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**The City of New York  
Community Board 8 Manhattan  
Housing Committee**  
Wednesday April 24, 2019, 6:30 PM  
*New York Blood Center – Auditorium*

*Please note: The resolutions contained in the committee minutes are recommendations submitted by the committee chair to the Community Board. At the monthly full board meeting, the resolutions are discussed and voted upon by all members of Community Board 8 Manhattan.*

**Minutes**

**Resolutions for Approval**

**Item 2: Unanimous**

**CB8 members present:** Barbara Chocky\*, Alexandra Harrington\*, Ed Hartzog\*, Rebecca Lamorte\*, Rita Popper\*, Kim Selway^, Marco Tamayo, Will Brightbill (District Manager)

**Members of the Public:** Jenna Klaus (Councilman Keith Powers), Faith Fraser, Terry Grace, Sara Hale-Stern (Senator Liz Krueger), Cynthia Harris, Pete Harrison (Housing Justice for All), Oksana Mironova (Community Service Society of NY), Jack Robbins (Assemblywoman Rebecca Seawright)

**Unexcused Absence:** Lorraine Johnson\*, Bessie Schachter^\*

**Excused Absence:** Peggy Price\*

\*Housing Committee member

^Public Member

The Meeting was called to order at 6:35 p.m. and the first item on the agenda was considered.

**1. Presentation by Pete Harrison of the Housing Justice for All Campaign on Universal Rent Control.**

The Committee had two guests, the first was Peter Harrison – an organizer with the Housing Justice for All Campaign which is led by the Upstate Downstate Housing Alliance: a coalition of tenants, homeless people, manufactured housing residents, and advocates. The second was Oksana Mironova, from the Community Service Society of New York (“CSS”) and the author of a new report entitled, “A Guide to Rent Regulation in New York City – How it works, what went wrong, and how to fix it.” They each gave us an overview of their work and research.

Oksana Mironova began with a general overview of the rental market in New York City which has 966,000 apartments that are classified as rent stabilized – including 22,000 that are rent controlled, primarily in buildings with six or more apartments built before 1974. These units are 45% of the rental market and are regulated under a legal framework outlined by the 1974 Emergency Tenant Protection Act (ETPA), which will sunset in June of this year.

Out of the 966,000 rent regulated apartments, 365,000 are occupied by low-income individuals – defined as below 200% of the federal poverty line which is \$40,000 for a family of 3. The 22,000 rent controlled units are largely occupied by low-income seniors who have lived in these apartments since 1971. This entire group of tenants is bigger than all of the people living in NYCHA and in privately subsidized housing. It was noted that rent regulation is not a subsidy – rather, it is a legal framework as opposed to a “benefit” given out by the government.

Over the past 25 years the City and State have weakened the laws for rent regulated apartments. According to CSS’s research, the city has lost 291,000 rent stabilized units since 1994, not counting those that were simply lost as a result of landlords not registering them with the New York State Department of Homes and Community Renewal (HCR).

The loss of affordable apartments can be traced to the passage of several laws by the State Legislature and the City Council. Beginning in 1994 the City Council approved a bill that let landlords deregulate apartments that reached \$2,000 in monthly rent upon vacancy. In 1997 the State adopted the city’s policy and further weakened things by introducing the vacancy bonus and narrowed the window of time a tenant has to challenge an illegal rent increase. According to the CSS this resulted in the cumulative loss of 43,642 apartments – from 1994.

To be sure, the “vacancy bonus” allows landlords to increase rents by about 20% when a new tenant rents a stabilized apartment. In a previous report the CSS found that vacancy bonuses contributed to 48% of total rent increases in rent stabilized apartments between 2011 and 2014.

In 2003, the state legislature made preferential rents temporary and revocable during a resident’s tenancy, thus allowing landlords to bypass annual rent guidelines. Preferential rents allow landlords to register a rent with HCR that is higher than the actual rent paid. While seemingly beneficial to tenants, preferential rents are a Trojan horse. Because landlords can revoke a preferential rent when a lease comes up for renewal, tenants are no longer protected from sudden rent increases.

According to advocates, tenants often pay closer attention to the preferential rent they are paying compared to the legal rent registered with HCR. As a result, landlords are able to illegally inflate the registered rents. The number of apartments with preferential rents increased 62 in 2000 to 266,279 in 2015. By 2017, 31% of all rent stabilized leases had preferential rents. CSS estimates that the cumulative effect of this change makes 118,113 lost apartments since 1994.

In 2011 the high rent vacancy deregulation threshold was raised to \$2,500 and again in 2015 to \$2,700 when it was pegged to Rent Guidelines Board (RGB) guidelines. The cumulative loss when added to the previous laws is estimated at 276,777, as of 2015.

