



L E G A L

S E R V I C E S

I N C O R P O R A T E D

**TESTIMONY
IN SUPPORT OF**

**PROPOSED INT. NO 722-A: TO AMEND THE
ADMINISTRATIVE CODE IN RELATION TO MINIMUM
TEMPERATURE REQUIRED TO BE MAINTAINED IN
BUILDINGS**

PRESENTED BEFORE:

**THE NEW YORK CITY COUNCIL'S
COMMITTEE ON HOUSING AND BUILDINGS**

PRESENTED BY:

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I. Introduction

MFY Legal Services, Inc. envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for over 50 years MFY has provided free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform and policy advocacy. We provide advice and representation to more than 10,000 poor and working poor New Yorkers each year benefitting over 20,000 individuals.

MFY annually serves more than 3,600 tenants, over 2,000 of whom are at least 60 years old and approximately 50% of whom are people with disabilities. MFY is committed to working with the City Council to protect the safety and affordability of housing for all low-income New Yorkers so they can continue to be an integral part of New York City communities.

MFY Legal Services supports Int. 722A proposed at the request of Manhattan Borough President Brewer to raise the overnight¹ minimum temperature from 55 to 65 degrees and remove the exterior temperature requirement triggering the provision of heat. These amendments will provide significant health and safety benefits to the most vulnerable New Yorkers.

II. Health

MFY serves many elderly, poor, disabled and other vulnerable people who would benefit from increased overnight temperatures in their homes. Elderly people and young children are especially susceptible to hypothermia and cold-related complications of diseases and disabilities.² The natural aging process reduces the ability to detect change in temperature and reduces the body's natural ability to regulate its temperature against the cold.³ Many chronic medical conditions, such as vascular, cardiovascular, and respiratory disease are complicated or worsened by cold temperatures and sustained cold temperatures are associated with higher rates of death from stroke and heart attack.⁴ As a result, older age groups even show excess rates of mortality in the winter as compared to younger age groups.⁵

Poor nutrition and a lack of access to appropriate winter clothing, which are more likely to affect poor people and families who have little other means to protect themselves from cold

¹ It is our understanding that the City is preempted from changing the daytime temperature so, while MFY would be supportive of such an amendment, we will not focus our testimony on this portion of the proposed legislation.

² National Institute on Aging, *Stay Safe In Cold Weather*, <https://d2cauhfh6h4x0p.cloudfront.net/s3fs-public/stay-safe-in-cold-weather.pdf>

³ <http://www.ncbi.nlm.nih.gov/pubmed/11842354>

⁴ Mayo Clinic, *Hypothermia Risk Factors*, June 18, 2014, Available at: <http://www.mayoclinic.org/diseases-conditions/hypothermia/basics/risk-factors/con-20020453>

⁵ Slate, Kim Iskyan, *The Killer Season*, September 16, 2003, Available at: http://www.slate.com/articles/news_and_politics/hey_wait_a_minute/2003/09/the_killer_season.html.

temperatures, exacerbate all of these health issues. Mental health issues can also prevent a person from taking appropriate steps to stay warm.

III. Safety

When the temperature is too low, people often resort to the use of space heaters to heat their apartments. The U.S. Consumer Product Safety Commission estimates that more than 25,000 residential fires every year are associated with the use of space heaters that result in more than 300 deaths and over 6000 emergency room visits due to burns from contact with the surface of a space heater.⁶ Fires pose an especially large risk in a densely-populated area like New York City where fires can spread to other apartments in a multiple dwelling in a matter of minutes, endangering the lives of tenants in the building as well as adjacent buildings.

Another common solution to a cold apartment that tenants resort to in order to stay warm is turning on the stove or oven. The extended use of stoves or ovens for heating exposes tenants and their neighbors to carbon monoxide poisoning. Carbon monoxide causes fatigue, chest pain in people with heart disease, reduced brain function, impaired vision and coordination, dizziness, confusion, nausea and death.⁷ An estimated 430 deaths per year occurred around the United States from 1999 to 2010 due to carbon monoxide poisoning.⁸ In addition to the very serious risks of carbon monoxide poisoning, the open flame of a stove being used for heat poses a fire hazard.

IV. Enforcement

Removing the triggering exterior temperature requirement for the provision of heat will streamline enforcement by the Department of Housing Preservation and Development (HPD) and make it more effective. Too often, a tenant makes a heat complaint to 311 for insufficient heat, or no heat at all, only for an HPD inspector to arrive several days later when the exterior temperature is above the triggering temperature legally required to provide heat, yet the interior temperature is still below the legal requirement *when* heat must be provided. The lag in response time by HPD is understandable given the number of heat complaints the City receives on any given day. However, as a result, HPD is not able to issue timely violations for lack of heat, which delays the resolution of the problem and too many landlords escape enforcement. Why should the exterior temperature be a factor if the interior temperature is below what is legally required regardless of the exterior temperature?

⁶ Energy.gov, *Energy Saver, Portable Heaters*, Available at: <http://energy.gov/energysaver/portable-heaters>.

⁷ U.S. Environmental Protection Agency, *Indoor Air Quality, Carbon Monoxide's Impact on Indoor Air Quality*, Available at: <http://www.epa.gov/indoor-air-quality-iaq/carbon-monoxides-impact-indoor-air-quality>.

⁸ Centers for Disease Control and Prevention, *QuickStats: Average Annual Number of Deaths and Death Rates from Unintentional, Non-Fire-Related Carbon Monoxide Poisoning by Sex and Age Group — United States, 1999–2010*, Available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6303a6.htm>.

Further complicating matters is the discrepancy in reading the exterior temperature. On any given day the temperature outside can vary widely depending on where one is in the City and the time of day. Given the potential range in outdoor temperatures during the day, even a reasonable landlord might not be able to provide the legally required heat once the outdoor temperature triggers the heat requirement because it can take time to heat an entire building, especially depending on its size. Eliminating the outdoor heating requirement would establish consistency in enforcement and reliability for both landlords and tenants. As a comparison, heat regulations in other large cities with similar weather, both Chicago and Boston have straight interior temperature requirements without any exterior temperature trigger.

V. Costs and Environmental Concern

Increasing the minimum overnight temperature to 65 degrees would have enormous health and safety benefits for our most vulnerable New Yorkers. The health and safety risks faced by tenants trying to keep warm far outweigh any negligible increase in fuel costs for landlords. Landlords have a responsibility to provide living spaces that are safe and conducive to the health of their tenants. With fuel prices for natural gas and heating oil at their lowest in six years,⁹ the cost of the minimal increase in temperature during the limited overnight hours should hardly be noticeable.

In addition, any argument that increasing the overnight temperature would increase greenhouse gas output is short-sighted. Raising the minimum overnight temperature requirement would be minimal as it is only during the limited hours of 10 pm to 6 am.

IV. Conclusion

MFY Legal Services strongly supports Int. 722-A. This legislation is an essential step towards protecting the health and safety of the most vulnerable New Yorkers.

⁹ U.S. Energy Information Agency, *Household heating costs are expected to be lower than previous two winters*, October 6, 2015, Available at: <http://www.eia.gov/todayinenergy/detail.cfm?id=23232>.