

app # 69

CHAPTER 982

Cal. No. 1230

11590—A

IN ASSEMBLY

March 7, 1972

Introduced by Miss GUNNING—Multi-Sponsored by—Messrs. S. POSNER, BOLAND, BERLE, DUBOIS

AN ACT

to amend the New York city civil court act, the New York city administrative code and the multiple dwelling law, in relation to the creation of a part of the civil court for the trial of actions related to the enforcement of state and local laws for building maintenance and operation, to establish a civil penalty for violations, and to consolidate all actions related to effective building maintenance and operation in the part of the civil court to be created, and making an appropriation therefor

Compared by Alison Hyman

APPROVED

JUN 8 1972

Approved _____

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INTRO. NO. 115902
7172

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- Lt. Governor
 - Attorney General
 - Budget
 - Comptroller
 - Mr. Douglass
 - Sponsor(s)
-
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 - Banking
 - Civil Service
 - Commerce
 - Correctional Services
 - Education
 - Environmental Conservation
 - Health
 - Insurance
 - Labor
 - Mental Hygiene
 - Motor Vehicles
 - Public Service Comm.
 - Social Services
 - State
 - Tax & Finance
 - Transportation

- Atomic & Space Development
- Civil Defense
- Community Affairs
- Employee Relations
- Equalization & Assessment
- General Services
- Housing & Community Renewal
- Human Rights
- Identification & Intelligence
- Investigation
- Liquor Authority
- Local Government
- Military & Naval Affairs
- Narcotic Addiction Control
- Parks & Recreation
- Parole
- Planning Coordination
- Probation
- State Police
- State University
- Thruway
- Veterans Affairs
- Youth Division

- Advisory Council on
- Joint Legis. Comm. on
- Temporary State Comm. on

Legal Groups

- Judicial Conference
- Law Revision Comm.
- Penal Law Revision Comm.
- Assoc. of Bar, NYC
- N.Y. Co. Lawyers
- N.Y. State Bar
- Nassau Co. Bar
- N.Y. Criminal Cts. Assoc.
- D.A. Assoc.
- Magistrates Assoc.
- Co. Judges Assoc.
- Surrogates Assoc.
- Family Court Judges
- Sheriffs Assoc.

Municipal Officials & Groups

- Mayor of NYC
- Gov. Board
- Co. Bd. of Supervisors or
- Co. Bd. of Legislators
- Town Supervisor of
- Co. Atty. of
- Conference of Mayors
- County Officers' Assoc.
- Association of Towns

The Executive Bd
Whole housing list
H. B. ...
...
MFR
CS

Multiple memorandum received from the
State Comptroller dated _____
stating the following bill is of
"No Interest" to the Department of
Audit and Control.

Intro. No.

Print No.

A-11590-A

The original memorandum filed with:



Telegram

1240P CST APR 24 72 MB138

N COF 127 (NY 115CC632 127) PD CTBTBZV MTWN

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ZCZC 03235 V 2122332690 PD TDMT NEW YORK NY 24 1248P EST

HONORABLE MICHAEL WHITEMAN

ALBANY NY 1224

BT

ALLIED BUILDING INSPECTORS LOCAL 211 INTERNATIONAL UNION OF OPERATING
ENGINEERS HEARTILY ENDORSES AND IS IN FAVOR OF ASSEMBLY INTRODUCTION
11590 BILL TO AMEND THE NEW YORK CITY CIVIL COURT ACT
WILLIAM J GLINSKY PRESIDENT

211 11590



Telegram

APR 24 1972

A-11590

114P OST APR 21 72 MA685

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0128P EST 04/21/72

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MICHAEL WHITEMAN

COUNSEL TO THE GOVERNOR EXECUTIVE CHAMBER

STATE CAPITOL ALBANY NY 12224

BT

CITIZENS UNION STRONGLY SUPPORTS ASSEMBLY BILL 11590
THE HOUSING PART BILL SUPPOSED BY ASSEMBLYWOMAN
GUNNING AND OTHERS WE BELIEVE THAT CONSOLIDATED INTO ONE COURT
OF VIRTUALLY ALL ACTIONS RELATING TO EFFECTIVE BUILDING MAINTENANCE
WOULD BE A MAJOR STEP FORWARD IN THE IMPROVEMENT OF NEW YORK CITY
HOUSING QUALITY

GARY H SPERLING EXECUTIVE DIRECTOR CITIZENS UNION.

SF-1201 (RS-69)

3



HARRY J. O'DONNELL
FIRST DEPUTY COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF COMMERCE
112 STATE STREET
ALBANY, N. Y. 12207

A 11590A

AREA CODE 518
474-7810

May 25, 1972

Honorable Michael Whiteman
Counsel to the Governor
Executive Chamber
The Capitol
Albany, New York

Dear Mike:

Re: A. 11590-A (Miss Gun ing)

The Department of Commerce offers no objection to the bill.

The bill would amend the New York City Civil Court Act, the New York City Administrative Code, and the Multiple Dwelling Law, by creating a special part of the Civil Court, for the trial of actions related to the enforcement of State and local laws for building maintenance and operation.

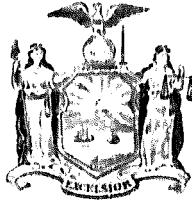
These matters would be tried before judges or hearing officers having a broad knowledge of housing problems and current remedial programs, and their expertise would result in more effective decisions and determinations that would improve housing conditions in New York City.

The Division of Housing and Community Renewal is in favor of the bill.

Cordially,

A handwritten signature in cursive script, reading "Harry J. O'Donnell".

A 11590A



STATE OF NEW YORK
DEPARTMENT OF LAW
ALBANY 12224

LOUIS J. LEFKOWITZ
ATTORNEY GENERAL

MEMORANDUM FOR THE GOVERNOR

Re: Assembly 11590-A

The purpose of this bill is to consolidate jurisdiction in a single civil forum of all actions involving the enforcement of state and local laws concerning building maintenance and operation in the City of New York.

The effective date is December 31, 1972.

The bill provides that the New York and City Civil Court Act be amended to establish a separate part of the court which will devote itself to housing cases and building maintenance cases of all types.

Jurisdiction is given the court to employ any remedy, program, procedure or sanction authorized by law, whether or not such remedy was sought by a party, if the court believes it will be more effective in accomplishing enforcement of laws concerning housing and maintenance standards. Jurisdiction is also given to impose civil penalties for certain violations of the law.

The bill provides for trial by a judge or hearing officer appointed by the Administrative Judge. The bill also provides for the establishment of an Advisory Counsel to be appointed by the Administrative Judge.

Other than as described in the preamble to the bill there is no legislative history.

This bill seems to be admirably conceived not only to provide an effective forum for the hearing or actions involving housing violations but it provides an effective way to curtail such violations. The fact that the Court is empowered to use remedies and sanctions even if unasked for, in an effort to have violations corrected, will be helpful in combating the deterioration of buildings. And the provisions for the imposition of civil penalties seem to be carefully drafted.

Finally, this bill will act to ease, somewhat, the congestion in the Criminal Courts, which have been handling many of these cases, albeit not altogether effectively, and provide a forum where the cases can be heard by judges and hearing officers more expert in and acquainted with the field of housing as such, rather than dealing with such cases in the framework of the criminal law.

I find no legal objection to this bill.

Dated: June 1, 1972

Respectfully submitted,



LOUIS J. LEFKOWITZ
Attorney General

A-11590

City Court
of the
City of Yonkers



87 NEPPERMAN AVENUE
YONKERS 2, N. Y.

CHAMBERS OF
ROBERT W. CACACE
CITY JUDGE

May 12, 1972

Hon. Nelson A. Rockefeller
Governor of the State of New York
Governor's Mansion
Albany, New York

Dear Governor,

It has come to my attention that a bill has been passed by both Houses of the New York State Legislature establishing a separate division of the Civil Court of New York City, which would specialize in building maintenance violations.

The rationale for this approach seems to be, according to the New York Times of May 11, 1972, Page 39, that this new court would "have power to enforce and oversee building repairs."

This concept, that a court is an enforcement agency of Government, is alien to our system. The courts have historically been not only a separate and equal arm of our Government, but a place of refuge for the citizenry. The courts are a place where the accused must have an impartial arbitrator sworn to preserve the defendant's statutory, constitutional and human rights, not a forum where the Judge is intimately associated with either the prosecution or the defense.

9745
A 11590

City Court
of the
City of Yonkers



87 NEPPERHAN AVENUE
YONKERS 2, N. Y.

CHAMBERS OF
ROBERT W. CACACE
CITY JUDGE

-2-

Even in the difficult field of sentencing, those convicted of crime, which activity is in the nature of enforcement through repression and punishment, the trend has been to remove from the judiciary all responsibilities for the welfare of those sentenced immediately after the act.

Enforcement is the responsibility of the district attorneys, the building departments, the attorneys general; in short, it is the sole responsibility of the Executive Branch of our Government. To attempt to have the courts assume this burden is an abnegation of responsibility which can only serve to further confuse those of our citizens who do not fully comprehend our system. I strongly urge that you veto this measure.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert W. Cacace".

ROBERT W. CACACE
City Judge of Yonkers

8



Supreme Court of the State of New York
Appellate Division Second Department
Brooklyn, N. Y. 11201

11590
Chap. 202 9/169

SAMUEL RABIN
PRESIDING JUSTICE

June 1, 1972

Hon. Nelson A. Rockefeller
State Capitol
Albany, New York 12207

RE: THE "HOUSING" ASSEMBLY BILL -
No. 11590-A

Dear Governor Rockefeller:

Our views have been requested with respect to the above bill now awaiting action by you.

