RENT STABILIZATION ASSOCIATION • 123 William Street • New York, NY 10038

HEARING OF THE
NEW YORK STATE ASSEMBLY COMMITTEE ON HOUSING
RELATING TO RENT-REGULATED HOUSING
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My name is Joe Strasburg and I am the President of the Rent Stabilization Association. Thank you for the opportunity to testify today. RSA's membership is comprised of 25,000 owners and managers of approximately one million apartments in the City of New York, 60% of whom own or manage twenty or fewer apartments. Our members have come to this City from every corner of the globe and speak every language. Our members, typically in conjunction with their extended family, purchased one small building to start on their own path of the American Dream.

In 1969, precisely 50 years ago, the City of New York established rent stabilization. That new rent regulatory system, which was placed on top of the already existing system of rent control, was supposed to provide yet another mechanism to address the housing emergency in the City. And over the next 50 years, numerous State and City laws and countless regulations moved these systems in one direction or the other, sometimes more favorably to tenants and sometimes more favorably towards owners. And after 50 years, on the eve of the expiration of the most recent rent laws, we are here again to consider what changes the Legislature should make to the current laws. After 50 years, it is safe to say that these laws have been a total and complete failure. It is time to re-consider a system which continues to require private property owners to confer public benefits upon tenants, without any means-testing whatsoever. After 50 years, there is no evidence that this regulatory framework has, in any manner, improved the supply of housing in the

City; rather, the rent laws have only served to make the situation worse. After 50 years, the people of this City deserve better.

After 50 years, no one can genuinely claim that the current framework is working. Certainly, neither of the parties most directly affected- owners and tenants- believe that the system is working. Economists and other academics do not believe the system is working. Nonetheless, the Legislature perpetuates a system that is at best flawed and, at worst, counter-productive. This is a system in which a tenant's means and needs are not factors in determining eligibility, as would be the case in any other system of publicly-conferred benefits. Rather, sheer happenstance- whether a tenant happens to live in a particular apartment in a particular building at a particular point in time- is rewarded, regardless of income.

But here we are, debating changes to this unworkable and unmanageable system. Due to its sheer breadth, scope and complexity, this system suffocates the good intentions of apartment building owners- both large and small- throughout the City. These are the ethnically and racially diverse owners who are the backbone of the City's housing stock, providing affordable housing without the benefit of the extraordinary subsidies that other affordable housing providers receive.

In anticipation of the impending sunset of the rent laws, radical proposals have been made in the State Legislature which would deprive owners of the revenue they need to maintain, operate and improve their buildings. These proposals would repeal vacancy deregulation, eliminate major capital improvement and individual apartment improvement rent increases, alter preferential rents and repeal or constrict vacancy allowances. Our specific comments with regard to those proposals are attached as an Appendix to this testimony. However, it is fair to say that each and every one of these proposals would be harmful to apartment building owners in their efforts to maintain and operate a housing stock which largely pre-dates World War II. If the worst-case scenario occurs and the Legislature enacts all of these proposals,

their cumulative impact upon apartment building owners, their buildings, and the tenants who reside in those buildings will be nothing short of devastating. You may think otherwise. You may not see that devastation in one year or two years. But ever so slowly and surely, the disinvestment will inevitably occur. We have seen that happen previously, most recently with NYCHA, and, most assuredly, we will see it happen again.

What makes this even more painful is that while owners will be punished, scapegoated for the larger problems confronting our City, low-income and moderate-income tenants will not benefit. Even if all of the measures that have been proposed would be enacted in their most extreme form, those tenants would not benefit one iota as they continue their daily struggle to pay their rent, put food on the table, and clothe their children. Instead, as the recent report by the Citizens Budget Commission demonstrates, these measures would further protect the wealthiest, not the poorest, of the regulated tenants. If these legislative proposals are enacted, the predicament of the poorest tenants will only worsen as the affordable housing stock deteriorates.

