

OFFICE OF SENATOR JEFFREY D. KLEIN



Turning Up the Heat: An Investigative Report into the Bronx's Coldest Buildings November, 2014

Introduction

As winter quickly approaches, New Yorkers can still remember last year's Polar Vortex in which parts of New York City and the country saw record breaking cold¹. In anticipation of another frigid winter, the Office of Senator Jeffrey D. Klein knows it's vital to ensure that the Bronx's most vulnerable are protected against the cold in their homes. By analyzing building information from the New York City Department of Housing Preservation & Development (HPD) and New York University's Furman Center, the Office of Senator Klein was able to determine that many buildings do not adequately provide heat or hot water to their residents. In identifying the coldest offenders in the Bronx, Senator Klein plans to turn up the heat on these problematic buildings and ensure that this coming winter individuals, families and seniors are safe and protected in their homes.

New York City Heat Regulation

The City Housing Maintenance Code and State Multiple Dwelling Law mandates that building owners provide heat and hot water to all tenants. According to HPD's website:²

"Building owners are required to provide hot water 365 days per year at a constant minimum temperature of 120 degrees Fahrenheit. Between October 1st and May 31st, a period designated as "Heat Season," building owners are also required to provide tenants with heat under the following conditions:"

- Between the hours of 6:00 AM and 10:00 PM, if the outside temperature falls below 55 degrees, the inside temperature is required to be at least 68 degrees Fahrenheit; and,
- Between the hours of 10:00 PM and 6:00 AM, if the temperature outside falls below 40 degrees, the inside temperature is required to be at least 55 degrees Fahrenheit."

Complaint Process

New York City provides an outline on how to complain regarding a lack of heat in buildings and the process that is in place to address such concerns:³

- Tenants who are cold should first notify the building owner, managing agent or superintendent;
- If the heat is not restored after the complaint they should contact 311; (New York City Customer Contact Center)
- Once a complaint is received HPD then attempts to contact the building's owner or managing agent regarding the complaint and at times will contact the resident before an HPD inspector goes out;
- If an HPD inspector goes to the building, they will verify the complaint and issue a violation;

¹ <http://www.nydailynews.com/news/national/deadly-arctic-blast-sweeps-u-s-temps-rise-article-1.1569539>

² <http://www.nyc.gov/html/hpd/html/tenants/heat-and-hot-water.shtml>

³ <http://www.nyc.gov/html/hpd/html/tenants/heat-and-hot-water.shtml>

- If the violation does not cause the violation to be fixed then HPD’s Emergency Repair Program will then contract out a private company for the necessary repairs and charge the building’s owner for the fix.

When the City is not repaid for the repair, the city will issue a tax-lien against the building. However, even with the City’s ability to bill the violators, it still can cost NYC millions of dollars a year in repairs. In recent years the city had to pay over \$5 million in repair fees for a given year.⁴ New York City’s worst heat violators place a heavy burden on the city’s taxpayer but also put but the health and well-being of New Yorkers at a grave risk.

Methodology

The office of Senator Jeff Klein analyzed the Bronx’s subsidized housing building list from the Furman Center. The Furman Center contains information on roughly 235,000 units of privately-owned subsidized affordable rental properties in New York City developed with financing and insurance from the U.S. Department of Housing and Urban Development (HUD), HUD project-based rental assistance, New York City or State Mitchell-Lama financing, or the Low-Income Housing Tax Credit (LIHTC).⁵ This data contains information on hundreds of housing developments in the Bronx that house thousands of Bronx residents. Using this list, Senator Klein’s Office used HPD’s Building, Registration and Violation portal site to examine each building’s history with HPD.⁶ Various pieces of information are available to the public for each building on this site ranging from violations, pending litigation and complaints for the prior year. Every complaint of “No Heat” or No Heat/Hot Water” was recorded. Some of these complaints were for individual apartments or entire buildings. While we found that the vast majority of buildings had zero heat complaints, numerous buildings had disturbingly high numbers of heat complaints with one topping more than 200 complaints in the past year. This survey allowed us to single out the top 15 buildings with the most heat complaints in the Bronx.

Bronx Heat Offenders

Table 1 highlights the 15 most egregious offenders after the office of Senator Klein examined approximately 1000 buildings throughout Bronx County. The data for this investigation was first gathered in the first weeks of October and then reexamined in the middle of the November. Many of these buildings were receiving complaints up until this report was being finalized, confirming the office’s suspicions that these buildings are the worst of the worst for back to back winters. These top 15 buildings had dozens of complaints, with a few well into the hundreds. University Avenue, L.P.’s 30 Buchanan Place had more than a 300 complaints from October 2013 through November 2014.

It is the beginning of the cold season and buildings already have dozens of complaints. 30 Buchanan Place which was the worst offender at the start of the cold season, has remained a at top with 96 complaints as of 10/1/2014. Also two of the three top buildings are owned by the same owner, Fordham Fulton, LLC, which gives credence to the fact that these heating

⁴ <http://online.wsj.com/articles/SB10001424052748703296604576005853254043430>

⁵ <http://furmancenter.org/data>

⁶ https://hpdonline.hpdnyc.org/HPDOnline/provide_address.aspx

complaints are not solely because of cold winters or bad heating equipment but rather improper oversight and managing.