Following extensive discussions today with the author of the bill and several of its sponsors; with the Hon. Bernard Botein, former President of the Association of the Bar of the City of New York and presently Chairman of the Appellate Divisions joint special subcommittee on the elimination from the courts of inappropriate and unnecessary jurisdiction, and with other interested parties, our views are as follows:

We are in favor of the concept and the objectives of the bill. However, we are seriously concerned because of the complete lack of any appropriation. As you can well realize, a substantial and an adequate initial appropriation is essential in order to implement the bill. While the major provisions of the bill become operative April 1, 1973, nevertheless, under its terms the

Hon. Nelson A. Rockefeller

June 1, 1972

Re: "Housing" Assembly Bill-
No. 11590-A

preparatory work must be commenced immediately in order to make the bill operative by that date. In the absence of any appropriation we must therefore register our opposition to the bill and recommend its veto by you.

We have one further basic objection to the bill. It provides for the creation and appointment of a new class of judicial officers, called "hearing officers." We see no need or justification whatever for the substitution of "hearing officers" for the duly elected judges of the Civil Court of the City of New York or for the utilization of such "hearing officers" in addition to the elected judges. As you know the Civil Court is up to date; but if necessary additional Civil Court judges can be authorized.

We also direct your attention to the fact that among the present complement of Civil Court judges we have more than enough judges with the requisite training, experience, knowledge and interest to enable them to make a proper determination of all the issues which may come before

Page Two.

Hon. Nelson A. Rockefeller

June 1, 1972

Re: "Housing" Assembly Bill-
No. 11590-A

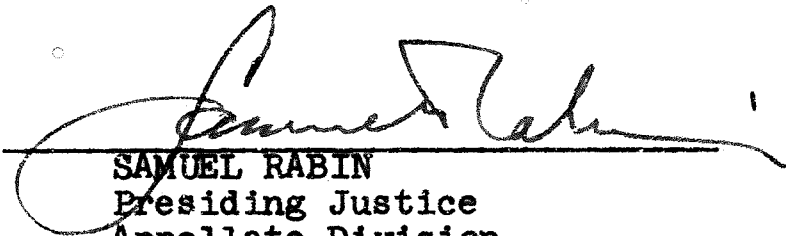
the special housing part established by the bill.
The judges can fully effectuate the purposes and
objectives of the bill.

With kind personal regards,

Sincerely yours,



HAROLD A. STEVENS
Presiding Justice
Appellate Division,
First Department

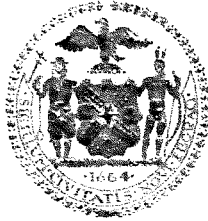


SAMUEL RABIN
Presiding Justice
Appellate Division,
Second Department

COPY TO:

Hon. Michael Whiteman
Jason Gettinger, Esq.
Hon. Bernard Botein
Hon. Thomas F. McCoy

Page Three.



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

May 24, 1972

A#11590-A - by Miss Gunning et al

AN ACT To amend the New York city civil court act, the New York city administrative code and the multiple dwelling law, in relation to the creation of a part of the civil court for the trial of actions related to the enforcement of state and local laws for building maintenance and operation, to establish a civil penalty for violations, and to consolidate all actions related to effective building maintenance and operation in the part of the civil court to be created, and making an appropriation therefor

DISAPPROVAL RECOMMENDED

Honorable Nelson A. Rockefeller
Governor of the State of New York
Albany, New York

Dear Governor Rockefeller:

The above bill is before you for executive action.

This bill would amend the New York Civil Court Act, the Administrative Code and the Multiple Dwelling Law to create a new housing part of the Civil Court to enforce laws relating to building maintenance and operation and to consolidate all actions relating thereto in the Civil Court.

For several years New York City has sought authorization for administrative processing of housing code enforcement violations. While such administrative procedure subject, of course, to judicial review would, in my judgment, be preferable to civil court disposition of such matters, I am nevertheless prepared to support such civil court proce-

Honorable Nelson A. Rockefeller

May 24, 1972

Page 2

ture. However, the instant bill fails to establish a viable and sound method of disposition of housing code violations. It contains serious substantive and technical defects and fails to provide the financial means for implementing the proposed extension of the Civil Court.

In its original form this bill carried an appropriation of \$450,000. That appropriation was deleted in the bill finally passed by the legislature on the understanding that the comprehensive proposal for financing the courts would also pass. Since such latter proposal failed of action, the civil court would be required to request City tax levy funds that are already overcommitted. The failure to be adequately funded, or funded at all, has most drastic consequences for the existing means of enforcing housing code standards, since criminal court enforcement ceases on April 1, 1973 (except for "willful" violations). While funding of the housing part even in the original bill was far short of that needed for court operation of the proposed housing part, the complete lack of funds alone could doom a successful penalty imposition system.

Further, the bill has serious technical defects. While it is argued that these defects can be corrected in the 1973 legislative session since the effective date of the housing part is April 1, 1973, such argument fails to recognize the required data processing programming, form revisions, administrative changes and other aspects of the efforts to prepare for utilization of the new bill which will require the full year now allocated. It is impossible to undertake all the necessary changes without knowledge of what technical changes might be enacted in the 1973 session. There can not be reliance upon such amendments. The needs for preserving the housing stock are such that a reworked bill for the 1973 session is by far the preferable course at this time.

The proposed legislation does not serve the function which is set for it. Its title asserts that its purpose is "to establish a civil penalty for violations" but this bill virtually repeals penalty actions as a means of achieving housing code enforcement. It creates a certainty that many owners will not be liable for any civil penalty regardless of their failure to correct violations after notice.

Under this bill the owner has a defense or grounds for mitigation where the violation was caused by a third party. Though such third party may be penalized, the absence of penalty for his failure to correct the violation seriously weakens the proposed housing part as a tool for the maintenance of housing code standards.

Honorable Nelson A. Rockefeller
May 24, 1972
Page 3

The owner's certification of violation correction bars the department from bringing an action based on the underlying violation. The department is relegated to one or the other of criminal enforcement routes--referral to the district attorney or, though it is not clear, prosecution in the criminal court.

The bill makes it unlikely that penalties could be collected as to a large, if not major, portion of the older housing stock by making inability to obtain funds a defense or mitigating circumstance. Actually, the City's own Maximum Base Rent (MBR) orders could conceivably be admitted as such evidence of lack of funds.

Where an owner is found liable having raised no defense or mitigating circumstance, the probability of a penalty is diluted by the apparent requirement for a supplementary proceeding after the court has made a determination against the owner. This would be cumbersome in the extreme. Multiple Dwelling Law section 3(4), recognizes that effective housing code enforcement requires direct action in that it provides that "local laws may also authorize that all liens upon rents may be satisfied without further judicial proceedings by the collection of rents due or to become due".

The requirement for personal service or attempt at such service of notice of "immediately hazardous" violations (p.20 line 12), a classification requiring correction "forthwith", is peculiarly suited to no-heat cases. But the proposed legislation might well insure as a practical matter that no civil penalty will be imposed for such violations because of the administrative difficulties posed by a personal delivery requirement. It is clearly inappropriate to assign no-heat violations to the classification "hazardous" to be corrected within one month. Yet, the heat cases form the largest group of housing code violations; there were about 125,000 heat complaints during the past winter (1971-1972).

And finally, the proposed legislation fails to take advantage of an essential reason for shifting to civil process--the availability of non-personal service. The non-registered owner under this bill would have the advantage of having to be served personally, a task which the City has been unable to meet as witnessed by a backlog of 6,900 unserved criminal court summonses.

Accordingly, I urge that you disapprove this bill in its present

Honorable Nelson A. Rockefeller

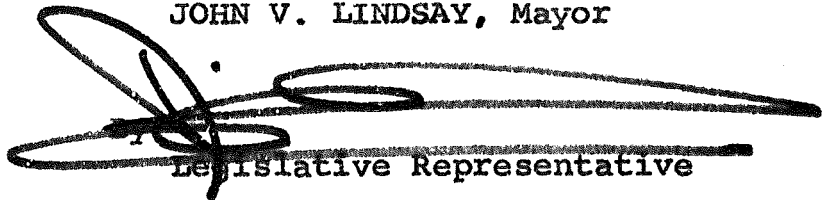
May 24, 1972

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form. Be assured, however, that my administration remains pledged to work closely with you, the legislature and various interested groups to find a viable and sound procedure for disposition of housing code violations.

Very truly yours,

JOHN V. LINDSAY, Mayor



Legislative Representative



111590-15

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

ROSEMARY R. GUNNING
34TH DISTRICT
QUEENS COUNTY

Hon. Michael Whiteman
Executive Chamber
State Capitol
Albany, New York 12224

Dear Mr. Whiteman:

Re: A-11590-A - NYC
Civil Court Housing Part

The abovecaptioned bill started as a joint bi-partisan effort of the Assembly Housing Committee. With the Senate Housing Committee and the Joint Legislative Committee on Housing and Urban Development hearings had been held in connection with a proposed Housing Tribunal in the NYC Housing and Development Administration. It evidenced no support. Both owner and tenant groups opposed it, maintaining it made one department the complainant, prosecutor, judge, jury and executioner. All indicated support for the removal of violations from the Criminal Court but supported removal only to another court.

Accordingly, a housing part bill for the NYC Civil Court was initiated. In this the minority lent able assistance through the assignment of Dr. Lorraine Miller to Assemblyman Posner. (Dr. Miller is the minority leader's housing consultant) A bill was presented to the Chairman, Assemblyman John McCarthy, and, as amended by a Chapter amendment, passed the Assembly in 1971. It did not however come out of committee in the Senate.

Chairman McCarthy then appointed me, through the Speaker, as Chairman of a Sub-Committee for a NYC Housing Part. With my committee conferences were arranged throughout the summer with all prominent interested parties - the Real Estate Industry, Tenants groups, civic and social agency groups, bar associations, NYC representatives, with a view to preparing a bill for pre-filing. Conferences were had with Justice Thompson, administrative judge of the NYC Civil Court, both in 1971 session and in the summer and fall of 1971, with representatives of the Judicial Conference, with Judge Botein and his committees. Amendments were proposed and adopted. Judge Thompson had insisted on referees or hearing officers since, with 16 of his Judges acting on the Supreme Court, he could not spare additional judges for this part. Emphasis was laid on the judges or hearing officers in the court having real estate-housing expertise, of bringing into one forum not only the violations of code but also all other pending legal actions so they could, where advisable, be considered as one matter by consolidation. Fines were set so as to be adequate to induce correction of code violations but with the power of mitigation where indicated to save the housing. The whole thrust of this bill is to save the city's present housing stock and to avoid, however, such onerous punishment as to scare off investors or to induce further abandonments.

