

FOR THE RECORD



Asian Americans for Equality

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**New York City Council
Committee on Housing and Buildings
Hearing on Rent Regulated Housing
May 9, 2011**

Good afternoon. My name is Richard Lee, Public Policy and Legislative Advocate for Asian Americans for Equality (AAFE). I would like to thank the New York City Council for giving me this opportunity to speak on an issue that affects millions of New Yorkers.

AAFE is a thirty-seven year old organization committed to community service and empowerment, assisting immigrants, low-income families, and minorities throughout New York City. AAFE serves over 30,000 seniors, low-income and working families each year from all five boroughs of New York City, offering an array of programs that encompass the organization's comprehensive approach to community development, including affordable housing development, small business assistance, homeownership, immigration, housing, social, and legal services, access to technology, and public policy and advocacy.

Rent regulated housing is by far the largest source of affordable housing in New York. However, every year, hundreds of rent regulated housing units are lost through loopholes that allow predatory landlords to deregulate rent regulated housing. AAFE has witnessed several machinations of this trend, from landlords harassing tenants by refusing rent renewals and turning off heat and hot water, to landlords evicting tenants by posting fake Department of Buildings eviction notices.

At the heart of the weak rent regulation laws is the ability of landlords to deregulate units. The pervasive method of decontrol is to remove tenants through harassment and raising rents, utilizing the loopholes in the Major Capital Improvements laws to raise the rents past \$2,000. In the Lower East Side and Chinatown, we are witnessing a new trend of deregulation. Landlords are taking advantage of the demolition loophole of the rent regulation system which exempts landlords from replacing any demolished rent regulated housing by intentionally neglecting critical repairs in order to evict the tenants and demolish the building, opening up a path of unbridled development for the landlord.

AAFE most recently witnessed this trend at 128 Hester Street in Chinatown. The landlord neglected the building and failed to repair critical Hazardous DOB violations. In August of 2009, he evicted all the tenants of this rent regulated building and filed for the

demolition of the building. DHCR subsequently determined that the landlord indeed intentionally neglected the building, but the lost affordable housing will still not be replaced.

The last two rent regulation renewals resulted in the significant weakening of the system. In order to prevent predatory tactics like these, we need to not only renew the sun-setting rent laws but to strengthen them. This means repealing vacancy decontrol, closing the MCI rent increase loophole, repealing the Urstadt Law and introducing legislation so that all demolished rent regulation housing is wholly replaced. The lives of New York's low-income and working families depend on affordable housing. Predatory tactics are evolving faster than we advocates are able to counter them, and it is critically important that legislators ensure that low income and working households in New York are protected by the renewal and strengthening of rent laws. Thank you.

Testimony of Robert Amsterdam, Rent Control Tenants Leadership Committee
New York State Tenants & Neighbors Coalition
May 9, 2011
New York City Council Committee on Housing and Building

Good afternoon. My name is Robert Amsterdam, I'm a rent controlled tenant living on the upper West Side of Manhattan. I'm here representing the Rent Control Tenants Leadership Committee of the Tenants & Neighbors Coalition.

I thank Chairman Dilan and the members of this committee for the opportunity to testify today.

There are approximately 40,000 units of rent controlled housing in New York City and rents for those units are governed by the Maximum Base Rent system. The majority of tenants in these units are elderly and on a fixed income. They typically have received very high rent increases of 7.5% every year since 1971 when the MBR system was established. In addition, Major Capital Improvement Increases, fuel pass-alongs and other charges are frequently added on to their rents.

I'd like to present the legislative platform our committee has developed with the support of Tenants & Neighbors to address these problems and preserve New York's rent controlled housing. The Real Rent Reform Coalition fully supports this platform. We urge you to support these bills and include them in your message to the State Legislature.

A01892 Rosenthal

This bill eliminates the MBR system for rent-controlled tenants in New York City. Instead, increases would be determined by the Rent Guidelines Board using criteria already established by law. All other tenant protections particular to rent control would continue unchanged.

Rent controlled apartments in NYC are regulated by a complex system that sets a ceiling — the Maximum Base Rent (MBR) — for each apartment and mandates that the collectible rent be raised each year by 7.5 percent until it reaches the ceiling (MBR). However, the ceiling itself is raised every two years by the NYS Division of Housing and Community Renewal (HCR). These ceiling increases have averaged 10.1 percent every two years, while rent stabilized rent increases have averaged 7.2 percent for the same 2-year periods. Fuel surcharges, Major Capital Improvement increases and other charges are also added to the collectible rent, so that for many rent controlled tenants rents have risen more than 7.5% per year.

The MBR formula includes skyrocketing real estate values but ignores cost-of-living-indices. In 2010 and 2011, for example, seniors got no cost-of-living increases in Social Security. But for those years, the two-year renewal increase for rent-stabilized tenants was 6 percent while the two-year increase for rent-controlled tenants was 12.9 percent.

If rent controlled tenants can no longer afford skyrocketing rent increases and are forced to move from the home they have known for most of their adult life, there are not likely to be affordable options in their current neighborhood. They are likely to be moved, in a frail condition, to a new, unfamiliar environment. .

A01839/S02298 Rosenthal /Kruger

This bill eliminates Fuel Cost Adjustments which are currently added to the rents of NYC rent control tenants in addition to the MBR calculation.

Under current laws, the owners of rent controlled apartments in New York City may apply to HCR for rent adjustments based on the cost and quantity of fuel used during the preceding calendar year to heat that apartment. These adjustments, called the fuel cost passalong, reflect changes in the price of fuel and have gone up and down over the past 40 years. This cost is currently added on to rents which have already received a 7.5 percent increase regardless of prevailing inflationary factors. If the previous bill, A01892 becomes law, rent controlled rent increases will be governed by market conditions and Fuel Cost Adjustments would no longer be necessary or appropriate.

A01231/S01251 Bing/Addabbo

This bill, which applies to all rent-regulated tenants, excludes social security payments and supplemental security income from the definition of "income" for purposes of determining eligibility under the Senior Citizen Rent Increase Exemption (SCRIE) but only if the relevant local government grants approval.

This bill permits local municipal governments to decide whether to exclude Social Security payments and Supplemental Security Income from the definition of tenant "income" for the purpose of determining eligibility under the Senior Citizen Rent Increase Exemption program (SCRIE).

The SCRIE cap is currently \$29,000 for a tenant's annual income. There are many retired tenants whose income is only slightly higher than that. As many of their annual rents have increased close to \$20,000 or more, they are left with limited funds for food, medical care and other necessities. Bringing the right to decide whether to exclude social security and supplemental security income from SCRIE calculations back to NYC could provide these tenants more adequate funds to meet their basic needs

Again, we urge your support for these bills and strongly encourage you to include these bills in all of your messages to Albany.

And once more, on behalf of all the Rent Control Leadership Committee, we thank Chairman Dilan, and members of this committee, for the opportunity to testify.

TENANTS & NEIGHBORS

Testimony of Maggie Russell-Ciardi, Executive Director
New York City Council Hearing on Resolution 0700
May 9, 2011

Good afternoon.

My name is Maggie Russell-Ciardi. I'm the Executive Director of the New York State Tenants & Neighbors Information Service, a 501c3 organization that organizes tenants to preserve at-risk affordable housing, and the New York State Tenants & Neighbors Coalition, its 501c4 affiliate, which does legislative organizing to preserve affordable housing and strengthen tenant rights. I am testifying today on behalf of the Coalition.

The primary focus of the Coalition this year is to make sure that New York State's rent laws are renewed prior to June 15. Tenants & Neighbors' Rent Regulation Organizer is coordinating the Real Rent Reform Campaign, a coalition of approximately fifty organizations that are working to renew and strengthen the rent laws.

We depend on the support of our allies in the legislature to ensure that our campaign is successful, and we strongly commend Council Member Chin, Housing Chair Dilan, Speaker Quinn, and the other Council Members who have sponsored resolution 0700 for their leadership on this important issue.

Every renewal year since 1993, the legislature has given in to pressures from the real estate industry and has made the laws' renewal contingent upon their being weakened to facilitate the removal of apartments from the rent regulation system and to erode tenants' rights.

In 1993, the state legislature instituted high rent vacancy decontrol and high rent high income decontrol. High rent vacancy decontrol makes it possible for landlords to deregulate rent stabilized units when the legal regulated rent reaches \$2,000 per month or more and the apartment becomes vacant. High rent high income decontrol makes it possible for landlords to deregulate rent stabilized units when the legal regulated rent reaches \$2,000 per month or more and the tenants' annual household income exceeds \$175,000 for two consecutive years. When units are deregulated, they are permanently lost as affordable housing and future tenants have no protections from speculative or unwarranted rent increases or from baseless or retaliatory eviction.

In 1997, the legislature instituted a 20% statutory vacancy bonus, creating a tremendous incentive for landlords to push tenants out and turn over apartments as quickly as possible. They also tightened the four year rule on challenging rent overcharges, making it easier for landlords to illegally raise rents and deregulate rent stabilized units. And they enacted permanent high rent vacancy decontrol and high income decontrol at the state level, extending them to the suburban counties and pre-empting the ability of the New York City Council to repeal these mechanisms.

In 2003, the state legislature tightened the Urstadt Law, which prevents the New York City Council from giving tenants stronger protections than the state legislature does, and also made it possible for landlords to raise the rents of tenants with preferential rents to the legal regulated rent upon lease renewal, rather than limiting the increase to whatever the Rent Guidelines Board determines is an appropriate adjustment for that year. This change to the preferential rent system makes it easier for landlords to retaliate against tenants who complain about conditions issues or try to organize a tenant association by threatening to raise the rent from the preferential rent to the legal regulated rent.

All of these weakening amendments that have been approved in previous renewal years have had devastating consequences for affordable housing and tenant rights in New York. The decontrol provisions have already resulted in the loss of hundreds of thousands of rent stabilized units and will eventually lead to the elimination of New York's rent regulated housing if not addressed.

