

Testimony of Dana Sussman
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NYC Commission on Human Rights
Before the City Council Committee on Immigration
and the Committee on Housing and Buildings
on Introductions 1269, 1678, and 1721
October 19, 2017

Good morning, Chair Williams, Chair Menchaca, and members of the Committee on Housing and Buildings and Committee on Immigration. I am Dana Sussman, Deputy Commissioner for Intergovernmental Affairs and Policy at the New York City Commission on Human Rights. The Commission does not regularly appear before these Committees, but we are happy to testify here today with our partners at the Mayor's Office for Immigrant Affairs (MOIA) and other city agencies, to discuss the work the Commission is doing to address discrimination in housing, and specifically with respect to housing discrimination on the basis of immigration status and national origin. Our work enforcing the City Human Rights Law and combating discrimination is particularly relevant to Intro. 1678, which would expand the definition of tenant harassment to include threats based on discrimination on the basis of alienage and citizenship status, gender, disability, and many other protected categories, similar to the protected categories that exist in the City Human Rights Law.

With the Council's and the Administration's support, and under Commissioner and Chair Carmelyn P. Malalis's leadership and vision, the Commission has grown in both size and in scope as we work to strategically enforce the City Human Rights Law, one of the broadest and most protective anti-discrimination laws in the country. Inquiries into the Commission increased by 60% from 2015 to 2016, and we are on pace to exceed our 2016 numbers. As I will describe below, we have significantly increased our enforcement efforts to protect tenants who are being harassed based on their immigration status and/or national origin, and those who are being retaliated against for asserting their rights under the City Human Rights Law.

Tenant Harassment

In New York City, it is illegal under the City Human Rights Law for housing providers, landlords, or their employees or agents to:

- Discriminate against tenants by creating a hostile environment of harassment based on their race, religion, immigration status, sexual orientation, or any other protected class.
- Harass or threaten tenants because of their race, religion, immigration status, sexual orientation or any other protected class.
- Refuse to make repairs or provide equal services to tenants because of their protected class.

- Retaliate against tenants who report discriminatory behavior or neglect to ensure employees and agents are trained on their responsibilities under the NYC Human Rights Law, including superintendents, maintenance workers, brokers, and salespeople.

Over the past two years, the Commission has significantly increased enforcement efforts to address housing discrimination and tenant harassment, tripling the number of investigations in this area. The Commission is currently investigating over 570 claims of housing discrimination, over 75 claims of which directly involve tenant harassment.

One example of this work is reflected in the investigation the Commission launched in August on behalf of the City, following public reports from Majority Leader Jimmy Van Bramer of a hostile environment due to alleged tenant harassment by the property manager at a condo building in Sunnyside, Queens, connected to Nazi and Confederate imagery, swastikas and other hate symbols in the lobby and other harassing and discriminatory behavior.

In conjunction with the launch of the investigation, the Commission, the Mayor's Office of Immigrant Affairs, Community Affairs Unit, Public Engagement Unit and the Human Resource Administration also held a Day of Action in Sunnyside, Queens where they distributed flyers on tenants' rights and discriminatory harassment and answered questions on legal protections and services against discrimination and harassment. As a direct result of the press conference, announcement of the investigation, and outreach, the Commission has seen an uptick in reporting of tenant harassment in recent months and increased awareness among advocates and organizers of tenants' rights under the City Human Rights Law.

Retaliation

It is also illegal under the City Human Rights Law to retaliate against any individual for reporting discrimination, regardless of their immigration status. No one should fear for their safety when reporting violations of the Law and the Commission will not hesitate to take action against bad actors when they retaliate against New Yorkers who have reported discrimination. The Commission is cracking down against bad acting landlords, filing retaliation charges against landlords on behalf the city, and sending cease and desist letters to other landlords the Commission has reason to believe are violating the City Human Rights Law.

As reports of discrimination have increased across the city, so too have retaliation charges. The Commission has increased investigations into retaliation by nearly 60% over the last two years under Commissioner Malalis, filing 260 claims of retaliation in 2015-2016 compared to 165 in 2013-2014.

The most typical forms of retaliation by landlords after tenants report discrimination include:

- Trying to evict tenants from the building

- Refusing to renew a lease
- Refusing to fix issues in tenants' apartments
- Cutting off utilities and other services
- Harassing tenants and encouraging others to do so

For example, earlier this year, the Commission served a landlord a notice of a complaint alleging discrimination after Make the Road NY brought a case to the Commission. In his response letter to the Commission, the landlord denied the allegations and indicated that he sent a copy of the letter to U.S. Immigration and Customs Enforcement (ICE), which included tenants' personal information, in violation of the City Human Rights Law's anti-retaliation protections. The Commission is now charging the landlord with retaliation against his tenants and has filed an additional complaint against him on behalf of the City.

