



TESTIMONY OF THE RENT STABILIZATION ASSOCIATION TO THE JOINT  
OVERSIGHT HEARING OF THE COMMITTEE ON HOUSING AND BUILDINGS AND  
THE COMMITTEE ON JUSTICE SYSTEM IN RELATION TO THE POTENTIAL  
EVICTION CRISIS IN THE MIDST OF THE COVID-19 PANDEMIC

September 17, 2020

Thank you for this opportunity to testify on behalf of the 25,000 members of RSA who own or manage approximately one million apartments in the City of New York.

In this City Council oversight hearing in which the Council intends to address “the potential eviction crisis in the midst of the COVID-19 Pandemic,” it is essential that facts provide the basis of such an important discussion. Now more than ever, facts matter.

The first fact is that over the past several months, while the collection of residential and commercial rents has declined precipitously, our State and City legislators have, for all practical purposes, ignored the plight of property owners. The obligation to pay the City’s property taxes has remained unchanged. Mortgage payment obligations have remained unchanged. So, too, have been the obligation to pay for utilities, insurance, labor, repairs and improvements. Not a single one of those obligations has been altered or waived and the penalties for failing to comply remain as real today as they were before this awful pandemic struck this City months ago. Unlike the chorus of calls to cancel rent and to extend the eviction moratorium, not a single piece of legislation has been passed at the State or City level to address the simple economic reality that countless owners, both large and small, throughout the City are in financial jeopardy.

The second fact is that while the concerns of property owners have been ignored, we have seen unprecedented numbers of tenant protection measures adopted in the form of:

- Executive Orders issued by the Governor
- Administrative Orders issued by the Chief Administrative Judge of the State of New York, including the most recent Order prohibiting evictions until October 1
- Directives issued by the Administrative Judge of the Civil Court of the City of New York
- State legislation to enact the Tenant Safe Harbor Act
- State legislation to create a \$100 million COVID rent relief program administered by HCR
- City Council legislation to prohibit rent-related harassment of commercial and residential tenants and to eviscerate personal loan guarantees for various types of commercial leases
- Stimulus payments by the federal government of \$1200 for each adult with an income up to \$75,000 (or \$2400 for a two-earner household with an income up to \$150,000), plus \$500 per child,

- Unemployment compensation supplements (now expired) under the federal CARES Act of \$600 per week over and above State payments which, in New York, together total over \$1100 per week
- Eviction protections (now expired) under the federal CARES Act for tenants residing in federally-involved properties, including Section 8, low income housing tax credits and federally-insured mortgages
- A nationwide eviction moratorium ordered by the federal Centers for Disease Control effective through December 31 and applicable to all tenants with an income of \$99,000 (or \$198,000 for two-earner households) residing in any privately-owned housing.

The third fact is that in addition to all of the foregoing initiatives to assist and protect tenants, there is no shortage of tenant-assistance programs which pre-existed COVID-19. The City's \$150 million right to counsel program, overseen by HRA, is providing attorneys to thousands of otherwise unrepresented tenants in Housing Court. HRA's \$200 million one-shot deal program provides emergency rental assistance to thousands of tenants who cannot pay their rent, whether or not those tenants have been sued in Housing Court. The much-publicized effectiveness of these two programs- particularly the right to counsel- to significantly reduce the number of evictions before the pandemic are the same two programs that will help to ensure that there is no eviction crisis in the City going forward.

There are still yet other programs that are continuing to provide rental assistance during these difficult times. These include the 125,000 Section 8 voucher households in the City, in addition to the thousands of tenants in project-based Section 8 buildings. Further, thousands of tenants whose rents are already covered by HRA's various rental assistance programs continue to receive those benefits. Lastly, 75,000 SCRIE and DRIE tenants continue to receive their rent increase exemptions.

The fourth fact is that with regard to evictions themselves, the only way evictions can occur lawfully in this City is to obtain a judgment of possession and a warrant of eviction from the Housing Court. While the Housing Court is, nominally, open for business, the reality is that the re-opening process can best be described as glacial in nature. The following is our understanding of the status of cases in Housing Court, as follows:

- the Housing Court has not taken ANY action on ANY of the 165,000 *pro se* cases that were pending when the courts closed on March 17<sup>th</sup> and has not announced any plan to do so
- despite the near-hysteria that accompanied the re-opening of the Housing Court on June 22<sup>nd</sup>, only a relatively small number of cases- approximately 9,000- have been commenced since that time. Furthermore, the Housing Court has not taken ANY action on ANY of those cases and has not announced any plan to do so
- the Housing Court has, since late June, been holding virtual settlement conferences for the 35,000 pre-March 17<sup>th</sup> cases where both the owner and the tenant were represented by counsel; those conferences are being held at a frustratingly slow pace of approximately ten cases per judge per day
- the Housing Court has begun to hear trials in the past few weeks and the number of those cases are a relative handful

- while Housing Court will be authorized, in accordance with Chief Judge Lawrence Marks' recent Administrative Order, to begin to issue warrants as soon as October 1, the court's procedures have been modified to add a new requirement that an owner must first make an application to the court so that the court has the opportunity to ensure that an attorney is provided if the tenant is unrepresented. This will help to ensure that all possible alternatives, including the use of one-shot deals, have been considered prior to the issuance of a warrant. And while OCA's most recent Administrative Order does allow for the execution of warrants after October 1, the CDC's eviction moratorium will, inevitably, be raised by tenants in an effort to stay enforcement until after the expiration of the CDC order.

Given all of the measures taken at every level of government to assist and protect tenants, it is difficult to adequately convey the frustrations of property owners whose concerns are being consistently ignored by elected officials at every level of government. But make no mistake—unless our policy makers do more than just encourage and enable those calling, for example, for the cancelation of rent and closing of the housing court, foreclosures and abandonment will become a fact of life for property owners in the City. It is simple economics and it is inevitable unless legislators begin to address the multi-faceted complexities of this problem. And when owners lose their properties to the City or to their banks, both the City and tenants will suffer, as they suffered when foreclosures and abandonment were rampant in the 1960's, '70's and '80's. That is a fact. But it does not have to be this way.

We encourage the City and State to use this time to build upon and expand the mutually beneficial rental assistance programs which already exist, such as the State's new COVID rental assistance program, as well as one-shots, FHEPS, Section 8, and other such programs that recognize the value both in ensuring that renters remain in their homes and that property owners receive the rental income they need to maintain and operate their buildings. Furthermore, the City also needs to examine all of the innumerable financial and regulatory mandates it imposes on property owners and to allow for across-the-board extensions so that owners have the genuine ability to achieve compliance during these unprecedented and difficult times.

By broadening the discussion to include, rather than exclude property owners, the City, as well as the State, can create a unified and coordinated housing response to the pandemic and avoid the housing crisis that is otherwise destined to come.

Thank you.