

RSA Reporter

WE HOUSE NEW YORK

November 2022 | VOL. 41 ISSUE 10

November Elections: What to Know & Who to Know About

Results of General Election Will Have Huge Impact on Real Estate

It is no secret that the outcome of this year's statewide & legislative general elections will play a major role in how housing policy is shaped for the foreseeable future, so it is incumbent upon our membership to educate yourselves on some critical races before you vote on November 8th.

RSA has always respected the political beliefs of our membership. We have never told our members where to align politically. However, we regularly inform our members about elected officials and political candidates who are respectful of policy measures that provide a fair balance to both building owners and tenants.

These are some of the major statewide races to keep an eye on in New York City, Westchester, Long Island, Putnam, and other areas. Although there are other races that RSA is monitoring and have been involved in, the outcome of those particular races are all but assumed at this juncture (based on various reasons). With regard to the Senate races, please be advised that these Senate district numbers are the new districts that will be in effect as of January 2023 as a result of recent redistricting:

Governor of New York

Incumbent Democrat Governor **Kathy Hochul** will face Republican Congressman **Lee Zeldin**. Governor Hochul was sworn into office in August 2021 following the resignation of former Governor Andrew Cuomo. During her time in office, Governor Hochul has shown the potential of being an anti-owner Governor. However, knowing that she would have to fend off both moderate and progressive challengers in the primary election in June, Governor Hochul was very careful in terms of taking

positions on certain housing policy measures, such as Good Cause Eviction. Although she was able to successfully advocate for an additional \$800 million in State funds to replenish the Emergency Rent Relief Program (ERAP), Governor Hochul repeatedly called for extensive eviction protections until the moratorium finally lapsed in January after two years. If elected to at least one full term as Governor, RSA anticipates that radical left lawmakers would pressure her into considering or enacting proposals that will be harmful to our industry.

Because he has primarily focused his campaign on public safety and economic issues, Congressman Zeldin has not taken any real positions on statewide housing policy while campaigning for Governor. However, RSA has developed a great working relationship with the former State Senator over the years and knows that he has publicly supported policy that is helpful to the City's affordable housing providers. For months, Zeldin was considered a longshot to become Governor, but has been able to close a large gap in the polls heading into November.

Senate District 5 (Huntington, Oyster Bay, Glen Cove)

Incumbent Democrat John Brooks will face Republican Steven Rhoads. As a Nassau County Legislator, Rhoads has consistently supported homeowner and property owners.

Senate District 6 (Uniondale, East Meadow, Levittown, Bethpage)

Incumbent Democrat Kevin Thomas will face Republican James Coll.

(Continued on Page 3...)

IN THIS ISSUE:

- 1 November Elections: What to Know & Who to Know About
- 2 President's Message

INSIDE RSA

- 4 The RSA App: Are You and Your Tenants Utilizing its Great Features?
- 4 RSA Blasts Borough Presidents' Housing Court Proposal

CITY & STATE ROUNDUP

- 6 Additional Funds Permits OTDA to Process Thousands of ERAP Applications
- 7 Agreement Reached to Change Garbage Pick Up Schedule

- 8 Council Enacts Bill Requiring Additional Commercial Vacancy Data

- 8 Bedbug Data Reporting Period Commences Soon

- 9 HCR Increases Air Conditioner Surcharge

- 10 Public Relations Campaign for Constitutional Lawsuit Ramps Up

- 11 Local Law 97 Proposed Rules Released by Department of Buildings

IN THE COURTS

- 12 Appellate Court Rules in Favor of Owner Against HCR

- 16 Calendar of Events

PRESIDENT'S MESSAGE



Joseph Strasburg

Vote!

The current national and local political landscape can oftentimes be overwhelming and exhausting, but without sounding like a broken record, I cannot stress enough how critical this year's statewide elections are for the immediate and distant future for the City's affordable housing providers.

The results of the 2018 statewide elections were a tough pill to swallow. We knew that anti-owner policy changes were on the horizon after radical and progressive candidates were elected in both the Senate and Assembly. Ultimately, the Housing Stability and Tenant Protection Act of 2019 (HSTPA) was passed in June 2019 and our industry has not been the same since.

On top of the HSTPA, the COVID-19 pandemic, record inflation, ever-increasing energy prices, and the two-year-long eviction moratorium, have exposed decades of failed policy that have hampered the ability of owners of the City's aging housing stock from providing safe and adequate apartments for their tenants. The only way to achieve real changes and sound policy solutions that help both property owners and tenants is to elect candidates who share this same sentiment.