Conferences continued throughout the session, including Senator Goodman, Chairman of Senate Housing Committee, and your office. Both

To Hon. Michael Whiteman

Page 2

May 17, 1972

rendered invaluable service. We are especially grateful for the help given by your Mr. Jason Gettinger, who gave so freely of his time outside office hours.

Since the court itself will not commence, by the terms of the bill, until April 1, 1973, there will opportunity next session for any additional improvements which may seem desirable. By present signing of the bill into law, the NYC Housing and Development Administration will prepare its list of hazardous, non-hazardous and immediately hazardous violations, the Advisory Council will be appointed and hearing officers interviewed and readied for appointment.

This bill has one innovation - it gives tenants the right to initiate action for code enforcement and it holds them and other third persons responsible for code violations caused by them.

We think on the whole, it is a needed and satisfactory bill.

Sincerely,

Rosemary R. Gunning



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

ROSEMARY R. GUNNING
34TH DISTRICT
QUEENS COUNTY
1667 GROVE STREET
RIDGEWOOD, N. Y. 11237

June 2, 1972

Hon. Nelson A. Rockefeller
Executive Chamber
The Capitol
Albany, New York

Dear Governor Rockefeller:

Re: A 11590-A, S9745-A N.Y.C.
Civil Court Housing Part

Senator Goodman and I met with Judge Botein's committee and the Presiding and Administrative Judges.

We were gratified that the concept of our bill was accepted by all present. Eugene J. Morris, Esq. repeated his objections to the bill as stated in his letter to you dated May 23, 1972 (to which I have replied by separate letter) but the consensus appeared to agree with our suggestion that we would continue to review Mr. Morris' comments, as well as others which may be received between now and the pre-filing period, and then present a bill incorporating all the valid proposals. This should not present any problems since the actual operation of the court is not scheduled, by the terms of the bill, to commence until April 1, 1973.

There was some concern expressed as to the propriety of the hearing officers exercising equity powers and jury trials. However, they appeared satisfied they could control this by their right to establish court rules which would assign such functions to the judges.

The only real objection was very vigorously presented by Justices Stevens and Rabin - money. They explained their finding it increasingly difficult to operate because of lack of sufficient funds for their operating personnel. They also reminded us they were mandated with the narcotic court but there was a long delay in the funds reaching them.

We pointed out we were confident you had the monetary situation in mind and it would be worked out between the state and the city before April 1, 1973; that, however, signing the bill now would permit the preliminary work to be commenced - the review of the classification of violations into immediately hazardous, hazardous and non-hazardous by the city agency, the selection of the advisory council, the presentment to them of



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

ROSEMARY R. GUNNING
34TH DISTRICT
QUEENS COUNTY
1867 GROVE STREET
RIDGEWOOD, N. Y. 11237

To Hon. Nelson A. Rockefeller

Page 2

June 2, 1972

the proposed classifications for their consideration and approval, the publication of the categories, the public hearings and the interviews with applicants for hearing officer appointments. If these preliminary steps, which do not require funds, can be accomplished before the end of this year, it will be possible to arrange for funds and proceed with the funds on April 1, 1973. A veto of the bill would mean a delay of another year in moving toward this improvement in New York City's troubled housing situation and facing the uncertainties and pressures of a new legislature and a new session for passage of a new bill. Senator Goodman was especially eloquent in pointing out the housing crisis and the imperative need for proceeding with this major effort toward solution without delay.

We sincerely hope therefore you will favorably consider signing this bill into law so we may move forward in this important area of code enforcement.

Sincerely yours,

Rosemary R. Gunning

c.c. Hon. Roy M. Goodman



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

ROSEMARY R. GUNNING
34TH DISTRICT
QUEENS COUNTY
1867 GROVE STREET
RIDGEWOOD, N. Y. 11237

6-11590
June 2, 1972

Hon. Nelson A. Rockefeller
Executive Chamber, The Capitol
Albany, New York

Dear Governor Rockefeller: In re S.9745-A - A.11590-A

I have just received the copy of the letter of Eugene J. Morris, Esq. dated May 23, 1972, concerning the above bill. Since I carried the Assembly bill, I take the liberty of commenting on his points in opposition as follows:

1. The object of the bill is certainly not to impose penalties but a realistic effort to save New York City's existing housing stock. Our work with housing has revealed three types of owners - (1) Those with adequate income from their buildings but an interest only in mulcting properties with as little investment as possible, with little regard for maintenance of the buildings and the rights and interests of the tenant occupants. It is to them that the severe penalties and time limits are directed. They are the group that have found it more profitable to pay the Criminal Court fines, which have a very low average per violation, than to do the work and keep the building in proper repair. By specifying penalties and time limits, all owners know what is expected of them and the penalties for failure to comply. (2) The owner willing to repair but without adequate funds or income to do so. These owners are protected by the mitigation clauses (last sentence D26-51.01 c (1), 2nd sentence D26-51.03 b (6)), which can be exercised in their favor while the court refers them back to the city agency for guidance in procuring funds and increasing income where necessary. (3) Good owners who are willing to comply but whose barely adequate income and economy demands delay without danger to the building or who have had difficulty and delay in procuring financing or procuring contractors, workmen, material, etc. They can also be helped by the defenses and mitigation provisions. These provisions give the court the power to delay or mitigate penalties but advise owners the penalties which can be invoked unless the work is done promptly. This bill we believe provide the court with "teeth" to be used, of which owners are forewarned but also with discretion to temper the wind to the shorn lamb. In the Criminal Court, fines, in small or large amounts, were imposed even when the work was already done - punishment for delay without power to consider the reasons.

We have felt the seriousness of the violation rather than the nature and cost of the work a more logical approach to the imposition of penalties. Some serious housing dangers can be corrected inexpensively but if neglected can create conditions leading to serious deterioration and grave discomfort and danger to the occupants.



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

ROSEMARY R. GUNNING
34TH DISTRICT
QUEENS COUNTY
1867 GROVE STREET
RIDGEWOOD, N. Y. 11237

To Hon. Nelson A. Rockefeller

Page 2

June 2, 1972

2. The city representatives indicated they could complete the classifications by September 1st although it will require immediate and concentrated action.

3. While it was our belief D26-51.03 (d) by providing that the judgment be enforced "against the premises" there would be no personal judgement against the owner, we would welcome the Bar Association's suggestions as to clarifying language. Our reason for limiting judgments to the property was to induce investment. One of the reasons for abandonment or the closing of buildings with violations which the building's income does not permit of correction, has been the concern of claims against the personal assets of owners or the Criminal Court requirement for payment of fines or jail sentences. We hope this will reduce the scaring off of investors and that financing institutions will try to continue the operation of buildings they foreclose rather than closing them up as at present.

4. The Assembly and Senate Committees will welcome any language the Bar Association believes will clarify D 26-51.01 (c) 1 and D 26-51.05 (b). These provisions were accepted by the many groups who reviewed and contributed to the bill's drafting.

5. Since the initiation of the action for civil penalty will be by the city agency, they will control the false certification situation. It does appear they have adequate tools. However, again the Committees will welcome any suggestions for appropriate provisions.

6. Since the City must also initiate action for criminal action on a violation that step is not duplicated in this bill. The methods for consolidating violations and actions relating to a building will reduce the alleged 30,000 figure substantially. Owners had no recourse but to plead guilty in criminal court actions, even when unjust because of mitigating circumstances, which has accelerated abandonment. Automatic penalty liens are without due process. Their constitutionality is dubious and it was one of the serious objections by all interested parties to such provisions in proposed administrative tribunal bills. We believe that would discourage investors and promote abandonment - it would make financing for correction of violations impossible.

7. The owner is not relieved of responsibility to correct violations - only of the penalty when he can show it was caused by a third party. His redress will be against the third party for the damages. Continued failure to correct, would invoke penalties.

8. The method of serving the summons was the result of many con-



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

ROSEMARY R. GUNNING
34TH DISTRICT
QUEENS COUNTY
1867 GROVE STREET
RIDGECREEK, N. Y. 11237

To Hon. Nelson A. Rockefeller

Page 3

June 2, 1972

sultations with interested parties. Again, we would welcome the suggestions of the Bar Association.

9. The method for enforcement of penalties against rents is that presently used by the City in collecting on rent liens in connection with emergency repairs, etc. We would, of course, welcome suggestions with respect to this provision also.

We do not believe the objections of Mr. Morris' Committee warrant the veto of this bill under all the circumstances.

Sincerely yours,

Rosemary R. Gunning

c.c. Eugene J. Morris, Esq.
Hon. Roy M. Goodman
Dr. Lorraine Miller



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

A 11590-A

FRANCIS J. BOLAND, JR.
124TH DISTRICT
BROOME COUNTY

May 17, 1972

Hon. Michael Whiteman
Counsel to the Governor
Office of the Counsel
to the Governor
The Capitol
Albany, New York

Dear Mike:

I would like to inform you of the support of the members of the Housing Committee for All590-A, which is now on the Governor's desk for signature.

This bill provides for the creation of a housing part in the New York City Civil Court and for new civil penalties for housing code violations. Presently, cases involving housing are heard in both the civil and criminal courts; this bill permits consolidation of actions concerning one building. This will reduce the overall number of housing cases and will be particularly beneficial to the criminal court which is already so overburdened.

We believe that such a part, in conjunction with civil penalties, will encourage the maintenance of housing by insuring that cases are heard by persons knowledgeable in housing problems and by providing the hearing officer with a range of enforcement powers.

I hope that you will take these points into consideration when making your recommendation to the Governor.