Who else gets harmed by these radical proposals? We can start with the diverse workforce whose labors result in new roofs, boilers, windows, facades and other building-wide improvements that are incentivized by MCI rent increases. DHCR reports that in the past five years alone, owners spent more than ONE BILLION DOLLARS on major capital improvements. Because of these improvements, this sector has successfully avoided what the City has created at buildings operated by NYCHA. No longer the model of publicly-provided housing it once was, NYCHA has become a national embarrassment, a symbol of neglect and disinvestment. Is this the experience the Legislature wants to replicate? This City and its residents deserve better.

The Assembly's legislative proposals are collectively directed at undermining the economics of apartment building ownership by placing significant additional limitations on the existing revenue constraints of the rent regulatory system. With the elimination of MCIs- as well as IAIs- not only will investments of this magnitude cease, but the ripple effects will be felt widely. Local contractors and laborers will suffer as the work dries up. Further, City property tax rolls will suffer, as the improvements which previously resulted in increased property values are no longer performed.

At a time when property taxes continue to drive increases in owners' costs, and at a time when the City has grown increasingly dependent upon those revenues, eliminating MCIs and IAIs will only worsen the City's financial posture as assessments and taxes decline. The reality, whether or not you choose to accept it, is that the residential real estate industry is one of the engines that powers the City's economy and forms the foundation of the City's tax collections that pay for the broad range of services the City provides. None of these proposals are supported by any independent economic analysis regarding the impact that the elimination of these income streams would have upon the housing stock. Instead, they represent a political judgment that places the housing stock at increased risk of failure.

At the end of the day, who really benefits from these radical proposals? Remarkably, it's the wealthier stabilized tenants who would benefit from eliminating luxury deregulation. DHCR data establishes that of the almost one million stabilized tenants, 242,000 have rents over $2000 and about half of that group pay $3000 or more. Are these the tenants that this system was intended to benefit, tenants that can afford to pay $36,000 or more per year in rent alone? Why would the Legislature even consider doing that instead of making a real difference for those who are struggling at the bottom?

Rather than placing affordable housing resources at risk, it is time for the Legislature to devise rent subsidy programs that are targeted to meet the needs of low-income and moderate-income residents of the City. These subsidies should be provided before, not after, those tenants need so-called "one-shot deals" to avoid their eviction in Housing Court. The most effective approach is not to deny owners the revenue they need but, instead, to insulate rent-burdened tenants from RGB and MCI rent increases by providing owners with corresponding abatements as an offset against their property taxes. This approach, known as the Tenant Rent Increase Exemption or TRIE, is inexplicably absent from the list of bills under consideration by the Legislature. This legislation would create rent increase exemptions for all rent-burdened, stabilized tenants with household incomes of less than $50,000 who use more than 50% of their income for rent. Remarkably, the State Assembly has failed in recent years to pass legislation- modeled on the existing SCRIE and DRIE programs- which has twice passed the State Senate UNANIMOUSLY- which would directly improve the lives of tenants who actually need support, as opposed to the wealthy tenants who would be protected by the repeal of luxury deregulation. Where are the supposed tenant advocates on this proposal? Why do we hear only silence? How could a proposal such as this one with unanimous, bipartisan support in the Senate not become the law of this State? And, in addition to this approach, other forms of subsidies should also be considered because now is the time to consider all reasonable options.

It is time for real solutions to real problems and not to simply repeat the mistakes of the past 50 years. And instead of treating apartment building owners as adversaries, it is time to let us be part of that solution. This City deserves better.

Thank you.

APPENDIX

To date, five areas of rent regulation have been the focus of legislative proposals, as follows:

1. The repeal of high rent deregulation.
2. Restriction or elimination of building-wide major capital improvements.
3. Restriction or elimination of individual apartment improvements.
4. The repeal of the preferential rent law.
5. Restriction or elimination of the statutory vacancy allowance.