In June, the Commission sent a cease and desist letter to landlord Zara Realty Holding Corp (Queens) for discriminating against immigrant tenants. Also in June, the Commission sent a cease and desist letter to landlord Jaideep Reddy (Queens) after it learned he was discriminating against tenants based on their immigration status.

Increased Enforcement Based on Immigration Status and National Origin Discrimination

Over the past two years, the Commission has increased enforcement efforts to address housing discrimination based on immigration status and national origin.

- Over the last two years, the Commission has doubled the overall number of investigations into discrimination based on immigration status and/or national origin, filing 376 claims in those areas in 2015-2016 compared to 155 claims in 2013-2014.
- In 2016 alone, the Commission more than doubled the number of new investigations into discrimination based on immigration status and/or national origin in housing, filing 60 claims in 2016 compared to 22 in 2015.
- The Commission is currently investigating over 300 claims of discrimination based on immigration status and/or national origin, 100 claims specifically in housing.
- The Commission also trains housing providers on their responsibilities under the Law with the goal of preventing future acts of discrimination and regularly engages housing advocates and vulnerable communities to address housing discrimination and inform people of their rights.

The Commission has the authority to fine violators with civil penalties of up to \$250,000 for willful and malicious violations of the Law and can award compensatory damages to victims, including emotional distress damages and other benefits. The Commission can also order trainings on the NYC Human Rights Law, changes to policies, and restorative justice relief such as community service and mediated apologies.

Increased Public Outreach to Vulnerable Communities

The Commission works closely with our agency partners, including many of the agencies here today, to educate and inform the public of their rights under the City Human Rights Law and how to avail themselves of city resources, including how to file a complaint or report discrimination to the Commission. Some recent outreach efforts include:

- Launching a citywide “You Have Rights” campaign to inform New Yorkers of their rights against discrimination and harassment
- Holding Days of Action outside subway stations across the city to inform vulnerable New Yorkers of their rights, along with MOIA, CAU, PEU, and many others.
- Holding press conferences and pitching news stories announcing new enforcement actions against landlords and brokers who have violated the law
- Partnering with community-based organizations, legal services providers, schools, houses of worship, community boards, Council Members, and many others to provide important Know Your Rights information and to empower communities to identify discrimination and harassment and connect victims to the Commission.
- Holding nearly 400 workshops and outreach events on housing discrimination this year, including our annual Fair Housing Symposium, to educate tenants about their housing rights.

We encourage victims and witnesses of discrimination or harassment to call the Commission’s Infoline at 718-722-3131. Reports may also be filed anonymously. People may also report discrimination on the [Commission’s website](#).

Intro. 1678

Intro. 1678 would provide tenants with an additional venue to assert claims of discriminatory tenant harassment in addition to filing these claims at the Commission. The Commission strongly encourages the Council to consider aligning all areas of protection against discrimination in housing under the City Human Rights Law with the list of protections in Intro. 1678. Protections against discrimination for victims of domestic violence, sexual offenses, and stalking, protections against discrimination based on one’s source of income (i.e., the use of housing vouchers and subsidies), and protections based on the presence of children in the home should all be added to this bill. In addition, the City Human Rights Law’s definition of “alienage and citizenship status” is incorporated by reference in this bill, but no other City Human Rights Law definition is cited. Importantly, the definition of gender under the City Human Rights Law as amended in 2002 to include “actual or perceived sex” and “gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth,” and we strongly encourage this and all other defined terms in the City Human Rights Law to also be incorporated by reference.

Finally, it is important to note that if a tenant chooses to bring a claim under this provision in housing court it is possible that they will be precluded from bringing the same claim at the Commission. Because the remedies in housing court are more limited, currently only civil penalties ranging from \$1,000 to \$10,000 are available in housing court, compared to uncapped compensatory damages to the victim, civil penalties up to \$250,000, and other affirmative relief, it is vital that tenants understand the options available to them and are able to make an informed decision regarding the venue they choose.

We look forward to working with our partners in City Council and partner agencies on this bill and other initiatives to ensure that tenants are protected from discrimination and harassment in housing. Thank you for convening this hearing and I look forward to your questions.