Sincerely,

Francis Boland



STATE OF NEW YORK
BANKING DEPARTMENT
100 CHURCH STREET
NEW YORK, N. Y. 10007

HARRY W. ALBRIGHT, JR.
SUPERINTENDENT OF BANKS

May 22, 1972

Hon. Michael Whiteman
Counsel to the Governor
Executive Chamber
The State Capitol
Albany, New York

Dear Mike:

Enclosed herewith is the Banking Department memorandum
on the following bill:

A 11590-A

Very truly yours,

Michael Iovenko
Deputy Superintendent and Counsel

Enc.

A 11590A



STATE OF NEW YORK
BANKING DEPARTMENT
100 CHURCH STREET
NEW YORK, N. Y. 10007

HARRY W. ALBRIGHT, JR.
SUPERINTENDENT OF BANKS

May 22, 1972

BANKING DEPARTMENT
MEMORANDUM ON
BILL BEFORE THE
GOVERNOR FOR
EXECUTIVE ACTION

SENATE

ASSEMBLY

Introduced by:

11590-A

Miss Gunning

NO RECOMMENDATION: This bill amends the New York City Civil Court Act, the New York City Administrative Code and the Multiple Dwelling Law to authorize the creation of a part of the Civil Court for the trial of actions related to the enforcement of state and local laws for building maintenance and operation, to establish civil penalties for violations thereof and to provide for appropriations therefor.

This bill deals with a subject with which the Banking Department has no expertise or special competence. Accordingly, we make no recommendation with respect to this bill.



STATE OF NEW YORK
DEPARTMENT OF HEALTH
EXECUTIVE DIVISION

HOLLIS S. INGRAM, M. D.
COMMISSIONER

64 HOLLAND AVENUE, ALBANY 12208

11 11590-A
OFFICE OF THE COUNSEL

DONALD A. MACHARG
COUNSEL

AMBROSE P. DONOVAN, JR.
CHIEF ASSOCIATE COUNSEL

May 23, 1972

Hon. Michael Whiteman
Counsel to the Governor
Executive Chamber
The Capitol
Albany, New York

Re: Assembly 11590-A

Dear Mr. Whiteman:

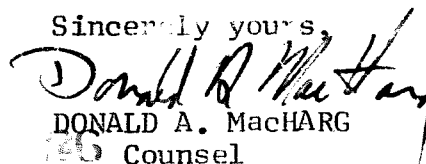
This bill would amend the New York City Civil Court Act, New York City Administrative Code and Multiple Dwelling Law to create a Housing Part in the New York City Civil Court devoted to actions and proceedings involving the enforcement of State and local laws for the establishment and maintenance of housing standards, elimination of nuisances or violations of the Multiple Dwelling Law, proceedings for injunctions to enforce housing standards, summary proceedings, proceedings for the appointment of a receiver of rents, actions to remove housing violations and penalties for the violations of law.

The bill provides for the trial of actions and proceedings before judges and hearing officers appointed by the administrative judge from a list of persons qualified by training, interest, experience, judicial temperament and knowledge of the pertinent laws.

This bill would establish one Part within the New York City Civil Court to hear and determine housing violations and certain actions relating to real property. This is desirable because it creates a separate Part solely to hear the numerous housing matters which previously were assigned from a civil calendar dealing with all civil matters. The bill will have the tendency to shorten the time for the disposition of matters before the Court and as a result promote more effective enforcement. Further, the bill is in line with the modern trend of concentrating in one part or term of court similar and related matters without regard to other civil actions.

The Department of Health recommends enactment of this bill.

Sincerely yours,


DONALD A. MACHARG
Counsel

SENATE

Introduced by:

Miss Gunning, et al.

ASSEMBLY

No.

No. 11590-A

New York City Civil Court Act
Law: Multiple Dwelling

Sections: 110 (new); 203 (k-n) (new);
209 (b-3, 4), (c);
306 (2); 309 (1) (f), (2) (d),
(3) (a), (5) (c-1, 3);

Administrative Code of the City of New York-D26-50.09; Article 51 (new)
Division of the Budget recommendation on the above bill: D26-52.01

Approve: _____ Veto: X (as noted) No Objection: _____ No Recommendation: _____

- Subject and Purpose: This bill gives the Civil Court of the City of New York jurisdiction over all State and local laws (both civil and criminal) affecting housing standards.
- Summary of Provisions: This bill creates a new housing component of the Civil Court with power to:
 - impose and/or collect civil or criminal penalties.
 - order the recovery of court costs and any cost incurred in removing causes of housing standards violations.
 - appoint receivers of rent.
 - consolidate into one action all pending proceedings in connection with any building.
 - employ any authorized remedy for the enforcement of housing standards regardless of the relief originally sought by the plaintiff.

This bill also permits the court to impose financial sanctions as a penalty for conviction of various housing violations.

In addition to using Civil Court justices, cases may be tried before hearing officers who are appointed by the "administrative judge" of the court. Also, with the consent of the Appellate Division, the administrative judge may appoint all but two members of an Advisory Council on Housing which is charged with making recommendations on "the manner" in which the court is functioning. The Mayor and Commissioner of the Division of Housing and Community Renewal shall appoint one member each.

Section 110 Subd. 6 (f) and (g) of the New York City Civil Court Act as added by this bill and Section D26-51.01 Subd. (d) and (e) of the Administrative Code of the City of New York shall become effective immediately. The remaining provisions of this bill shall become effective April 1, 1973.

- Prior Legislative History: A related Governor's Program bill, S. 5716-A, was introduced last year but did not pass. This bill would have permitted the City's Housing and Development Administration to administratively adjudicate violations of housing standards.

Date: _____ Examiner: _____

Disposition:

Chapter No.

Veto No.

4. Arguments in Support:

- a. Because of the fragmented housing laws and the numerous legal and procedural steps required by litigation, enforcement of housing standards has been limited at best. Enactment of this bill will centralize the adjudicative powers for all housing maintenance and operation laws in the Civil Court of the City, thus strengthening the enforcement of such laws.
- b. In addition, this bill will help relieve an already overburdened criminal court system by shifting some 40,000 housing cases from it to the new system.
- c. Reportedly, utilizing hearing officers as provided for in this bill will make it possible eventually to assign the equivalent of ten New York City criminal and civil court judges to work full-time on reducing the criminal case backlog referred to above.

5. Possible Objections: It may be argued that there are a number of technical and administrative deficiencies in this bill. Among the more significant of these are:

- a. The bill empowers the Civil Court to appoint "receivers" of rents or fines but completely ignores the differences in provisions of the Multiple Dwelling Law and the Housing Maintenance Code dealing with the "service of notice" which establish conflicting requirements for receivers.
- b. The provision enabling the court to apply any bona fide remedy regardless of the relief originally sought introduces uncertainty of action. For example, if a plaintiff files for relief, he may be found in violation of the law, unrelated to the action he is requesting, and may be given a fine rather than the relief he originally sought.
- c. The use of hearing officers does not insure consistency in the determination of cases. By virtue of their position, hearing officers function independently of each other and are not bound by precedent cases. This will undoubtedly lead to frequent appeals to the Appellate Division.
- d. In some cases this bill may require the City to initiate supplemental proceedings to collect fines imposed on violators when such fines are based on the amount of time that a violation persists. The cost of these enforcement proceedings may be substantial in terms of the actual penalty imposed.
- e. This bill empowers the Court to act directly in the removal or correction of "immediate hazards" such as the lack of water or heat in a building. Before such action can be instituted, a "notice" must be personally served on the building owner or operator. It is estimated that there are

over 150,000 such violations in this category in a year. Based on New York City information, an officer of the Court can serve an average of four notices a day. Simple calculations indicate that there would have to be a substantial staff buildup to effectuate this law. The net result would be the City addressing itself to emergency repair operations with little attention to code enforcement.

- f. Again using City information, there are an estimated 400,000 - 600,000 housing violations of all types in a year. To handle this kind of workload the Civil Court would have to hire fifty hearing officers in addition to its judicial staff. Also, supportive staff, amounting to three to five people per hearing officer, would have to be added to the payroll.
 - g. This bill increases the maximum penalty for certain violations to include imprisonment up to one year. Since this penalty may only be imposed by criminal courts, the bill may create confusion over the jurisdiction of criminal and civil courts. Moreover, the one-year penalty mandates a trial by jury, thus increasing court costs.
 - h. As indicated in items 7 and 8 below, during the first year, this bill will cost the City of New York approximately \$480,000 to implement. The City of New York apparently objects to the bill because it mandates this increase in local spending.
6. Other State Agencies Interested: We understand that the Judicial Conference will oppose this bill. The Division of Housing and Community Renewal is interested but has not formulated a position. The Departments of Law and Health may be interested.
7. Known Position of Others: The New York City Legislative Office is opposed to this bill. We anticipate that the Community Service Society of New York will support this bill.
8. Budgetary Implications: The State budget is not directly affected by this bill. There are, however, implications for the New York City judicial budget. During the first year, the costs are estimated to be \$480,000.
9. Recommendation: The Division of the Budget supports the basic aims of this bill, i.e. to consolidate, streamline and improve the adjudication of housing complaints.

The Division of the Budget also supports ^{the} secondary intent of the bill, i.e. to accomplish the above objective by reducing the demands on judges and relying heavily on hearing officers to help adjudicate housing complaints.

Nevertheless, as indicated in item 5, the bill contains numerous technical and administrative deficiencies which, in the opinion of this office, must be corrected before the major portions of the bill take effect on April 1, 1973.

In view of the above, the Division of the Budget recommends veto; although an alternative might be to approve the bill now with a firm commitment to submit corrective amendments at the next session.

