

Testimony of Zoey Chenitz
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Before the Committee on Aging and Committee on Housing and Buildings
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Good morning Committee Chairs Chin and Cornegy, and Members of the Aging and Housing and Buildings Committees. I am Zoey Chenitz, Senior Policy Counsel at the New York City Commission on Human Rights. Thank you for convening today's hearing. Before turning to Intros. 225 and 6, I will highlight some of the Commission's recent work. The Commission is the local civil rights enforcement agency that enforces the New York City Human Rights Law, one of the broadest and most protective anti-discrimination and anti-harassment laws in the country, now totaling 26 protected categories across nearly all aspects of city living: housing, employment, and public accommodations, in addition to discriminatory harassment and bias-based profiling by law enforcement. By statute, the Commission has two main functions. First, the Commission's Law Enforcement Bureau (LEB) enforces the City Human Rights Law, by investigating complaints of discrimination from the public, initiating its own investigations on behalf of the City, and utilizing its in-house testing program to help identify entities breaking the law. Second, through the Community Relations Bureau which is comprised of Community Service Centers in each of the City's five boroughs, the Commission provides free workshops on individuals' rights and businesses, employers' and housing providers' obligations under the City Human Rights Law and creates engaging programming on human rights and civil rights related issues.

Over the past four and a half years, since Commissioner Carmelyn P. Malalis took the helm of the agency, the Commission has implemented 28 changes to the City Human Rights Law, including seven new substantive areas of protection, and other statutory expansions of the agency's mandate and scope. At the same time, the Commission is increasingly becoming the preferred venue for victims of discrimination. In Fiscal Year 2019, the Commission fielded nearly 10,000 inquiries from members of the public, via calls, emails, and in-person intakes, the highest in Commission history, resulting in 785 complaints filed and 396 pre-complaint interventions. Also in Fiscal Year 2019, the agency obtained over \$5.3 million in damages for complainants, and nearly \$800,000 in civil penalties, for a combined total of over \$6 million, the highest in the Commission's history and over five times the amount of damages and penalties recovered in 2014, the year prior to start of Commissioner Malalis's tenure. In Fiscal Years 2018 and 2019 the Commission awarded approximately \$1.2 million in damages to complainants and over \$300,000 in civil penalties in housing cases related to disability.

Disability rights and access is one of the Commission's core priorities. In fact, a program within the Commission's Law Enforcement Bureau, called Project Equal Access, works directly with landlords and other housing providers to ensure that residents with disabilities can obtain accommodations in their homes and buildings without ever having to file a complaint or go through an investigation and litigation. Of course, if landlords are unwilling to make reasonable accommodations, a complaint is filed with the Commission's Law Enforcement Bureau, and the case proceeds through investigation and possibly litigation. The Commission's Project Equal

Access was able to achieve accommodations in 139 matters in Fiscal Year 2019, up significantly from the prior year. With respect to filed complaints, claims on the basis of disability consistently represents one of the most common types of complaints filed at the agency across all areas of jurisdiction.

The City Human Rights Law guarantees the right to accommodations for people with disabilities, unless providing such an accommodation would pose an undue hardship. “Disability” is broadly defined under our law to include “any physical, medical, mental or psychological impairment.” This broad definition reaches most, if not all, of the disabilities or conditions that people may develop as they age, meaning that older New Yorkers who require reasonable accommodations to fully and safely enjoy the use of their homes have a right to request them from their housing providers under the disability protections in the City Human Rights Law. The cost of reasonable accommodations is borne by the housing provider.

A case resolved earlier this year demonstrates the strength of the City Human Rights Law’s protections and the Commission’s commitment to creating meaningful and wide-ranging change. The Law Enforcement Bureau resolved a case involving housing provider River Park Residences, L.P., in which a tenant alleged that River Park failed to reasonably accommodate his use of a wheelchair by refusing his repeated requests over several years to widen a bathroom door and install a roll-in shower in his apartment, and to make the building’s entrance accessible. After the Law Enforcement Bureau investigated and issued a probable cause determination, the parties entered into a conciliation agreement requiring that River Park revise its anti-discrimination policies; create a website—the first of its kind as part of a conciliation agreement with the Commission—that is specifically designed to be accessible to individuals with disabilities and includes information about requesting reasonable accommodations; conduct anti-discrimination training for all employees; display the Commission’s postings; and pay Complainant \$160,000 in emotional distress damages, the highest emotional distress damages award to date in a housing action. As further relief negotiated under the settlement, River Park has installed automated entrance and mailroom doors throughout the four buildings of River Park Towers to make the entire housing complex physically accessible.

In a Decision and Order issued by Commissioner Malalis in 2017 following a trial at OATH, the Commission awarded \$45,000 in emotional distress damages to a child and \$50,000 to the child’s mother, in addition to a \$60,000 civil penalty, where a landlord refused for three years to provide a bathtub necessary for a child with a disability. The landlord also engaged in a campaign of harassment against the child and her mother by making false complaints to the police and the fire department and by filing an unwarranted eviction proceeding against them. The \$60,000 penalty could have been reduced to \$10,000 if the respondent had made the ordered reasonable accommodation within a certain period of time after the decision. Following an appeal, the Supreme Court upheld the Commission’s decision in full and, because respondent failed to make the required reasonable accommodation on time, imposed the full civil penalty. Respondent was also ordered to undergo training and to post a notice of rights at the building.

Intro. 225 would require the installation in multiple dwellings of devices such as grab bars and shower treads for seniors and people with disabilities. The bill would allow eligible owners to

seek a tax abatement for certain related installations. We support the intent of the bill to ensure that people with disabilities, including older New Yorkers, are able to safely use their bathroom and remain in their homes. However, the Commission has some concerns that Intro. 225 could undermine existing disability protections under the City Human Rights Law that already require the provision of these types of accommodations. We are continuing to review the bill and look forward to working with Council to identify the best approach to meeting the policy objectives outlined in the bill.

Intro. 6 would require that when the owner of a dwelling unit serves a person who is 62 or older with a petition or notice to evict, the owner must also notify HPD of the resident's name, address, and phone number, so that HPD may then notify the person of available legal services. Violations are punishable as class A misdemeanors. The bill also requires that the Commission and HPD analyze the information received from housing providers concerning senior evictions, and issue a public report identifying any trends in senior evictions and any findings or patterns of discrimination in senior evictions.

Again, the Commission supports the intent of the bill to help older New Yorkers age in place, particularly in affordable housing. The Commission is also committed to working to identify and root out discriminatory patterns and practices in housing, across all areas of protected status, including age. We look forward to working with Council to ensure that the appropriate approach is taken to ensure that older New Yorkers are able to keep and enjoy their homes free from discrimination.

We appreciate the Council's attention to the critical issues and we will continue working with you, in partnership, to ensure that older New Yorkers and people with disabilities can safely enjoy and remain in their homes, surrounded by family and community. I look forward to your questions.