

**COMMENTS OF  
CHILDREN’S DEFENSE FUND – NEW YORK  
CITIZENS COMMITTEE FOR CHILDREN  
CLEAN AND HEALTHY NEW YORK  
COOPER SQUARE COMMITTEE  
EARTHJUSTICE  
THE LEGAL AID SOCIETY  
DR. MORRI MARKOWITZ  
NEW YORK CITY COALITION TO END LEAD POISONING  
NORTHERN MANHATTAN IMPROVEMENT CORPORATION  
NYLCV EDUCATION FUND  
TENANTS POLITICAL ACTION COMMITTEE and  
WE ACT FOR ENVIRONMENTAL JUSTICE  
REGARDING PROPOSED AMENDMENTS TO 28 RCNY CHAPTER 11**

The following organizations jointly submit the following comments in response to the proposed amendments to the rules of the Department of Housing Preservation and Development (HPD) set out in 28 RCNY Chapter 11, that are to be the subject of a hearing on August 18, 2020

Children’s Defense Fund-New York is a policy and advocacy organization that grew out of the Civil Rights Movement. It provides an independent voice for children in New York and pays particular attention to the needs of poor children, children of color and those with disabilities.

Citizens’ Committee for Children of New York (CCC) is a nonprofit child advocacy organization committed to ensuring that every New York child is healthy, housed, educated and safe. Protecting children from lead poisoning aligns directly with CCC’s goal of ensuring the healthy development and long-term wellbeing of all children.

Clean and Healthy New York works for safe chemicals, a sustainable economy, and a healthy world. Clean and Healthy New York protects the environmental health of people and communities through legislation, market pressure, and collaboration.

The Cooper Square Committee works with area residents to contribute to the preservation and development of affordable, environmentally healthy housing and community/cultural spaces so that the Cooper Square area remains racially, economically and culturally diverse.

Earthjustice is a nonprofit public interest environmental law organization, whose focuses include protecting people's health and reducing toxic exposure. For years, Earthjustice has advocated to protect children and adults from lead poisoning.

The Legal Aid Society (LAS) exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, the LAS has protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, the LAS changes the lives of its clients and helps improve their communities.

Dr. Morri Markowitz is the Director of the Lead Prevention and Treatment Program at the Montefiore Medical Center. The Program has been providing lead related education and clinical care for children and pregnant women with lead exposure for more than 50 years. It collaborates with Departments of Health and offers consultations to clinicians worldwide.

The New York City Coalition to End Lead Poisoning (NYCCELP) has advocated since 1985 for the enactment and enforcement of sound policies to prevent lead poisoning of our City's children.

Northern Manhattan Improvement Corporation (NMIC) is a non-profit community-based multi-services organization that provides a range of services to residents of Manhattan and the Bronx. For the past quarter century, NMIC's legal services program has advocated in legislative, administrative, and judicial fora to improve the protections for children from lead poisoning.

NYLCV Education Fund's mission is to educate, engage, and empower New Yorkers to be effective advocates on behalf of the environment. Our work includes educating parents about the need for chemical policy reform that will protect children from exposure to toxic chemicals. Lead poisoning prevention is a focus ours at the state and city levels.

Tenants Political Action Committee is an all-volunteer organization that works to elect pro-tenant candidates, and defeat pro-landlord candidates

WE ACT for Environmental Justice community based organization in Harlem, New York that since 1988 has been building healthy communities by ensuring that people of color and/or low income residents participate meaningfully in the creation of sound and fair environmental health and protection policies and practices..

While we commend most of the proposed changes as consistent with the recent amendments to the Administrative Code, particularly Local Law Local Law 31 of 2020, we have concerns with respect to aspects of the proposed § 11-04(b). In particular, the final two sentences of that proposed paragraph address the situation where a new owner of a building has not received records of an inspection mandated by Admin Code § 27-2056.4(a-1).

While LL31/2020 did not specifically address this situation, HPD's proposal would give a new owner one year to perform this inspection in a situation where a child under the age of six

was residing in the apartment – even though that inspection may have been required years earlier. We know of no health-based rationale for such a long delay; moreover, since a prior owner’s failure to timely conduct the inspection is a class C violation, and in addition is the only portion of the New York City Childhood Lead Poisoning Prevention Act punishable by imprisonment (denoting its seriousness), granting such a lengthy extension for an owner to bring a dwelling unit into compliance seems wholly unjustified and certainly not protective of public health. A child should not forfeit the protections of LL31/20 simply because the ownership of the building changes hands. Indeed, as structured, it would appear that if ownership continues to change hands the apartment might not be inspected for many years.

Since 2004, current § 11-04(b) (to be relettered as (c) under the proposed amendments) has mandated an owner to transfer records of inspections to a new owner; moreover, since 1996 federal law (42 USC § 4852d, 24 CFR §§ 35.80-35.98, 40 CFR §§ 745.100-745.119) has required the disclosure and turnover of records of inspections for lead-based paint and lead-based paint hazards before a new owner becomes obligated under a contract of sale. Thus, any purchasing new owner exercising due diligence should have more than adequate means of protecting itself from the potential liabilities imposed by LL31/2020, and will certainly be aware of a failure of the selling owner to comply.

Thus, at most, a new owner should be given no more than 30 days to bring the apartment into compliance.

Dated: August 14, 2020