



**TESTIMONY SUBMITTED TO THE COMMITTEE ON HOUSING AND BUILDINGS  
NEW YORK CITY COUNCIL**

**CITIZENS HOUSING AND PLANNING COUNCIL  
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Thank you for the opportunity to testify to the urgent need for a basement legalization program and why New York State must take the important first step of enacting A9802/S8783. My name is Katherine Leitch, and I am a Senior Policy Analyst at the Citizens Housing and Planning Council (CHPC). CHPC is a non-profit civic organization dedicated to addressing the City's housing and planning needs.

Our organization has spent over a decade researching basement conversions and other forms of accessory dwelling units (ADUs) that play an essential but often overlooked role in New York City's housing stock. We are also the program evaluator for the East New York basement pilot. In all facets of our basements work, we have seen that overlapping, outmoded, or unnecessarily restrictive regulations make it financially or physically infeasible for homeowners to bring their basement apartments into compliance. The proposed State bill makes important strides towards a legalization process that ensures the safety and habitability of these units.

The legalization of basement apartments is a policy issue at the intersection of housing, climate change, and social equity. New York's expensive and highly constrained housing market drives many low-income families with little housing choice into informal rental apartments that exist outside City oversight. As a result, some New Yorkers end up living in substandard or even hazardous conditions. Hurricane Ida cruelly exposed the dangers of living in apartments that haven't been vetted for safety.<sup>1</sup>

In response to this urgent issue, New York City must develop a program that streamlines a path to legalization and ensures that critical safety standards, like emergency egress, are met. But without State action, the City can only improve conditions in single-family homes, leaving out the greater part of New York City's housing stock.<sup>2</sup> This is because two-family homes or multiple dwellings that add a basement apartment are dually regulated by the City and State through City's comprehensive Construction Codes, Housing Maintenance Code, and Zoning Resolution, and the State's Multiple Dwelling Law (MDL).<sup>3</sup> Even if the City thoughtfully implemented reforms to

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<sup>1</sup> Leitch & MacLean, *From Lot to Neighborhood to City: An Action Plan for Basement Flood Safety & Stormwater Equity*, Citizens Housing and Planning Council (CHPC). Aug 2022.

<sup>2</sup> None of the Hurricane Ida fatalities related to basement or cellar occupancy were within single-family homes. The City cannot unilaterally create a program that would fully address these properties.

<sup>3</sup> Adopted in 1929—before NYC had a citywide building code or Department of Buildings—the MDL set light and ventilations standards, addressed sanitation and crowding concerns, instituted fire safety practices, and established height and bulk limitations, most provisions coming directly from the Tenement Housing Act of 1901. The requirements of the MDL are organized according building classes, defined in part by when a residential property was built or converted, and reflect the esoterica of each regulatory period and class. Many of the MDL's provisions are addressed in New York

improve the safety and quality of multifamily units, the State's unamended and more restrictive requirements would govern. By passing legislation empowering New York City to address this issue locally, the State would clear a path to legalization and more responsive policymaking.

Overlapping or redundant City and State regulations not only make it more difficult and costly for the City to administer regulations, and for homeowners and practitioners to comply with them; it also makes amending these regulations needlessly complex and difficult. This is the central reason why government has not yet acted to meet the urgent needs of tenants and homeowners.

The City has undertaken significant efforts, including the East New York pilot, to identify and remedy the challenges of basement conversion. The expertise on these issues resides locally within the City agencies that administer the regulations, including those of the MDL, and with nonprofits and community groups that have spent years navigating the complexities of legalization. By giving the City authority to provide relief from the MDL, the State would enable the City to assert its own rigorous building and occupancy standards in circumstances that are endemic to the City. This would profoundly improve a basement legalization effort and allow the city to refine and adapt a program as implementation challenges arise or as the city's needs evolve.

The State must confront the fact that unregulated basement apartments present a pressing health and safety concern, and that they are a predictable result of the current housing shortage. These dual crises disproportionately impact low-income homeowners and tenants in New York City. Passing A9802/S8783 is an opportunity for the State to cut through a layer of unnecessary regulation, set programmatic expectations, and empower the City to meet its own needs.

Thank you.

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City's codes and zoning. Once the City adopts the forthcoming Existing Building Code (EBC), which is intended to fully cover all multiple dwelling construction standards, the MDL's duplicative standards will be outmoded.