



Testimony

Of

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Before the

New York City Council Committee on Housing and Buildings

Regarding

Intro. 224: Mold and Vermin Remediation Proposal

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Good morning, Chairman Dilan and members of the Housing and Buildings Committee. I am Nancy Clark, Assistant Commissioner of the Bureau of Environmental Disease Prevention at the Department of Health and Mental Hygiene. I am joined today by Vito Mustaciuolo, Deputy Commissioner of Enforcement and Neighborhood Services at the Department of Housing Preservation and Development. Thank you for the opportunity to discuss our commitment to controlling asthma triggers in homes and specifically, Intro. 224, the Council's mold and vermin remediation proposal.

As some members of this committee may know, in addition to promoting improved medical management of people with asthma, the Health Department also promotes the control of asthma triggers in homes. Asthma triggers in the home include secondhand smoke, dust, irritating cleaning products and strong odors as well as mold and pest allergens.

Since 1993, the Health Department has issued voluntary guidelines on the assessment and remediation of mold in indoor environments. The purpose of the mold guidelines is to educate building owners and workers on issues related to indoor mold; offer an approach to assess mold growth; and provide general guidance on the removal of mold growth in commercial, school, and residential buildings. The guidelines also advise that moisture sources be identified and repaired so that mold growth will not recur. The guidelines recommend that mold growth be removed by washing affected surfaces with soap and water, and that measures be taken to prevent the spread of mold particles from the treated area during remediation. In addition to the mold guidelines, the Department also publishes and distributes other educational materials on correcting mold problems in buildings.

Safe and effective pest control is also an integral component of our asthma trigger work and involves the practice of Integrated Pest Management, or IPM. IPM relies on methods to prevent pests from entering the home and keeping them away from food and water sources. Common IPM techniques include caulking and sealing cracks and openings, repairing moisture problems, and using safer pest control products. Building occupants have an important role in preventing pests by cleaning and removing clutter, storing food and garbage in covered containers, and reporting infestations to building owners. Article 151 of the New York City Health Code was

recently revised to include more explicit requirements for preventing pests. The revision shifts the emphasis from the use of pesticides for pest control to preventing pests and infestations through integrated pest management. Article 151 is enforceable by the Health Department as well as the Department of Buildings and HPD.

The Health Department and HPD have a strong working relationship to promote healthy housing, including the reduction of lead paint hazards, pests and mold. We regularly collaborate on educational initiatives for building owners, contractors and tenants on ways to reduce health hazards in the home and provide technical assistance to each other when needed. When HPD and DOHMH initially discussed creating a mold and vermin pilot initiative of up to 100 buildings, the purpose of the pilot was to assess the costs, benefits and implementation issues of addressing mold and vermin conditions as full buildings rather than individual responses to specific complaints unit by unit. The program was proposed as a pilot so we could have the flexibility to modify our methods and strategies to achieve the most optimal and cost effective results. At the end of the process, there would be an evaluation piece to see if building-wide approach is effective and identify areas where a program can be improved. In addition, a key component to our pilot would be education – for both the owners and tenants alike. Following discussions with the Council and advocates, the original pilot was expanded in to Intro. 224.

I want to be clear that both DOHMH and HPD support the basic framework of the mold and vermin remediation proposal before you today. However, due to the significant costs that Intro. 224 would impose on our agencies, we cannot support the bill as currently drafted. In the interest of being fiscally responsible, we must examine this program in the context of all of our other mandated responsibilities and on-going initiatives. Due to the stringent requirements of Intro 224, the pilot, as proposed by the Council, would cost HPD \$7.5 million and DOHMH \$1.9 million. The original proposed pilot was estimated to cost HPD approximately \$3 million and DOHMH \$1.1 million. Regardless of how we implement the pilot program, there will be significant costs to both agencies that must be taken in to consideration.

While we are committed to making a mold and vermin initiative work, even a \$5 million price tag would be a huge burden for us at this time as operating budgets continue to be reduced across

City agencies. As an example, since the original concept of the pilot, the Health Department, along with other agencies, has experienced a reduction in resources, including a two-thirds reduction in our lot cleaning work force. We had originally intended to train these employees to assist in implementing the IPM portion of this pilot program, but we are no longer able to do so. In addition, HPD's PEG targets have totaled over \$18.2 million dollars and DOHMH has experienced a 10% staff cut to our lead poisoning prevention and healthy homes programs along with a reduction in federal grant funding. Compounded, all of these factors severely hamper our ability to comply with the requirements of Intro. 224. We are currently exploring additional ways to still reach the goals of the original proposal within our current budget constraints and hope to come back to the Council with more realistic implementation measures soon.