While the RGB sets annual rent adjustments for all rent stabilized apartment in New York City, the CSS argues that the recent relatively low increases over the past few years have not translated to

reasonable rent increases for all rent stabilized tenants because of loopholes with the rent laws that allow landlords to raise rents above the guidelines.

In addition to two of the loopholes previously mentioned – “preferential rents” and “vacancy bonuses” – there is the major capital improvement (“MCI”) and individual apartment improvements (“IAI”) loophole, respectively.

The MCI loophole allows landlords to raise rents beyond allowable guidelines to incentivize and pay for building wide improvements, like boiler or roof replacements. While landlords have to submit documentation of conducted work, invoice padding and other types of fraud are rampant due to weak HCR enforcement capacity.

The IAI loophole allows landlords to increase rents in individual units to incentivize apartment renovations that go beyond regular maintenance. HCR approval is not required for IAIs, which introduces an easily exploitable opportunity for fraud. These improvements usually occur when tenants move out and do not include things like painting, but would include something like new cabinets or a new security system for the building.

While there has been an overall loss of rent regulated apartments since 1974 it was noted that the overall housing stock is not static and that the following building and apartment types enter rent stabilization: pre-1974 Mitchell Lama rentals that have lost their affordability protections; rent controlled apartment and legally converted industrial lofts; buildings that receive certain types of tax incentives, including 421-a, J-51, 421g, 421c, and Article 11 – generally they stay regulated for the life of the incentive.

On the other hand, apartments can exit rent regulation when: the rent reaches \$2,733 upon tenant vacancy; the rent reaches \$2,733 and the household income is higher than \$200,000; the building converts to a condo or co-op (upon vacancy of tenant); the building is substantially renovated (gutted and substantial building systems replaced) or converted to commercial/professional use; a temporary tax incentive (421a, J-51, 421g, 421c, and Article 11) expires; the building is condemned, demolished, or permanently removed from the market in some other way.

The CSS recommends the following to the state legislature: (1) repeal vacancy decontrol, to stop the rapid loss of rent stabilized units; (2) make preferential rents last for the duration of the tenancy, to extend the protections of rent stabilization – predictable rent adjustments and security of tenure – to the 266,000 renter households who have preferential leases; (3) repeal the vacancy bonus, and reform MCI and IAI processes, which drive up regulated rents above the annual rent guidelines, are highly susceptible to fraud, and, when combined with preferential rents and vacancy decontrol, encourage harassment and displacement; (4) remove geographic restriction in the 1974 Emergency Tenant Protection Act (ETPA), to give all new York State municipalities the choice to opt in to rent regulation; and, (5) pass a statewide just cause law to extend security of tenure to unregulated and month-to-month tenants in New York City and across the state. To be maximally effective, the statute should have an enforceable unconscionable rent increase clause.

With this information as background, the committee turned to the second item on the agenda – the pending rent regulation legislation pending in Albany.

## **2. Discussion of new proposed rent regulations.**

Pete Harrison from Housing Justice for All (“HJFA”) campaign spoke next about the advocacy work he and others are doing surrounding the expiration of the EPTA in June and the legislative agenda the Upstate Downstate Housing Alliance is pushing the Legislature to pass before the session ends.

He noted that half of all New Yorkers rent their homes and that there are 8 million renters in the state with only 2.5 million people having any type of protection. In addition, half of all renters are “rent burdened” – meaning they pay 50% of their income or more in rent. In Community District 8, 33% of residents are “burdened.” In New York, 100 families are evicted and made homeless every day.

The alliance has a series of bills they have been lobbying and organizing around for the past 18 months. It was noted that California had Prop 10 last year – a local rent control initiative – and the real estate industry spent \$80 million to defeat it.

The nine (9) bills the alliance is advocating for would according to them:

**Remove geographic restrictions in the ETPA (S5040/A7946):** The ETPA of 1974 allows local municipalities to opt into rent stabilization in the event of a local housing emergency. Under rent stabilization, landlords are subject to regulated and rent increases and tenants benefit from the right to a renewal lease. However, only municipalities in Nassau, Westchester, and Rockland counties and New York City are eligible to opt in to renters’ rights. This geographic restriction should be stricken from the ETPA so that renters across the State can fight to bring rent controls to their communities.

**Pass new “good cause” eviction legislation to bring renters’ rights to unregulated tenants, including those in smaller buildings and in manufactured home communities (S2892/A5030):** Rent stabilization only applies to buildings with 6 or more units. More and more, smaller buildings are being bought up by large corporate landlords, and tenants who live in them face escalating rents and displacement. In gentrifying parts of New York City, like East New York and Bushwick, the housing stock is overwhelmingly smaller buildings, and in formerly regulated buildings most tenants have no protections. As the housing affordability crisis seeps out of New York City and into the suburbs, it is imperative that we bring rent relief to smaller buildings and market tenants as these residents increasingly come under threat of displacement. Good cause eviction would bring a right to a renewal lease and limited rent increases set by a local price index.

