Council Wants To Force Landlords To Fix 'Underlying Conditions'

by Pete Fey
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NEW YORK – After moving from a homeless shelter to an apartment in the South Bronx, Kymm Moore said he found his new home plagued with mice, mold and multiple water leaks.

He said he couldn't get the landlord to repair anything, either, even after he called to complain to the city several times and inspectors issued violations. “It was very frustrating,” Moore said on Wednesday. “A lot of my stuff was going to get ruined.” He said he ended up paying $7,000 out of his own pocket for repairs before moving out.

A new bill approved by the City Council at Wednesday's stated meeting aims to give housing officials more enforcement tools to crack down on landlords who fail to fix underlying conditions that have been the cause of multiple housing code violations — before tenants like Moore are forced to move out.

The bill would allow the city's housing inspectors to make the repairs themselves, if necessary, and let them recoup the cost from the landlord.

Council Speaker Christine Quinn said in remarks before the Council vote that the legislation would empower the city’s housing inspectors to target “the root cause of repeat housing violations.” Mayor Michael Bloomberg is expected to sign the bill into law.

Councilwoman Gale Brewer, who sponsored the bill, said that Moore's case is representative of those that she sees. "Right now, [the landlord] kind of gets away with a fine here, a fine there," she said. Inspectors "have to keep going back and back."

An official with the city's Department of Housing Preservation and Development said that the building where Moore lived had a large number of open violations and had been identified for proactive intervention by the agency. The building is not expected to be a prime candidate under the new law.

The building was foreclosed in 2012, and the debt was bought up by a private equity firm.

Moore's former landlord, Asher Neuman, said he did not recall Moore as a tenant. But he disagreed that repairs weren't made. "Any time someone came to me with a complaint they were always repaired," he said.

WHY THE POLICY MATTERS

The legislation could potentially save city taxpayers money. The Daily News reported that the city spent $26.3 million on repair jobs dealing with repeat violations.

Quinn said the exact savings to taxpayers may not be known for some time, but that "it could be quite significant."

Besides cutting down the number of times that inspectors have to go out to a site for the same violations, repairing underlying conditions before problems get worse also may help to preserve the quality of the city's limited affordable housing stock, she said.

"Certainly preserving it, making the housing livable, has much long-term savings," she said.

WHAT THE POLICY DOES

Intro. 0967-2012 is a local law that would amend the administrative code of the city of New York and was discussed in the Committee on Housing and Buildings.

It would grant inspectors for the HPD the authority to issue orders to building owners requiring them to correct any underlying conditions that are causing repeat violations of any city or state housing code. Currently, the HPD is allowed to issue violations for "observed damage," but not unseen root causes of that damage.

A building owner will have four months (with a possible two month extension) to fix the underlying condition and submit documentation to the HPD from a licensed plumber, registered architect, or professional engineer verifying that they have done so. The HPD will then

re-evaluate the site and, if satisfied, rescind the violation.

Failure to comply with the HPD's order could result in a fine of $1,000 per dwelling unit with a minimum of $5,000 per building.

The HPD will be charged with establishing the criteria that will bring about an order to fix an underlying condition. Vito Mustaciuolo, HPD Deputy Commissioner of Enforcement and Neighborhood Services, told the Committee on Housing and Buildings during his testimony that this process could take up to six months.

After this criteria is determined, Mustaciuolo estimated that during the first year of the legislation, 100 buildings with a history of multiple violations specifically related to water leakage and mold will be inspected by the HPD to check for underlying conditions.

Mustaciuolo emphasized that these buildings will not be ones that are under the authority of the Alternative Enforcement Program, which already repairs underlying conditions. Established in 2007, each year the AEP identifies the city's 200 most distressed buildings and, throughout the year, works with their owners to address structural problems. The HPD will use the AEP workforce, however, in inspecting the buildings identified by this new legislation as possibly having underlying conditions that need correction.

Brewer said the new legislation came about when she realized there was an entire subset of buildings that did not fall under the AEP but that had chronic, underlying conditions that were going unrepaired. "That's when I decided to do it," she said.

WHO DID WHAT?

The bill was first proposed by Speaker Christine Quinn in her February 2012 State of the City address. Brewer, who represents the **Upper West Side** and Hell's Kitchen in Manhattan, sponsored it in the Council.

The bill has been backed by the HPD "as a means of ensuring residential units in New York City are well maintained and habitable," Mustaciuolo said. "We are hopeful that this new initiative will

better focus enforcement resources on properties which fail to treat repairs in a serious and holistic way."

Tenants groups and housing advocate organizations, such as the Association For Neighborhood and Housing Development, Inc., and Tenants & Neighbors, also support the legislation.

Kerri White, director of organizing and policy at the Urban Homesteading Assistance Board, which also supports the bill, said that without the new law landlords can patch over problems without actually fixing them. Tenants, she said, "go through this cycle of patch repairs."

She said this was a keen problem with mold. "The landlord will come and paint over the mold and say the problem is fixed," she said.

A spokesman for the Rent Stabilization Association, which represents New York City landlords, said the group had some concerns about the bill.

"We're going to take a wait and see attitude," said Frank Ricci, director of governmental affairs for the RSA, in an interview on Monday. "We have some reservations about the bill, especially because of the subjective nature of inspectors determining what is or is not an underlying condition."

This aspect of the bill was also brought up by Councilman Erik Dilan, chair of the Committee on Housing and Buildings, at the bill's hearing on Dec. 13, 2012.

"I think the bill is intentionally very broad in scope" — he said while questioning Mustaciuolo — "but it sounds, by your testimony, you have a limited scope which you hope to identify during the rulemaking process."

NEXT STEPS

The bill, which passed unanimously during the Council's stated meeting Wednesday, goes to the mayor's desk for his signature next. If it becomes law, there will be a rulemaking process to define the policy.

REFERENCE

View Intro 0967-2012 legislation text and details

View Local Law 29 for the Year 2007, which established the Alternative Enforcement Program

View Urban Homesteading Assistance Board's blog post about 836 Faile Street

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Additional reporting by Cristian Salazar.

This version was updated on Jan. 11, 2013. The original post erroneously reported that Councilwoman Gale Brewer represents the Upper East Side. She actually represents the Upper West Side.