

RSA Reporter

WE HOUSE NEW YORK

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Mixed August Primary Results Stress Importance of November Election

General Election Set to Take Place in Two Months

After a major radical shift in New York State politics over the last five years, the tide could potentially be turning to a more moderate Legislature for the 2023 session.

As you may recall, the New York State Court of Appeals ruled in late April that Democratic leaders violated the State Constitution when they took it upon themselves to draw politically-motivated Congressional and State Senate district maps. This practice is commonly known as “gerrymandering.” As a result of the Court’s decision, the statewide primary election date, which was originally scheduled for June 28th, was split into two separate primary elections dates. Voters were able to vote on June 28th in primary elections for Governor and the State Assembly and most recently, voters were able to vote on August 23rd in primary elections for the State Senate and U.S. House of Representatives.

In addition to our constant advocacy work, RSA encouraged our members throughout the five boroughs, Long Island and the lower Hudson Valley to support moderate candidates in June and August. Despite a record-low turnout of voters in both primary elections, multiple moderate candidates for State Senate defeated progressive, anti-owner candidates and have moved on to the November general election. This included Nathalia Fernandez in the Bronx, Jessica Scarcella-Spanton in Staten Island, and Monica Martinez on Long Island. The Senate seat won by Assemblywoman Nathalia Fernandez is particularly important because that seat was held by outgoing Senator Alessandra Biaggi, a well-known socialist who unsuccessfully ran for Congress and is a staunch supporter of Good Cause Eviction.

However, there were a few anti-owner Senators who were able to successfully fight off moderate challengers, such as Senators Robert Jackson, Jabari Brisport, and Gustavo Rivera, who faced a tough and highly endorsed candidate in Miguelina Camilo. Furthermore, Kristen Gonzalez, an up-and-coming socialist and anti-owner candidate, defeated moderate former City Council Member Elizabeth Crowley for an open seat in Queens.

Although RSA was hopeful for better results in these Senate primary elections, the results do not drastically change the dynamic of the Senate as it is currently made up. However, the general election could potentially change that for the better. There are at least 10 other Senate seats throughout the State, which RSA is monitoring, that could potentially flip to a Republican candidate. If these elections were to play out this way, coupled with the addition of a handful of moderate Democrats, it would signal a major shift in the legislature that will allow RSA to once again effectively fight anti-owner proposals, as well as advocate for balanced legislation that will allow building owners to adequately invest in and improve their aging buildings and apartments.

That is why this year’s general election on November 8th is arguably the most important in recent memory. Over the next two months, RSA will outline particular races of note that could have a drastic impact on the makeup of the Legislature in 2023. Be on the lookout for updates via the *RSA Reporter* and our frequent email blasts. ■

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PRESIDENT'S MESSAGE



Joseph Strasburg

Election Results Could Shape the Future

If we learned anything from primary election results in June and August, it's that the general election this November is one of the most important in the history of the rental housing industry.

For decades, our industry was able to enjoy a positive and productive working relationship with all members of the Legislature, regardless of their political affiliation. With the rise of socialist, anti-owner political candidates over the last decade, the Legislature fully flipped in 2018 and has been controlled by lawmakers who will do anything in their power to harm affordable housing providers.

The passage of the Housing Stability and Tenant Protection Act of 2019 (HSTPA) was one of the lowest points in the history of rent-stabilization in New York City. Despite what the progressive politicians who crafted the legislation will tell you, their amendments to the laws have done more harm than good to both tenants and property owners over the last three years.

Regardless of what your personal political views may be, there is no question that over the last 18 months, progressive political policy ideas have received an immense amount of negative attention and many have questioned their effectiveness. Whether it's Good Cause Eviction, education, bail reform, or even the defund the police movement, the vast majority of New Yorkers are quickly seeing the negative consequences of these harmful policies.

In fact, the negative impact that the HSTPA is having on the City's aging rent-stabilized housing stock had such an influence on the City Rent Guidelines Board (RGB) this year that there was an urgency to approve the highest rent adjustments in nearly a decade. This was done in order to ensure that property owners have adequate funding to offset the HSTPA and ever-increasing building operating expenses. In just three short years, we have learned how important local elections are and how much of an impact they could have on our way of life. All of this makes the general election on November 8th one of

the most crucial in recent history. It has never been more important that we elect moderate and common-sense candidates to ensure that safe and sound policy is considered, particularly a fair balance of building owner and tenant needs.