First, as long as there is a rent threshold at which units can be deregulated, landlords will have an incentive to view the New York City Rent Guidelines Board simply as a mechanism for getting rents to that threshold, not as what it was intended to be- a body that would determine what a fair rent increase should be given the conditions in the housing market and broader economic conditions. In our view, the vacancy decontrol provision of the rent laws is one of the factors that lead the RGB to raise rents every year, no matter what the economic circumstances, and to raise them to levels many rent stabilized tenants cannot afford and that are often higher than we consider reasonable or fair.

Second, as long as there is a decontrol threshold, there is an incentive for speculative investing in New York's rent regulated housing stock. This predatory equity investing, which Speaker Quinn, many Council Members, and the Department of Housing Preservation and Development have recognized to be a grave problem for New York City, has already resulted in tens of thousands of units of affordable housing being overleveraged. It has led in many instances to the deterioration of building conditions, since some unscrupulous landlords use rental income to pay the debt service on the properties rather than making repairs and improvements, and in some instances actually seem to be allowing conditions to deteriorate as a mechanism for getting tenants to vacate their apartments.

With the rise of predatory equity investors seeking to deregulate rent stabilized units, we have also seen a rise in fraudulent MCI and Individual Apartment Improvement rent increases, as well as in illegal overcharges. In our view, the Division of Housing and Community Renewal never allocated enough resources to addressing these problems, and with the increase in overleveraging of buildings and a simultaneous decrease in the resources and enforcement capacity of the state regulatory agency, we can only expect the problem of unscrupulous landlords abusing the loopholes in the law to get rents to the decontrol threshold to worsen. Our 501c3 affiliate coordinates a city-wide Predatory Equity Working Group of tenant leaders from overleveraged buildings and the organizers from the community-based organizations they are working with, and this working group has identified landlords violating the rent laws to get rents to the decontrol threshold and lack of an adequate response by the HCR as one of the most pressing issues affecting rent stabilized tenants in rent regulated buildings. The Predatory Equity Working Group recently launched the ENFORCE! Campaign to get the HCR to do a better job of enforcing the rent laws and preventing this kind of unscrupulous behavior, but we are aware that there is only so much that regulatory agencies can do, especially when their enforcement resources are inadequate. We believe the best solution to this problem would be for the state legislature to close the loopholes that so many predatory equity landlords are taking advantage of.

The recommendations in Resolution 700 are very much in line with what Tenants & Neighbors considers to be the most important reforms the legislature could make this session to address all of the problems I've outlined: renewing the rent laws, repealing vacancy decontrol, and repealing the Urstadt Law. It also calls for the protections of rent stabilization to be extended to tenants in all buildings leaving the project-based Section 8 program and the Mitchell Lama program, which is a top priority for the tenants in the Mitchell-Lama P.I.E. Campaign, which Tenants & Neighbors coordinates. We strongly urge the Council to pass this resolution immediately.

There are a number of other legislative reform recommendations we have, some of which were included in the Omnibus rent bill the Assembly passed earlier this session, and some of which were not. We would like to see the MCI and Individual Apartment Improvement rent increase system changed so it is not so easy for landlords to use these systems to get rents to the decontrol threshold. We would like the vacancy bonus to be reduced. We would like the change made to the preferential rent system in 2003 undone, so the rent of preferential rent tenants cannot be raised to the legal regulated rent upon lease renewal, only upon vacancy. And we would like the City Council to have the power to approve or reject the Mayor's appointments to the RGB. We would like to be able to count on the support of the Council if and when these issues are taken up by the state legislature. We also have a separate legislative platform of state level legislative reforms that pertain to the unique challenges faced by rent controlled tenants, about which one of our rent controlled members has submitted written testimony.

We would also like the support of the Council in ensuring that the state legislature does not use the opportunity of the rent law sunset to further weaken the laws. We are extremely concerned by bill introduced by Senator Young that was recently passed in the Senate Housing Committee that would undermine one of the most important tenant victories in recent years, the *Roberts v Tishman Speyer* court ruling, and we want to be sure that it is widely understood that the New York City government will not tolerate the extension and strengthening of the rent laws being contingent on the many tenants who were impacted by the *Roberts* decision having to give up their rights as rent stabilized tenants. We cannot ask one group of tenants to give up their rights to protect the rights of another group of tenants. We all need to be in this together.

We are also concerned about comments made by some landlord groups that rent regulation should become a means tested system. We need to make sure the Council communicates as loudly as possible as often as possible that while subsidy programs are, rightly, means tested, rent regulation is not a subsidy program but rather a response to the severe housing shortage in New York City and its suburban counties that protects tenants from landlord abuses that such a scarcity makes likely- speculative and unwarranted rent increases, and baseless or retaliatory eviction. And that whether or not someone has these important protections should not depend on how much money he or she has.

We hope that Council Members will join the Real Rent Reform Campaign on one or more of the weekly lobby trips we are taking to Albany on every Tuesday until the rent laws are renewed, and also join us for our local actions. We also hope you will help educate your constituents about the importance of getting involved in our campaign, no matter what kind of housing that they may live in, so we can demonstrate that New Yorkers of all walks of life are united in the struggle to preserve our affordable housing, our tenants' rights, and our city's racial and economic diversity. Thank you for the opportunity to testify today.



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**TESTIMONY OF THE LEGAL AID SOCIETY
CONCERNING RES. NO. 700 - RESOLUTION CALLING UPON THE NEW
YORK STATE LEGISLATURE TO RENEW AND STRENGTHEN THE LAWS
REGULATING RENTS AND THE EVICTION OF TENANTS.**

New York City Council

Committee on Housing and Buildings

May 9, 2011

The Legal Aid Society

The Legal Aid Society is the oldest and largest program in the nation providing direct legal services to low-income families and individuals. The mission of the Society's Civil Practice is to improve the lives of low-income New Yorkers by helping vulnerable families and individuals to obtain and maintain the basic necessities of life — housing, health care, food and subsistence income or self-sufficiency. The Society's legal assistance focuses on enhancing individual, family and community stability by resolving a full range of legal problems in the areas of immigration, domestic violence and family law, employment, housing and public benefits, foreclosure prevention, elder law, tax, community economic development, health law and consumer law.

The Society achieves its mission in a number of ways. Through a network of 10 neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and special projects, the Civil Practice provides free direct legal assistance in more than 30,000 individual legal matters annually. In addition, the Civil Practice represents low-income

New Yorkers in law reform litigation which benefits some 2 million families and individuals each year. Overall, combining individual representation with law reform litigation, advocacy and neighborhood initiatives, the Society successfully provides as many low-income New Yorkers as possible with access to justice. In addition to direct legal services, the Society provides extensive back-up support and technical assistance for community organizations in all five boroughs of the City, "know your rights" trainings for community residents, and community education sessions on complex legal issues affecting low-income communities. When it is the most efficient and cost-effective way to help clients, the Society provides legal representation to groups of clients with common legal problems, including those referred by elected officials. Finally, the Society also operates an extensive pro bono program through which over 1,000 volunteers provide more than 50,000 hours of free legal assistance to low-income New Yorkers annually.

The Legal Aid Society welcomes this opportunity to testify before the New York City Council Committee on Housing and Buildings concerning the catastrophic state of emergency that New York City would face should the State Legislature fail to renew the rent laws by June 15, 2011. Additionally, we believe that the laws must be not only renewed but strengthened and thus strongly support A.2674/S.2783 and ask the Council to pass Resolution 700.

Introduction

The primary purpose of rent regulation in New York City and the suburban counties has been to eliminate abnormal rents in an overheated market. Indeed, the Rent Stabilization Law's stated goal is to protect "public health, safety, and welfare...and to prevent exactions of unjust, unreasonable, and oppressive rents and rental agreements." Rent Stabilization can only exist during a housing emergency which is defined by law as a market where the vacancy rate has fallen below 5 percent. New York City first declared an emergency in 1974. This emergency has endured throughout the years but the crisis which had been chronic has become acute. Because the vacancy rate is so low, tenants cannot move and exercise market power. The Rent Stabilization Law was meant to – and has acted to – approximate the workings of a market where both parties have the power to negotiate contracts.

On June 15, 2011, the Emergency Tenant Protection Act expires. If the State does not act, millions of New Yorkers will be at risk of “unjust, unreasonable and oppressive rents” and will face “uncertainty, hardship and dislocation.” Without rent regulation, programs that the State has created to protect our elderly residents and residents with disabilities, such as SCRIE (the rent increase exemption law for senior citizens) and DRIE (the rent increase exemption law for persons with disabilities), will become meaningless, and elderly New Yorkers and New Yorkers with disabilities will be threatened with eviction and homelessness.

However, the laws must be not only extended, they must be strengthened. We strongly support the State Legislature’s omnibus bill. While we support every section of this bill, our testimony will focus on our top priorities: 1) the ETPA must be extended; 2) the Urstadt Law must be repealed and local control must be restored to New York City; and 3) Vacancy Decontrol must be repealed.

Who Lives in Rent Regulated Housing?

Rent stabilization primarily serves low-income people, people of color, and immigrants.¹

- The median household income for rent-stabilized tenants is \$36,000 a year, compared to \$50,000 for unregulated tenants and \$70,000 for homeowners.²
- 39 percent of households with incomes below the federal poverty line live in rent-regulated housing, as do 40 percent of households with incomes from 100 to 200 percent of the federal poverty line. Overall, 435,000 low-income families live in rent-regulated housing.³
- 22 percent of rent-stabilized tenants have income below the federal poverty line, and 21 percent have incomes from 100 to 200 percent of the federal poverty line.⁴
- 53 percent of rent-stabilized tenants have household incomes below the New York City median income.
- 22 percent of rent-stabilized tenants are black, 32 percent are Latino, and 9 percent are Asian.

