



MEMORANDUM IN OPPOSITION
A2883

The Rent Stabilization Association of New York City (“RSA”) represents approximately 25,000 diverse owners and managers who collectively manage more than one million apartments in every neighborhood and community throughout New York City. The RSA submits this memorandum in opposition to A2883, which would require advance document production and a certificate of merit be signed by an attorney representing property owners and managers in summary proceedings.

Currently, attorneys practicing in New York State are required to sign all papers served and/or filed in civil proceedings to certify that the pleadings and the statements of facts made therein are not frivolous, pursuant to Rule 130-1.1a of the Rules of the Chief Administrative Judge. This rule applies to summary proceedings already.

What this bill requires is more than such a certification; the bill requires that all documents relevant to the petitioner’s claim also be attached to the petition commencing this proceeding. However, the bill does not specify which documents must be attached, providing only the lease agreement as an example. As the bill does not outline which documents would be needed specifically but permits the Court to dismiss a case for failure to attach the necessary documents, it imposes an obligation that is nebulous, as it is impossible for property owners/managers to know which documents will be deemed “necessary” until a motion to dismiss has already been made. This requirement would also further exacerbate the delays and backlog in housing court, as property owners/managers who have their cases dismissed on this basis would have to bring them over again, potentially multiple times until the court has deemed this documentary submission requirement satisfied. Additionally, the requirement that all documents relevant to the petitioner’s claim be provided at the onset of a summary proceeding violates the statutory prohibition of discovery as of right in these types of cases; because a summary proceeding is supposed to be “summary” in nature, the litigation practice of “discovery”, i.e., exchanging probative documents prior to trial, is not permitted unless a court permits it in certain special circumstances. This bill would complicate, delay, and unduly burden property owners and managers who seek to avail themselves of relief from the housing court. It would also impact tenants adversely, with needless appearances and delays in their cases.

Finally, it should also be noted that no companion requirement for tenants or tenants’ counsel is provided in the bill, i.e., that an answer in the proceeding be accompanied with the documentary evidence needed to prove tenants’ defenses or counterclaims.

Accordingly, the RSA opposes A2883.