There is often a terrible perception that RSA and other property owner groups only support Republican candidates for office. In the past, it seemed as if only Republican candidates agreed with fair housing policy. Now, failed policy decisions by far-left and radical Democrats over the last five years have assisted in the emergence of more moderate Democrats who believe in sound housing policy proposals.

This has allowed RSA to develop positive working relationships with candidates on both sides of the political spectrum. These candidates, whether Democrat or Republican, have seen how poor housing policy has negatively impacted the owners of the City's aging affordable housing stock. When these building owners are limited in their ability to provide adequate living conditions, it is ultimately their tenants who pay the price.

That is what makes this year's statewide elections so unique. You don't

have to vote right down the ballot for one particular party. You simply have to vote for the best candidate who will fight for fair housing policy. But this does make educating yourselves about particular Gubernatorial, Senate, and Assembly races equally as important as voting. The worst thing you can do is go into your voting location without knowing who you are voting for or what policies they support.

On pages 1 and 3, you will see particular statewide elections that RSA has kept a close eye on over the course of the year. These new districts will be in effect when the winner of each race takes office in January. In addition to the details that we have provided you, it is crucial that you educate yourself on each candidate if you live in one of these particular districts. Not only it is important to know where each candidate stands on housing policy, but equally as important to know where they stand on other various policy measures that could impact how you operate your businesses.

In the December issue of the *RSA Reporter*, we will detail the outcome of the statewide elections, as well as how they could impact RSA's legislative agenda in 2023. In the meantime, get out and vote!

RSA's Annual Safety Notice Service Now Open

Notices and worksheets have been mailed out for **2023 RSA Annual Safety Notice Service (ASNS)**. Over the last few years, new City regulations have added additional compliance requirements and RSA is proud to offer all the latest requirements of fire safety, lead paint, window guard and stove knob notices in one easy process.

As one of our many in-house services that we proudly offer, we take tremendous pride in our ASNS and I encourage you all to take advantage this year. Whether you've continuously used our ASNS over the years, or would like to start using it again, our service is unlike any other.

If you have never used the RSA ASNS, or if you have in the past but have been using a different vendor recently, call RSA at (212) 214-9200 and ask about our special "welcome back rates" and quantity discounts based on number of units. For additional information about RSA's ASNS, as well as the latest compliance requirements, *please see page 5.* ■

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

Disclaimer: Every effort is made to provide accurate and up-to-date information in RSA publications and bulletins. However, information or advice provided in these publications should not be taken as legal opinions. Always consult your attorney when in doubt. The *RSA Reporter* is intended for the exclusive use of RSA members. This publication may not be reproduced, in whole or in part, without the written permission of the RSA. The RSA welcomes comments, suggestions and questions from its members.

Editor: Vito Signorile **Production:** Christine Chu. Copyright 2022, Rent Stabilization Association of N.Y.C., Inc., 123 William Street, NY, NY 10038.

The *RSA Reporter* (ISSN #1089-9375) is published monthly (except August) by the Rent Stabilization Association of N.Y.C., Inc., 123 William Street, New York, NY 10038-3804. Periodicals postage paid at New York, NY.
POSTMASTER: Send address changes to The *RSA Reporter*, 123 William Street, 12th Floor, New York, NY 10038-3804.

November Elections: What to Know & Who to Know About

(Continued From Cover ...)

Senate District 7 (Great Neck, Lake Success, Roslyn, Port Washington)

Incumbent Democrat Anna Kaplan will face Republican Jack Martins. Martins served in the State Senate between 2011-2016. While serving in the Senate, Martins was a strong and reliable proponent of fair housing policy for both building owners and tenants.

Senate District 9 (Rockville Centre, East Rockaway, Lynbrook, Long Beach)

Democrat Kenneth Moore will face Republican Patricia Canzoneri-Fitzpatrick. This seat is now vacant after the resignation of Democrat Todd Kaminsky who announced in February that he would not seek re-election, and then left to become a lobbyist. Canzoneri-Fitzpatrick is running a campaign predominantly focused on public safety, respect for law enforcement, and combatting crushing real estate taxes. She has expressed support for broadly balanced housing policy.

Senate District 11 (Whitestone, College Point, Bayside, Auburndale)

Incumbent Democrat Toby Ann Stavisky will face Republican Stefano Forte. Senator Stavisky is an avid supporter of Good Cause Eviction and is a co-sponsor of the bill. Republican Forte has been a frequent and enthusiastic supporter of building owners and managers, most recently speaking at an ERAP and Housing Court protest in front of Governor Hochul's office demanding more money and fairness.

