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No More Illegal Hotels: Support Intro. 534

Testimony by Assembly Member Micah Z. Kellner
Before the NYC Council Committee on Housing and Buildings
Monday, December 3, 2007

My name is Micah Z. Kellner and I represent the 65th Assembly District, which includes Yorkville, part of the Upper East Side, and Roosevelt Island. Thank you to Council Speaker Christine C. Quinn and Housing and Buildings Committee Chair Erik Martin Dilan for the opportunity to testify today and to Councilmember Gale Brewer for introducing this important legislation.

I am a member of the Illegal Hotels Working Group, a coalition of elected officials and housing advocates that for over two years have been tracking complaints about illegal hotels throughout the borough of Manhattan. Our Working Group regularly brings together City and State agencies to discuss on-going enforcement efforts and ensure that our collective efforts to solve the illegal hotels crisis are given the tools and resources that are necessary to stop this abuse of our housing stock.

Illegal hotels are a growing problem throughout Manhattan. Every day, more landlords remove critical housing units from our already stretched housing market and convert them into hotel units or corporate apartments for transient visitors instead of New Yorkers who need a place to live. In the Upper East Side, there are nearly fifty residential apartment buildings that should be occupied as rental apartments by my constituents, but instead are being rented to transients. Despite the good work of the Mayor's Office of Special Enforcement (OSE), these illegal hotels persist and spread to more buildings. While it is presently illegal under New York City's Buildings Code for a "j-2" designated dwelling unit to be rented out to transient occupants, the penalties and the fine structure for use contrary to the Certificate of Occupancy is insufficient to deter illegal hotel operators.

While most people understand that illegal hotels are a problem because they remove units from our housing stock, including our affordable housing stock, many people are unaware of the other significant problems they cause. Because most illegal hotels include a mix of long-term tenants and illegally converted hotel units, tenants are forced to live among tourists and business visitors. This creates significant problems in terms of building security, loss of building-wide services to meet the needs of the visitors, noise, and fire safety concerns stemming from illegal alterations. Also, tenants are often harassed into leaving their homes by landlords who want to create more hotel units to make an even bigger profit. Finally, New York City's economy stands to suffer because of the bad reputation illegal hotels create for our tourism industry. In the past two years, dozens of national and international stories have appeared in all news media forms explaining the risks to vacationers of being duped into booking illegal hotels in New York City because travelers have found the hotels and rooms to be in poor condition and not operated at an acceptable standard. Travel guides like *Fodor's*, now warn tourists to be wary of hotel scams in New York City.

Intro. 534 would raise the fines and greatly improve the fine structure, correcting the absence of a disincentive to operating an illegal hotel. I strongly support this common-sense measure.

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The City's Administrative Code provides for what generally amounts to an \$800 fine for use contrary to the Certificate of Occupancy for a residential building. But illegal hotel operators far exceed \$800 in profits in a single night from their operations. Also, the Code only allows ECB to find for one violation for the entire building (regardless of how many units are used), and only for the day the inspector visited and issued the violation.

To use an example of how this will not impact an operator, let's look at WooGo.com. WooGo.com rents furnished apartments as hotel units for between \$294-\$799 per night. It typically operates dozens of units in a building, and advertises on-line with great success, enjoying a high occupancy rate. When a tenant complains, OSE undertakes a difficult investigation with high evidentiary standards, and a violation finally winds through ECB. If the violation is not dismissed it results in a single \$800 fine. If this process repeats itself, the same low fine is issued.

Intro. 534 raises that fine to \$1000 - \$5000 for a first offense, if this does not deter the operator, fines are raised with each additional offense, up to \$10,000 - \$20,000 for a third offense. These fines are in scale with what we believe are typical illegal hotel profits and should compel lawbreakers to reconsider their illegal practices. The bill also allows for each unit being illegally converted to "j-1" use to be fined separately. As well, the Code would be changed to presume that the illegal use remained after the inspector left, until the landlord can demonstrate otherwise.

Also of significance, Intro. 534 classifies illegal alterations from "j-2" or "j-3" to "j-1" use as "hazardous." This is important because these alterations often change the layout of a floor, result in dwelling units without windows or fire escapes, change the number of people occupying a unit or floor, and because they create hotel units in buildings that aren't designed for hotel guests. Hotels have different fire code standards precisely because they are occupied by transients who are unfamiliar with the layout of the building.

These important changes to the Code bring the law in line with the reality of how illegal hotels operate. I believe Intro. 534 will make it easier for tenants making a complaint to 3-1-1, those trying to advocate on a constituent's behalf, and for the City of New York to enforce the law, and ultimately, for us all to see housing returned to our neighborhoods.

Unfortunately, Intro. 534 won't solve all of our illegal hotels problems, and I want to make sure the Council understands that too. Most of the buildings in my district operating as illegal hotels use "30-day minimums" to skirt the law. This is a legal loophole because the Buildings Department has a long practice of interpreting thirty days as the standard by which to judge transient versus permanent occupancy. While it may be obvious to us that someone visiting New York for thirty days is not a permanent resident, according to illegal hotels operators like FurnishedQuarters.com, they have twelve permanent residents a year. Some have suggested creating a "90-day minimum" definition for permanent residential use and not allowing uses of 30-90 days in residentially zoned districts. I support these ideas.

Advertising as "extended stay hotels" or "corporate housing providers," these illegal hotels represent a major problem in my district as well as the rest of Manhattan. While there may be a legitimate place for this industry in New York City, it is not in residential buildings or areas zoned for residential use only. I urge the City Council to pass Intro. 534, but realize that does not solve all the issues, but is rather a good first step. Next, we need the Council to work with the Mayor's Office towards changes in the Buildings Code and the Zoning Resolution to ensure that those that we shut down tomorrow don't simply change their business model and join those operating with the 30-day minimum loophole.

Thank you again for the opportunity to testify today.