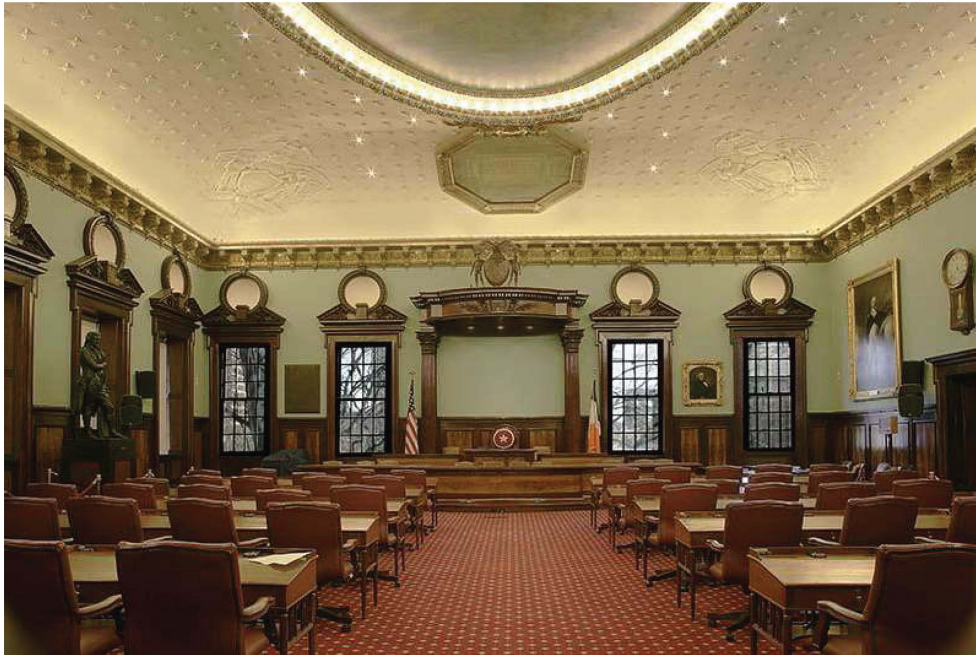


Majority of City Council Supports Bill Prohibiting Tenant Background Checks

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By Matis Glenn



The City Council Chamber. (Glenn Castellano/nyc.gov)

A bill prohibiting most landlords from refusing tenants on the basis of criminal records is making its way through the New York City Council.

Currently, landlords have the discretion to accept or deny tenant applications if the applicant has a criminal record. The new bill would make it illegal to obtain the information, or to make a decision denying tenant residency based on criminal records, including murder, robbery, assault, property damage, and other forms of violent crime. The only exceptions mentioned in the bill are registered offenders for specific crimes; using that information in determining tenant approvals is protected under New York State law.

Federally subsidized New York City Housing Authority apartments are not affected by the bill, because federal law mandates background checks for tenants. Two-family units or live-in landlords who rent out part of their home are not included in the bill either.

The bill, called the “Fair Chance for Housing Act” introduced by Councilman and Majority Leader Keith Powers(D) – which in a previous iteration had been struck down on the Council floor last year – currently has the support of 30 out of 51 city councilmembers, and was sent to the Council’s Committee on Civil and Human Rights last week for a preliminary vote. The bill is also supported by Public Advocate Jumaane Williams and all NYC borough presidents except Vito Fessella, of Staten Island.

Advocates of the bill say that denying people who have been through the criminal justice system an opportunity for housing isn't fair, and leads to repeat offenders.

"For too long, formerly incarcerated individuals have faced enormous difficulties trying to find housing in our city," Powers said in a statement. "New Yorkers who have paid their debts still experience severe discrimination, no matter how minor the offense or how long ago. The Fair Chance for Housing Act will finally give these folks a place to sleep a night — and the opportunity to rebuild their lives."

Mayor Eric Adams appears to be on board with the plan as well. "No one should be denied housing because they were once engaged with the criminal justice system, plain and simple," a spokesperson for Adams told *Hamodia*. "We will work closely with our partners in the City Council to ensure this bill has maximum intended impact."

Opponents of the bill say that accepting people convicted of violent crimes poses a risk to the safety of other occupants of the building.

