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**The City of New York
Community Board 8 Manhattan**

Small Business Committee

Thursday, December 19, 2024 – 6:30pm

This meeting was conducted via Zoom

Please note: The resolution contained in the committee minutes is a recommendation submitted by the committee co-chairs to the Community Board. At the monthly full board meeting, the resolution is discussed and voted upon by all members of Community Board 8 Manhattan.

Resolution for Approval:

Item 1: Calling on New York City to create a unit within the Small Business Services (SBS) or another agency to enforce rules and laws pertaining to tenant harassment.

MINUTES

Board Members Present: Bill Angelos, Gayle Baron, Michele Birnbaum, Alida Camp, Valerie Mason, Peggy Price, Barbara Rudder, Judy Schneider

Approximate Number of Public Attendees: 10

Item 1: Discussion of Strengthening Legal Safeguards Against Commercial Tenant Harassment. We welcome the United for Small Business NYC's (USBNYC) Balanda Joachin, Campaign Organizer from the Association for Neighborhood & Housing Development (ANHD), and Abigail Ellman, Director of Planning and Development, from Cooper Square Committee, Small Business Services (SBS); Assistant Commissioner, Government Navigation and Regulatory Reform Natasha D. Joseph and Council Member Oswald Feliz the chair of the New York City Council Small Business Committee on our panel.

Commercial tenant harassment was discussed.

Arianna Bond spoke briefly about USBNYC. She serves as program manager for community development at WHEDCO in the Bronx. USBNYC (United for Small Business NYC) is a coalition of community groups to protect small businesses from displacement. The program primarily serves owner-operated, low-income, and minority businesses. She noted the lack of data which would help identify bad landlords.

Brooklyn Legal Services assists small businesses with commercial leases and landlords, although services are transactional, not litigation. Their attorneys can negotiate with landlords over repairs and other commercial lease issues. Repairs and harassment have been significant issues for small business owners.

Allison Ellman of the Cooper Square Committee also spoke. Cooper Square is part of the consortium.

Gentrification is partially responsible for the harassment of small businesses. There has been little consideration of the effect and displacement of commercial tenants.

USBNYC was created in 2016 to look at commercial tenant displacement pressures. Although there exist the same pressures as for residential tenants, there are very few protections. They won to USBNYC pushed for the first anti-harassment law, 22-902, which gives a legal definition of commercial harassment and the right to sue. But there's a lack of enforcement and the difficulty in suing has led to non-utilization in courts.

The speakers mentioned various types of harassment, including changing locks, and neglecting repairs.

In 2023, about 1 in 5 commercial tenants reported harassment according to definition. Immigrants experienced more incidences of harassment.

Two small business owners spoke about their experiences.

There have been reports of business interruptions, hair salons boiling water to wash hair, and restaurants with no cooking gas. There are also triple net leases that don't benefit businesses who sign the leases because they are happy to have spaces.

There's a need for accountability from landlords for functional spaces, along with enforcing rules against harassment and more equity between landlords and commercial tenants. There's no agency that helps with small business harassment.

There is not much awareness of the anti-harassment law by small businesses.

Natasha Joseph of SBS noted that there is no anti-commercial harassment program. Only the commercial lease program may assist by helping businesses understand what is in the lease. The program is pre-litigation. They have heard of tenant harassment, but at the point where they hear about it, the dispute is in litigation, which SBS can't help with. The City does not collect data on commercial tenant harassment. SBS can help businesses get no-cost legal assistance. There is an SBS hotline that can help refer to other City agencies; there's a small business advisory commission that makes recommendations but is slow-going within the framework of the City's process. NYC Best, which helps business owners get correct permits and licenses and avoid fines, also connects small business owners to services.

Publicizing the rules against commercial tenant harassment was discussed.

A member of the public who represents landlords in leasing retail space, Gary Trock, expressed surprise that there has been harassment. His clients, large landlords, have not harassed tenants but he understands that commercial harassment may occur where landlords are more financially challenged in specific areas or with slum landlords. He suggested that tenants utilize City remedies in advance of actual problems. He also noted that bad landlords could use the legal system against commercial tenants. He further noted that contingencies such as the need for repair should be negotiated in the lease. He noted the challenging environments for small businesses, particularly when chains could afford to pay higher rent and invest in renovations to spaces.