High-Rent Deregulation: Repealing high-rent deregulation extends the benefits of rent regulations to the wealthiest tenants and doing so lacks any policy justification whatsoever. Notwithstanding popular belief, high-rent deregulation is not a new concept but existed for some time under the previous rent control system. It was re-established in 1993 and then took its current form in 1997. Since 1997, the Legislature has acted to protect increasingly wealthier tenants, raising the deregulation threshold from $2000 per month to nearly $2800 per month currently. Deregulation provides the one semblance of logic in an otherwise illogical system of rent regulation where there is no correlation between rent protections and a tenant's financial means. With the adoption of deregulation, the Legislature recognized that, at some point, the rents paid by tenants should not be regulated because of the financial means of the tenants who could afford such high rents and because of the high vacancy rates at those rent levels. The legal premise of the rent regulation system is based upon a housing emergency which the State Legislature determined should be predicated upon a 5% vacancy threshold. In the City, the vacancy rate for apartments with rents above $2000 per month is **7.42%**. With the rent threshold at nearly $3000, that means that the Legislature providing rent

protections for a tenant who can afford to pay **$36,000** a year in rent, if not more. And this is for a category of apartments where the vacancy rate at the rent level above $2500 is **8.74%**. At a time when more attention- and more public resources- should be dedicated towards assisting those in need, there is no justification for providing rent law protections to such wealthy tenants.

Major Capital Improvements: Transforming MCI rent increases into a temporary surcharge or, even worse, eliminating MCI rent increases altogether, would be nothing less than catastrophic. The need for new heating systems, roofs, facades, windows and other components of apartment buildings continue as capital improvements are required in a regulated housing stock where the typical building is 75 years old. These proposals completely ignore the fact that the current laws and regulations highly regulate the process by which rent increases can result from these improvements. Each building component is assigned a useful life in a schedule issued by DHCR, ensuring that these components are not replaced prematurely. To obtain rent increases for these improvements, owners must submit to DHCR lengthy, detailed applications detailing the work performed, the amounts paid, and other relevant information. Only after notice to the tenants, along with their opportunity to participate in the process, can a rent increase be approved, which is then subject to further challenges at the agency and in the courts. Even if approved by DHCR, the formula, as revised by the Legislature in 2015 to lengthen the amortization period (currently, 8 years for buildings with less than 36 units and 9 years for buildings with 36 or more units) minimizes the rental impact upon tenants; also, the amount of the rent increase is capped to minimize further the impact on the existing tenants. In addition, MCI rent increases are covered by various programs in which lower income tenants participate, such as SCRIE, DRIE and Section 8, so that the tenants most vulnerable to these increases are protected. The financial benefits of this work

to the City are enormous and cannot be overstated, with over $1 billion spent by owners on MCIs in the past five years alone. Eliminating MCI rent increases or converting them into temporary surcharges, would doom an essential program that has sustained an aging housing stock for decades.

Individual Apartment Improvements: Eliminating IAI rent increases would hinder the ability of regulated building owners to make the investments in their apartments upon the occurrence of vacancies. Given the average length of occupancy by a stabilized tenant- approximately 12 years, and given the increasingly competitive rental market, IAIs are the primary mechanism by which owners can keep their apartments habitable and marketable. While an owner, technically, can update kitchens and bathrooms during a tenant's occupancy, the tenant's consent is needed for the owner to increase the rent. As a result, these improvements typically occur upon vacancy. Owners often replace kitchens and bathrooms and make other improvements and increase the rent in accordance with the statutory formula ($1/40^{th}$ of the cost for buildings with less than 36 units; $1/60^{th}$ of the cost for buildings with 36 or more units). The fact that owners make these individual apartment improvements, as well as major capital improvements, is the reason why the United States Census Bureau reports that the housing stock is in the best overall condition since the Bureau started to track this data decades ago. As with MCIs, eliminating or curtailing IAI rent increases would substantially limit the ability of owners to maintain their buildings and would result in inferior living conditions for tenants.

Preferential Rents: Proposals to eliminate preferential rents would be harmful both to tenants and to owners. The rent paid by a tenant which is less than the amount the owner is legally allowed to charge is considered a preferential rent. Prior to 2003, on its own initiative and without any statutory authority, DHCR required that once an owner charged a preferential rent, the owner was prohibited from increasing