Date: June 5, 1972

Examiner: *Charles J. Palmer*
Larry R. Vance

S- 9745

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
42 WEST 44TH STREET
NEW YORK 10036

COMMITTEE ON HOUSING AND URBAN DEVELOPMENT

EUGENE J. MORRIS
CHAIRMAN
1180 AVENUE OF THE AMERICAS
NEW YCRK 10036
757-5050

HERBERT BERMAN
SECRETARY
235 EAST 42 STREET
NEW YORK 10017
867-0800

April 25, 1972

Hon. Nelson A. Rockefeller
The Executive Chamber
The Capitol
Albany, New York 12224

MAY 2 1972

Re: S. 9745

Dear Governor Rockefeller:

This Committee has been working actively for a period of many months on the development of an appropriate Code Enforcement bill which would substitute for the procedures presently available. In the course of these activities we prepared an administrative bill which we believe would represent the best solution to the problem of Code Enforcement in the City of New York.

However, the bill was not introduced in the Legislature and instead the captioned bill was introduced by Senator Goodman and this Committee has been working on proposed modifications of it. We have participated in the discussions with Judge Botein's Committee and with the various officials who have been actively engaged in the development of this proposed legislation.

In fact, the Chairman of the Code Enforcement Subcommittee of this Committee, forwarded, by letter dated April 11, 1972, to Jason Gettinger of your office a letter and a memorandum of objections to the captioned bill as introduced. We understand that some of the suggestions made in that memorandum by Mr. Isaacs have been adopted and the bill will be amended accordingly.

However, after reviewing the proposal in detail (even considering the proposed amendments), the view of this Committee is that the bill should be disapproved.

April 25, 1972

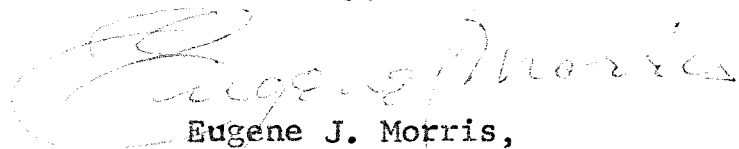
At the regular meeting of this Committee, held at the House of the Association, on Wednesday, April 19, 1972, the following motion was unanimously approved by the full Committee:

It is respectfully recommended, with respect to Senate Introductory 9745 as follows:

1. That no action be taken by the Legislature with respect to the enactment of a new code enforcement law at this session.
2. If action is taken and a bill passes this session of the Legislature, it is respectfully recommended that the Governor veto the bill.
3. These two recommendations are made because of the complexity of the matter dealt with and the inconsistencies and unworkable provisions contained in S 9745 even as revised. The Committee feels that it should have an opportunity to review the entire situation along with the proposed revised bill and make recommendations for appropriate legislation at the next session of the Legislature.

These recommendations were based upon the feeling of the members of the Committee, most of whom are experts in the field, that there are many inconsistencies and unworkable provisions contained in the proposed legislation even as revised, and that the subject is of such importance that further study is justified.

Sincerely,



Eugene J. Morris,
Chairman

EJM:EG

cc: Mr. Robert Douglass
Mr. Michael Whiteman
Mr. Jason Gettinger
Charles J. Urstadt, Esq.
Senator Roy M. Goodman
Ass. Rosemary R. Gunning
Hon. Bernard Botein
Paul B. DeWitt, Esq.

S9745-A
11/1/90

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
42 WEST 44TH STREET
NEW YORK 10036

COMMITTEE ON HOUSING AND URBAN DEVELOPMENT

EUGENE J. MORRIS
CHAIRMAN
1180 AVENUE OF THE AMERICAS
NEW YORK 10036
757-5050

HERBERT BERMAN
SECRETARY
235 EAST 42 STREET
NEW YORK 10017
867-0800

May 23, 1972

Hon. Nelson A. Rockefeller
The Executive Chamber
The Capitol
Albany, New York 1224

Re: S.9745-A

Dear Governor Rockefeller:

This will supplement the letter of this Committee written to you on April 25, 1972 recommending that you veto the captioned bill creating a housing part in the Civil Court.

We again urge you to veto this bill in view of its inconsistencies and unworkable provisions. In our view the importance of the code enforcement problem and the inadequacy of this bill to deal with it justifies further study and the development of a truly workable bill.

If you contemplate a special session of the Legislature to consider court reform along with the judgeship bill which you vetoed on constitutional grounds, this bill could also be considered, in properly revised form, as part of court reform where it appropriately belongs. Otherwise, the bill, which this Committee has previously indicated its commitment to revise, could be put into workable form and prefiled with the Legislature for final and firm action at the 1973 session.

Although we would have preferred an administrative bill, we are reconciled to a bill creating a housing part in the Civil Court but this bill is deficient in many respects, of which the following are the most salient:

1. The method of classifying violations appears to us unworkable, since the proposed classifications and penalties are unrelated to the nature and cost of the work required to cure, and the time involved. As drafted, it would appear that the principal object of the Bill is the imposition of penalties, rather than creating inducements to compliance.
2. Although the act is not to take effect until April 1st, 1973, parts are to take effect immediately (Admin. Code D26-51.01(d) and (e) classification of violations which, as I said, appear unworkable, to be made by September 1, 1972; New York City Civil Court Act. §110 (6) (f) & (g)) and the computer programming required to be ready for April 1, 1973 make it necessary for action to be taken at this time on the existing provisions of the bill with its defects which, even if cured by amendment in the 1973 session of the Legislature, will result in much confusion and unnecessary duplication of effort.
3. The provisions of D26-51.03(d) are not clear as to personal judgments against the owner.
4. Penalty action is uncertain and may unfairly induce a burden on the owner to stop a daily penalty (D26-51.01(c)1, D26-51.05(b)).
5. The only specific penalty for false certification appears to be criminal prosecution for perjury. There may be an alternative, implicit in the Bill, viz, the recording of a second violation, and prosecution of the owner for a wilful and reckless violation (D26-52.01). In either event, this will bring many violations back into the Criminal Courts, which we are trying, by this legislation, to avoid.
6. The method for collecting a penalty for failure to certify or correct imposes an enormous burden on the City, and the newly created Housing Court. Based on current statistics of cases brought into the

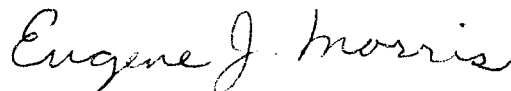
May 23, 1972

Criminal Courts, the City would be compelled to institute roughly 30,000 actions a year. Since it appears that 93% of the owners now charged in the Criminal Courts plead guilty, it seems unnecessary to require the City to bring an action, when the penalty could automatically become a lien.

7. As to violations created by third parties, there is no procedure for obtaining correction of the violation.
8. Although the stated object of the law is to provide civil procedures for Code enforcements, instead of criminal, the method of service of a summons, provided in the Bill, is stricter than that provided for in other civil actions by the CPLR. In addition, the proposed method of service on registered owners is uncertain, since registration statements cannot be relied on, but more significantly, the method proposed gives less assurance of actual notice to those owners who have complied with the law by registering than it does to the owners who have violated the law by failing to register.
9. The procedure for enforcement of penalties against rents is inadequate and cumbersome.

Accordingly we recommend that S.9745-A be vetoed.

Sincerely,



Eugene J. Morris,
Chairman

EJM:EG

cc: Mr. Robert Douglass
Michael Whiteman, Esq.
Jason Gettinger, Esq.
Charles J. Urstadt, Esq.
Senator Roy M. Goodman
Assemblywoman Rosemary R. Gunning
Hon. Bernard Botwin
Paul B. DeWitt, Esq.

PEPPER & PEPPER
ATTORNEYS AT LAW
55 LIBERTY STREET
NEW YORK, N. Y. 10005

BENJAMIN PEPPER (1897-1969)
MORTON PEPPER

WORTH 4-0285

May 31, 1972

Hon. Michael Whiteman
Executive Chamber
State Capitol
Albany, New York 12224

Dear Mr. Whiteman:

I write to urge the signature of A 11590A. Although the bill needs amending to make it function well and funding is absolutely necessary to enable the Civil Court to cope with the work given it, the bill should become law. The present method of code enforcement through criminal prosecution is a miserable failure. It is my hope that at the next session of the Legislature the amendments will be enacted before the statute becomes effective.

I should say that I am a former chairman of the Committee on Housing and Urban Development of The Association of the Bar of the City of New York, and am presently a member of the Committee on Housing and Urban Development of the Community Service Society and chairman of the subcommittee on Housing Maintenance.

Respectfully yours,


Morton Pepper

MP:sf

Law Offices
Dr. Lorraine D. Miller

299 Broadway - New York, New York 10007

212 227-5070

June 5, 1972

Hon. Nelson Rockefeller
Executive Chamber
Albany, N.Y.

Re: A 11590 A
Housing Court Bill:

Dear Governor Rockefeller:

By way of identification, I submitted an earlier version of the above measure for the use of the 1971 Chairman of the Assembly Housing Committee, at his request, when the N.Y.C. Administrative Tribunal concept and Bill proved so totally unacceptable. Although I serve as Special Counsel on Housing to the Assembly Minority Leader, I have always been more than happy to work with all Assembly members, and I was indeed flattered when my Bill was introduced in 1971 as a Housing Committee Bill (A 7042, A 7074). It passed 144-3; the Tribunal Bill was recommitted by Mr. Kingston and was "starred" in the Senate.

Thereafter, Miss Gunning was designated to follow up on our Bill and she and I met for many months with every conceivable group, the City of New York, the Judiciary, etc., to receive their suggestions and opinions.

Messrs. Whiteman and Gettinger of your office met frequently with us, made many valuable changes on a line-by-line basis, drafted some of the changes, and typed for us the sheets of amendments for the printer. The final version in which we take pride is a good, workable Bill, and that in large measure is due to the work done by your office with us.

The broad, bi-partisan sponsorship in both Houses, the strong affirmative vote (Assembly, 136-8, Senate, 57-0) the variety of support running the gamut from the Commerce and Industry Association to the Legal Aid Society seems to mean that we must have done a great deal that was right and a Bill that people could "live with".