Senate District 23 (Northern Staten Island, Coney Island, Brighton Beach)

Democrat Jessica Scarcella-Spanton will be facing Republican Joseph Tirone. The seat is held by Senator Diane Savino, who announced late in 2021 that she would not be seeking re-election. Scarcella-Spanton, who has worked on Senator Savino's staff, is a strong supporter of balanced housing policy, just as Senator Savino was throughout her 17-year tenure in office.

Senate District 38 (Rockland County, Slootsburg, Ossining, Briarcliff Manor)

Incumbent Democrat Elijah Reichlin-Melnick faces Republican William Weber Jr.

Senate District 39 (Newburgh, Southern Dutchess County, Western Putnam County)

Democrat Julie Shiroishi will face Republican Robert Rolison. Part of Shiroishi's campaign has been focused on policy similar

to Good Cause Eviction provisions, focused on limiting rent increases and providing additional eviction protections.

Senate District 40 (Eastern Putnam County, Northern Westchester, Stony Point)

Incumbent Democrat Peter Harckham will face Republican challenger Gina Arena. Senator Harckham is no stranger to supporting anti-owner policy. He supported extending the statewide eviction moratorium and has also expressed some support for Good Cause Eviction.

Senate District 41 (Northern Dutchess, Columbia County, Greene County, Eastern Ulster County)

Incumbent Republican Sue Serino will face Democrat challenger Michelle Hinchey. Senator Serino has been fair on policy supporting small property owners. Senator Hinchey, who currently represents the 46th Senate District, is running in the 41st District after this year's redistricting. Hinchey has also been supportive of fair housing policy, having refused to support radical Good Cause Eviction.

Senate District 42 (Vast Majority of Orange County)

Incumbent Senator James Skoufis will face Republican challenger Dorey Houle. Please be advised that under current district lines, Senator Skoufis is the Senate representative for the 39th District. However, this year's redistricting process has placed him in what will be the newly redrawn 42nd. Senator Skoufis has been a strong supporter of fair and balanced housing policy and RSA has developed a positive working relationship with him.

Although there are dozens of Assembly races that RSA has closely monitored throughout the year, there are far too many to list as there are a total of 150 seats in the State's lower house. Voters must take the same position on their local Assembly Member as they are for their local Senator. We encourage you to take all necessary measures to educate yourselves about the candidates in your district, particularly if there is an incumbent running for re-election. It is equally important to learn about the policy positions of your current Assembly Member as it is for their challenger.

To learn more about your poll site for this year's election, particularly if you live outside of New York City, visit <https://voterlookup.elections.ny.gov/>. If you live and vote in the five boroughs, visit <https://vote.nyc/> to not only learn more about your poll site, but to also obtain a sample ballot to learn who is running in the Senate and Assembly races in your district. ■

Agreement Reached to Change Garbage Pick Up Schedule

Mayor Strikes Deal with Union Officials

The controversial plan to change the garbage pick-up times throughout the five boroughs could potentially come into fruition after the original proposal was amended to accommodate building employees.

By way of background, DSNY representatives contacted RSA over the summer to discuss a proposed change to the City's garbage removal requirements for property owners in an attempt to curb the growing rodent problem within the City. Although property owners, building managers, and staff, are currently permitted to place refuse bags and trash containers at curbside beginning at 4:00 p.m. the day before scheduled pick up, DSNY has been hoping to change that time to 8:00 p.m., unless garbage is placed in a can or a bin, which could then be placed curbside no earlier than 6:00 p.m. At that point, DSNY vowed to accommodate the pick-up time changes by increasing the number of employees on the midnight shift so that garbage is picked up sooner.

In addition to discussing the proposal with RSA, DSNY and members of Mayor Eric Adams' administration had reached out to other relevant sectors of the industry who would be impacted by this change, particularly unions such as 32BJ SEIU. All parties believe that the City's proposal would be an incredibly difficult one to accommodate administratively for property owners and their staff. As a result, Mayor Adams' administration and DSNY continued to get pushback after several follow-up meetings over the course of the last two months. Despite the lukewarm response, DSNY and the Mayor's staff committed to working with the rental housing industry to work on a plan that would be most suitable for building owners and union workers.

However, in a surprising move, Mayor Adams and 32BJ SEIU announced in mid-October that a deal had been made to move forward with the Mayor's goal of curbing the City's rodent population and limiting the presence of garbage on sidewalks. The following are the proposed changes:

1. those using receptacles with tight-fitting lids, such as receptacles containing solid waste and recyclables may be placed at the curb for collection by DSNY no earlier than 6:00 p.m. on the day before their scheduled collection. Those using bags may place out their materials at the curb for collection by DSNY no earlier than 8:00 p.m. on the day before their scheduled collection.
2. DSNY also proposes to create an enrollment-based multi-unit building collection program for owners of buildings that contain nine or more dwelling units. This program will allow approved buildings with on-site maintenance or janitorial staff to set out waste for collection between 4:00

a.m. and 7:00 a.m. on the day of collection rather than after 6:00 p.m. (if in a container with a lid) or 8:00 p.m. the night before collection. This will provide flexibility to building staff in terms of changes to scheduled shifts necessary to implement this rule change. To enroll in this program, a building owner or managing agent would have to submit an application directly to DSNY. If approved, each enrolled building would be automatically renewed on an annual basis unless the owner or managing agent opts out.