With no agency charged with enforcement, it becomes difficult for commercial tenants to enforce rights.

Abigail Elliman responded that harassment occurs more frequently. Balanda Joachim noted the disparity between harassment in more affluent areas and areas that are gentrifying where chain stores are moving in.

Matt Bauer, from the Madison Avenue BID, commented that lease documents are critical but that the SBS team is invaluable in helping commercial tenants negotiate leases. He agreed that there needs to be more awareness of the City's services. Regulatory agencies and SBS boot camps are a significant resource, including the creation of an AI program available for questions 24 hours a day.

The question was raised about further education on commercial tenant harassment; SBS is open to programming on resources to discourage and prevent such harassment.

Board members reinforced the importance of seeking legal counsel in lease negotiation.

There was some discussion of landlord responsibility for COVID-related financial difficulties.

A discussion on possible enforcement of anti-harassment rules followed. A suggestion of businesses asking customers to contact local elected officials, looking for pro bono attorneys, and more education would help businesses.

Natasha from the SBS was asked about the possibility of a separate SBS enforcement division or harassment division. SBS is strictly educational. They have no enforcement capability. She recognized the necessity of reaching business owners earlier. A Board member asked about expanding SBS's responsibilities to include enforcement. One of the co-chairs asked whether SBS could determine whether small businesses are experiencing landlord harassment.

The Cooper Square Committee and Coalition supported the concept of getting tenants information and assistance prior to lease signing but questioned whether SBS could require notification to tenants about their rights. No agency, though, handles commercial leases in this manner.

The lack of information known to commercial tenants is an obstacle to more educated lease negotiations and potential avoidance of at least certain types of harassment or situations that are detrimental to commercial tenants. A City agency should be in charge, according to several comments, with that agency providing information to commercial tenants about legal rights and other resources that are available. There was a suggestion that small businesses could be alerted to possibly problematic lease provisions in advance of lease execution.

A suggestion was made to let the City know that CB8M has become aware of commercial tenant harassment and asking for a City agency to be responsible for assisting these tenants. Lease provisions are a concern because of clauses that seem fine when the lease is signed but then become very difficult for the commercial tenants. A suggestion was made to copy the conflict resolution mechanism, MEND that the City created for nightlife and any other small business disputes. OATH manages the MEND program, but Natasha noted that disputes may have gotten pretty far by the time they get to MEND.

A suggestion was made for the creation of a listserv administered by SBS, which specifies particular landlords that have harassed commercial tenants.

Natasha noted a commercial lease guide (and workbook) created by a vendor. The guide is accessible online. SBS refers to the guide and points business owners to resources but will bring to the Mayor suggestions to support business owners in advance of issues arising.

WHEREAS there are instances of commercial tenant harassment; and

WHEREAS there are specific rules and laws that prohibit tenant harassment; and

WHEREAS the City has no mechanism to enforce compliance with the anti-commercial tenant harassment; and

WHEREAS the City provides other types of support and resources for small businesses; and

WHEREAS the SBS has no power to enforce; and

WHEREAS without enforcement, there is no remedy for small businesses that have been subject to landlord harassment other than going to court; and

WHEREAS going through litigation to pursue a remedy against a harassing landlord could take years and cost upwards of \$100,000;

THEREFORE, BE IT RESOLVED Community Board 8 calls on the City to create a unit within the SBS or another agency to enforce rules and laws pertaining to tenant harassment.

Board Members Vote: ADOPTED by a vote of 6-1-1

Yes: Bill Angelos, Gayle Baron, Alida Camp, Peggy Price, Barbara Rudder, Judy Schneider

No: Michele Birnbaum

Abstain: Valerie Mason

Item 2: Old Business – None discussed.

Items 3: New Business – None discussed.

The meeting ended at approximately 8:17 pm.

Bill Angelos and Alida Camp, Co-Chairs