Though it is true that a major statewide housing industry effort was successful in stopping the passage of Good Cause Eviction earlier this year, our work was certainly cut out for us. If RSA and other housing groups did not get involved as early as we did, we have no doubts that this terrible legislation would have passed. That just goes to show you how impactful or political advocacy is.

Despite a victory, we believe that Good Cause Eviction will resurface early in the 2023 legislative session. That is why as an industry, but most importantly as voters, we have the power to elect candidates that could potentially ensure that Good Cause Eviction will not be as big as a threat next year. Even more promising is that we have the power to elect candidates who will be more considerate of sound legislation that will be beneficial to both property owners and tenants.

Though we have two months until the election, RSA is already working around the clock and focusing on specific Senate and Assembly races throughout the entire state. In the next issue of the *RSA Reporter*, as well as through frequent updates via email blast, we will educate you on these races and how you could potentially get involved. In the meantime, we encourage voluntary donations to RSA's Political Action Committee (PAC) that will allow us to support all candidates who will fight for our industry needs.

For the first time in four years, we have a genuine opportunity to shape the direction of our state's politics for the better. The results of this November's election, will without question, determine the future of the City's aging housing stock and it is up to us, as an industry and as voters, to ensure that the best candidates are elected into office.

If you are not registered to vote, simply visit this website: <https://on.ny.gov/2YbDHw6> and learn how to become a registered voter in New York State. ■

Rent Stabilization Association ♦ 123 William Street New York, NY 10038-3804 ♦ <http://www.rsanyc.org> ♦ (212) 214-9200

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RSA Achievements Over the Last 12 Months (September 2021 – September 2022)

RSA has been able to secure numerous achievements for our members and the entire industry over the last year, despite rental property owners frequently targeted by anti-owner lawmakers in Albany and New York City.

Because the State Legislature and City Council are mostly controlled by anti-owner lawmakers, the perception is that

our voices have rarely been heard over the last few years. However, with decades of experience amongst RSA staff, as well as the engagement and storytelling by our membership, our hard work continues to pay off. Here are some examples of these major accomplishments:

1 **Successfully fought back misleading Good Cause Eviction legislation** by educating the general public about the negative consequences of the reckless policy, as well as advocating against the bill with various State lawmakers. Worked with and helped coordinate statewide coalition advocacy effort.

2 **Secured the highest rent adjustment since 2013** after providing critical data and research to the Rent Guidelines Board (RGB) and rallying RSA members to tell their stories to the Board during public testimony.

3 **Sued New York State and obtained an order from the Supreme Court of the United States (SCOTUS) staying implementation of an eviction moratorium** that deprived property owners of the right to a hearing in *Chrysfis v. Marks* (which continues to provide a legal basis to vacate Emergency Rent Relief Program [ERAP] stays where appropriate in housing court proceedings).

4 **Advocated for additional State funds** to replenish both the ERAP and Landlord Rental Assistance Program (LRAP).

5 **Worked with the State Office of Temporary and Disability Assistance (OTDA) to connect 6,959 RSA members with 30,423 open tenant ERAP applications** worth an estimated \$380 million in pending ERAP funds.

6 **Defeated City Council bill Intro. 2047**, which would have prohibited building owners and property managers from performing criminal background checks on prospective tenants. Success here was a result of organizing diverse tenants as well as owners / managers (see page 6 for more information about this ongoing fight).

7 **Worked with various Council Members to modify a trio of fire safety bills** to ensure that building owner compliance and regulation education were prioritized rather than sharply increasing monetary penalties.

8 **Advocated the City Council to extend and amend various and onerous compliance requirements** with regard to Local Law 152 gas piping inspections.

9 **Worked with the City Department of Housing Preservation and Development (HPD) to provide important guidance to rental property owners** with regard to lead-based paint abatement, particularly for compliance requirements upon apartment turnover.

10 **Worked with the Department of Finance (DOF) to once again modify compliance requirements for the RPIE Rent Roll Addendum** and extend the filing deadline by two months.

