch decided to station an observer outside your home to create a database recording the name and other personal information of each person who entered your home, along with the date and time. Not only the time you decide to come home each day, but also the time your teenage sons and daughters come home in the evening, the identity and work schedules of people who care for your children or your aging parents, perhaps even the identity and frequency of visits of someone with whom you choose to have a romantic relationship and to whom you've chosen to give your house keys. In this circumstance, you might be skeptical if the guys parked in front of your house 24 hours a day told you that you should trust them that they are only there to enhance your security. And you might think that any benefit that comes with their presence is outweighed by the invasion of your privacy and that of your family. This scenario might sound far-fetched, but this kind of 24-hour monitoring is exactly what landlords are doing to tenants in my district. And for those of you who have multiple dwellings in your district but do not yet have keycard systems that monitor tenants, you can be confident that they're coming soon to your communities.

In Albany, I have introduced a bill that would prohibit landlords from implementing keycard systems that track personal information without tenants' consent. I am happy to report that the Assembly passed the bill by a vote of 131-16, with the support of a substantial majority of both Democrats and Republicans. The bill has not yet been taken up in the State Senate, but I will continue to work with my colleagues in both houses to enact this statewide protection of tenants' privacy.

Councilmember Garodnick's bill takes a somewhat different approach than the bill we passed in the Assembly, strictly regulating the handling of data collected by keycards, rather than simply banning collection of personal data. However, I strongly support the Council bill because I think it would greatly enhance the privacy of tenants who are required by their landlords to use keycards. I would urge this committee and the Council to pass this bill as soon as possible—and to ensure that any amendments you might make based on the testimony you hear today do not weaken the privacy protections in the present bill.

Again, thank you all for allowing me to testify today and for your consideration of this important legislation. This hearing is a terrific step forward and I look forward to working together with all of you to ensure that we protect the privacy of all New Yorkers, especially the privacy they have a right to expect in their own homes.



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

Manhattan Borough President Scott M. Stringer
Testimony before the New York City Council Committee on Housing and Buildings
Hearing on Introduction 374-A

June 28, 2007

Good afternoon, Chairman Dilan and members of the committee. Thank you for the opportunity to testify in support of Introduction 374-A sponsored by Councilmember Garodnick. Introduction 374-A proposes to amend the administrative code of the city of New York in relation to regulating the use of electronic access systems for certain multiple dwellings, and the dissemination and retention of information obtained by such systems. This legislation is a necessary protection for tenants throughout New York City.

In Manhattan, several large buildings, including Manhattan Plaza, Waterside and Peter Cooper Village, have adopted key cards in place of traditional keys. This shift has created a new set of concerns regarding tenant privacy and reasonable access for tenants. We must ensure that privacy protections grow alongside technology advancements.

During the first wave of key card installations at Stuyvesant Town and Peter Cooper, I authored legislation as an Assemblymember to ban the use of electronic means of entry to residential buildings in New York City. I am pleased that the New York State Assembly has passed this bill under the guidance of the current sponsor, Assemblymember Kavanagh. As the legislative process moves forward on a full ban of key cards at the State level, the New York City Council is wise to investigate measures to ensure that tenant rights in buildings with key cards are implemented.

Introduction 374-A takes steps to protect against data mining and the release of private information such as birth date, social security number and photo, by ensuring that tenants need not file such information in order to receive a key card. This will prevent the ability to create databases for sale or unintended release of residents' vital information.

In addition, this legislation requires the expunging of entrance and exit records every thirty days, excluding tenants who request such records, or for the purposes of law enforcement activities. Clearing the records on a regular basis allows for the electronic system to be used without threats to privacy of personal whereabouts. Information as to entrance and exit to a person's home is private, and every measure should be taken to guard such information.

The installation of electronic key cards cedes greater control to landlords in regards to building and apartment access. While this may be a security enhancement, it is important to ensure that

all legal tenants and their guests have appropriate access to the building. Introduction 374-A will ensure that legal tenants and their guests have the ability to obtain access cards through their landlord.

Through this responsible piece of legislation, buildings may adopt new technology without diminishing their tenants' privacy or quality of life. I applaud Councilmember Garodnick on the bill, and look forward to working with the New York City Council to see Introduction 374-A adopted into law.