



My name is Frank Ricci, Director of Government Affairs for the Rent Stabilization Association. RSA is a trade association comprised of 25,000 residential property owners and managers who together own or manage approximately one million apartments in New York City.

I am appearing before the Committee on Housing and Buildings to provide input regarding Intro. 750. This legislation would amend Local Law 29 of 2007, which created the City's Alternative Enforcement Program. When it was enacted, AEP provided an additional mechanism for HPD to address buildings with numerous violations by requiring owners to correct those violations, preferably within a four-month period, or face the risk that HPD itself will undertake the repairs and bill the owners accordingly.

This legislation would make several changes to the existing law. For example, the current law uses a ratio of 5 Class B and C violations per apartment to determine whether a building might be subject to AEP enforcement; Intro. 750 would continue to use that ratio for buildings with fewer than 20 apartments but would apply a ratio of 3 Class B and C violations per apartment for buildings with 20 or more apartments. The current law does not specifically address mold and vermin violations; the proposed law targets them directly but then concedes that the City is not absolutely sure that the methods that owners are told to use mold and vermin are, in fact, effective. The current law requires HPD to consider unpaid emergency repair charges as one of the criteria for whether a building should be subjected to AEP enforcement; the proposed law requires HPD to consider ERP charges that are unpaid, as well as those that have already been paid, by the owner.

As we have stated before in prior legislative hearings, RSA does not condone non-compliance with the Housing Maintenance Code or other laws. It is important that buildings be properly maintained and that tenants are provided safe housing. On the other hand, when legislation that affects property owners is considered, it is essential that questions are asked to ensure that the proposed remedy takes into account the fact that not all buildings have violations for the same reasons. In the case of AEP, it is also essential that the remedy is, in fact, a viable one which genuinely results in timely violation correction and which, ultimately, allows for owners to be discharged from the program and enables HPD to concentrate its efforts on other properties.

There are many questions that should be asked and answered before these various amendments to AEP are enacted, including the following:

- 1- A recent report by the Independent Budget Office found that only "a relatively small share of buildings enrolled in AEP has met the requirements to exit the

- program.” Given that 72% of all buildings selected for AEP over the past three years are still in the program, is it possible that the standards in the existing law and the proposed legislation are unrealistic? Will these amendments impair the ability of even more owners to exit the program and improve housing conditions?
- 2- The IBO report found that owners with buildings in AEP “may lack the financial resources to make the repairs and pay their outstanding charges and liens.” Is there any mechanism in Intro.750 to assist these owners in making their repairs?
 - 3- HPD, by regulation, currently imposes fees of as much as \$1,000 per unit (and perhaps more) for buildings in AEP. How do these fees affect the ability of owners to be discharged from the program?
 - 4- Smaller buildings will keep the existing ratio of 5 violations per unit; larger buildings will have a ratio of 3 violations per unit. How many buildings City-wide are currently estimated to meet those two thresholds?
 - 5- How was it determined that small buildings should have a 5 violations per unit standard and larger buildings only 3 violations per unit?
 - 6- What would be the effect of changing the larger building standard to 4 violations per unit from the proposed 3 violations per unit?
 - 7- How will the composition of the distressed property list change by now having two categories of buildings?
 - 8- The calculation of emergency repair charges includes not only “unpaid” but “paid” as well. What is the rationale for including “paid” emergency repair charges?
 - 9- The legislation allows HPD to administratively change the criteria (the ratio of violations per apartment and the amount and ratio of emergency repair charges) for distressed properties instead of requiring that the Council amend those criteria legislatively, like it is doing with Intro.750. In the future, how will anyone- the Council, owners, tenants- know what the standards are if HPD can change criteria on its own by regulation without any Council action?
 - 10- An underlying premise of the legislation is that mold and vermin conditions are directly related to asthma. What evidence exists to link mold and vermin to asthma?
 - 11- The bill requires that owners with vermin violations must submit a pest management plan to the Department of Health and Mental Hygiene for approval prior to the discharge of their buildings from AEP; what are the requirements for a pest management plan?
 - 12- The bill states that HPD will provide owners with information about “best practices” to deal with mold and vermin but provides later that HPD is supposed to determine in the future whether these “best practices” are effective. How can owners be required to use “best practices” which the City itself is not certain that they are, in fact, the “best.”
 - 13- How does HPD issue a mold or vermin violation? What are the standards for determining if a violation exists? How does the inspector differentiate between a class C and B mold or vermin violation?
 - 14- Why does the legislation not address those situations where owners cannot obtain access to correct violations or where HPD cannot obtain access to verify correction?

At a minimum, we believe that the Council should know the answers to these questions, and understand more about the successes and failures of the existing Alternative Enforcement Program, before it enacts Intro.750 into law.