

# downtown express



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## New bill includes penalties for repeat harassment

BY ALBERT AMATEAU

A hearing on Monday on a tenant anti-harassment bill drew a crowd that nearly filled the Council Chamber at City Hall.

Thirty-four councilmembers, including Council Speaker Christine Quinn, have signed on as sponsors of the bill in the face of a citywide increase in harassment of rent-regulated tenants.

The Bloomberg administration's Department of Housing Preservation and Development mostly supports the bill. But Joseph Rosenberg, deputy commissioner of H.P.D., called for a provision giving landlords an added defense against wrongful harassment charges.

Waving signs that said "Stop Tenant Harassment" and "Save Affordable Housing," tenant representatives in favor of the bill overwhelmed opponents at the Dec. 17 hearing.

Nevertheless, real estate representatives and property owners were on hand to insist that tenants have remedies against landlord harassment in existing laws. Owners of small residential properties also protested that tenant harassment of landlords was a real problem.

But tenant advocates declared that existing remedies for abuse are embodied in the state housing code, which has no definition of harassment. Moreover, the state Department of Housing and Community Renewal has no power to enjoin harassment.

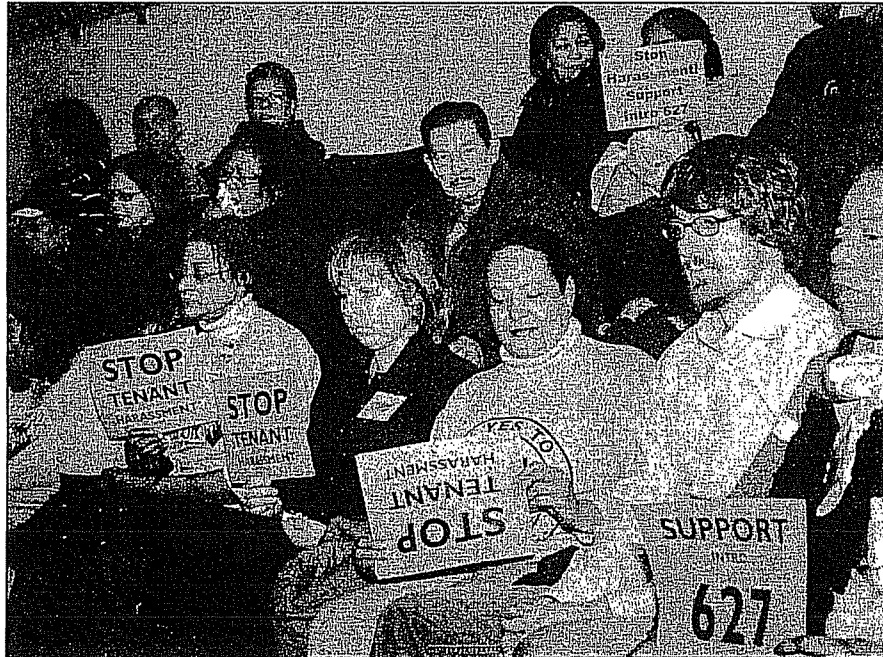
The proposed Intro 627 defines harassment as any act or omission — such as repeated interruption or withholding of services — by a landlord that causes or is intended to force a legal tenant to vacate an apartment. Using force or threats of force against legal tenants is the heart of the matter.

"This bill is a great step forward in tenant protection and the preservation of affordable housing," said Quinn. She said Intro 627 is a follow-up to the recently passed Safe Housing Law, which forces landlords with the worst records for maintenance and services to fix their properties.

"We hope this bill sends a message that harassment will not be tolerated," Quinn said.

A key harassment act defined in the new proposal is filing repeated baseless or frivolous lawsuits against legal tenants. Tenant advocates said that baseless lawsuits have become a standard form of harassment.

"One landlord in Sunset Park filed a law-



Downtown Express photo by Elizabeth Robert

A large group of residents and advocates attended a City Council hearing to support a tenant anti-harassment bill.

suit against a tenant that didn't even state a cause of action," said Edward Josephson, representing Legal Aid. "We were able to get the suit dismissed immediately, but there was no penalty for filing the suit. Most tenants don't have lawyers, and we only have resources to represent about 10 percent of the tenants in Housing Court," he said.

Donna Chin, of MFY Legal Services, said the bill would put a crimp in efforts by landlords to "scare tenants, especially the elderly and people with limited English, into giving up their apartments."

"Last year the owner of a building on the Lower East Side sued a tenant in Supreme Court for \$85,000...simply because the tenant was allowing city inspectors onto the premises to report on hazardous conditions

in the building," Chin said.

Councilmember Melissa Mark-Viverito, representing East Harlem, a prime sponsor of the bill along with Councilmember Daniel Garodnick, noted that two international real estate companies, Pinnacle and Dawngay Day, have recently acquired hundreds of rent-regulated units in Manhattan with the up-front expectation that regulated tenants can be forced out to make way for new tenants paying higher rent.

The new proposal would allow tenants to go to Housing Court for a judgment of harassment against a landlord. If a landlord has filed two unsuccessful lawsuits against a tenant in the previous 10 years and a third lawsuit against the tenant is deemed frivolous, the landlord could be found guilty of harassment.

The penalty would be a fine of between \$1,000 and \$5,000 for each unit where the violation occurred and possibly no rent increase for the harassed units. The most important deterrent to harassment would be a Housing Court restraining order against further violations of the law — a measure not available under current city or state regulations.

Doris Diether, a Village resident, spoke against the anti-harassment bill, but on the grounds that penalties against harassing landlords would be too lenient. The fines, she said, would be just a cost of doing business.

Intro 627 also enables landlords to seek dismissal of a tenant harassment claim and enables a landlord to get an injunction against further harassment proceedings if a tenant has issued two harassment proceedings against a landlord that have been dismissed in the previous 10 years and a subsequent third proceeding is deemed frivolous. If a tenant's harassment claim

is deemed frivolous, the landlord could be awarded court costs.

Landlord representatives at the hearing said the proposal would overcrowd an already crowded Housing Court with an untold number of tenant-initiated harassment suits. But Councilmember Rosie Mendez, a sponsor of Intro 627, disputed the claim.

"The bulk of Housing Court actions are filed by landlords," Mendez said. She noted that two parts of Housing Court are devoted to landlord-initiated suits while just one part is reserved for tenant actions.

"Tenants would rather stay out of Housing Court," Mendez observed.

Tenant advocates noted that while large landlords retain lawyers whose function is to go to court, most tenants go to Housing Court without lawyers and often lose a day of work or a vacation day in doing so.

Nevertheless, the Office of Court Administration submitted a statement opposing the measure, expressing the fear that it would indeed add to the burden of a Housing Court that handles 300,000 cases per year in the five boroughs.

An alternative anti-harassment bill, Intro 638, would create a process whereby H.P.D. would review tenants' charges of harassment against landlords, instead of tenants filing actions themselves in Housing Court. However, H.P.D. Deputy Commissioner Rosenberg said at the hearing that Intro 638 would force the agency to expand its legal staff to handle a more complicated workload.

Rosenberg said that while H.P.D. assigns its lawyers to Housing Court to advise judges, the agency is not empowered to grant orders of relief to either tenants or landlords; that is a function reserved to the courts.