



## Legislation Text

**File #:** Res 0545-2002, **Version:** \*

Res. No. 545

Resolution urging the New York State Legislature to amend subdivision a of section 777 of Article 7-A of the Real Property Actions and Proceedings Law of New York State by permitting only sixty days for consent orders and forbidding landlords from using consent orders more than once.

By Council Members Koppell and Seabrook; also Council Member Quinn

Whereas, Article 7-A of the Real Property Actions and Proceeding Law of New York State authorizes housing courts to replace negligent landlords with court-appointed administrators who channel the tenant's rent into the improvement of the building; and

Whereas, This legislation is generally instituted when the landlord has either abandoned the building or has repeatedly ignored requests to repair the premises to the point where living in the structure is "dangerous to life, health, and safety;" and

Whereas, The 7-A program is a successful example of community empowerment that encourages tenants to take control over the condition of their buildings; and

Whereas, The 7-A program improves the housing stock of New York State by preserving hundreds of neglected buildings that would otherwise face abandonment; and

Whereas, In New York City, tenants can petition the Department of Housing Preservation and Development (HPD) to bring their case to 7-A proceedings; and

Whereas, The HPD authorizes competent 7-A administrators from a list of qualified candidates who represent both non-profit and for-profit organizations; and

Whereas, The presiding housing court judge decides after the trial whether such an administrator is appropriate for the circumstances; and

Whereas, Under subdivision a of sec. 777 of this law, the defense can be permitted to retain ownership of the property in question if it promises to fix the problems in a certain period of time; and

Whereas, These "consent" rulings account for about two-thirds of the sixty 7-A cases that come to housing courts each year; and

Whereas, The consent loophole in the 7-A system had tragic consequences in a severely neglected apartment house on DeKalb Avenue in the Bronx this summer. An 8-year old boy died in an electrical fire in his apartment in a building with 387 housing code violations recorded by city inspectors; and

Whereas, The blaze may have been prevented if the landlord had followed the consent order he received almost two years before; and

Whereas, The tenants of this building continue to bring court actions against the current owner of the property for failing to repair the premises; and

Whereas, There is no effective system to enforce the proper administration of consent orders authorized by subdivision a of sec. 777; and

Whereas, Landlords that have neglected their buildings to the point where they are a danger to their tenants and should not be trusted to perform the necessary maintenance on their buildings "with due diligence" under consent order; and

Whereas, Landlords are required to fulfill every section of the consent order. The language of the consent order is clear and unequivocal by containing no intimation that "substantial performance" for correcting violations will suffice, as established by Sninnenweber v. New State Department Environmental Conservation 160 A.D.2d 1138 (3rd Dept. 1990); and

Whereas, The inclusion of a sixty day limit for consent orders would force landlords to perform every repair required by the court order in a strict time frame; and

Whereas, The inclusion of a restriction limiting landlords from appealing to the consent process more than once would also provide incentive to owners from defaulting on their court order; and

Whereas, subdivision a of sec. 777 should be amended to read as follows:

a. If, after a trial, the court shall determine that the facts alleged in the petition have been affirmatively established by the petitioners, that no defense thereto specified in section seven hundred seventy-five has been affirmatively established by the owner or a mortgagee or lienor of record, and that the facts alleged in the petition warrant the granting of the relief sought, and if the owner or any mortgagee or lienor of record or other person having an interest in the property, shall apply to the court to be permitted to remove or remedy the conditions specified in such petition and shall (1) demonstrate the ability promptly to undertake the work required; and (2) post security for the performance thereof within the time, and in the amount and manner, deemed necessary by the court, then the court, in lieu of rendering judgment as provided in section seven hundred seventy-six of this article, may issue an order permitting such person to perform the work within a time fixed by the court but in no event more than sixty days from the date of the order of the court. The provisions of this subdivision shall only be available to the owner, mortgagee or lienor once with respect to any petition filed pursuant to this article.

Whereas, Under these new mandates, the status of property of landlords that failed to perform their court order within the proscribed time frame would be at the discretion of the court; and

Whereas, This process would reduce delays in assigning competent administration for blighted buildings; now, therefore, be it

Resolved, That the Council of the City of New York urges the New York Legislature to amend subdivision a of section 777 of Article 7-A of the Real Property Actions and Proceedings Law of New York State by permitting only sixty days for consent orders and forbidding

landlords from using consent orders more than once.

LS# 1279 (examined byTNN)