



**MEMORANDUM IN OPPOSITION**  
**A7057-A**

The Rent Stabilization Association of New York City represents 25,000 diverse owners and managers who collectively manage more than one million apartments in every neighborhood and community throughout New York City. This memorandum is submitted in opposition to the A7057-A, which would establish require landlords accommodate certain tenant organizing activities. The bill is overly broad in that it requires unfettered access to spaces without accounting for owners' rights and potential liabilities.

There is no practical necessity for owners and tenant organizations to confer. The rights and responsibilities of owners and tenants are specifically addressed in the rent regulatory statutes and regulations. Tenants and owners can enforce their respective rights through DHCR and Housing Court. There is no collective bargaining or other negotiation required between the parties. Any interaction between the owner and tenant association should continue to be voluntary.

The rights of tenant groups are protected under the current statute. This bill seeks to elevate tenant organizations rights to common areas over those of other tenants in the building by providing unfettered access. Common areas are and should remain under control of the owner with appropriate access and use provided for tenants. A private building should not be turned into a public square.

In establishing a right for tenant groups to nearly unfettered access to community or social rooms, this bill infringes on an owner's constitutional property rights, specifically the right to exclude. It is a physical taking in violation of the Fifth Amendment to require owners to provide access to private property; the Takings Clause of the Fifth Amendment establishes that private property shall not "be taken for public use, without just compensation." A foundational principal of United States property rights, this issue was recently addressed by the United States Supreme Court in *Cedar Point Nursery vs. Haddad*, a situation in which the state of California required farmers to grant access to private farmland to union organizers. The Court found that this California statute violated the Constitution because it appropriated the owner's right to exclude third parties," one of the most treasured rights" of property ownership. By granting access to third-party union organizers, even for a limited time, the regulation conferred a right to physically invade the property and thus constituted a physical taking. This bill proposes to do the same thing.

Further, this bill requires that an owner or representative attend a tenant's association meeting every six months or more frequently at the request of the tenant's association. This specific performance to appear through a legislative mandate violates the 13<sup>th</sup> Amendment.

In addition to the Constitutional violations, the bill ignores the potential legal liabilities an owner may face by having any number of outside guests invited onto the property by others. The bill

establishes that as long as the owner is given notice and there is no obstruction to the premises or facilities an owner must give access. It does not address issues such as insurance and who might be liable should, for example, an injury occur on premises. The owner should have the right to demand insurance coverage or obtain insurance and require tenant organizations to pay for it prior to a meeting occurring. The bill exposes landlords to liabilities for situations that they cannot control by guests they cannot exclude.

The intent of this bill is to provide tenant organizers an unfettered right to meet and organize. But in so doing it tramples on long-held rights and ignores potential legal liabilities.

For this reason, the RSA opposes A7057-A.