



**MEMORANDUM IN OPPOSITION
S 2015B/ A6276A**

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 S 2015B/A6276A, which would require owners seeking leave from DHCR to demolish their building to also demonstrate that they plan to construct a new building, and have the financial ability to complete such construction.

This bill appears to be a direct response to an Appellate Division First Department decision, *First NY LLC v. DHCR*, 208 AD3d 1095 (1st Dept 2022), where the Court reversed a DHCR order denying a landlord’s application for demolition, finding that DHCR’s requirement that the landlord must provide approved plans from the Department of Buildings for post-demolition planning and proof of segregated funds to complete the entire project was not supported by the RSC. The underlying question in this recent appellate case, now the question of numerous federal lawsuits challenging rent regulation including RSA’s lawsuit against New York State recently decided by the Second Circuit and with a petition pending for certiorari before SCOTUS, is whether, and to which extent, an owner of a rent stabilized building truly has the ability to exit rent regulation. In other words, is an owner subject to rent regulation forever and in perpetuity. This bill provides that DHCR retains jurisdiction over the project, including any subsequent construction, even if the demolition application is granted, a strong indication that New York State seeks to control what an owner does post-demolition, despite the fact that technically once the building is demolished, it no longer exists, and the owner should no longer be bound by rent regulation.

This bill would regulate post-demolition conduct as well as further limit an owner’s ability to demolish their building. As RSA’s counsel pointed out at argument before the Second Circuit, where the Rent Stabilization Law prevents an owner who wishes to leave the residential rental market from doing so, this amounts to a physical takings claim under the Constitution

Accordingly, the RSA opposes this bill.