Requirements Under Intro. 224

Currently, HPD responds to complaints of vermin and mold conditions when reported by tenants through 311. In Fiscal Year 2009, HPD issued almost 15,000 violations for mold citywide (about 2,000 as class C immediately hazardous violations.) A mold condition is generally cited as a class C condition where there is more than 25 square feet in a room or 100 square feet in an apartment. HPD also issued more than 31,000 vermin violations citing mice, roaches and other vermin, in FY'09.

As proposed by the bill before you today, HPD and DOHMH would choose buildings with the highest number of open hazardous and immediately hazardous mold and vermin violations and health code violations related to the accumulation of water; mold, rubbish and vermin or rodent infestation to participate in the pilot program. HPD and DOHMH would notify property owners that they have been chosen to participate in the pilot program and would also need to notify the tenants of the multiple dwellings, and the Council Member in whose district the buildings are located.

Once the owners have been notified, they would have three (3) months to correct existing violations related to the accumulation of water, mold, rubbish and vermin or rodent infestation. If the owner of the property believes that the violations have already been corrected, he or she could request a re-inspection and dismissal from HPD. A re-inspection would have to be

conducted within 60 days of receipt of the request and HPD would have to provide a written response to that request within 20 days of the re-inspection. In order for a building to be deemed “substantially complied,” the owner would have to correct 100% of all B and C mold violations and 80% of all other B and C violations that are related to this pilot initiative using DOHMH’s current mold guidelines and Integrated Pest Management measures. HPD would then have to register the multiple dwelling and monitor the building’s compliance for nine (9) months before releasing the building from the program. In addition, HPD and DOHMH -- or a designated Not-For-Profit -- would also have to provide information on home-based hazards and measures for the control and elimination of mold, vermin and rodents to distribute to owners, managing agents and tenants before the building could be discharged from the mold and vermin remediation program. Although the bill requires HPD to monitor buildings for an additional 9 months, we believe from our experience that six months is a more appropriate monitoring period.

Similar to the Alternative Enforcement Program (AEP), if the owner of the property does not submit a dismissal request after three months, HPD would perform a building wide inspection in which we would coordinate with DOHMH where appropriate. If underlying conditions warrant the replacement of any systems, HPD would file an order with the local county clerk’s office to order the owner to replace those systems. If vermin or rodent infestations are present, DOHMH would issue an order for the owner to implement an Integrated Pest Management system throughout the building. Within 30 days of filing the order, HPD would prepare a scope of work to correct the violations and DOHMH would provide information to owners on how to implement pest management strategies. As HPD cannot reasonably participate in the daily maintenance of a privately-owned building, we believe the bill should be revised to allow DOHMH and HPD to develop an alternative IPM protocol to address vermin issues for the pilot program.

HPD would reassess the progress of work performed to correct violations on a quarterly basis. If after three months, work is not progressing in a timely fashion or an owner has not requested a re-inspection, the agencies would have to conduct a building wide inspection and issue an order to correct the mold and vermin violations and related underlying conditions. If the owner fails to comply, HPD would then take over the repairs. Given our experience with the Alternative

Enforcement Program, we believe that owners should have six months to correct violations instead of three, since the owner needs to secure financing, work with the tenants to arrange access and/or relocation, hire a contractor and file for the appropriate permits in order to begin the necessary work.

Lastly, Intro. 224 would require both agencies to report back to the Council on the results of the remediation pilot program, the effectiveness of the pilot program, the most effective pest management and mold remediation methods that were utilized, and issue recommendation on whether or not the pilot should be extended or modified.

As you can see from both Nancy and my comments, the pilot program before you today would require great efforts and resources by both agencies. In summary, I would like to emphasize that we are committed to working with you to develop a mold and vermin remediation program that works for owners and tenants alike, while also providing the agencies with flexibility in its implementation and evaluation. We have closely collaborated with you over the years on many initiatives and look forward to continuing that relationship, in order to hold recalcitrant owners responsible for their property when they fail to maintain their buildings in a healthy and safe manner. However, in this difficult fiscal environment, we must be cognizant of the cost of any new measures.

Thank you for the opportunity to testify before you today. Nancy and I would be happy to answer any questions you may have at this time.