There is one pocket of opposition and that is the City of New York. At the end of the last Session the Housing & Development Administrator, Albert A. Walsh told me personally that his objection to our Court was that the City would not be able to fill the positions, whereas there would be a wide

27

variety of positions established if the Tribunal were within HDA. Further, the City could expect to receive substantial sums back from the State by having the Administrative Tribunal come within their Code Enforcement activities; further since the City would have many persons jobless because of vacancy decontrol, the Tribunal would be a good place to relocate them.

A short time prior to the beginning of the 1972 Session, HDA officials advised me that they would submit no Administrative Tribunal Bill this year since they knew that the Legislature would never pass one, and, that they would support our Court Bill providing they had some "input" into it; we held many meetings with them, thereafter, under the assumption that they were sincere in their representations. Later, we learned that Mr. Walsh's law associate, Eugene J. Morris, of Demov & Morris, in his role as Chairman of the Committee on Housing for the Association of the Bar of the City of New York was putting in an Administrative Tribunal Bill. It was clear to us that HDA had decided to do indirectly, what it could not do directly, using Mr. Morris as the vehicle.

Therefore, the letter of May 23, 1972 of Eugene J. Morris and the letter of May 24, 1972 by Richard A. Brown on behalf of Mayor Lindsay should be read together and viewed for what they really are. It is clear that both the City and the Bar Association would like you to veto the Bill so that they can take another "crack" at the Administrative Tribunal with all of its patronage in 1973.

I would like to comment on some of the specific points in each letter, and note whatever background may be appropriate.

A. The Morris letter.

1. Mr. Morris sent this letter after your office notified him that his prior letter in opposition was vague and contained no details. The latest version of May 23rd is equally defective, and this was demonstrated to Mr. Morris and a large collection of Judges of all of our Courts at a meeting held at the Appellate Division on Thursday, June 1st.

2. Mr. Morris spent the better part of the day at a meeting called by Judge Botein in April, 1972 at the Bar building. Mr. Morris never uttered a word, but submitted a 17 page memo. Most of the suggestions in that memo were adopted by us; yet, he persists in his opposition and it is clear that he must be doing so for the City of New York.

3. The sole intention of our Bill is to create an inducement for compliance. We have all found that the imposition of criminal penalties has not worked; we have no reason to believe that civil penalties would be any more effective unless there was something more. We have provided such an inducement in many ways.

cont.....

4. Following our meeting with Judge Botein, we spent an entire Sunday with HDA's Chief Counsel, Mrs. Shirley Siegel. Mr. Gettinger of your office was also present. We all agreed on final changes and we all believed that the final Bill was acceptable to the City at the conclusion of that day. As a matter of fact, on that occasion she stated that her agency could be ready with the preliminary work it had to do on the 1972 date set forth in the Bill. Thus, Mr. Morris' point 2 on page 2 of his letter is clearly untrue.

5. Miss Gunning was absolutely firm on eliminating personal judgments against an owner. The Bill is clear in that regard. Perhaps Mr. Morris might have written it differently, but all of us agreed that the language was satisfactory. (Page 2 No. 3)

6. The Bill is very clear as to the means which an owner may employ to stop the running of a daily penalty. (Page 2 No. 4). Our Bill mandates that HDA must explain a violation to an owner within 14 days after it has been placed and, by rule, as well as by our Bill's provisions an owner will be able to stop the running of the penalty where he questions the existence of the violation.

7. All groups (including the Bar Association's own Bill) felt that a self-certification procedure was desirable because of shortage and cost of inspectorial personnel. If the work has not, in fact, been done, our Bill provides proper solutions. Mr. Morris wants the millenium. The "Industry" will soon learn that false certification will be dealt with severely. (Page 2 No. 5)

8. We are opposed to penalties becoming automatic liens on the property, as Mr. Morris suggests. (Top, Page 3) This has been discussed and our position remains unchanged. Our Court is interested in seeing the work performed which the present guilty pleas in Criminal Court has not achieved. Further, when City inspectors place a violation, it should be done carefully, without the burden shifting to the owner to set it aside as would have to be done if the penalty became an automatic lien.

9. Correction of the violation caused by a third party will still remain the obligation of the owner; our Bill would exclude the owner from the civil penalty, however, which is as it should be. (Page 3, No. 7)

10. Our Bill provides for personal service of summons in "immediately hazardous" situations because penalty will run at \$25.00 per day. All of us believe that due process is not to be lightly surrendered or whittled away at, and no other method of notice (e.g. posting in the buildings, mailing, etc.) is reliable in tenement-type property. Ironically, Mr. Morris' Administrative Tribunal Bill provided for telephone service so that our notations of due process are clearly wide apart. (Page 3, No. 8).

cont.....

11. Penalties will not be enforced against rents except where the property is so encumbered by mortgages that placing a lien upon the property will be a futile gesture. Also, we recognized the importance of "cash flow" to both an owner and a receiver and provided that rents would only be levied against in "an appropriate case". The discretion would have to be left to the Court. We see nothing "inadequate and cumbersome" (p.3, no.9).

Finally, Mr. Morris insists upon referring to S9745A, which was not the Bill that was passed. Perhaps he should acquaint himself with the correct number of the Bill that was passed. We do ask for enactment of A11590A. It is clear to all of us, and we hope equally clear to you that Mr. Morris is scraping the bottom of the well in a desperate attempt to carry out the mission imposed upon him by the City Administration. If the only things wrong with our Bill are those things contained in Mr. Morris' letter, then I think we can all be proud of our efforts.

B. The Richard Brown Letter

1. Mr. Brown told me on 6/2/72 that he really was not "out to kill the Court Bill ; look at some of my other memos and you will really see what I do when I want to kill a Bill". Mr. Brown stated that he receives a request for comments from you on approximately 500 Bills each Session and that he merely reacted to this as he does to the others.

2. Mr. Brown states, as did Mr. Morris, that while they are prepared to support the Civil Court procedure, the instant Bill contains serious and substantive defects. It is outrageous that Mr. Brown should suddenly find these HDA participated over a period of months in its final preparation, and as stated heretofore, its chief counsel, Shirley Siegel, acquiesced to the Bill in its final form. (p.2, top)

3. I did not provide an appropriation in the final version of the Bill because your office had asked me to remove the \$450,000 appropriation that I had included in an earlier version. Your office felt that a special situation could not be established for a part of an existing court and that this was an expense that the City should pick up. There was no understanding, as Mr. Brown alleges, on page 2 of his letter, that the comprehensive proposal for financing "will also pass". Rather, it was hoped that either that method or the City would undertake something so important. The Rand Report which was City instigated and paid for and which the City so frequently relies upon was emphatic that such a housing procedure outside of the Criminal Court be established. The City has always understood that this was to be their obligation since the City is presently financing both the Criminal and Civil Courts.

Actually, since this will be part of an existing court, using existing space, not requiring the leasing of new premises, the cost will be nominal. As a matter of fact, the Chief Judges of both lower courts stated on 6/1/72 at the meeting at the Appellate Division that their courts were up to date and it was doubtful whether Hearing Officers would even have to be hired. The Presiding Justices of the Appellate Divisions said that it was very likely that judges could be used at the time the court opens on 4/1/73.

Hon. Nelson Rockefeller

June 5, 1972

4. Any changes that may be brought about by virtue of amendments during the 1973 Session, will be merely clarifying amendments. We do not intend to change the intent or implementation provisions contained in the present Bill. The things that have to be done during the balance of 1972 involve the selection of the Advisory Council and the classification of the violations and the public hearing. These cannot wait until the 1973 Session if this court is to go into effect on 4/1/73. These things will not cost money!

Mr. Brown tries to confuse and obfuscate by suggesting that the changes in the 1973 Session will be so material that the City of New York will be unable to go ahead at this time. The source of Mr. Brown's knowledge is not set forth. Again, it was Mrs. Siegel who told us that they would have no problem proceeding and this was said in Mr. Gwittinger's presence.

5. Mr. Brown and the City Administration seem to be intent upon punishing the owners. He states on page 2 that our Bill "creates a certainty that many owners will not be liable for any civil penalty regardless of their failure to correct violations after notice." Perhaps the City Administration should change its attitude and if they were more intent on assisting the many owners who are in deep financial trouble instead of seeking to confiscate their property, our housing stock might be in much better shape. Our approach, the logic of which appealed to 195 legislators of every political stripe and belief, is that it is time that we undertook a constructive program of assistance. Actually, whatever comment the City makes on any subject pertaining to housing can be disregarded when one recalls the mismanagement and malfeasance so prevalent in the Emergency Repair and Municipal Loan Programs and the sloppy handling of the MBR notices. Perhaps the City ought to be out of the housing business completely.

6. Mr. Brown has been incorrectly informed for he alleges that "supplementary proceeding" would have to be brought after the court has made a determination against the owner. Nothing could be farther from the truth. The court will make its determination and direct payment of the penalty, or mitigate or apply the same all in the same proceeding, and will keep jurisdiction until the matter is wound up.

7. Mr. Brown speaks of "administrative difficulties posed by the personal service of the summons requirement". In the case of "immediately hazardous" violations. This was discussed at length earlier in this letter, but suffice it to say that if HDA is unable to comply with what the Legislature considers to be due process and proper notice, then perhaps HDA has too many \$30,000 per year commissioners and needs more people at lower echelons. "Administrative difficulties" are not sufficient reason to abandon what is right and equitable in a particular case. Mr. Brown talks about "non-registered owners" who would benefit from personal service; owners who do register should be our first concern and should be given proper notice. At the suggestion of Mr. Gettinger we included a provision that recourse could be had to the name on the last recorded deed.

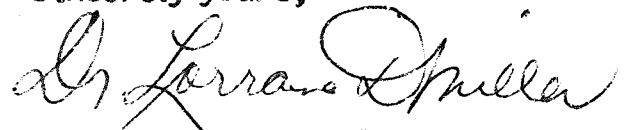
Finally, Mr. Brown's last sentence assuring you that his Administration remains pledged to work, and closely work with you, the legislature and various interested groups is the keynote of the entire letter. We were given the very same assurance in almost the same words by Mr. Walsh, and yet he has done everything he could dream of, including Mr. Morris' "fronting" for him to thwart the efforts of your administration, the legislature and many varied groups and dedicated individuals who have worked so hard to solve the problem.