**Make preferential rents permanent (S2845/A4349):** Liz Krueger is the prime sponsor of this legislation in the Senate. A preferential rent is a discounted rent that tenants pay when the legally registered rent (which may incorporate illegal rent hikes) exceeds the actual market value of the apartment. But when tenants renew their leases, landlords can revert to the higher rent, leading to sudden and massive rent hikes. These rent hikes, often hundreds of dollars, accelerate gentrification by forcing tenants to give up their homes and move. Some landlords use this “bait-and-switch” tactic to oust tenants quickly to reap the benefits of vacancy bonuses. Some 266,000 families in New York City have preferential rents, as do thousands more in the three suburban counties – meaning that they may be one lease away from an eviction. This bill mandates that landlords renew rent stabilized leases with increases, if any, based upon the existing rent level the tenant pays.

**Eliminate the vacancy bonus (S185/A2351):** Under rent stabilization, landlords receive a 20% “statutory vacancy bonus” every time an apartment turns over. This bonus gives landlords a big incentive to harass and evict long-term tenants from the place they’ve called home for years. The preferential rent loophole and the eviction bonus are often used together. With these two enactments,

the legislature created an outright scam that is victimizing tenants and destroying housing affordability, especially in low-income communities of color and opened the wound that has led to the bleeding of thousands of units from the system.

**Eliminate rent hikes caused by major capital improvements (S3693/A6322) and individual apartment increases (S3770/A6465):** Under our current system, landlords that upgrade building systems and individual apartment finishes are able to pass the costs of those repairs on to tenants forever. However, many of these building systems repairs are necessary after the years of neglect, and landlords often overstate the costs and extent of renovations. We would ban landlords from passing the costs of maintaining and upgrading their investments onto tenants.

**End vacancy decontrol (S2591/A1198):** Under vacancy deregulation, landlords are able to take apartments out of rent regulation when the existing tenant leaves. Rent stabilization should be permanent, if vacancy decontrol is not repealed, the entire rent and eviction protection system will be phased out over time – a windfall for landlords and a catastrophic loss for tenants.

**Reform the Four Year Look Back Period (S4169/A5251):** The rent regulation system relies on tenants to enforce the law. So, if a landlord flouts the law and overcharges tenants, it is up to the tenant to complain and pursue a case against the landlord. Currently tenants have four years to make a complaint. However, this harsh rule has led to massive amounts of fraud being given legal status because tenants did not complain at the right time. This bill reforms the system by changing the look back period to six years and providing exceptions to the rule so that tenants can hold landlords accountable to following the law.

**Rent control relief (S299/A167):** Right now, New York has two system of rent regulation: rent stabilization, which impacts the majority of rent regulated tenants, and rent control, which applies to about 30,000 people. Under the “Maximum Base Rent” system for rent control, tenants can face up to a 7.5% rent increase annually – much higher than the yearly adjustments for rent stabilized tenants. Our current system is confusing and arbitrary. This bill would bring rent control increases in line with the standard RGB increases.

The Assembly’s Standing Committee on Housing is scheduled to hold a hearing, on May 2<sup>nd</sup>, “to examine the current status of rent-regulated housing and the changes needed for the safeguarding of this critical housing stock and the New Yorkers it houses.” The hearing will begin at 11 a.m. and continue until 5 p.m. for the day session and, re-convene at 6 p.m. until the witness list is completed, for the evening session. It will be held in the Assembly Hearing Room #1923 on the 19<sup>th</sup> Floor at 250 Broadway.

In addition, the coalition is organizing a big lobbying day for May 14 that will coincide with their “Tenant Tuesdays” campaign on twitter. The committee was fortunate enough to have Sarra Hale-Stern from State Senator Liz Krueger’s office in the audience to give us an update on the Senator’s position and thoughts on the pending legislation.

To begin, the Senator supports 8 of the 9 bills being advocated for by the alliance – the only exception is the bill involving MCI and it seems it is more of a technical legal issue. Overall the senator believes that it is important to get all 9 bills passed. With respect to the local elected officials in Albany there is not universal consensus on that point.

Specifically, Assemblywoman Rebecca Seawright supports all 9 of the bills as does State Senator Jose Serrano. Assemblyman Dan Quart supports 5 of the 9 bills, but does not support the MCI, ETPA or the Good Cause Eviction bills. Assemblyman Robert Rodriguez does not support any of the bills.

In the follow-up discussion, Rita Popper noted that most homeless families are from market rate units and the number one cause for their homelessness was not being able to afford the rent increase. Rebecca Lamorte inquired about any bills that protect tenant associations. Specifically, those groups that may express dissatisfaction with their landlord and the members then finding out that their leases are not renewed. There was no specific bill addressing that issue.