¹ Email from Tom Waters, Community Service Society to Ellen Davidson.

² NYC Rent Guidelines Board, *2010 Income and Affordability Study*, 8.

³ Victor Bach & Tom Waters, Community Service Society, *Making the Rent, 2008 to 2010*, New York City Rent Guidelines Board Hearing, April 30, 2010, at 1-2.

⁴ Testimony of Tom Waters, Community Service Society, New York City Council Hearing, March 16, 2009.

- 53 percent of rent-stabilized households are headed by immigrants or someone born in Puerto Rico.

Low rent apartments are predominantly occupied by low-income tenants.⁵

- The median household income for tenants in rent-stabilized apartments with rents below \$600 a month is \$20,000 a year.
- 32 percent of rent-stabilized tenants with rents below \$600 a month living in poverty, and 27 percent have incomes from 100 to 200 percent of the federal poverty line.
- 81 percent of rent-stabilized tenants with rents below \$600 a month have household incomes below the New York City median of \$42,000 a year.
- The median household income for rent-stabilized tenants with rents below \$1,200 a month is \$30,000 a year.
- 23 percent of rent-stabilized tenants with rents below \$1,200 a month are living in poverty, and 25 percent have incomes from 100 to 200 percent of the federal poverty line.
- 66 percent of rent-stabilized tenants with rents below \$1,200 a month have household incomes below the New York City median of \$42,000 a year.
- 37 percent of rent-stabilized tenants pay rent that is more than 40 percent of their income.
- 49 percent of rent-stabilized tenants pay rent that is more than 30 percent of their income.
- 77 percent of renters with income below the federal poverty line living in rent-regulated apartments pay rent that is more than 50 percent of their income, a drastic increase from 64 percent in 2005 and on par with such tenants in unregulated apartments.⁶

(Except where noted, all of these figures are taken from an analysis of the U.S. Census Bureau's 2008 New York City Housing and Vacancy Survey.)

⁵ Email from Tom Waters, Community Service Society to Ellen Davidson

⁶ Victor Bach & Tom Waters, Community Service Society, *Making the Rent, 2008 to 2010*, New York City Rent Guidelines Board Hearing, April 30, 2010, at 4.

Declining Affordability of Housing

New York City is facing an acute shortage of affordable housing. In the last twenty years, the State has enacted laws which have contributed to the loss of affordable housing. Since the passage of vacancy decontrol, automatic vacancy increases and the preferential rent amendments, landlords have been given an incentive to harass tenants or commit massive fraud to create vacant apartments that can be deregulated with higher rents. In the face of fewer rental opportunities and higher prices, New York City renters are suffering from a growing disparity between what they can afford and their actual rent. Unfortunately, the trend towards declining rent affordability is only going to continue as the recovery from the Great Recession appears to be a jobless recovery. Tenants in New York City face an increasingly dire situation and the loss of Rent Stabilization would be catastrophic for this City.

Housing-related Hardships and Related Social Costs on the Rise

The rate of housing-related hardships⁷ among low-income renters has been increasing in recent years.⁸ New Yorkers are increasingly relying on unconventional living arrangements; nearly 15,000 residents live in households of 3 or more roommates unrelated to the head of household.⁹ High housing cost burdens and concentrated poverty are also associated with a range of more serious social harms, including higher arrest rates, poorer nutrition and health, higher financial burdens for local governments, greater educational failure, higher teenage pregnancy rates, more costly basic consumer goods, and greater difficulty maintaining steady jobs.¹⁰ In addition, those suffering from high housing cost burdens are more likely to be evicted and more likely to experience homelessness.¹¹

Effect of Stagnant Low-Income Wages and Increasing Prices on Residents

Wages have not kept up with living costs, creating enormous pressure on households to somehow meet the cost of necessities other than rent. Nominal wages

⁷ These hardships include the “lesser” hardships of rent/mortgage arrears and utility cut-offs and the “severe” hardships of doubling up and using shelters.

⁸ Victor Bach & Tom Waters, Community Service Society, *Making the Rent*, May 2008, 24.

⁹ Cara Buckley, “In New York, Breaking the Law on Roommates,” *The New York Times*, March 10, 2010.

¹⁰ Margery Austin Turner, *Current Rental Housing Market Challenges and the Need for a New Federal Policy Response: Statement before the Committee on Appropriations, Subcommittee on Transportation, HUD, and Related Agencies, US House of Representatives*, 5; Douglas Rice and Barbara Sard, Center on Budget and Policy Priorities, *The Effects of the Federal Budget Squeeze on Low-Income Housing Assistance*, 2.

¹¹ Douglas Rice and Barbara Sard, Center on Budget and Policy Priorities, February 1, 2007, *The Effects of the Federal Budget Squeeze on Low-Income Housing Assistance*, 2.

declined by 8.3 percent and real wages declined by 9.0 percent in 2009,¹² but prices for consumer goods in the New York metropolitan area increased 0.4 percent.¹³ Earnings for low-end earners have declined; among low-income residents, the median wage and salary income dropped from \$15,000 in 2008 to \$14,000 in 2009.¹⁴ New York City residents must pay increased rates for Con Edison and increased transportation costs for fare increases implemented by the Metropolitan Transportation Authority (MTA).¹⁵ These price hikes in the midst of a recession signal continued economic difficulty for the residents of New York City, especially low-income New Yorkers who are already struggling to survive.

Growing Problem of Homeless Families

The scarcity of affordable housing, rising rents, and the increasing cost of living have contributed to record use of the City's shelters. In 2010, for example, an average of 36,175 children and adults slept in the shelters each night, and this modest increase in 2010 followed a 7% increase in 2009.¹⁶ The average shelter population is up considerably from the average of 20,000-25,000 found in the 1990's.¹⁷ More than 9,864 families with nearly 15,657 children are homeless.¹⁸

Increased Displacement Pressure from Landlords Despite Profits

In rent stabilized buildings, from 2007 to 2008, operating costs and total landlord income increased by comparable amounts--6.4 percent and 6.2 percent, respectively.¹⁹ In 2008, the Price Index of Operating Costs (which measures the cost of goods and services used to operate and maintain New York City apartments) rose by only 4 percent.²⁰ Net operating income grew by 5.8 percent from 2007-2008 and has been increasing for four consecutive years.²¹ On average, landlords of rent-stabilized buildings retain a monthly average of \$339 per rent-stabilized unit as pre-tax profit or for use in financing the building

¹² NYC Rent Guidelines Board, *2010 Income and Affordability Study*, 6.

¹³ *Id.* at 4.

¹⁴ Victor Bach & Tom Waters, Community Service Society, *Making the Rent, 2008 to 2010*, New York City Rent Guidelines Board Hearing, April 30, 2010, at 5.

¹⁵ Patrick McGeehan, "Average Con Edison Bill to Rise by \$10 Over 3 Years," *New York Times*, March 25, 2010. Michael A. Grynbaum, "Despite Bad News, Subway Chief Hopes to Hold Line on Fare," *New York Times*, Feb. 24, 2010.

¹⁶ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 11.

¹⁷ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 11

¹⁸ Coalition for the Homeless, Fact Sheets <http://www.coalitionforthehomeless.org/page/-/NYCHomelessShelterPopulationWorksheet02282011.pdf>. Accessed May 2, 2011.

¹⁹ NYC Rent Guidelines Board, *2010 Income and Expense Study*, 3.

²⁰ NYC Rent Guidelines Board, *2009 Price Index of Operating Costs*, 3.

²¹ *Id.*

and improvements, equivalent to an estimated annual mean of \$186,000 per building.²² In Manhattan, profit from rent-stabilized apartments is an even higher \$582 per month.²³ Even after adjusting for inflation, landlords' net operating income has increased 9.3 percent from 1990 to 2008.

Despite landlords' solid profit margin, landlords continue to apply pressure in an effort to displace tenants. Both harassment and rent overcharge complaints to the State Division of Housing and Community Renewal (DHCR) increased substantially in 2008: harassment complaints were up 31 percent to 344 and rent overcharge complaints were up 20 percent to 1,038.²⁴ In addition, fear of displacement runs high; a third of Black and Hispanic renters, 22 percent of White and 25 percent of Asian renters express concern that they will be forced out of their neighborhoods over the next two years.²⁵

Declining Availability of Housing

Unfortunately for New York renters, declining affordability is coupled with declining availability. The net vacancy rate of units available for rent was 2.91 percent in 2008, significantly below the 5.0 percent threshold that legally defines a housing emergency.²⁶ The number of vacant units affordable to low-income New Yorkers is even more meager. In 2008, the vacancy rate for all units with rents between \$500 and \$799 was only 1.5, and for apartments with rents between \$800 and \$999 only 2.2 percent were vacant. The vacancy rate for rent-stabilized units was even more troubling, measuring just 2.14 percent,²⁷ while the rate for units with monthly rents of less than \$799 was 1.5 percent.²⁸ The decrease in the availability of affordable vacant units is exacerbated by the loss of at least 16,838 rent-stabilized housing units in 2008, primarily due to vacancy deregulation.²⁹ Units that remain available are increasingly out of the range of low-income New Yorkers. From 2005 to 2008, the number of apartments renting for less than \$1,000 per month fell by over 80,000, and the number renting for less than \$800 per month fell by

²² NYC Rent Guidelines Board, *2010 Income and Expense Study*, 8.

²³ *Id.*

²⁴ *Daily News*, June 4, 2008, "Stabilized Apartments Down, Frets Up," Adam Lisberg, 7 (quoting Leslie Torres, State Deputy Commissioner for Rent Administration).

²⁵ Victor Bach & Tom Waters, Community Service Society, *Making the Rent Summary, May 2008*, iii.

²⁶ NYC Rent Guidelines Board, *2010 Income and Affordability Study*, 7.

