

COMMENTS BY THE RENT STABILIZATION ASSOCIATION
IN RESPONSE TO REGULATIONS PROPOSED BY THE
MAYOR'S OFFICE OF SPECIAL ENFORCEMENT RELATING TO
ADVERTISING OF ILLEGAL SHORT-TERM RENTALS

December 19, 2016

On behalf of our 25,000 members who own or manage one million apartments in the City of New York, RSA submits these comments in response to the regulations proposed by the Mayor's Office of Special Enforcement relating to its enforcement of the recently enacted law (Chapter 396 of the laws of 2016) prohibiting advertising for illegal short-stay rentals.

The proposed regulations merely re-state provisions of the new law and, unfortunately, fail to address the primary concern of our members, the apartment building owners who have borne the brunt of the City's enforcement efforts to date. The primary concern of our members and, therefore, RSA's primary concern relates to whether the Mayor's Office of Special Enforcement actually will enforce the new law against tenants who place the prohibited ads for the illegal short-term rentals with various third parties, including but not limited to Airbnb, and not the owners themselves.

While already-existing State and City law authorized the City to issue violations against tenants who rent their units on a short-term basis, the City to date has pursued a policy of only issuing violations against apartment building owners. These are owners who have not, in any manner, authorized the illegal rentals. These are owners who have already been victimized by tenants who, often to the dismay and ire of their fellow tenants due to the comings-and-goings of transient occupants, profiteer at everyone else's expense. Keys to buildings are wantonly and repeatedly copied and distributed. The quality of life in the building declines. Income taxes on this revenue are not paid. One of the most notorious examples was the case of a tenant who reaped over \$100,000 annually in short-term rental income while, at the same time, receiving benefits through the Senior Citizen Rent Increase Exemption Program!

Historically, the City, under the guise of what it has characterized as "administrative convenience," has regularly issued violations against owners, subjecting them to penalties of \$1,000 per day. Owners who have alerted the City of illegal and unsafe short-term rentals have themselves received violations, instead of the law-violating tenants. Owners who have acted immediately to address illegal rentals of which they were unaware were punished despite their responsive actions in Housing Court. Our members have repeatedly reached out to us to intercede on their behalf because they were the innocent victims of the illegal conduct of their tenants. However, despite our discussions with the

Mayor's Office of Special Enforcement, the Department of Buildings and the Environmental Control Board, those efforts have been fruitless.

The new law makes clear that the person who places the ad for short-stay accommodations in violation of the law is the one who is subject to the law's civil penalties, which range between \$1,000 and \$7,500. To ensure that justice is properly served and that the intent of the State law is met, the proposed regulations should be amended so it is clear that when a tenant violates Chapter 396, the tenant and not the apartment building owner will receive the violation issued by the Mayor's Office of Special Enforcement and will be subject to the penalties as provided by law.