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**The City of New York
Community Board 8 Manhattan
Small Business Committee
Tuesday, February 20, 2024 – 6:30pm
This meeting was conducted via Zoom**

MINUTES

Board Members Present: Bill Angelos, Gayle Baron, Michele Birnbaum, Alida Camp, Valerie Mason, Rita Popper, Barbara Rudder, Cos Spagnoletti and Judy Schneider.

Approximate Number of Public Attendees: 65

The Board Chair, Valerie Mason, introduced Comptroller Brad Lander to discuss the question of commercial rent control.

Comptroller Lander began by noting that the issue of rent control for small businesses is a critical issue affecting the city's economy and state of small businesses.

NYC small businesses are critical to making its neighborhoods special, where residents are able to know mom + pop business owners, as well as making neighborhoods different. But it's difficult to run a small business. Rents are high although the market is similar in different neighborhoods, for example, the Upper East Side. The shift to online shopping, even before the pandemic, made local shopping more difficult. The shift to banks and drug stores are retail businesses but don't make profit by selling what's in the store. The retail branches are like giant ATMs, allowing them to pay much higher rent. Pharmacies make more profits on prescriptions than the retail items sold.

Comptroller Lander and then Manhattan Borough President Gale Brewer worked on a zoning issue which provided special zoning on the Upper West Side, which meant fewer banks and pharmacies, but didn't help other businesses. The pandemic hurt businesses during lockdown, but the shift to remote working has also changed the small business landscape. In 2021-2022, the outer boroughs experienced unprecedented small business openings because of more local residents working remotely.

But in Manhattan, we are not back to small business levels from before the pandemic. In places such as with Class C office buildings, rents are not dropped because of the way financing is structured. Financing is not based on renting to small mom + pops.

NYC needs to address long-standing issues surrounding small businesses. Lander supported the Small Business Job Survival Act when he was in the City Council. He did not support an earlier version, which had constitutional issues. Then Council Member Stephen Levin introduced a bill that did not guarantee automatic renewal and arbitration. It regulated how much rent would go up each year based on decision by a panel. Not requiring arbitration and lease renewal meant businesses would be protected but would not violate the Constitution.

The act was restricted to certain size spaces to protect small businesses that have a hard time in high-rent neighborhoods. He would like to see the same legislation considered by the current city council, or other things that would make it easier for small businesses to flourish. Although the city is rebounding, neighborhoods are not supported in the same way. Small businesses need to be supported in a way to enable them to thrive as essential to New York.

The Chairs began the Q+A discussion by asking a few questions.

- Q. How does the law of supply and demand affect small business and rents?
- A. Market forces enable certain rent decisions that present problems for neighborhoods. The neighborhoods face loss of the businesses that matter and empty storefronts while landlords wait to get higher rents from banks or pharmacies; price stability is important to neighborhoods and businesses. The amount of permitted increases will allow landlords to cover their own cost increases while providing stability and a vibrant streetscape to neighborhoods.
- Q. If there's no automatic renewal, what stops a landlord from refusing to renew and then renting to a higher-paying tenant?
- A. The increase on the rent would cover the new tenant. There would be no vacancy de-control, leading to less incentive to rent to a different higher-paying tenant.
- Q. Elimination of the 80-20 rule led to different tenants in co-ops. Is there anything the City could do? Not-for-profits are also charging higher rents. Is there an incentive to keep retail empty? Is there a way to enhance small business rentals by landlords?
- A. There is no incentive other than depreciation under federal tax law. There may be waiting for a great-credit tenant. There has been a suggestion that the City would give a tax benefit to those who rent to mom + pops at below-market rent, although it would be difficult to implement.
- Q. If a landlord has no incentive to rent the property, there is a reason the space remains empty. How would having rent control encourage him to rent it if there is a greater benefit to keeping it empty?
- A. There is no financial incentive to keeping property vacant other than federal tax policy.
- Q. Could the Comptroller look at removing the commercial rent tax in Manhattan, and why was REAP re-upped because businesses are moving out of Manhattan and the effect of Congestion Pricing on businesses staying in Manhattan?
- A. It makes sense to look at REAP. Local Manhattan elected officials have pushed back at commercial rent tax, and this is a moment to push to on commercial rent tax.

He'd be open to define small business in a certain way to relatively narrow the tailor law. We need a robust discussion on how to enable small businesses to have stability. The Comptroller will ask team to reevaluate. After COVID, work-from-home has changed things. He appreciates challenges commercial landlords face.

Evelin Collado from the Comptroller's office briefly discussed the different bills: [The Small Business Jobs Survival Bill](#), [Council Member Levin's 2019 Bill](#).

It was noted that stores remain lighted and the streets cleaned, while vacant spaces don't. Bills would need to be reintroduced to be active.

Evelin from Comptroller Lander's office suggested lobbying Oswald Feliz, Chair of the Small Business Committee, to see how he feels about commercial rent control. Post-pandemic revitalization bills have addressed some of the issues separately. Different views are being put forward that may make it easier to move legislation forward.

Would temporary rent control be more likely to withstand scrutiny than permanent? This may not encourage landlords to charge reasonable rents. Elimination of the arbitration clause reduced opposition to the bill.

A member of the public noted that the commercial rent control bill put forward by Ruth Messinger in 1986 is still waiting to go to committee.

It was suggested that the SBJSA with a right to renew would encourage businesses to invest in their businesses and begin retail businesses, while also reminding us that there are services, manufacturing, arts and other types of businesses in addition to retail.

A founding member of the Music Workers Alliance noted that Diana Ayala introduced a version of the SBJSA in the last council session in 2022 with 25 co-sponsors. However, rent stabilization is felt superior because of the SBJSA's arbitration clause, which may not protect all businesses equally. There is an interest in an equitable landscape. Recently, a 70-year-old pork store (since closed), and both a 50-year old and another 20-year old business had rent increased dramatically.

Another member of the public noted that there is a requirement for street-level retail, but new developments bring in large retail. She suggested examining how we could work with the new developments to put small retail spaces in their new, large street-level spaces.

Vanishing New York website has information about former districts, such as the flower district and other small retail.

A Board member noted that on 86th Street, there was a zoning change for larger windows, suggesting that zoning changes may make it more likely for small businesses to thrive. She reminded us that a zone for certain small businesses in the neighborhood may be effective in reviving the streetscape, noting though, that the devil is in the details. She suggested that an exit strategy must be included in any legislation because rent control has allegedly hurt communities.

If prices go up as a result of congestion pricing, how will business' survival be affected?

What are other reasons that rent is not reduced? One other reason may be that landlords' lenders will not allow lowered rent. The ratio of loan to value is affected.

Manhattan is the last borough to recover. The other boroughs have incentives, Manhattan has not had subsidies. In fact, the commercial rent tax which applies to CD8 may dissuade businesses from opening in areas subject to the tax. It was suggested that CB8 focus on eliminating the commercial rent tax.

A comment was that we should be very concerned about businesses leaving Manhattan, particularly because of the commercial rent tax and congestion pricing. This is an issue for those in CD8 who can't take public transportation. In addition, with additional costs from congestion pricing, shoppers may be driven to online shopping.

A suggestion was made for a loan-to-own program for business owners to own their spaces to enable them to compete with national retailers.

The Small Business Committee intends to continue looking at commercial rent control as well as other ways to help small businesses thrive.

The meeting was adjourned at 8:05.

Bill Angelos and Alida Camp, Co-Chairs