²⁷ *Id.*

²⁸ *Id.*

²⁹ NYC Rent Guidelines Board, *Changes to the Rent Stabilized Housing Stock in New York City in 2008*, 9, 13.

nearly 55,000.³⁰ Overall, from 2002 to 2008, there has been a 16.4 percent loss in rental apartments that low-income households can afford.³¹ Raising rents would only accelerate the loss of increasingly scarce housing affordable to low-income New Yorkers.

The scarcity of available rent-stabilized housing is a part of an overall decline in the availability of affordable housing. Conversion of single room occupancy buildings into housing no longer affordable to low-income people continues; in 2009, 117 buildings applied for the requisite Certificate of No Harassment. Furthermore, the steady decrease in Mitchell-Lama units has accelerated, with at least 42,000 lost to buyouts since 1985.³² There remain only 95,000 such units left in the City today.³³

Applicants for public or federally subsidized housing face similar shortages. Indeed, 135,491 applicants are on the waiting list for public housing in New York City.³⁴ The New York City Housing Authority (NYCHA) accepted only emergency applicants into the Section 8 program from May 15, 2007 to December 10, 2009, and stopped processing voucher applications altogether in December 2009.³⁵ There are 125,403 families on the waiting list for Section 8 vouchers.³⁶

This combination of market forces and governmental decisions has worked together to have a devastating effect on low- and moderate-income New Yorkers. The declining number of vacant units available for rent, the fact that housing expansion has not kept pace with population growth,³⁷ and the Section 8 crisis have all contributed to the scarcity of available affordable housing.

³⁰ Coalition for the Homeless, *State of the Homeless 2010: How Governor Paterson's Budget Will Make New York's Historic Homelessness Crisis Even Worse*, 14.

³¹ *Id.*

³² NYC Rent Guidelines Board, *2010 Housing Supply Report*, 8.

³³ NYC Rent Guidelines Board, *2010 Housing Supply Report*, 8.

³⁴ New York City Housing Authority "Fact Sheet", available at <http://www.nyc.gov/html/nycha/html/about/factsheet.shtml>. Data accessed January 2011.

³⁵ New York City Housing Authority, "Section 8 Assistance," available at <http://www.nyc.gov/html/nycha/html/section8/section8.shtml>. Data accessed June 2010.

³⁶ New York City Housing Authority "Fact Sheet", available at <http://www.nyc.gov/html/nycha/html/about/factsheet.shtml>. Data accessed January 2011.

³⁷ Margery Austin Turner, *Current Rental Housing Market Challenges and the Need for a New Federal Policy Response: Statement before the Committee on Appropriations, Subcommittee on Transportation, HUD, and Related Agencies, US House of Representatives*, 2.

Extend the Emergency Tenant Protect Act

In light of the continuing housing emergency in the midst of the greatest economic crisis since the Great Depression, the State must extend the Emergency Tenant Protection Act. In Section 2 of the ETPA, the Legislature found that

a serious public emergency continues to exist in the housing of a considerable number of persons in State of New York . . . there continues to exist in many areas of the state an acute shortage of housing accommodations caused by high demand, attributable in part to new household formations and decreased supply, in large measure attributable to reduced availability of federal subsidies and increased costs of construction and other inflationary factors.

The Legislature further found

preventive action by the legislature continues to be imperative in order to prevent exaction of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering, speculation and other disruptive practices tending to produce threats to public health, safety and general welfare; that in order to prevent uncertainty, hardship and dislocation, the provisions of this act are necessary.

These words are as true today as they were in 1974 when the ETPA was enacted.

If the State does not extend the ETPA, the financial cost to New York City would be astronomical. Over 50,000 households in New York City are covered by either the SCRIE or DRIE benefits. These programs will cease to exist for Rent Stabilized tenants if the laws are not renewed. SCRIE and DRIE families are, by definition, low-income and either elderly or disabled or both. These are our most vulnerable households and they would be at imminent risk of homelessness were the laws to expire. The cost of housing these families would be enormous. Over 400,000 low-income families live in Rent Stabilized apartments. If the Legislature fails to renew the laws, this loss would be catastrophic to the City. Rents would increase precipitously. Families would have little money left to spend in the small businesses in their communities. Without eviction protections, families will be dislocated causing interruptions in education. The loss of stable neighborhoods will produce threats to public health, safety and general welfare. New York City cannot afford the loss of Rent Stabilization.

Repeal of Urstadt

The fact that the Urstadt law takes control over rent regulation out of the hands of the elected representatives of the residents these policies effect, and gives it instead to a body whose majority is not accountable to voters struggling with this problem remains a fundamental injustice, and a source of devastating inaction. It has been too long since New York City has had the authority to enact legislation to protect the shrinking source of affordable housing. The Urstadt Law bars only New York City from enacting tenant protections. Other localities with rent regulation may enact whatever legislation they believe necessary. New York City must be allowed to control its own destiny on this strictly local issue. This fundamentally undemocratic law hamstring New York City's ability to protect low- and moderate-income tenants who face ever-increasing rents. The State should return to New York City's democratically elected representatives the right to protect its low and moderate income residents.

Repeal of Vacancy Decontrol Provisions

Further, the Vacancy Decontrol provision must be repealed in order to preserve the affordable housing stock. In 1993, the State amended the rent regulation laws to permit landlords to deregulate an apartment when the rent is \$2000 and the apartment is empty. Since that time, it has been the goal of many landlords to increase the rent of apartments to over \$2000 and to then empty those apartments. Often, landlords accomplish this by committing massive fraud and by harassing their tenants until they leave. Once a landlord empties an apartment, he can take advantage of lax oversight and opportunities in the law to significantly raise rents. A landlord needs only to claim that he has made improvements to the apartment, which result in a permanent increase to the legal regulated rent of one-fortieth of the costs of the improvements. Landlords are not required to seek approval from DHCR to ensure that these improvements have actually been made and that the alleged costs are accurate. This lack of any oversight has led to many landlords exaggerating the costs and illegally raising rents. It does not matter whether the market will bear a \$2000 rent; the next tenant loses all the crucial tenure protections provided by Rent Stabilization, such as a right to a lease renewal and the prohibition against eviction for causes other than those explicitly stated in the Rent Stabilization Law and Code. It has become easier and easier to reach the magic number of \$2000. It is essential that this incentive be removed

from the system. Vacancy Decontrol has led to tenant harassment, landlord fraud, displacement of tenants, and destabilization of neighborhoods. Repealing Vacancy Decontrol must be the first step towards protecting our shrinking affordable housing stock. We strongly support the repeal of Vacancy Decontrol.

Extend Rent Protections to Mitchell-Lama and Section 8 tenants

In this time of economic crisis, there is an urgent need to enact protections for tenants in buildings whose owners buy out of the Mitchell-Lama program. We strongly support the effort to extend rent regulations to former Mitchell-Lama buildings. We believe extending rent regulations to former Mitchell-Lama buildings would both protect tenants and preserve Mitchell-Lama housing.

Conclusion

Thank you for the opportunity to testify before the Council's Committee on Housing and Buildings today. This is a time of grave crisis in this State and this City. We were facing a dire lack in affordable housing in New York City even before this financial crisis hit. Before the record loss of jobs, New Yorkers were struggling to pay their rents. Over the past year, we have reached record levels of family homelessness. According to the prior testimony before Congress of Margery Austin Turner of The Urban Institute, "In general, the lack of affordable housing stands in the way of economic productivity and undermines the fundamental premise that full-time workers should be able to achieve a decent standard of living for themselves and their families."³⁸

Without affordable housing, New York City will not recover. We hope that the Council will pass Resolution 700.

Respectfully Submitted:

Steven Banks
Adriene Holder
Scott Rosenberg
Judith Goldiner
Ellen Davidson
Robert Desir

³⁸ Margary Austin Turner, *Current Rental Housing Market Challenges and the Need for a New Federal Policy Response: Statement before the Committee on Appropriations, Subcommittee on Transportation, HUD, and Related Agencies, US House of Representatives*, 6.

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Testimony of Legal Services NYC Before the New York City Council Housing and Buildings Committee Oversight Hearing on the Renewal of Rent Regulation in New York City and Res. No. 700 – Resolution Calling Upon The New York State Legislature to Renew and Strengthen The Laws Regulating Rents and the Eviction of Tenants

May 9, 2011

Legal Services NYC (LS-NYC) thanks the City Council Housing and Buildings Committee for holding this hearing, as well as for its continued leadership on housing issues of vital concern to low-income New Yorkers. LS-NYC supports the renewal and strengthening of the state's rent regulation laws, and urges the City Council to pass Res No. 700 and to support A2674-A/S2783-A, comprehensive rent reform legislation which has passed the New York State Assembly. Rent regulation is an irreplaceable tool for the preservation of affordable housing for the city's most vulnerable residents.

Legal Services NYC provides free legal services in civil matters to low-income households in New York City. The eighteen neighborhood offices of Legal Services NYC operate in diverse communities throughout the City to represent low-income tenants in disputes involving tenants' rights to remain in their homes.

Manhattan Legal Services (MLS) is one of Legal Services NYC's programs. Each year, MLS assists thousands of poor Manhattan tenants facing eviction from their apartments. Many more people would like to get help but cannot because we have limited resources. Many of our low-income clients can barely afford their rent-regulated apartments; loss of rent regulation would force them out of their homes and neighborhoods. Additionally, many landlords seek eviction of rent-regulated tenants because, once the apartment is vacant, the landlord can take advantage of lax oversight of rent increases to increase the

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rent over the \$2,000 limit which will then decontrol the apartment. We have seen case after case of landlords who purchase rental buildings and try to evict long-term tenants—many of them elderly or disabled—on frivolous grounds. Renewal and strengthening of rent regulation is critical to protecting vulnerable New York City residents and stabilizing economically diverse communities in Manhattan.