I sincerely hope that you will not be dissuaded and that you will approve the Bill and let us get started. Miss Gunning has stated in her recent letters to you that we will continue to work not only in 1973 but thereafter to effect improvements and benefit from our combined experience as we go along. However, we think that the present Bill is a very good one, to start with, and that it is most urgent that the preliminary work be done during 1972 so that this court can open in 1973. Mr. Justice Botein kindly pointed out at the meeting at the Appellate Division last week that unless we started now, nothing would be accomplished for another 10 years.

We suspect that in an Election Year such as 1973 the City Administration will find it desirable to say the least to cooperate in the implementation of this Bill and to provide whatever funds may become necessary. They will probably even claim credit for it.

Thank you for your kind consideration herein, and most especially for making Messrs. Whiteman and Gettinger available. It was truly a pleasure to work with both of them as well as their staff.

Sincerely yours,



Dr. Lorraine D. Miller

cc: Hon. Rosemary Gunning
Hon. Robert Douglass
Hon. Michael Whiteman
Hon. Jason Gettinger
Hon. Charles Urstadt
Hon. Roy Goodman
Hon. Bernard Botein
Hon. Paul DeWitt
Hon. Seymour Posner
Hon. Jacob Markowitz
Hon. Judah Gribets
Hon. Frank Grad
Hon. Edward Thompson
Hon. David Ross
Hon. Harold Birns

A11590

LAW OFFICES
McLAUGHLIN, FUGNER & MESSING
17 EAST 49TH STREET
NEW YORK, N. Y. 10017

PLAZA 1-1760
CABLE ADDRESS "MACFOUG"

May 22, 1972

Hon. Michael Whiteman
Counsel to the Governor
Executive Office
State Capitol
Albany, N.Y. 12224

Re: Assembly 11590
Establishment of a Civil
Housing Court

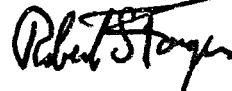
Dear Mr. Whiteman:

My client, the Metropolitan Fair Rent Committee, Inc., acknowledges receipt of your request for comment on the above legislation which is pending before the Governor for signature.

It is the strong position of the owners of rent controlled property that this legislation is so complex, so difficult to administer and would be so costly that it should be vetoed.

You will recall that while the Bar Association has been one of the strong proponents to change the existing law, it was finally forced to take the position that the legislation in its present form should not be signed, but that a fresh start toward a more workable bill be made next year. The Metropolitan Fair Rent Committee, Inc. strongly supports this position of the Bar Association.

Very truly yours,



ROBERT S. FUGNER
General Counsel
Metropolitan Fair Rent Committee, Inc.

rsf;ls

New York State Trial Lawyers Association, Inc.

(AFFILIATED WITH ATLA)

401 BROADWAY, SUITE 1008

NEW YORK, N. Y. 10013

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May 15, 1972

Hon. Nelson Rockefeller
Executive Chambers
Albany, New York

Dear Governor Rockefeller:

This letter is to endorse the Housing Court Bill # A-11590 A.

We feel it will aid in the administration of justice in this field.

We urge you to sign it.

Respectfully yours,

N.Y. STATE TRIAL LAWYERS ASSOC.

Marie M. Lambert
MARIE M. LAMBERT
Vice President

MML:aj

The Real Estate Board of New York, Inc.

12 East 41st Street, New York, N. Y. 10017

Telephone 212 - 532-3100

56

May 26, 1972



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JOHN R. O'DONOGHUE Exec. Secy. Owners Div.

Hon. Michael Whiteman
Executive Chamber
State Capitol
Albany, New York 12224

Re: A 11590-A

Dear Mr. Whiteman:

Thank you for your interest in requesting our comments respecting the above numbered bill to establish a part in the Civil Court for handling housing violations.

This legislation has been studied by us over a period of more than two years and our recommendations were communicated to the appropriate legislators. The bill, in its present form, reflects some of our recommendations, but the following recommended changes were not adopted:

1. A limitation on the per diem penalty accumulation.
2. Summary proceedings specifically restricted to judges only. In the final version of the bill, summary proceedings could be handled either by a judge or a hearing officer.
3. Deletion of the right of the tenant to get the enforcing agency into court for failure to issue a violation request by the tenant.

In any event, we do find this bill preferable to other legislation which would have removed the handling of violations from the Criminal Court, and provided that they be disposed of by an administrative tribunal.

Accordingly, subject to the above objections, we approve the bill and trust that the amendments indicated will be adopted in the future.

Very truly yours,

Edmund T. Hume
President

ETH:er



a nonprofit, nonsectarian social agency devoted to the improvement of family and community life in the city of New York since 1848

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DEPARTMENT OF PUBLIC AFFAIRS
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Director
 MRS. BARBARA REACH
Staff Associate for Housing and Urban Development

May 19, 1972

Hon. Michael Whiteman
 Executive Chamber
 State Capitol
 Albany, New York 12224

Re: A 11590A
 Mrs. Gunning, et al
 SUPPORT

Dear Mr. Whiteman:

We note that the above bill establishing a Civil Housing Court for housing matters is before the Governor for executive action.

We support this legislation, recognizing that it has many serious defects. We note also that a larger administrative involvement might be appropriate. We will prepare our suggestions for changes within the next few months.

Sincerely yours,

Byard Williams, M.D.
 Chairman
 Committee on Housing and
 Urban Development

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BW/vb

J6

May 31, 1972

Hon. Michael Whiteman
Counsel to the Governor

Re: Assembly 11590-A
by Miss Gunning et al

Dear Mr. Whiteman:

Citizens Union believes that this carefully developed proposal gives promise of notable improvement in the enforcement of housing standards. By common consent the present combination of city administrative efforts and Criminal Court action under the existing legal provisions is falling far short of what is needed. The proposed housing part of the Civil Court, with power to combine all related violations and keep jurisdiction until they are removed, with a choice of all the available remedies, should make the efforts to upgrade our limited housing supply much more fruitful.

Cordially,



George Hallett
Legislative Representative



The Legal Aid Society

11 Park Place · New York, N. Y. 10007

(212) 227-2755

RESEARCH AND LEGISLATION PROJECT
JAMES T. PRENDERGAST, DIRECTOR

May 31, 1972

Honorable Nelson A. Rockefeller
Governor of New York
The Capitol
Albany, New York 12224

Attention: Michael Whiteman

Re: A 11590-A to create a housing
part in the New York City
Civil Court

Dear Governor Rockefeller:

We urge you to sign the bill captioned above. It embodies a fresh approach to housing problems which is badly needed.

We see several advantages to the new measure. 1. Code enforcement in New York City is presently worthless. Experts in housing have recommended a cumulative civil penalty procedure for years to change this, and the bill embodies that recommendation. 2. Housing problems are extremely complex. The Housing Part will be able to coordinate and utilize all the remedies available. 3. Housing problems will be reviewed in a visible and accessible forum. This is a tremendous improvement over the present concealed bureaucratic approach which in our opinion has been bad for tenants. And 4, a body of experts on housing problems will be created, and they will have the protection of the dignity and independence of the bench.

Most of the criticisms of this bill which we have seen are based upon the bill's failure to meet the critics' high standards. The bill is a great improvement over existing institutions, and we hope you sign it.

Very truly yours,

James T. Prendergast
James T. Prendergast

JTP:va



LENOX HILL
NEIGHBORHOOD
ASSOCIATION, INC.
331 EAST 70th ST., NEW YORK, N.Y. 10021

A 11590-A
Chap. 982

(212) 744-5022

JOHN PIERREPONT
President

MRS. CELINE G. MARCUS
Executive Director

June 7, 1972

Hon. Michael Whiteman
Executive Chamber
State Capitol
Albany, New York 12224

Re: *Assembly*
Bills 11590-A
3392-A
6273-A v- 130

Dear Mr. Whiteman:

The following are our comments on each of the above-named bills as requested:

11590-A

We wholeheartedly support this bill. The Criminal Court is completely unable to deal effectively with enforcement of laws for building maintenance and operation and the criminal court penalties for violations are meaningless. Tenants with complaints are required to appear in court many times due to adjournments, etc., often in the end receiving little or no satisfaction and no improvement in building maintenance. This bill also calls for the involvement of tenants organizations on an advisory council which would be a great step making the tenants' voice heard.

3392-A

We support this bill. Tenants have a right to protect themselves when the landlord's attendant is not on duty.

6273-A

We oppose this bill. This is an open invitation to landlords to increase harassment of tenants to force them out (harassment which is already rampant!) and to let their buildings deteriorate so that they may be condemned, vacated and decontrolled. Landlords now are stealing or having stolen heating units from boilers, chopping up pipes etc. to make buildings unliveable. They need no further encouragement. Tenants who are forced out, have no place to go.

Why not find some means to give landlords incentives to build low, moderate, and middle income housing? Our city is being glutted with luxury and decontrolled housing.

-2-

We urge the Governor to veto this bill and to sign the other two.

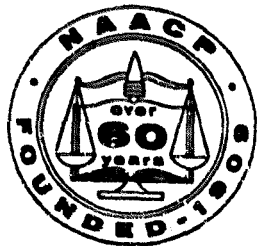
We hope our comments have been of help to you.

Sincerely,

A handwritten signature in cursive script that reads "Lorna Gold". The letters are fluid and connected, with a prominent loop in the "G".

Lorna Gold
Housing Department

LG/mr



LEONARD FONVILLE
Chairman

36 11590A
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

OFFICE OF THE N.Y. STATE CONFERENCE HOUSING COMMITTEE
c/o PRA900 Walt Whitman Rd. — Huntington Sta., N.Y. 11746 — (212) 738-4141

May 31st, 1972.