11 **Helped shape public and policy discussions of building ownership through dozens of columns and stories in media platforms** including the Albany Times Union, New York Daily News, New York Post, ABC 7 New York, CBS 2 New York, Fox 5, NY1, Crain's New York Business, The Real Deal, Law 360, Bisnow, Brooklyn Daily Eagle, and more.

12 **Supported successful moderate candidates who believe in a balance of building owner and tenant needs** in the 2022 primary elections.

13 **Developed new RSA App for smartphones** (to be released this fall).

14 **Grew RSA Membership** with 312 new and returned members with over 20,000 apartments.



What to Know: Tenants Who May Refuse Lease Renewals Under RGB Order 54

Now that the Rent Guidelines Board (RGB) has set the highest rent adjustments since 2013, we have been hearing from our membership that certain tenants have been refusing to acknowledge receipt or sign lease renewals with these higher increases, in a ploy to avoid a rent increase for as long as they can. Therefore, it is very important that you offer the rent-stabilized lease renewals in a proper, legally compliant manner, so that if a tenant refuses to sign a properly offered lease renewal, you have recourse.

Here are some tips from RSA on how to proceed in these situations:

1. **You must make sure that the offered lease renewal contains the correct information.** In order for a lease renewal offer to be considered proper, it must contain the correct dates for the commencement and expiration dates, as well as the correct amounts listed for the legal regulated rent and any increases. Additionally, if there is a preferential rent on prior leases or renewals, you must continue to offer a preferential rent. The address and apartment should be written correctly, as well as all rent-stabilized tenants of record named on the lease. Any omission or errors in these key terms can render the lease renewal offer defective.
2. **You must use the proper form.** A renewal lease offer to a rent-stabilized tenant must be made using the most recent RTP-8 form provided by HCR (RSA can provide new lease renewal forms to our members). It is important to note that last year's renewal lease form should no longer be used, as there is a footnote regarding RGB Order 53 (regarding a 0% increase for the first six months of a one-year renewal term) that no longer applies to any lease renewals commencing on or after October 1, 2022 or after. Additionally, along with the RPT-8 form, the owner is also required to include a copy of the HCR Lease Rider (within New York City) or HCR Lease Addenda (outside of New York City) that can also be found either through HCR or on RSA's website at <https://bit.ly/3OuPioF>. This rider/addenda summarizes the rights and obligations under rent stabilization for both building owners and tenants. (Please note, most of the information to be filled out on the Rider/Addenda is not applicable to lease renewals.)

3. **You must make a timely offer and have proof of proper service.** The renewal lease offer must be made to a tenant by mail or personal delivery not more than 150 days and not less than 90 days before the commencement date of the lease renewal. You should send two copies of the lease renewal, as you will want to make sure there are two originals once the lease renewal offer is fully executed. Although certified mail is not required in New York City (outside New York City, certified mail is required), it is important to be able to prove timely delivery in case it is ever contested by a tenant who is seeking not to pay any rent increase. Many of our members send a lease renewal and retain a "certificate of mailing" from the United States Post Office as proof that they sent the renewal lease offer on a particular date. The cost of obtaining a certificate of mailing is typically less than that of mailing something by certified mail and does not affect the delivery of the item or track delivery in any way (such as requiring a signature by the receiving party). Once you receive a signed lease renewal back from the tenant, make sure you execute the lease renewal and send a fully executed copy to the tenant (while also keeping a fully executed copy for yourself).
4. **What is my recourse if my tenant does not sign a lease renewal?** Unfortunately, if your tenant does not sign the lease renewal, outside of attempting to speak to them and resolve the issue extrajudicially, your only legal option is to bring a case against your tenant for their failure/refusal to renew the lease (after serving a 15-day notice terminating their tenancy for failure to execute a lease renewal). In order to prevail on such a case, you will have to prove that you sent a proper and timely renewal lease offer and that the tenant failed to sign it and return it. How long such a case will take, as well as whether the court will provide the tenant with the opportunity to cure by signing their lease renewal after you have proven your case, should be factors you consider before commencing such an action.