Introduction

We urge the City Council to pass Res. No. 700 and to support A 2674-A/S2783-A, legislation which has passed the New York State Assembly, and which provides for, among other important reforms, the following:

(1) Renewal, without any weakening amendments, of the state rent protection laws and the state co-op/condo conversion protection laws, which will expire on June 15, 2011; allowing these laws to expire would create a housing catastrophe for New York City.

(2) Repeal of the Urstadt Law, which prevents New York City from enacting rent regulation protections more restrictive than those contained in the laws passed by the state legislature: this law reduces the City Council's role to simply renewing the rent stabilization law every three years upon the finding of a continuing housing emergency.

(3) Repeal of vacancy destabilization and re-regulation of most of the apartments that were deregulated over the last 16 years. Repeal of vacancy destabilization is essential to remove the major incentive for landlord harassment of vulnerable tenants and to prevent the continued erosion of New York City's largest stock of affordable housing.

In addition to these critical provisions, A 2674-A/S2783-A would provide other important reforms to the rent stabilization system, including:

(4) Protection of apartments in former Mitchell-Lama and Section 8 buildings by placing them under rent stabilization, including those buildings that have already left those programs and are now unprotected;

(5) Reduction of incentives in the current law for landlords to displace low- and moderate-income tenants in order to raise rents and move toward vacancy de-stabilization: a) the bonus owners receive upon vacancy would be reduced from 20% to 10%; b) the amortization period for rent increases based upon individual apartment improvements would be extended from 40 months to 60 months and DHCR approval would be required; and c) preferential rents would extend for the life of the tenancy, as opposed to ending at the landlord's option at the end of the existing lease term.

(6) Rejection of any attempts to weaken the provisions of the Rent Stabilization Law that allow tenants to enforce the law against landlords who overcharge tenants and illegally deregulate apartments.

I. Renewal of Rent Protection Laws and Co-op/Condo Conversion Protection Laws

The rent protection laws protect tenants—many of whom have incomes below the poverty line—from losing their homes because of unrestricted increases in their rent. In addition to regulating rent increases, the Rent Stabilization Law provides crucial tenure protections which tenants in unregulated private housing lack. These protections include the right to lease renewal, succession rights for remaining family members, and eviction restricted to causes specified in the law. All of these protections provide tenants with the security that allows them to work and thrive in these challenging times. Rent-stabilized tenants also have an enforcement system in the courts and the State Division of Housing and Community Renewal (DHCR). Finally, in an increasingly segregated city, rent stabilization preserves some racial and economic integration in gentrifying neighborhoods.

New York City is facing a critical shortage of affordable housing. The emergency that was declared in the passage of the Rent Stabilization Law has endured throughout the years, but the crisis, which had been chronic, has become dire. In the last twenty years, the State has enacted laws which have weakened tenant protections and contributed to the loss of affordable housing. By renewing rent regulation and repealing vacancy decontrol, the state legislature would at least restore some of the status quo that existed prior to weakening amendments passed in 1993 and 1997. By repealing the Urstadt Law, the legislature would allow the City to take the proper measures to protect its residents and its most important supply of affordable housing. Additionally, New York City is hemorrhaging affordable apartments as federal and state subsidized projects privatize—extending rent stabilization to expiring Mitchell-Lama and Section 8 housing would ensure the affordability of this diminishing housing stock.

A. Background

The number of homeless families in New York City has reached record highs in the face of a low vacancy rate for apartments and the continuing decline in affordable rent stabilized and other sources of housing within the financial reach of low-income New Yorkers. While tenants struggle to find and maintain affordable housing, they must pay the increasing cost of basic necessities. However, landlords have continued to profit. Low-income tenants in rent stabilized apartments have had to shoulder the greatest burden of declining affordability in New York City rental market. The rental burden on moderate-income tenants has also increased. Tenants in New York face an increasingly dire situation, and the City Council should encourage the State to seize this historic opportunity to renew and enhance the rent regulation laws.

B. Who Lives in Rent-Stabilized Housing?

The information below vividly illustrates who lives in rent-stabilized apartments:

- The median household income for rent-stabilized tenants is \$36,000 a year, compared to \$50,000 for unregulated tenants and \$70,000 for homeowners.¹
- 39% of households with incomes below the federal poverty line live in rent-regulated housing. Overall, 435,000 low-income families live in rent-regulated housing.²
- 16% of households living in stabilized housing make less than \$10,000 a year.
- 37% of rent-stabilized tenants pay rent that is more than 40% of their income.
- 49% of rent-stabilized tenants pay rent that is more than 30% of their income.
- 77% of renters with income below the federal poverty line living in rent-regulated apartments pay rent that is more than 50% of their income, a drastic increase from 64% in 2005 and on par with such tenants in unregulated apartments.³
- 22% of rent-stabilized tenants are black, 32% are Latino, and 9% are Asian.
- 53% of rent-stabilized households are headed by immigrants or someone born in Puerto Rico.

(Except where noted, all of these figures are taken from analysis of the U.S. Census Bureau's 2008 New York City Housing and Vacancy Survey.)

C. Declining Affordability of Housing

In the face of fewer rental opportunities and higher prices, renters are suffering from a growing disparity between what they can afford and their actual rent. Rents have increased 56% in the last decade, far above the overall price increase of 34%.⁴ An individual would have to work an astonishing 149 hours per week at minimum wage, 52 weeks a year, in order to afford an average two-bedroom apartment in New York City.⁵ Alternatively, the individual would need a wage increase to at least \$26.98 per hour, or \$56,120 a year, in order to afford the same apartment.⁶

Unfortunately, this situation is exacerbated by the worst economic downturn since the Depression. New York City's unemployment rate increased for the third consecutive year, to an average of 9.5% in 2010, up from 9.3% in 2009.⁷ In addition, for the first time since 2003, the number of people

¹ NYC Rent Guidelines Board, *2010 Income and Affordability Study*, 8.

² Victor Bach & Tom Waters, Community Service Society, *Making the Rent, 2008 to 2010*, New York City Rent Guidelines Board Hearing, April 30, 2010, at 1-2.

³ Victor Bach & Tom Waters, Community Service Society, *Making the Rent, 2008 to 2010*, New York City Rent Guidelines Board Hearing, April 30, 2010, at 4.

⁴ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 8.

⁵ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 9.

⁶ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 9.

⁷ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 3.

employed in New York City has fallen, with a loss of over 255,000 jobs between April 2009 and April 2010. Low-income households have been most affected by the recession, where the unemployment rate rose from 10.7% in 2008 to 15.2% in 2009.⁸

Tenants without jobs struggle to pay rent and obtain the necessities of life. The number of New York City food stamp recipients increased 14.9% in 2010 after increasing 20% in 2009, and the number of cash assistance recipients increased in 2009 for the first time since 2004 and continued to increase in 2010.⁹ Bankruptcy filings have been steadily increasing since 2005, with an 8.8% increase from 2009 to 2010.¹⁰ Given the economic pressures facing low-income New Yorkers, it is critical that rent regulatory laws be renewed.

D. Declining Availability of Housing

Unfortunately for New York renters, declining affordability is coupled with declining availability. The net vacancy rate of units available for rent was 2.91% in 2008, significantly below the 5.0% threshold that legally defines a housing emergency.¹¹ The number of vacant units affordable to low-income New Yorkers is even more meager.¹² The vacancy rate for rent-stabilized units measured just 2.14%¹³ and the rate for units with monthly rents of less than \$799 was just 1.5%.¹⁴

The decrease in availability of affordable vacant units is exacerbated by the loss of at least 16,838 rent-stabilized housing units in 2008, primarily due to high-rent vacancy deregulation.¹⁵ Between 1994 and 2010, according to DHCR data, at least 97,384 units were removed from rent stabilization due to high-rent vacancy destabilization.¹⁶ Units that remain available are increasingly out of the range of low-income New Yorkers. From 2005 to 2008, the number of apartments renting for less than \$1,000 per month fell by over 80,000, and the number renting for less than \$800 per month fell by nearly 55,000.¹⁷ Overall, from 2002 to 2008, there has been a 16.4% loss in rental apartments that low-

⁸ Victor Bach & Tom Waters, Community Service Society, *Making the Rent, 2008 to 2010*, New York City Rent Guidelines Board Hearing, April 30, 2010, at 5.

⁹ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 7.

¹⁰ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 7.

¹¹ NYC Rent Guidelines Board, *2010 Income and Affordability Study*, 7.

¹² In 2008, the vacancy rate for all units with rents between \$500 and \$799 was only 1.5 and for apartments with rents between \$800 and \$999, only 2.2 % were vacant.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ NYC Rent Guidelines Board, *Changes to the Rent Stabilized Housing Stock in New York City in 2008*, 9, 13.

¹⁶ NYC Rent Guidelines Board, *Changes to the Rent Stabilized Housing Stock in New York City in 2009*, 6. (These were units registered with DHCR as deregulated. Additional apartments are destabilized, but not registered with DHCR. There is no penalty for failure to register a destabilized apartment.)

¹⁷ Coalition for the Homeless, *State of the Homeless 2010: How Governor Paterson's Budget Will Make New York's Historic Homelessness Crisis Even Worse*, 14.

income households can afford.¹⁸ Raising rents would only accelerate the loss of increasingly scarce housing affordable to low-income New Yorkers.

The scarcity of available rent-stabilized housing is a part of an overall decline in the availability of affordable housing. In 2009, 117 buildings applied for conversion of single room occupancy buildings into housing no longer affordable to low-income people continues. Furthermore, the steady decrease in Mitchell-Lama units has accelerated over the past several years, with at least 42,000 lost to buyouts since 1985.¹⁹ There remain only 95,000 such units left in the City today.²⁰

Applicants for Section 8 housing face similar shortages: 124,000 applicants are on the waiting list for Section 8 housing vouchers in New York City.²¹ This combination of market forces and governmental decisions has had a devastating impact on low and moderate income New Yorkers. The declining number of vacant units available for rent, the fact that housing expansion has not kept pace with population growth,²² and the Section 8 crisis have all contributed to the scarcity of available affordable housing.