Honorable Michael Whiteman,
Counsel to the Governor
State Capitol
Albany NY. 12224

Dear Mr. Whiteman,
Re; Assembly 11590A by Assemblyman Gunning

The N.A.A.C.P. State Housing Legislation Committee recommends that the Governor approve the bill to establish a housing court division in the Civil Court handling building maintenance violations.

We support this measure to expedite the processing of housing maintenance and operations violations. The consolidation of all judicial functions will ensure consistent actions in the application of federal, state, and local laws related to building maintenance and operations. The new court's authority includes continuing jurisdiction of any action or proceeding. Thus law enforcement and corrections of violations will once again, make proper contribution to healthful, safe, and comfortable housing for citizens in the city.

Yours sincerely,

Chairman,
Housing Legislation Committee

79. West 12th Street
New York, NY. 10011.

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editorial

BY R. PETER STRAUS, PRESIDENT

WmCA Dial-log
Radio 57

A 11590-A

Broadcast 10 Times

May 19-20, 1972

VETO MESSAGE

In New York City, the law says a landlord is subject to court action and fines if he doesn't keep his building in good repair. It's not a perfect law, but it's one of the few protections tenants have against slumlords.

This year the State Legislature passed a bill that will take that protection away -- take it away, that is, if Governor Rockefeller signs the new proposed law. That bill says the tenant can be fined if the landlord can prove a violation was caused by the tenant's neglect. And there's nothing in the bill that even says the landlord has to correct the violation.

That's not the only thing wrong with the bill, but we think it's enough. If the damage is the tenant's fault, the landlord can sue him all right. But meanwhile, the landlord should surely be required to repair the damage.

The Governor has already vetoed several bad bills this session: on abortion, busing and Forest Hills. We hope he'll add another one to his good and growing list of courageous vetoes.

#

(1108)

Q 11590a

LEONARD FELDMAN

ATTORNEY AT LAW
TWO PENNSYLVANIA PLAZA
NEW YORK, N. Y. 10001

7 LINDEN BOULEVARD
GREAT NECK, N. Y. 11021

(212) BR 9-6950
(516) HU 7-2333

May 23, 1972

Hon. Michael Whiteman
Executive Chamber
State Capitol
Albany, New York 12224

My dear Mr. Whiteman:

Listed below are bills which were not reported on by any of the committees of the New York County Lawyers' Association and it would therefore be inappropriate for me to comment with regard thereto:

ASSEMBLY

7835	11240
8394B	11435
11590A	11543
12108A	11600
12234	11782
12235	11706
12236	11852
838	11941-A
5113-A	11950
6089-B	11955
6231-C	12063
7116	12064
8353-A	12123
8359-C	12170
8573	12216
8862	12232
9181	12335
9290-A	12349
9617	12352
10043-A	12358
10049-A	12359
11150	12402

SENATE

3615-B	5364-B	9394-A	9588-A	10144	10544
10598	30088	7224-A	9061-B	10137-A	10393
30093	30097				

Very truly yours,


Leonard Feldman

State of New York
Executive Department
OFFICE FOR LOCAL GOVERNMENT
155 Washington Avenue
Albany, New York 12210

A 115-90-A

May 19, 1972

Honorable Michael Whiteman
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

Re: A. 11590-A by Miss Gunning

Dear Mr. Whiteman:

We have your request for our comments on the above bill.

We have no information relating to the need or justification for this bill, nor does it relate to matters within the scope of operations of this Office. We, therefore, make no recommendation with respect thereto.

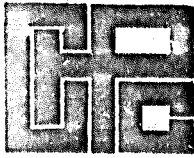
Very truly yours,



ASSOCIATE COUNSEL
Legal and Technical Assistance

JJS:jf

Cell marked
S- 9745



**CITIZENS
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PLANNING
COUNCIL
OF NEW YORK INC**

WILLKIE MEMORIAL BUILDING
20 WEST 40TH ST NY NY 10018
ESTABLISHED 1937 212 563 5890

EXECUTIVE DIRECTOR ROGER STARR
ASSOCIATE DIRECTOR MARIAN SAMETH

April 20, 1972 MAY 2 1972

Dr. Lorraine Miller
New York State Assembly
c/o State Assemblyman Stanley Steingut
State Capitol
Albany, New York 12224

Dear Lorraine:

Here is CHPC's comment on the Housing Court Bill:

CHPC Comment on S9745 Goodman et al
A11590 Gunning et al

This bill embodies the approach that CHPC feels must be taken in order to rationalize what has essentially been a chaotic and inequitable system of code enforcement. A civil as opposed to a criminal penalty is imposed following an opportunity by the owner of a building to correct violations placed by the Buildings Department. The penalty fine is imposed only after the owner has failed to make the necessary repairs. Additionally, there is a provision for mitigating circumstances in the event a repair cannot be made.

CHPC does, however, wish to see the bill amended in the following manner:

with
changes
have
been
made.

1. The provision allowing tenant repairs to come off the amount of rent due in the case of a summary proceeding should be removed. This provision will be subject to a great deal of interpretation on the part of the hearing officers, putting them into the position of interpreting nearly every lease. Numerous other examples come to mind. A situation can occur where a tenant contracts for a repair but fails to pay for it. Does the contractor now have a mechanic's lien on the building? Additionally, this provision is a substantive change in the law as opposed to the rest of the bill which is principally procedural changes.
2. A provision should be added that would phase-in this new system. Existing violations cannot be accommodated under this new procedure because of the cumulative penalty violations. Therefore, the legislation should specify those dates from which the new system pertains to violations.

Cordially,

Marvin Markus

Marvin Markus

MM:a

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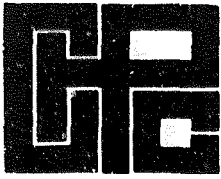
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EXECUTIVE DIRECTOR ROGER STARR
ASSOCIATE DIRECTOR MARIAN SAMETH

May 24, 1972

Hon. Michael Whiteman
Executive Chamber
State Capitol
Albany, New York 12224

Dear Mr. Whiteman:

Citizens Housing and Planning Council urges the Governor to sign All590-A. This bill embodies an approach that CHPC feels must be taken in order to rationalize what has essentially been a chaotic inequitable system of code enforcement.

Under its provisions, a civil as opposed to a criminal penalty is imposed following an opportunity by the owner of a building to correct violations placed by the Buildings Department. The penalty fine is imposed only after the owner has failed to make the necessary repairs. In addition there is a provision for mitigating circumstances in the event a repair cannot be made.

These changes, in our opinion, move code enforcement from an adversary situation to one where cooperation will be the key. We realize that some of the provisions in the bill might have been changed after some experience. We would urge the Governor to keep open the possibility that early in the next legislative session these changes will become necessary.

Yours very truly,

Marvin Markus
Research Director

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A. 11590
(Gunning et al
Committee HOUSING

S. 9745
(Goodman et al
Committee FINANCE

APPROVED

S-9745

APR 7 1972

HOUSING COURT

Subject:

There can be no question of the need for vastly improving housing code enforcement in the City of New York. Over a period of years many solutions have been offered. Many hearings, meetings and consultations have been held with interested parties. The only viable solution worthy of the name is subject legislation establishing a special housing part in the New York City Civil Court where all proceedings may be consolidated; violations rectified rather than just punished; and the rights of all parties concerned considered and dealt with equitably and objectively.

This measure provides adequate safeguards for the parties in the hearings and appeals; assures public participation that would be constructive and not destructive of legal processes both with respect to administrative action and any actions taken within the court system. It presents a sharp contrast to earlier introduced measures aimed at setting up administrative housing tribunals within the City's Housing and Development Administration (S. 9477, A. 11360), which we have opposed in separate memoranda.

We urge early enactment of this measure.

4/4/72

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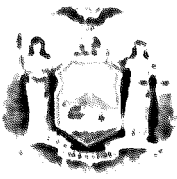

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STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

JUN 8 1972

MEMORANDUM filed with Assembly Bill Number 11590-A, entitled:

#09
CHAPTER 982
"AN ACT to amend the New York city civil court act, the New York city administrative code and the multiple dwelling law, in relation to the creation of a part of the civil court for the trial of actions related to the enforcement of state and local laws for building maintenance and operation, to establish a civil penalty for violations, and to consolidate all actions related to effective building maintenance and operation in the part of the civil court to be created, and making an appropriation therefor"

A P P R O V E D

The serious decline in the older housing stock in the City of New York has demonstrated the futility of enforcing housing code standards through prosecution in the criminal courts. Under the present antiquated system, the criminal courts have become burdened with an inappropriate jurisdiction, and corrective action is hindered by the brief involvement of the courts with problem buildings and the unfortunate tendency of a minority of irresponsible owners to treat fines as a cost of doing business.

This bill will shift the focus of housing enforcement in New York City from the Criminal Court to a special part of the Civil Court. Judges and judicially-supervised hearing officers of the new housing part will have expanded authority to consolidate proceedings arising from the same building, exercise continuing jurisdiction and employ provisional remedies, injunctive relief and appropriately gauged civil penalties to bring about compliance with housing standards. Upon public hearing and review by a representative Advisory Council, the City's code enforcement agency will promulgate a schedule of civil penalties suited to the degree of severity of particular code violations. The most serious violations would carry cumulative penalties. The housing part will be empowered to consider mitigating circumstances facing conscientious but fiscally hard-pressed owners and will also be able to hear and determine complaints from tenants.

The measure calls for the new system to begin next April first and for necessary preparations to begin soon. In the interim, the intricate procedural requirements of the bill may need some clarification or modification and I have asked my Counsel to work with the sponsors and interested groups that have commented upon the measure in order to assure that any amendatory legislation can be considered well before full implementation next year.

This measure is consistent with the recommendations contained in my Annual Message to the Legislature calling for a method for judicially-supervised determination of housing violations. The sponsors have recognized a long-standing need. The measure affords real promise of a fair, effective and judicious forum within the Civil Court of the City of New York before which tenants, landlords and the City's Housing and Development Administration may bring the unresolved housing disputes of the City.

The bill is approved.

/s/ NELSON A. ROCKEFELLER

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