Top 15 Bronx Heat Complaints (Table 1)

| Building Owner/ Location | 2013 Complaints (From 10/2013) | 2014 Complaints (From 1/2014) | Complaints Starting 10/1/14 | Total | Zip Code |
|--|--------------------------------|-------------------------------|-----------------------------|-------|----------|
| UNIVERSITY AVENUE, L.P. (30 BUCHANAN PLACE) | 37 | 289 | 96 | 326 | 10453 |
| FORDHAM FULTON LLC (530 EAST 169 STREET) | 74 | 185 | 25 | 259 | 10456 |
| FORDHAM FULTON LLC (480 EAST 188 STREET) | 5 | 195 | 35 | 200 | 10458 |
| RIVERVIEW REDEVELOPMENT COMPANY, L.P. (1600 SEDGWICK AVENUE) | 75 | 43 | 13 | 118 | 10453 |
| B&L CONCOURSE HSNB AS (1290 GRAND CONCOURSE/1326 GRAND CONCOURSE) | 45 | 63 | 11 | 108 | 10456 |
| MARION ECHO TWIN ETC (2474 MARION AVENUE; 264 ECHO PLACE) | 0 | 89 | 15 | 89 | 10458 |
| 1691 FULTON AVENUE ASSOCIATES, L.P. (1691 FULTON AVENUE) | 50 | 30 | 0 | 80 | 10457 |
| BRONX 360 REALTY LLC (930 FOX STREET; 940 FOX STREET; 940 SIMPSON STREET; 941 SIMPSON STREET) | 34 | 44 | 2 | 78 | 10459 |
| BOYNTON ACQUISITION C (875 BOYNTON AVENUE) | 41 | 16 | 10 | 57 | 10473 |
| 1068 GERARD PARTNERSHIP, L.P. (1068 GERARD AVENUE) | 24 | 32 | 0 | 56 | 10452 |
| UNIMAC DEVELOPER, L.P. (1605 UNIVERSITY AVENUE; 1611 UNIVERSITY AVENUE; 1615 UNIVERSITY AVENUE; 1645 MACOMBS ROAD; 1669 UNIVERSITY AVENUE) | 21 | 34 | 10 | 56 | 10453 |
| UNDERCLIFF HOLDING LLC (1590 UNDERCLIFF AVENUE) | 20 | 35 | 6 | 55 | 10453 |
| NDI BOSTON RD DEVELET (1212 BOSTON ROAD; 1214 BOSTON ROAD; 1216 BOSTON ROAD) | 19 | 31 | 2 | 50 | 10456 |
| KINGSBRIDGE REALTY ASSOCIATES LLC (3424 KINGSBRIDGE AVENUE) | 16 | 31 | 5 | 47 | 10463 |
| STELLAR MORRISON LLC (1222 MORRISON AVENUE) | 14 | 25 | 0 | 39 | 10472 |

Health Concerns

While the failure to provide heat and hot water is a flagrant breach of the warrant of habitability for NYC residents, buildings that flout HPD's heat regulations are putting their residents health on the line. According to the National Center for Health Statistics (NCHS) winter cold kills more than twice the amount than summer heat does.⁷ From 2006-2010 roughly 2,000 Americans died a year in weather related deaths. More than 60% of these deaths are attributed to cold weather.⁸

When it comes to the Bronx, we are in a even more perilous predicament with cold and weather related deaths. The NCHS which is under the Center of Disease Control & Prevention (CDC), revealed that weather related deaths were 2-7 times more likely to occur in low-income counties.⁹ Although, the Bronx is experiencing an economic boom now¹⁰, there are still extreme concerns regarding poverty in the borough, making these residents at a graver risk to die from extreme weather.

By examining the various zip codes through the United States Census Bureau we are able to see the real risk that certain Bronxites are being placed in.¹¹ The American Community Survey 5 Year Estimates (2008-2012) gives a window into the poverty that is experienced in each State and at each zip code in the country. The American Community Survey shows that New York State's percentage of those below the poverty level is exactly on par with the country at 14.9%. However, during this same 5 year time frame, Bronx County is close to 29% of the poverty level. While the County level percentage is alarming, some of the zip codes within the Bronx are at even higher levels. And sitting right square in the middle of some of these worst zip codes are some of them have the most heat complaints. While there is subsidized housing all over the Bronx, it seems that are certain areas of the borough are having the worst heating problems. Significant amounts of the buildings are confined to a handful zip codes in the Southern portion of the Bronx. The complaints are building up and the real cold weather has not even begun to set.