E. Housing-related Hardships and Related Social Costs on the Rise

The rate of housing-related hardships²³ among low-income renters has been increasing in recent years.²⁴ New Yorkers are increasingly relying on unconventional living arrangements; nearly 15,000 residents live in households of three or more roommates unrelated to the head of household.²⁵ High housing cost burdens and concentrated poverty also cause a range of more serious social harms, including higher arrest rates, poorer nutrition and health, higher financial burdens for local governments, greater educational failure, higher teenage pregnancy rates, more costly basic consumer goods, and greater difficulty maintaining steady jobs.²⁶ In addition, those suffering from high housing cost burdens

¹⁸ *Id.*

¹⁹ NYC Rent Guidelines Board, *2010 Housing Supply Report*, 8.

²⁰ NYC Rent Guidelines Board, *2010 Housing Supply Report*, 8.

²¹ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 10.

²² Margery Austin Turner, *Current Rental Housing Market Challenges and the Need for a New Federal Policy Response: Statement before the Committee on Appropriations, Subcommittee on Transportation, HUD, and Related Agencies, US House of Representatives*, 2.

²³ These hardships include the “lesser” hardships of rent/mortgage arrears and utility cut-offs and the “severe” hardships of doubling up and using shelters.

²⁴ Victor Bach & Tom Waters, Community Service Society, *Making the Rent*, May 2008, 24.

²⁵ Cara Buckley, “In New York, Breaking the Law on Roommates,” *The New York Times*, March 10, 2010.

²⁶ Margery Austin Turner, *Current Rental Housing Market Challenges and the Need for a New Federal Policy Response: Statement before the Committee on Appropriations, Subcommittee on Transportation, HUD, and Related Agencies, US House of Representatives*, 5; Douglas Rice and Barbara Sard, Center on Budget and Policy Priorities, *The Effects of the Federal Budget Squeeze on Low-Income Housing Assistance*, 2.

are more likely to be evicted and more likely to experience homelessness.²⁷ Notably, high housing cost burdens particularly affect families. Over half of households with children (54%) experienced housing hardship in 2007, compared to 30% among adult households.²⁸ Over a quarter of those with children (27%) experienced multiple hardships, compared to 15% of adult households.²⁹ Furthermore, the hardship rates among families with children with income levels between 100 and 200% of the poverty line have surpassed the high hardship rates among families with income below the poverty line.³⁰

In addition to financial hardships, many tenants are experiencing worsening housing conditions, as landlords fail to put increased profits back into their buildings. The City's Department of Housing Preservation and Development (HPD) reported a significant increase in the number of complaints concerning housing conditions in FY 2009 as compared to FY 2008, with emergency complaints rising by close to 6% and heat and hot water complaints by more than 15%.³¹

F. Effect of Stagnant Low-Income Wages and Increasing Prices on Residents

Wages have not kept up with living costs, creating enormous pressure on households to somehow meet the cost of necessities other than rent. Nominal wages declined by 8% and real wages declined by 8.4% in 2009,³² but prices for consumer goods in the New York metropolitan area increased 1.7%.³³ Earnings for low-end earners have declined; among low-income residents, the median wage and salary income dropped from \$15,000 in 2008 to \$14,000 in 2009.³⁴ In addition, in April 2010 Con Edison began implementing a three-year rate plan that will raise the average New York City resident's bill.³⁵ Transportation costs are also rising. The Metropolitan Transportation Authority (MTA) implemented a 10% fare increase in June 2009 and a 7.5% increase at the beginning of this year.³⁶ These price hikes in the midst of a recession signal continued economic difficulty for the residents of New York City, especially low-income New Yorkers who are already struggling to survive.

Increases in the cost of basic necessities have a particularly severe impact on low income New Yorkers, who already have very limited residual income remaining after paying a high percentage of

²⁷ Douglas Rice and Barbara Sard, Center on Budget and Policy Priorities, February 1, 2007, *The Effects of the Federal Budget Squeeze on Low-Income Housing Assistance*, 2.

²⁸ Victor Bach & Tom Waters, Community Service Society, *Making the Rent*, May 2008, 30.

²⁹ Victor Bach & Tom Waters, Community Service Society, *Making the Rent*, May 2008, 30.

³⁰ Victor Bach & Tom Waters, Community Service Society, *Making the Rent*, May 2008, 25.

³¹ City of New York, *Preliminary Mayor's Management Report*, February 2010, 69, available at http://www.nyc.gov/html/ops/html/mmr/mmr_sub.shtml. Accessed June 2010.

³² NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 6.

³³ *Id.* at 4.

³⁴ Victor Bach & Tom Waters, Community Service Society, *Making the Rent, 2008 to 2010*, New York City Rent Guidelines Board Hearing, April 30, 2010, at 5.

³⁵ Patrick McGeehan, "Average Con Edison Bill to Rise by \$10 Over 3 Years," *New York Times*, March 25, 2010.

³⁶ http://www.mta.info/mta/2011_fare_change_nyct.html

their income for rent. From 2005 to 2008, low-income renters suffered a 4% decrease in residual income, with renters living below the poverty line facing an even more acute 9% decrease, an average drop from \$146 to \$133 per month (measured in 2007 dollars).³⁷ Families living below the poverty line have only a little over \$4 per day per household member to cover all non-rent expenses, including food, transportation, and medical costs.³⁸ A further reduction in affordable housing will only exacerbate the crises that poor households experience, leading to increased costs for society as a whole.

G. Growing Problem of Homeless Families

The scarcity of affordable housing, rising rents, and the increasing cost of living have contributed to record use of the City's shelters in 2010. "An all-time high number of New Yorkers turned to homeless shelters last year and the homeless shelter population was larger than at any time since the city began keeping records, according to a report by the Coalition for the Homeless, an advocacy group, based on city data. A record 113,553 homeless people slept in shelters in the last fiscal year, including 28,977 families."³⁹ An average of 36,175 children and adults slept in the shelters each night in 2010, a 0.7% increase over 2009, following a 7% increase in 2009 over 2008.⁴⁰ Since 2008, the overall homeless shelter population has risen an alarming 9%.⁴¹ Even more distressing is the 10.1% increase since 2008 in the number of homeless families with children in the shelters each night.⁴² A decrease in affordable housing will only push more families from their homes onto the streets. In addition to the tragic human costs, the increased need for shelter will result in increased financial costs for the City in sheltering homeless families at a time of decreasing revenue in the City budget.

H. Increased Displacement Pressure from Landlords Despite Profits

Landlords are doing quite well, despite the economy that increasingly places a strain on low-income New Yorkers. In rent stabilized buildings from 2008 to 2009, operating costs increased by only 0.1%, while total landlord income increased by 1.8%.⁴³ Net operating income grew by 5.8% from 2008

³⁷ Victor Bach & Tom Waters, Community Service Society, *Making the Rent, 2008 to 2010*, New York City Rent Guidelines Board Hearing, April 30, 2010, at 4.

³⁸ *Id.* at 4-5.

³⁹ Mosi Secret, "A New First Stop for Homeless Families," New York Times, May 3, 2010, available at <http://cityroom.blogs.nytimes.com/2011/05/03/a-new-first-stop-for-homeless-families/?ref=nyregion>

⁴⁰ NYC Rent Guidelines Board, *2011 Income and Affordability Study*, 11.

⁴¹ NYC Rent Guidelines Board, *2010 Income and Affordability Study*, 13.

⁴² NYC Rent Guidelines Board, *2009 Income and Affordability Study*, 13.

⁴³ NYC Rent Guidelines Board, *2011 Income and Expense Study*, 3.

to 2009 and has been increasing for five consecutive years.⁴⁴ Even after adjusting for inflation, landlords' net operating income increased 9.3% from 1990 to 2008.

Despite landlords' solid profit margin, landlords continue to attempt to displace tenants. Both harassment and rent overcharge complaints to the Division of Housing and Community Renewal (DHCR) increased substantially in 2008: harassment complaints were up 31% and rent overcharge complaints were up 20%.⁴⁵ In addition, fear of displacement runs high; a third of black and Hispanic renters, 22% of white and 25% of Asian renters express concern that they will be forced out of their neighborhoods over the next two years.⁴⁶

In sum, the situation facing low-income New Yorkers calls for preservation of existing protections and changes in the law that will increase the security of a substantial portion of New York City's scarce stock of affordable housing.

II. Needed Reforms: Repealing the Urstadt Law will allow home rule for New York City, so that it may regulate its own housing.

It is far more appropriate for the City Council to determine what measures are most suited to regulate rents and evictions in New York City than for the State legislature, which is controlled by legislators living in districts with a vastly different housing stock and a population with needs much less desperate than New York City's. Among other things, the City Council could require approval of Rent Guidelines Board appointments, ensure that tenants receive proper notice of deregulated apartments and limit circumstances in which tenants can be evicted for owner use.

III. Needed Reforms: Repeal of Vacancy Destabilization Provisions

In 1993, the State amended the rent regulation laws to permit landlords to deregulate an apartment when the rent reaches \$2,000 and the apartment is empty. Since that time, many landlords have sought to empty apartments and increase the rent to \$2,000 or more. Often, landlords accomplish this by committing massive fraud and by harassing their tenants until they leave.⁴⁷

Once a landlord empties an apartment, he can take advantage of lax oversight and opportunities in the law to significantly raise rents. First, a landlord can claim he has made improvements to the apartment, improvements which result in a permanent increase to the legal regulated rent of one-fortieth

⁴⁴ *Id.*

⁴⁵ *Daily News*, June 4, 2008, "Stabilized Apartments Down, Frets Up," Adam Lisberg, 7 (quoting Leslie Torres, state Deputy Commissioner for Rent Administration).

⁴⁶ Victor Bach & Tom Waters, Community Service Society, *Making the Rent Summary*, May 2008, iii.