"Surprise, surprise...the New York City Council is drafting more laws to protect criminals and place the lives of law abiding citizens in harm's way," City Councilwoman Inna Vernikov (R) said on social media. "Make no mistake, if this bill passes, the safety of your families, your children, grandchildren, is at stake. If we allow this bill to pass, your landlord will not be allowed to check if the tenants moving next door to you have ever committed crimes, ever robbed, stabbed or murdered anyone."

"It's bad policy, to tell property owners that they can't investigate and vet who is going to be living in their property," City Councilman Kalman Yeger (D) told *Hamodia*.

Supporters of the bill say that criminals shouldn't be denied a second chance, and that not having access to housing can cause them to reoffend.

"The Fair Chance for Housing Act will help prevent discrimination against those who have been justice system involved, closing a loophole that consigns people with conviction histories to continued cycles of poverty, homelessness, and potential recidivism," Manhattan Borough President Mark Levine said in a statement. "We are in the midst of a housing crisis in New York City, and bold action must be taken to ensure that New Yorkers aren't unfairly prevented from finding housing."

Yeger says that the current system doesn't withhold a second chance from people who have made mistakes in the past.

"The idea that people deserve a second chance is valid," Yeger said. "but people need to know what second chance they're giving; it can't be a blank check."

"People deserve second chances," Vernikov told *Hamodia*. "but it's something that has to be evaluated depending on the crime and offense. The property owner needs to be given the option to make those decisions."

Some tenant advocacy groups say that requiring background checks is a flawed method of maintaining safety in housing units.

“There’s an assumption that background checks help keep people safe by assessing risk and giving information about who a person is – but this is false,” Sara Newman, Director of Organizing for the Open Hearts Initiative, a member of the Fair Chance for Housing coalition, told *Hamodia*. “The fact is that there is no evidence that connects having a conviction with being a bad tenant.”

Newman says that people without convictions have been denied housing, due to errors in background checks. “The background check industry is largely unregulated. The prevalence of errors has been well-documented both by consumer advocates and through lawsuits.” Newman also alleges that the criminal justice system is “fundamentally racist,” and that as a result, “background checks can only serve as a proxy for a person’s race and whether they grew up in a neighborhood where there was heavy investment in law enforcement.”

Yeger says that the bill gives criminals a protected status which is normally associated with immutable characteristics.

“Criminal behavior is not a protected discriminatory class. If someone did a crime, the property owner has to decide...if it was 20 years ago, and it was a minor offense, they need to make that decision to allow people to come in,” Yeger said.

Yeger argues that legally, the responsibility to maintain the safety of a property falls on the landlord.

“Taking away a tool from the landlords is not just dangerous, but unfair, if we are to expect that they are going to abide by their obligations to keep their buildings safe,” he said.

Some draw parallels between the proposed bill and the Fair Chance Act of 2015, which restricts the ability of employers to deny hiring people if they have a criminal record.

“Years ago, we passed a law to give people a Fair Chance at employment, and it’s past time they had a Fair Chance at housing,” Williams said in a statement. “This battle is occurring in a city with growing housing and homelessness crises, which are further compounded if you are a returning resident determined to be a productive member of the city.”

The Fair Chance act, passed in 2015, only prevented employers from factoring in criminal records in interviews; once a person is offered a position, an employer is permitted to view their criminal record and write an explanation to the city as to why a given conviction would impact the applicant’s ability to perform their job. In the housing bill, no such options are offered.

Yeger says that in the past, even when a majority of councilmembers have supported a bill, “when there’s enough pushback from individual councilmembers’ constituencies, they have changed their position.”

Vernikov says that people should tell their friends and family who live in other districts to contact their councilmember, and urge them to vote “no” on the proposed bill.

Ed Klein, a real state developer, says that the proposed law would not only grant a second chance, but would grant an infinite number of chances, as no distinction is made in the bill between a one-time offender and a career criminal who has been in prison multiple times. He also says that a nuanced law, which would differentiate between non-violent and violent crimes, was never brought up, because "if they had an interest in negotiating with us, they would have done so," Klein told *Hamodia*. "They're just interested in getting their agenda pushed...if they want to sit down with the real estate organizations, and negotiate that, then there's something that we can discuss, but they haven't indicated any interest of doing that."

"It's my way or the highway...public safety has no meaning to them."

Click [HERE](#) to submit testimony regarding the bill, and select the December 8 hearing of the Committee on Civil and Human Rights hearing at 10AM.

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