⁷ <http://www.usatoday.com/story/weather/2014/07/30/weather-death-statistics-cold-heat/13323173/>

⁸ *ibid*

⁹ <http://www.cdc.gov/nchs/data/nhsr/nhsr076.pdf>

¹⁰ http://www.bxtimes.com/stories/2014/13/13-devel-2014-03-27-bx_2014_13.html

¹¹ <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>

Individuals Below Poverty Level By Zip Code (table 2)

| Zip Code | # of Buildings in Top 15 | Individuals Below Poverty Level¹² | Bronx County Level¹³ |
|-----------------|---------------------------------|---|--|
| 10452 | 1 | 37.40% | 29.30% |
| 10453 | 4 | 38.80% | 29.30% |
| 10456 | 3 | 40.00% | 29.30% |
| 10457 | 1 | 40.60% | 29.30% |
| 10458 | 2 | 38.30% | 29.30% |
| 10459 | 1 | 43.20% | 29.30% |
| 10463 | 1 | 17.20% | 29.30% |
| 10472 | 1 | 33.10% | 29.30% |
| 10473 | 1 | 23.10% | 29.30% |

The buildings with the most heat complaints in the Bronx are not spread among the various neighborhoods of the Bronx. In fact more than 50% of the top 15 buildings are concentrated within three zip codes, 10453, 10456 and 10458 (table 2). These three zip code have roughly 40% of individuals below the poverty line, nearly quadruple the levels of the United States and New York State. These are the neighborhoods were people cannot afford to be without heat/hot water, these are the areas where people more likely to die from the cold weather, solely based on the area they reside in. More needs to be done to protect these residents and to crack down on the worst heat offenders in the Bronx.

Recommendations

This report highlights the heating conditions of buildings that are supported through various city, state and federal programs. The fact that these buildings are heavily reliant on public funding makes it even more incumbent of us to ensure that taxpayer's dollars are being properly invested and spent. Our tax dollars are being misused when these subsidized buildings are routinely failing to provide warmth to their tenants and in the worst cases sticking the taxpayers of New York City with the bill to conduct needed repairs.

These heat offenders shed light on a serious health and safety issue in New York City but also a concern of economic responsibility. Programs such as Mitchell-Lama are vital programs that preserve housing for countless New Yorkers and because of their importance them we must ensure that our investments into these buildings are protected.

Moving forward the Office of Senator Jeff Klein recommends the following in order to protect the well-being of building residents and our taxpayers:

¹² http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml

¹³ <http://quickfacts.census.gov/qfd/states/36/36005.html>

Recommendation 1: HPD should establish a Watch List of the Buildings with the most heat complaints in each borough.

Buildings cannot go unnoticed when they incur countless complaints in a year. By establishing a watch list and proactively monitoring these buildings we can help to ensure that complaints will greatly decrease. The vast majority of the buildings we researched had zero complaints; a watch list will enable the worst offenders to soon join those ranks. Each summer HPD should identify the buildings with the most complaints in the preceding winter that and create a watch list for the upcoming winter. While this report identified the three worst building owners, there are numerous buildings across the City with complaints of 20 and more. We feel that once a building has 20 or more complaints in a given winter then HPD should put that owner on its watch list for the following winter to monitor. This citywide list should be posted online for the public to easily access and search for by borough, zip code and address.

Recommendation 2: HPD should establish a Heat Complaint task force and proactively monitor these buildings with over 20 complaints.

By establishing a watch list the owners/mangers of these buildings will be more proactive in their repairs and upkeep of the building. It will also enable HPD focus their attention on problem buildings before they get worse. Once HPD has their Watch List they will be able to notify owner/management companies of this. These buildings will be compelled to address any maintenance issues before the cold sets in hopes of staying of the watch list the following winter. Once the cold season starts on October 1st, HPD can begin to proactively inspect these buildings for proper heating and not wait for complaints to build up. HPD should conduct surprise visits of each of the watch list buildings each month during the winter season.

Recommendation 3: HPD should conduct an outreach campaign to the residents of these “Heat Complaint” buildings making them aware of their rights aware of their rights and heat regulations.

HPD should make available to residents the regulations that buildings need to follow. It could be as simple as placing the policies in the lobbies of buildings. This information campaign will enable residents to be made aware of what their rights are as tenants. Resident will also be made aware of the protocol that’s in place to file complaints and what temperature their apartments need to be during the cold months. This will further empower tenants and make owners/mangers accountable to the policy set forth by New York City, which will protect residents and help ease the costs of repairs that the city has had to incur in previous winters.

Recommendation 4: Require problem buildings owners to post a bond to ensure future compliance.

Past experience has shown that the buildings with the most complaints are also at the highest risk of future problems. By requiring the owners/managers of the buildings with the most heat complaints to post a performance bond, the city and its taxpayers will have financial recourse if that building's heating system is allowed to fall back right into disrepair. The city could than use those funds to pay for heating repairs at that building or refund the money after a sufficiently

satisfactory period has passed with no new complaints. This measure would be a useful way to incentivize buildings to perform necessary maintenance and quickly address any heating problems that arise in order to prevent future citations.

Conclusion

Cold weather is the leading cause of weather-related deaths in America. Those odds increase dramatically in poorer and minority areas in the country. Buildings that do not properly take care of their residents exacerbate an already serious health risk. No one's health or life should be at a greater jeopardy this winter or at any time because they live in a certain zip code. The recommendations outlined in this report will mitigate dangerous buildings and protect those most vulnerable in our borough this coming winter.