⁴⁷ *Aguiza v. Vantage Properties*, 69 A.D.3d 422 (1st Dep't. 2010)

of the costs of the improvements. Under the Rent Regulation Reform Act of 1997, there is no DHCR approval required to ensure that these improvements have actually been made and that the alleged costs are accurate. Landlords often exaggerate the costs and illegally raise the rent. Furthermore, the Rent Regulation Reform Act of 1997 allows a landlord to take an automatic 20% vacancy allowance. The combination of these increases often results in a rent of \$2,000 or more a month. Since there is no government review of the process by which the apartment is deregulated, the landlord need only claim the rent is \$2,000 or more, and the apartment is deregulated.

At Manhattan Legal Services, we recently had a case where the landlord alleged in the nonpayment petition that the apartment is not subject to rent regulation because the tenant moved in when the rent was already above \$2,000. A closer examination of the lease and its rider revealed that the landlord characterized the tenant's monthly rent of \$1,100 as a preferential rent. Further, even if we take the alleged last regulated rent and add all the Major Capital Improvement (MCI) increases, the rent would still be around \$1,687. Clearly, the landlord was trying to defraud the tenant and deprive her of the protections of rent stabilization.

It does not matter whether the market will bear a \$2,000 rent; the next tenant loses all the crucial tenure protections provided by rent stabilization, such as a right to a lease renewal and the prohibition against eviction for causes other than those explicitly stated in the Rent Stabilization Law and Code. It has become easier and easier to reach the magic number of \$2,000. It is essential that this incentive be removed from the system. Vacancy decontrol has led to tenant harassment, landlord fraud, displacement of tenants and destabilization of neighborhoods. Repealing vacancy decontrol must be the first step toward protecting our shrinking affordable housing stock. We strongly support the repeal of vacancy decontrol.

Additional provisions of A2674-A/S2783-A would also remove some of the weakening loopholes in the Rent Stabilization Law that lead to tenant displacement and lead to landlord harassment of tenants, especially low-income tenants who lack alternatives if they lose rent-regulated apartments:

- Reducing the statutory vacancy allowance from 20% to 10% and limiting collection of that allowance to one time per year will remove an incentive for landlords to create vacancies while still giving landlords adequate compensation for vacancy expenses.
- Extending the amortization period from 40 to 60 months for individual apartment improvement rent increases and providing more regulation of the approval process will help to end a

widespread abuse of the rent laws by landlords,⁴⁸ reduce the incentives to create vacancies and help to keep units affordable.

- Restoring the pre-2003 interpretation of preferential rents will maintain stability in rent-stabilized rents and prevent displacement of tenants. Prior to 2003, once a landlord offered a preferential rent to a tenant, future rent increases would be based on the preferential rent for the lifetime of the tenancy. Under current law, the landlord has the option of basing rent guidelines increases on the higher legal regulated rent whenever the existing tenant's lease is renewed.

IV. Protection Under the Rent Stabilization Law for Former Mitchell-Lama and Section 8 Projects

Since 1990, there has been a 12% loss in project-based Section 8 housing, leaving only 82,897 subsidized privately-owned apartments remaining in New York City. Senior citizens and individuals with disabilities comprise 40% of the tenant population living in project-based Section 8 developments. These subsidized developments protect long-time residents and ensure the continued presence of affordable housing even as neighborhoods changes and rents increase. Rent regulation should be extended to include these buildings when they exit the federal subsidy program. Regulating former project based Section 8 buildings is a good first step. Mitchell-Lama projects that were built and occupied after January 1, 1974 need the same rent protections.

V. Additional Provisions

Additional provisions in A2674 will provide needed reforms to the rent regulation laws and help to restore the status quo prior to the weakening amendments of the 1990s and 2000s. For example:

- Limiting recovery of rent-stabilized apartments for use by an owner or family member of the owner to one apartment, and limiting that recovery to situations of immediate and compelling necessity, will end an abuse of the rent laws designed to remove tenants, especially vulnerable tenants paying affordable rents, from their homes.
- Making major capital improvement increases a temporary surcharge will ensure that owners recover the costs of making improvements without imposing permanent rent increases that make apartments unaffordable.

⁴⁸ See Association of Neighborhood and Housing Development, *The \$20,000 Stove: How Fraudulent Rent Increases Undermine New York's Affordable Housing*, January 2009, available at <http://anhd.org/resources/resources.html>

Conclusion

Thank you for the opportunity to testify before the City Council Housing and Buildings Committee. This is a time of grave crisis in this state and this city. We are facing a dire lack of affordable housing in New York City exacerbated by the current economic downturn. We hope that the City Council will pass Resolution No. 700 and do all that it can to encourage the State Legislature and the Governor to sign A2674, which would renew rent regulation and strengthen its vital protections for many of the state's most vulnerable tenants.

Respectfully submitted,

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**TESTIMONY OF THE URBAN JUSTICE CENTER, NORTHERN MANHATTAN
IMPROVEMENT CORPORATION, CAMBA LEGAL SERVICES, , AT THE CITY COUNCIL
HOUSING AND BUILDINGS COMMITTEE HEARING ON RES. NO. 700**

MAY 9, 2011

Good morning. My name is Harvey Epstein; I am the Project Director of the Community Development Project at the Urban Justice Center. The Urban Justice Center is a project-based umbrella legal services and advocacy organization serving New York City residents. In the past 25 years, the Urban Justice Center has provided direct legal assistance, systemic advocacy and community education to low and moderate income rent regulated tenants in New York City. The Community Development Project (CDP) of the Urban Justice Center formed in September 2001 to provide legal, technical, research and policy assistance to grassroots community groups engaged in a wide range of community development efforts throughout New York City. Our work is informed by the belief that real and lasting change in low-income, urban neighborhoods is often rooted in the empowerment of grassroots, community institutions.

The SRO Law Project is a program of Goddard Riverside Community Center, a community-based, not-for-profit, social service agency that works to meet people's basic needs – food, shelter, education – and bring them together for mutual aid and social action. Since its founding in 1981, the SRO Law Project has been dedicated to the preservation of affordable housing for poor, low-income and working individuals and families, with a primary focus on single room occupancy (SRO) housing. The SRO Law Project provides free legal representation, tenant organizing

assistance and know-your-rights trainings to low-income residents of SRO and apartment buildings on Manhattan's West Side.

Northern Manhattan Improvement Corporation Legal Services Department (NMIC) Since its founding in 1979, NMIC's Legal Services Department has provided bilingual legal services to residents of upper Manhattan and has served as the only locally-based legal services provider in Washington Heights/Inwood.

The Legal Services Department's mission is to provide high quality, free civil legal representation and advocacy. NMIC provides a broad range of legal services historically focused on the needs of the area's low income residents, many of whom are immigrants. Over the years, NMIC has extended its services to include needy individuals and groups throughout the borough of Manhattan. Where appropriate, NMIC has brought city-wide impact litigation. NMIC's practice areas include landlord/tenant, public benefits, disability, environmental law (focusing on childhood lead poisoning prevention, mold and asthma triggers) immigration, consumer law, domestic violence and immigration matters. Legal representation is provided in all appropriate courts and tribunals, including appellate courts in both the state and federal jurisdictions. Clients range from individuals, building-wide tenant associations, client groups and court approved class litigants.

NMIC's legal staff of attorneys, paralegals and legal assistants provide approximately 10,000 clients a year with community based civil legal services ranging from simple advice to city-wide class action litigation and law reform appellate advocacy.

CAMBA is a non-profit community agency founded in 1977 that serves more than 35,000 individuals and families a year in a variety of service areas including Housing and Homeless

Services, Economic Development, HIV/AIDS Services, among others. CAMBA Legal Services is the legal services arm of CAMBA. Established in 1993, CAMBA Legal Services provides free legal counsel and representation to low-income and working poor Brooklyn and Staten Island residents. Last year, we served over 2,800 clients, 956 in housing matters.

Our organizations welcome the opportunity to give testimony before the New York City Council Housing and Buildings Committee. We urge the City Council to support Res. No. 700. The renewal of rent stabilization is critical to the preservation of affordable housing in New York City. The City Council should also support the efforts of the New York State Assembly to scale back some of the most damaging provisions of the 1997 Rent Regulation Reform Act.

Support Res. No. 700—Rent Stabilization plays an essential role in preserving affordable housing.

The renewal of the Rent Stabilization Law (RSL) is essential for low-income New Yorkers. Contrary to certain myths, rent-stabilized tenants are primarily of low and moderate income. 22.5% (close to 240,000 households) have incomes below the poverty level. In addition to regulating rent increases, the RSL provides crucial tenure protections that tenant in unregulated private housing lack. The right to lease renewal, succession rights for remaining family members, protection against eviction except for causes specified in the law is all essential in allowing tenants to remain in their homes. Rent-stabilized tenants also have an enforcement system (albeit a weakened one) in the courts and the State Division of Housing and Community Renewal. Finally, in an increasingly segregated city,

rent stabilization preserves some racial and economic integration in gentrifying neighborhoods.

Support Res. No. 700—The Urstadt Law unfairly prevents New York City from regulating its own housing.

We also urge you to support the resolution urging repeal of the Urstadt Law, which prevents New York City from enacting rent regulation laws more strict than those passed by the State Legislature. This law clearly takes away from the City Council (and thus the voters of the City) the power to decide what is best of New York City. The Urstadt Law imposes upon the City the unconstructive stalemate that is Albany politics with respect to housing and unfairly penalizes low and moderate-income tenants whose homes are at stake. Moreover, it usurps the authority of local elected officials to maintain local control over housing policy

Support Res. No. 700—The New York State Assembly has taken the lead in extending rent regulation and reversing some of the setbacks from the 1997 Rent Regulation Reform Act

The City Council should send a strong message of support for the Omnibus housing bill, which extends the state's rent regulation laws and reverses some of the losses to tenants suffered when the laws were renewed in 1993 and 1997. While we would like to see more of the many protections lost in the Rent Regulation Reform Acts of 1993 and 1997, as well as the revised Rent Stabilization Code of 2000, and the Assembly bills are an important first step in the right direction.