If you have any additional questions or concerns, please contact an RSA counselor at **(212) 214-9200**. ■

RSA MEMBERSHIP MEETING ONLINE VIA ZOOM **Wednesday, September 28, 2022 at 2:15PM**

Join us for our next virtual membership meeting! All paid RSA members are welcome to attend. Please call **212-214-9243** or via email at mrodriguez@rsanyc.org to register. Once you have registered with your RSA member number, the Zoom meeting ID and password will be sent to you via email. Please be advised that this is a private meeting for dues-paid RSA members **ONLY**.

Owners Encouraged to Stay on Top of Tenant SCRIE/DRIE Renewals

The City Department of Finance (DOF) has asked RSA to notify our membership about senior citizen or disabled tenants in their buildings who may have not renewed critical rent increase exemption benefits.

As RSA continues to put pressure on lawmakers to support rent subsidies and vouchers for all income-insecure tenants, DOF is seeking assistance from our members who may have tenants who participate in the Senior Citizens Rent Increase Exemption (SCRIE) or Disability Increase Exemption (DRIE) programs. According to DOF, letters have been sent over the last few months to SCRIE/DRIE participants to ensure that they renew their rent freeze program benefits. However, DOF has stated that thousands of participants have either not renewed their benefits, or have sent in the application for renewal but have not included specific documentation.

If you have tenants in your building(s) who participate in either SCRIE or DRIE, we encourage you to reach out to them to ensure that their paperwork was completed to renew their rent freeze benefits. Continued participation in SCRIE or DRIE is helpful to both you and your qualified tenants. If you have tenants who may qualify for either SCRIE or DRIE, but do not currently participate, we also recommend that you educate them about the benefits of the available programs and encourage them to apply.

If your participating tenants have not received the renewal forms from DOF, we urge you to download, print, and provide these forms directly to them, or email them the link to the forms. For the SCRIE renewal forms, please visit <https://on.nyc.gov/3bC76tl>. For the DRIE renewal forms, please visit the website: <https://on.nyc.gov/3BQmAov>. ■

Criminal Background Check Bill Resurfaces at City Council

Despite a major industrywide victory last year to defeat the City Council's controversial criminal background check bill, a group of newly elected Council Members have decided to re-introduce the bill and make it a top priority this fall.

As you may recall, RSA spearheaded a major effort late last year to defeat former City Council Member Stephen Levin's Intro. 2047. The bill would have prohibited owners and managers from performing criminal background checks on prospective tenants in rentals, leases, subleases, or occupancy agreements in New York City. The legislation would have had a serious negative impact on rental properties and on the safety of tenants who already live in your building(s).

In the final months of 2021, thousands of building owners and their tenants called and emailed nearly all 51 Council Members and pressed them about the potential consequences that such legislation would have. Furthermore, RSA led a major public relations effort that highlighted the dangers of the proposed bill to the general public. This effort resulted in dozens of Council Members removing their support from the bill, ultimately preventing it from passing.

Now, Manhattan Council Member Keith Powers has introduced **Intro. 632**, which is the same exact bill with no amendments to address any concerns made by building owners, co-op and condo owners, and tenants. Because this version of the bill is a replica of the last, it is obvious that Council leadership has decided to resuscitate the bill because of the support they expect to receive from over two-dozen new, more progressive Council Members that

were sworn into office in January.

Although the bill was introduced over the summer, the proposed legislation is not expected to receive a hearing at the Council Committee on Civil and Human Rights until at least the beginning of the fall. Once a hearing date is set, we will notify you via email and we encourage you to register to testify at the hearing. In the meantime, it is not too early for RSA and our membership to once again push back against the bill.

As a result of the Council's reluctance to address major safety concerns, it is incumbent upon our entire industry, both building owners and tenants, to continue fighting against this controversial legislation. Last year, RSA's VoterVoice efforts against Intro. 2047 played an integral role in our ability to defeat the legislation. We have now re-vamped our VoterVoice campaign against this bill and we encourage you to reach out to your local Council Member by participating. VoterVoice has updated its software to ensure that all messages are received by all new Council Members in every district. We also urge you to share this link with your tenants, friends, family, and neighbors who live in any of the five boroughs. We will frequently send out email reminders with the VoterVoice campaign, but you can also access it by visiting the website: <https://bit.ly/3JUT7eX>.

We will keep you apprised of all developments with regard to this legislation, as well as what you can do to participate in our efforts to ensure that it does not pass. ■