According to 32BJ SEIU, the proposal for the morning opt-in program was critical in gaining the union's support as it better aligns with existing shift times for building staff and provides more flexibility. DSNY Commissioner Jessica Tisch said that the agency will develop new routes that are tailored to service the buildings that have opted to participate in the multi-unit program.

Mayor Adams and DSNY hope to fully implement the changes to the garbage pick-up times by the spring. However, there will be an upcoming public comment period and RSA is currently in the midst of dissecting the proposed changes to determine what is best for our membership and all rental property owners. At a minimum, RSA remains concerned with the administrative component of these proposed changes, particularly with how DSNY will be able to supplement already-existing pick-up routes with new routes for buildings that will be enrolled in the multi-unit program.

DSNY will host this virtual public hearing via Webex on Friday, November 18th at 9:30 a.m. Not only will RSA be commenting on the proposed rules, but we encourage our members to do the same, especially if the proposed changes negatively impact you and/or your building staff. If you are interested, you must register to speak by November 17th at 5:00 p.m. by emailing mliguori@dsny.nyc.gov. Registered speakers will be provided with three minutes of time to testify. Once registered, confirmation will be provided with instructions on how to testify during the hearing.

You may also submit comments to DSNY through the NYC rules website at <http://rules.cityofnewyork.us>, or, you can email written testimony to nycrules@dsny.nyc.gov. Please provide written comments no later than November 18th. You can also mail written comments to DSNY, 125 Worth Street, Room 710, New York, NY 10013.

We will keep you apprised of all developments with regard to these proposed changes. ■

Bedbug Data Reporting Period Commences Soon

The annual bedbug infestation reporting period through the City Department of Housing Preservation and Development (HPD) will soon begin and property owners must comply with the filing requirements.

The upcoming filing period for **Local Law 69 of 2017** will require infestation histories between **November 1, 2021** and **October 31, 2022**. Then, from **December 1, 2022** through **December 31, 2022**, owners must electronically file the bedbug infestation history for this 12-month period for their apartments through an HPD web application available online. Please be advised that electronic filing is still required even when there is no reported bedbug activity in a dwelling unit. Furthermore, pursuant to the law, HPD will make the submitted information publicly available online.

You can find the application portal and additional information on the law on the Bedbugs landing page at <https://on.nyc.gov/3DJGwam>. Please be aware that the online application will only allow validly registered property owners and managing agents to disclose bedbug infestation history. A building's property registration must be *current*. If your building was not properly registered by August 31, 2022, please visit <https://on.nyc.gov/1nJZl2V> in order to do so.

The following information must be reported to HPD when filing:

1. The number of dwelling units in a building(s)
2. The number of dwelling units, as reported or otherwise

known to the owner, that had a bedbug infestation during the previous year

3. The number of dwelling units, as reported or otherwise known to the owner, in which eradication measures were employed during the previous year for any bedbug infestations
4. The number of dwelling units reported in number 3 that had a bedbug infestation after such eradication measure were employed in such units.

When submitting, the owner must certify that either:

- A copy of the electronic form will be distributed to each tenant of the building upon each lease renewal or the commencement of a new lease issued; **or**
- A copy of such form will be posted in a prominent location within the building within 60 days of the filing and that the owner will maintain a record that a copy of such form was prominently posted within 60 days of the filing of the information with HPD.

In addition, owners must also either distribute or post a brochure (in a prominent location in the building) that provides information about the prevention, detection, and removal of bedbugs. The notice can be found on the City Department of Health and Mental Hygiene (DOHMH) website at <https://on.nyc.gov/2FXK0x3>. ■

Council Enacts Bill Requiring Additional Commercial Vacancy Data

The City Council has passed legislation that will now require owners to provide additional registration information to the City Department of Finance (DOF).

Since 2020, the City's rental property owners have been required to file additional building information with DOF on top of the annual Real Property Income and Expense (RPIE) statement. This includes the RPIE Rent Roll Addendum, the Storefront Registry, and the Supplemental Storefront Registry.