The Committee was advised that three boards in Manhattan had already passed resolutions supporting the package of pending legislation. The members then reviewed the three resolutions from Community Boards 6, 9 and 11, respectively, and agreed to use the resolution from Community Board 9 as a template. The following resolution was proposed and considered:

**WHEREAS**, Manhattan Community District 8 currently faces severe trends of tenant harassment, escalating rents, and decreasing housing affordability under current rent regulations; and

**WHEREAS**, The Association for Housing and Neighborhood Development (AHND) put together a chart in 2019 entitled, “How is Affordable Housing threatened in your neighborhood?” (Chart) that assessed several “vulnerable” and “risk” factors for every neighborhood in New York City; and

**WHEREAS**, according to ANHD’s 2019 Chart, Community District 8 ranks among the top 10 neighborhoods in the City for income stratification and the number of DRIE or SCRIE recipients (1,716) – and is in the top 20 for the number of rent-stabilized apartments (20,146) and at-risk HUD subsidized units (353), for the years 2019-23 – giving the neighborhood an overall “threats to affordable housing” score of 8, which puts Community District 8 among the top 35 most threatened in the City; and

**WHEREAS**, Manhattan Community Board 8 believes that a housing emergency exists in Manhattan Community District 8 and in New York City requiring extraordinary measures be taken to protect tenants and ensure the right of all New Yorkers to safe and Affordable housing; and

**WHEREAS**, the laws governing rent stabilized leases set forth in the Emergency Tenant Protection Act (hereafter “the rent regulations”) are set to expire in June of this year; and

**WHEREAS**, many provisions currently in the rent regulations create loopholes that incentivize landlords in Manhattan Community District 8 and throughout the City to harass tenants through illegal construction, baseless eviction proceedings, and other means in order to eventually remove housing units from rent stabilization and lease them at market rents significantly higher than those permitted by rent stabilization;

**THEREFORE, BE IT RESOLVED THAT**, Manhattan Community Board 8 urges the State Assembly Members and State Senators to support the following bills:

1. End vacancy decontrol, removing the incentive for landlords to harass rent tenants with the goal of removing the unit from rent stabilization entirely (S259/A1198)

2. Make preferential rents permanent, so that a tenant that signs a lease on a rent stabilized apartment with a rent below the legal maximum will only see their rent increase in line with the rate approved by the Rent Guidelines Board (S2845/A4349)
3. Eliminate the vacancy bonus that allows landlords to increase rents in rent stabilized units by 20% every time a tenant moves out – which currently incentivizes landlords to harass out tenants (S185/A2351)
4. Eliminate rent hikes caused by major capital improvements and roll back permanent rent hikes caused by major capital improvements within the last 7 years (S3693/A4401)
5. Eliminate rent hikes caused by individual apartment improvements (S3770/A6465)
6. Rent control relief to bring increases in rent controlled apartment rents in-line with those set by the Rent Guidelines Board for rent stabilized apartments (S299/A167)
7. Pass new “good cause” eviction legislation to bring renters rights to tenants in smaller buildings and in manufactured home communities by guaranteeing that good tenants have a right to lease renewals (S2892/A5030)
8. Expand the statute of limitations allowing a tenant to sue for rent overcharges from 4 years to 6 years: S0280
9. Initiate a 5-year moratorium on the dissolution of a Mitchell-Lama rental: A05130
10. Expand the Emergency Tenant Protection Act to areas outside of New York City and the three suburban counties, allowing localities to opt-in to rent regulations
11. Give Tenant Associations of Mitchell-Lama co-ops federally-subsidized housing, or limited dividend corporations the right of first refusal to purchase their buildings in event of a sale: S01922

After discussion, the Committee passed the Resolution 7-0-0-0 (Yes – Barbara Chocky\*, Alexandra Harrington\*, Ed Hartzog\*, Rebecca Lamorte\*, Rita Popper\*, Marco Tamayo) – Public Member – (Yes – Selway^)

### **Old Business**

On the subject of Old Business, Marco Tamayo raised the question of where the affordable units were for the buildings at 62<sup>nd</sup> Street & Second Avenue and, 63<sup>rd</sup> Street & Third Avenue.  
There was no other old business.

### **New Business.**

Under New Business, Rebecca Lamorte brought up the recently opened lottery for the building at 1766 and 1768 Second Avenue. She indicated that there were questions regarding a “poor door” or separate entrances for the affordable units in the mixed-use building at that site. It was noted that these buildings had come before the committee before and that the regulations regarding poor doors might not have been changed at the point when the buildings were approved.

There was no other new business and the meeting was adjourned at 8:30 p.m.

**Barbara Chocky and Ed Hartzog, Co-Chairs**