

Department of  
Buildings, General  
Counsel's office

December 11, 2025

Note: This testimony  
reflects the position of  
Pratt Center for  
Community Development  
and not necessarily Pratt  
Institute

**Re: Rulemaking for implementing Local law 126 of 2024 (§105-07): Establishment of Temporary Residence Program for Eligible Basement or Cellar Residences**

Thank you for the opportunity to comment on the Department of Buildings' proposed rule for the Establishment of Temporary Residence Program for Eligible Basement or Cellar Residences. I am Sylvia Morse, Director of Research and Policy at the Pratt Center for Community Development, a more than 60-year-old planning and research organization that has studied and advocated for the safe legalization of basement and cellar apartments for nearly two decades with the Basement Apartments Safe for Everyone (BASE) coalition. BASE was a leading advocate for Local Law 126, which the proposed rule is meant to implement, and we are eager to see the city stand up a program that makes these homes safe, resilient, and affordable for the residents of the low- and moderate-income communities of color where they are concentrated.

We echo the testimony of the BASE Coalition and its member organizations including Citizens Housing and Planning Council that **the proposed rule undermines and conflicts with the purpose of Local Law 126 and must not be finalized until a new draft with substantial revisions is issued for public comment.**

First, **the proposed rules set too high a bar for entry to the program that most homeowners will not be able to meet, requiring upgrades that should be made through the program—not as a prerequisite.** The purpose of the program is to safely legalize existing basement and cellar housing, providing a 10-year onramp for homeowners to make significant upgrades. The Local Law requires that, for homes to receive an Authorization for Temporary Residence (ATR) to be occupied on an interim basis, they have acceptable kitchen and sanitation facilities, pass an initial inspection for imminent threats to life and safety, have smoke and carbon monoxide detectors, and have a means of egress -- all essential minimum standards. The proposed DOB rule goes much further, requiring owners to hire a Registered Design Professional to submit full design drawings, and for the home to have fully-compliant kitchens and bathrooms that would require costly work to be completed -- all before homeowners would have the legal protection of the program.

These expensive and often complex requirements for eligibility will **shut many residents out of the safety improvements the law and program were intended to create.** The purpose of making program eligibility accessible and low-cost is to bring safety improvements to as many homeowners and tenants as possible—especially in the low- and moderate-income neighborhoods where Pratt Center for Community Development has found these homes are concentrated. For instance, in the first three months after receiving the ATR, the Local Law requires that homes have water sensors and alarms and the city will be aware of where the occupied residence is located, and within one year the home would have to comply with fire separation standards. Requiring expensive soft costs and in many cases construction before getting the ATR will at best delay—and in many cases prevent—residents from seeing these improvements. Even if a homeowner is ultimately unable to bring the unit into full compliance over ten years, every benchmark reached represents an improvement in housing and public safety.

**WRITTEN TESTIMONY**

Beyond the rules, we emphasize that many low- and moderate-income homeowners with existing basement apartments and tenants will not be able to entirely self-finance these projects, and may need support from not only design professionals but also community-based organizations to navigate the program and secure resources to make upgrades. The city must invest in resources to ensure that the program reaches the most vulnerable residents.

**Second, the rules should minimize the use of vacate orders only to situations where there are imminent threats to life and safety.** For instance, where there is illegal gas work, the remedy could be a gas shutoff order, not an eviction. In our separate comment on the related HPD Rules Relating to Right of Return for Basement or Cellar Residences, we note that relocation is a significant burden on tenants, especially low-income basement and cellar tenants who struggle to find affordable housing and cover moving costs. These challenges, especially given lack of sufficient resources to support tenants with finding and paying for temporary housing, must be reflected in the rules by minimizing cause for displacement.

**Finally, there is no clear, penalty-free off-ramp for homeowners who aren't able to complete the program despite good-faith effort,** absent which homeowners will be unlikely to take on the risk and investment of participating in the program. Amnesty from past violations, as long as the issues are remedied, is a fundamental component of the program and underlying laws.

In addition, we urge DOB to develop rules that establish a path for three-unit homes converting a basement or cellar, as required under Local Law 126.

Addressing these concerns will require significant revision to the rules, which the BASE Coalition is eager to partner with the city to move forward. **Please refer to the BASE Coalition testimony submitted by Citizens Housing and Planning Council for more detailed recommendations for improving these rules.**

Ultimately, the proposed rule as written does not align with the purpose of the legislation to create a harm reduction program that makes our existing unregulated housing stock safer for current homeowners and tenants. We believe that the current proposed rule would prevent the success of this hard-won, long-awaited program, especially for the most vulnerable tenants and homeowners. As such, **we call on DOB not to finalize these rules until a revised draft addressing these concerns is circulated for public comment.**

**For more information, contact**

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