These latest requirements have been onerous to building owners, but the City Council felt that these filing requirements were not enough. In mid-October, the City Council enacted **Intro. 383** from Council Member Gale Brewer. The bill was signed into law by Mayor Eric Adams and will go into effect April 1, 2023. The new law is theoretically a supplement to the Supplemental Storefront Registry, which as a reminder, requires class 2 building owners who register ground-floor or second-floor storefronts (Storefront Registry) to register storefront vacancies or building ownership changes that may have occurred between January 1st and June 30th of a calendar year.

Now, building owners who are required to file the Supplemental

Storefront Registry will be required to file this information twice per year. Supplemental registration statements must be filed by August 15th (for the period from January 1st through June 30th), and February 15th (for the period from July 1st through December 31st) each year, rather than a single filing on June 30th under the current law. It would also require that DOF releases this supplemental registration statement data within 60 days of the reporting deadline, rather than within six months under current law.

Council Member Brewer's goal was to increase the frequency and timeliness of reported data on commercial vacancies in the City. Although additional filing requirements will do nothing to address storefront vacancies throughout the five boroughs, DOF supported the legislation, believing it will help the agency accurately track short-and long-term vacancy trends in the City.

Owners who already filed the Supplemental Storefront Registry for 2022 will not have to file additional information for this year. Based on how the law was written, we anticipate that this dual-requirement will go into effect for the 2023 filing season.

We will keep you apprised of all developments ahead of next year's RPIE-filing season. ■

Local Law 97 Proposed Rules Released by Department of Buildings

Compliance Questions Still Remain with Deadlines Approaching

After months of anticipation, the City Department of Buildings (DOB) has finally released the proposed rules on how property owners should begin to comply with Local Law 97 of 2019.

At this juncture, it has been over three years since the City Council enacted Local Law 97 of 2019 as part of New York City's ambitious Climate Mobilization Act. The law created carbon emissions limits for most buildings 25,000 square feet or over. For owners of buildings that fall under DOB's Covered Buildings List, they must begin complying with various components of the law by the end of 2024 or face substantial fines. By the middle of 2022, building owners who were expected to begin making necessary conversions in their buildings in order to comply with Local Law 97 still had no guidance from the City with the 2024 deadline looming.

On October 6th, DOB finally released the proposed rules on how property owners should begin to comply with Local Law 97, including how to calculate a building's energy use and emission limits and how owners can offset emissions through renewable energy credits. The problem with the proposed rules is that they have created more questions than actually provided real answers for building owners who need to begin the compliance process. In particular, many questions remain over exemptions, as well as to what extent residential building owners can use renewable energy credits to offset their emissions.

One particular area of note is that DOB says owners of buildings with 35 percent rent-stabilized units or more can push back compliance with the emissions caps to 2026. However, the proposed rules have not detailed a clear process to apply for that exemption. With building owners potentially on the hook for non-compliance fines of \$268 per metric ton over the cap, there is obviously an urgency by thousands of building owners who would need to begin the costly conversion process.

The silver lining in the midst of all of the chaos surrounding Local Law 97 and its implementation is that Mayor Eric Adams

appears to understand the plight of building owners much more than his predecessor did. Although Mayor Adams has publicly supported enforcing Local Law 97 laws to expedite the elimination of greenhouse gases in New York City, the current administration, unlike the de Blasio administration, has shown a much more sympathetic tone with regard to the financial impact that compliance will have on building owners. As result, Mayor Adams believes that enforcing compliance penalties, particularly at the onset, is the wrong approach for building owners who are putting in a good-faith effort to comply with the law.

For our members who must comply with Local Law 97, we understand the frustration that you must have at this point as a result of City officials dragging their feet with the rule-setting process. However, it will still be some time before rules are finalized. RSA continues to thoroughly read through the proposed rules, which you may do as well by visiting <https://on.nyc.gov/3T15uFa>. DOB will hold a virtual public hearing on these rules on November 14th at 11:00 a.m. Not only will RSA testify, but we encourage you to testify as well.

Anyone who would like to comment on the proposed rules at the public hearing must register to speak. You can sign up by emailing dobrules@buildings.nyc.gov no later than November 7th. You can also submit written comments through the New York City rules website at <http://rules.cityofnewyork.us>, by email to dobrules@buildings.nyc.gov, or by mail to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.

We will keep you posted on additional developments, as well as clarification on the proposed rules, over the next few months. In the meantime, we urge you to check out the NYC Accelerator's dedicated page on Local Law 97 at <https://bit.ly/3DiCI2g>, which is available to assist building owners with law requirements, expert guidance on how to avoid fines, identify financial incentives and financing options, and connect to relevant service providers. ■