that rent by any amount other than by RGB and MCI increases. In other words, the owner was punished for charging the tenant less than what the owner legally could have charged the tenant. Ultimately, the courts invalidated this policy and, in 2003, the Legislature enacted the statute currently in effect. The use of preferential rents is now commonplace. In 2018, over **30%** of all rent stabilized leases- approximately **270,000 apartments**- involve a preferential rent. Charging a preferential rent allows owners and tenants to negotiate a rental amount which is mutually agreeable and allows owners to take note of an individual tenant's ability to pay a particular amount of rent at a particular point in time. This is, in fact, the ultimate goal envisioned for the rent stabilization system—a normal market in which the owner and tenant arrive upon a mutually agreeable rent. Tenant advocates regularly assert that preferential rents provide a mechanism whereby owners entice new tenants into signing vacancy leases only to evict them thereafter by raising the rent; the reality is that this is not the case. However, to address that concern, in 2015 the rent laws were amended so that the amount of a vacancy allowance increase was phased in after a preferential rent was charged, rather than the full 20% that would otherwise be allowed.

The facts speak for themselves:

1. **90%** of preferential rents in a given year remain preferential the following year
2. The median increase for renewal leases for tenants with preferential rents is just **1.8%**, bringing the median rent to **$1440**
3. For vacancy leases for a preferential rent apartment, the increase was just 7%, bringing the median rent to **$1850**
4. The median rent for all preferential rent apartments in 2017 was **$1499**.

Statutory Vacancy Allowance: Eliminating or limiting the statutory vacancy allowance would only serve to put more financial stress on regulated building

owners and flies in the face of why this allowance was enacted in the first place. The statutory vacancy allowance was enacted as part of the 1997 rent laws and reflected the fact that (a) due to political pressures, renewal lease increases authorized by the Rent Guidelines Board failed to compensate regulated owners for their actual increases in operating costs and (b) the rent increase resulting from the vacancy allowance would be borne by the next tenant in occupancy, who would be in the best position to determine whether the new rental amount was affordable to them. The necessity for the statutory vacancy allowance has never been greater, as stabilized rents in the City have effectively been frozen in the past few years due to the RGB's decisions either to approve either no increases or only nominal ones at best. In response to arguments by tenant advocates that regulated owners somehow abuse this rent increase mechanism, in 2011 the Legislature limited vacancy allowances to one per calendar year and, as noted above, where a preferential rent is charged on a vacancy lease, the statutory vacancy allowance is phased in over the following four years in the event of another vacancy during that time period.

Economic Impact on the City's Economy: The rent increase mechanisms discussed above all function in their individual ways to create an artificial economic construct that does two things: limit rent increases for tenants while also trying to ensure sufficient cash flow for owners to maintain and improve their properties.

But the effects of this system go far beyond the immediately affected tenants and owners to also affect the growth and vitality of New York City neighborhoods and its residents, as well as the overall health of the City's economy.

In 2018, for example, property owners spent **$13.3 billion** to maintain and improve rent stabilized properties, resulting in a total economic impact of **$22.4 billion**. To put this number into perspective, the economic activity resulting from expenditures by owners of rent stabilized property is equal to more than 25% of the

City's $72 billion budget for 2018, and includes **$3.7 billion** in real estate taxes paid directly to the City to hire police, firefighters and teachers.

Overall, owners of rent stabilized properties supported more than **180,000 jobs** in 2018 with an average salary of $62,300, which generated nearly $12 billion in total income. A majority of these jobs support neighborhood residents who are primarily people of color.

These facts and figures should make it clear that the rent stabilized housing industry is a critical engine powering the City's economy. This industry has maintained and improved the City's oldest housing stock, bringing living conditions to the best ever; it has been part and parcel of the revitalization of neighborhoods left derelict for decades; and it has provided tax revenue that has allowed the City to pursue initiatives that have made New York the most progressive city in the country.

This source of jobs, vitality and income is now threatened by dramatic changes, the consequences of which are, at best, uncertain and, at worst, catastrophic.

Rent regulations have been in place in New York City for more than 50 years and have undergone significant modifications over that time. But the radical proposals presently being considered would re-fashion the industry in an untried and unpredictable manner which threatens the economic vitality of the City, its buildings and its residents.

We welcome the opportunity to work together with the New York State Legislature to craft any necessary changes to the rent laws that will continue to meet the dual goals of protecting tenants while allowing apartment building owners to continue to provide quality, affordable housing.