



Memorandum in Opposition

Intros. 6, 193 and 5

The Rent Stabilization Association of New York City represents 25,000 diverse owners and managers who collectively manage more than one million apartments in every neighborhood and community throughout the city. We thank the Committee for giving us the opportunity to submit this Memorandum in Opposition to Int. 6, accelerating the turnover requirements when children reside in a unit, Int. 193 regarding inspection of common areas and Int. 5 regarding record keeping.

Int. 6 requires owners to undertake the turnover requirements of Local Law 1 of 2004 by July 1, 2023 in apartments where children reside. It would change the current requirement to complete certain lead-based paint activities focused on making the unit safe for a new tenant before the new tenant takes occupancy in all apartments regardless of whether the new tenant has a child and instead require it to be done during an active tenancy when children are in residence. This costly, completely unworkable and unsafe proposal would require widescale relocation of families, potentially for weeks or months.

To comply with turnover requirements an owner must inspect and remediate lead-based paint hazards and defects, ensure surfaces are smooth and cleanable and undertake abatement work, including the removal of lead-based paint on doors and other friction surfaces, windows and chewable surfaces. Abatement triggers significant safety protocols in order to meet federal and state safety standards. Safe work practices must be followed. Licensed abatement contractors must be hired. The work requires that rooms be closed off. Tenant's possessions be removed or fully-encased in six-mil plastic sheeting. Residents temporarily relocated or fully-barred from the space. Protective barriers be erected outside the apartment and sidewalk sheds or other protective measures if windows are replaced.

This turnover work is significant, which is why this work historically has been required only for a vacant apartment. To do so for an occupied apartment with children present would likely require the family to relocate for an indeterminate time. The cost of relocation could be in the thousands. Who will pay for the relocation costs? Where will families relocate? What if there are no hotels nearby or hotels that can accommodate families with multiple children? How will parents get their children to school or childcare? What if a tenant refuses to relocate? Even if a family were to remain in place, who will ensure that the workspace remains undisturbed overnight? Who is responsible should the tenant decide to access areas or possessions in secured spaces?

The reason this work was contemplated for turnover is because these thorny issues are too complicated to deal with in occupied units. Instead, robust safety measures have been

established for pre-1960 apartments to alleviate the risks associated with disturbed lead-based paint. Owners must distribute annual safety notices to every apartment each year inquiring as to the presence of children, conduct annual unit inspections where a child lives or spends more than 10 hours a week and repair any peeling paint. In addition, under Local Law 31 of 2020 owners are charged with XRF testing every pre-1960 apartment in New York City by August 2025 and for apartments currently with children living within this testing needed to be completed by 2021 or within one year of their residence so both owner and tenant know if the unit contains lead-based paint.

Undisturbed lead-based paint is not a significant risk. For that reason, the focus has been on inspection and maintenance and only undertaking work when the apartment is vacant and safe or the child has been shown to have been exposed. By changing course and disturbing lead-based paint when a child is in residence, the risks and liabilities are enormous.

Current measures are working. We know this because the standard for elevated blood lead levels recently was reduced from 5 to 3.5, precisely because there are fewer children determined to have elevated blood lead levels. The standard set by the CDC and adopted by the city is not based on risk or danger. It specifically notes that the “CDC’s BLRV [blood level reference value] is...not health-based and is not a regulatory standard.”¹ Rather, it is a population-based measurement, based on identifying a certain percentage of the population as having elevated blood lead levels. Because programs have been successful in reducing children’s blood lead levels, the threshold has been significantly reduced in order to find enough children with elevated blood levels to meet CDC’s national population percentage targets.

In recognition of the considerable time and money that has been expended and continues to be expended across the board to ameliorate conditions in the million or so New York apartments built before 1960, this proposal brings on untold added costs and burdens. Limited resources would be misdirected. And more importantly, families would be displaced for an indeterminate amount of time in the name of a safety measure that is not necessary and does not provide any additional protections from the current scheme.

Instead of disturbing intact paint, the city should be investigating the true source of lead in the children, as these are many sources of lead in the environment: exposure at day camps, schools and other facilities; soil; lead-based pottery; water pipes; home folk remedies; and imported cosmetics, spices, medications, candy and cultural products. The city should be focusing on children newly arriving to the city, who often move here with already-elevated blood levels, in order to begin care as soon as possible.

This bill proposes the same limited-response focusing on housing, a small segment of the possible lead universe. Instead of creating risk and exposure, as this bill would do, there is the possibility to undertake alternative public health measures that would achieve a greater impact. The city should convene a Special Commission to meet with landlords and others to ascertain financial solutions and seek out ideas to make remediation more affordable for owners and

¹ CDC updates blood lead reference value to 3.5 ug/dL. <https://www.cdc.gov/nceh/lead/data/blood-lead-reference-value.htm>. Visited 4/19/2023.

impactful for the tenants. The Council could study the sources of lead in New York City children's environment and then undertake proper health actions in response.

It is this rationale of best directing resources and focusing on more likely sources of exposure that the RSA opposed Int. 193, as common areas seem to be a less-likely place of exposure than other known and documented sources.

Finally, Int. 5 is redundant in that owners are required to maintain extensive records and already must produce them when directed by HPD and certify compliance as part of the annual property registrations. As stated on HPD's website:" Owners must also retain the records of these [Local Law 1 and other compliance] activities for at least 10 years and, starting in May 2020, certify compliance with these activities as a part of the annual property registration. Penalties may be significant for failure to conduct these activities and maintain these records."²

For these reasons, the RSA opposes Intros. 6, 193 and 5.

² <https://www.nyc.gov/site/hpd/services-and-information/lead-based-paint.page> Visited April 19, 2023