One important change in the bill passed by the Assembly is the elimination of "high rent" decontrol, in which vacant apartments that can legally be rented for \$2000 or more are removed from the rent stabilization system, meaning that the landlord can charge any rent that can be collected and the tenants lose all the tenure protections that come with rent stabilization.

Vacancy decontrol has in fact resulted in the decontrol of over 200,000 apartments in New York City and an unknown number in Nassau, Rockland and Westchester Counties in the past fifteen years. Units are being lost at a rapidly accelerating pace. At the present rate of decontrol, half the rent-regulated universe will be gone in the next 10 years.

The key problem is high-rent vacancy decontrol. While proponents touted this as "luxury" decontrol and claimed it would only affect the highest-rent Manhattan neighborhoods, this provision has allowed landlords to permanently remove vacant apartments in all parts of New York City and the surrounding suburbs from the system of rent protections.

With the 20 percent statutory vacancy bonus and a one-time investment in apartment improvements, a landlord can easily raise the legal rent on a \$1,000 apartment to over the \$2,000 decontrol threshold. The new tenant is not entitled to receive a lease or a lease renewal, and the rent can be raised by any amount at any time. This is true even if the apartment is renting for less than \$2000 a month, as long as the legal rent is over that amount. Furthermore, if an unregulated tenant wanted to assert their rights to live in safe and sanitary conditions under existing law, by seeking repairs, forming a tenants association, the failure to maintain eviction protections could subject them to removal by

the owner in retaliation to their protected action.

What's more, it is very easy for landlords to cheat and simply claim that an apartment is deregulated without doing the legally required work. They are not required to submit any proof of the amount spent on apartment improvements unless the new tenant files an overcharge complaint. With no tenant protections and a justified fear of retaliation, few unregulated tenants do this.

If the Senate and governor simply renew rent control and rent stabilization "as is," they will in fact be phasing the rent laws out. We urge the City Council to pass this Resolution urging the Senate and Governor to join the Assembly and repeal high-rent vacancy decontrol.

Another important aspect of the Assembly Bills is that it expands the rent laws to cover several critical types of housing that are now unprotected. The Emergency Tenant Protection Act would be extended to provide rent stabilized for project-based Section 8 buildings where the landlord opts out, and for Mitchell-Lama buildings first occupied after 1973 where the landlord buys out

Moreover, it limits to one the number of rent-stabilized apartments landlords may recapture (by failing to renew the lease of the existing tenant) for the owner's personal use or that of a family member. This provision would curtail another abuse of the current system by landlords who ostensibly need apartments for the use of their families, but are actually seeing to create vacancies and their resulting large rent increases. Secondly, it will severely restrict the loopholes that exist in the rent law for substantial rent increases for Major Capital Improvement and Individual Apartment Improvements. Currently, landlord

can price out existing rent stabilized tenants by applying for MCI's which push the rent to unaffordable levels.

Background: Rent Regulation and the Housing Crisis

Introduction: An existing housing crisis has worsened in the past year.

To state the obvious, rents in New York City are spiraling out of control. The citywide vacancy rate has declined to 2.88%, according to the 2008 Housing and Vacancy Survey. Rents have increased dramatically throughout New York City. In addition, family income has not. 2008 Housing and Vacancy Survey determined that the average income for a Rent Stabilized household is \$36,000 while an unregulated household is \$50,000. More importantly, that same survey determined that the owner's income was in excess of \$70,000.

The 2010 Income and Affordability Study of the Rent Guidelines Board found that actual wages of New Yorkers decreased by 3.4% in 2008 and unemployment was in excess of 9.5%. In addition, Bronx County saw the highest unemployment of 12.2%.

In the wake of the 9/11 tragedy and its long-term negative impact on low-income New Yorkers, the housing situation remains in critical condition.¹ Major deregulation and substantial vacancy increases have allowed rents to far exceed tenant income. In addition, landlords have been given free reign to use various legal and illegal means to decontrol their apartments, resulting in the permanent revocation of rent-regulated status and even higher rents for tenants

Rent to Income Ratios have become even more burdensome for New Yorkers.

The 2008 Housing and Vancancy Survey . One third of all middle-income stabilized households paid 30%-50% of their income on their monthly rents, and approximately 25% of renter households continue to try to pay over 50% of their income to cover the rent.

These alarming statistics have become even more horrific in the past year, aggravated by increasing unemployment and lost wages. In a bad economic year, the between rents and income gap has not narrowed, but rather increased. According to the Department of Housing and Urban Development, low-income renters were left out of the economy's growth in past years and have also been most acutely affected by the recent economic downturn. It is evident that millions of working poor families struggle to secure decent affordable housing are left to compete for dwindling supply of affordable housing available on private markets. With huge increases in homeless, including families, loss of the advantage program, poor and working poor families will have little or no option if they loose their rent regulated housing.

Meanwhile, as stabilized households struggle to pay their rents, their landlords continue to make increasing profits. While operating costs may be increasing, landlord continue to see an increase in apartment being removed from rent regulation. While the vacancy rate and housing availability of stabilized and low-rent housing for needy people remains extremely low, landlords have seen notable increases in income. The current revenue available to property owners, after payments of their operating costs, surpasses levels last seen in the late 1980s. Finally, as property owners continue to see greater revenues, they are also spending a smaller portion of dollars in rent or income on operating

costs.

In short, while landlords' profits have been steadily on the rise, tenants of stabilized housing are left to cope with rent increases that swallow more and more of their incomes. Landlords are still receiving substantial profits from the current housing market, and tenants are struggling more and more to simply stay afloat.

Rent increases will exacerbate our already alarming levels of homelessness.

For low-income tenants displaced from rent-stabilized apartments who must look for alternative housing, the situation is bleak, as other types of housing are increasingly unavailable. The average number of single adults and families staying in temporary housing in the shelter system has increased to record levels in the past year. According to the New York City Department of Homeless Services shelter census reports, the number of homeless people staying in shelters had risen to shocking levels. The numbers can be expected to rise as the economy continues slump, the City recovers from a weak economic recovery, rent increases continue, and the number of people receiving public entitlements declines. It is extremely difficult to justify placing hundreds of families out on the street and asking taxpayers to pay for them to stay in emergency shelters while these families struggle to find available and adequate Section 8 or public housing. This is becoming especially costly to taxpayers, since the average length of stay by families in the shelter system is again rising because of the difficulty in finding any affordable housing

It is imperative that the New York State legislature and Governor not only renew the rent laws but also strengthen and expand them.

Conclusion

The Urban Justice Center strongly urge renewal and strengthening of the rent laws.

We also urge passage of the resolution pending before the Council.

Respectfully submitted,

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ANHD INC is a 501(c)(3) not-for-profit social welfare organization which advocates on behalf of New York City community-based, non-profit housing organizations and the neighborhoods they serve.

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TESTIMONY OF
 DAVE HANZEL, DIRECTOR, BEFORE
 THE NEW YORK CITY COUNCIL
 HOUSING AND BUILDINGS COMMITTEE

May 9, 2011

Good Afternoon. Thank you, Chairman Dilan and committee members, for this opportunity to testify about the need to renew, and most importantly, strengthen our rent regulation laws.

My name is David Hanzel and I am the Director of ANHD INC. ANHD INC. is a not-for-profit social welfare organization which advocates on behalf of over 100 New York City neighborhood-based housing groups- CDCs, affordable homeownership groups, supportive housing providers and community organizers. ANHD INC. advocates for comprehensive, progressive housing polices and programs to support affordable, flourishing neighborhoods for all New Yorkers, especially our lower income residents.

In 2008, the year for when the most recent Housing and Vacancy Survey data is available (see chart below), there were 951,595 rent stabilized units in New York City. This is a large number and represents the homes of approximately 2 million New Yorkers. However, as you all know, the number of rent stabilized apartments used to be much higher. Between 2002 and 2008, we lost almost 341,000 rent stabilized units according to analysis conducted by the Furman Center at NYU. Most of the lost units were home to working class New Yorkers. In fact, 82% of the lost units had been affordable to households earning less than the city's median income of \$45,000.

	Number of Stabilized Rental Units Affordable by AMI			Change in Number of Units			
	0	2002	2005	2008	02 - 05	05 - 08	02 - 08
50% AMI		87,100	66,855	69,942	-20,245	3,087	-17,158
80% AMI		489,614	350,791	343,893	-138,824	-6,897	-145,721
100% AMI		727,715	619,588	610,932	-108,127	-8,656	-116,783
120% AMI		829,013	784,898	778,705	-44,116	-6,192	-50,308
150% AMI		900,755	905,430	890,975	4,675	-14,454	-9,779
200% AMI		952,814	976,473	951,595	23,659	-24,878	-1,219

We thank you for doing all you can to convince the New York State Legislature and Governor Cuomo to act on all of the strengthening amendments detailed in Resolution 700. We enthusiastically support this resolution in its entirety, but believe there are several provisions that are particularly central to slowing down the incredibly fast pace of losses. First, Vacancy Decontrol is responsible for the vast majority of reductions to the rent stabilized stock and fuels speculation, including the gross overleveraging by predatory equity-backed developers. Second, the 20% vacancy allowance must be reduced. This provision encourages tenant harassment and landlord mis-conduct by incentivizing the frequent turnover of apartments through either legal or illegal means. Finally, we must reform the Individual Apartment Increase or 1/40th provision. This program allows landlords to quickly raise rents for making often unnecessary or shoddy cosmetic repairs to an apartment and invites fraud due to a lack of oversight by the state housing department to verify landlord expenses. ANHD research has found that the 1/40th program was the primary mechanism landlords have used to raise rents in overleveraged properties.

I want to end my testimony with an invitation to join us and hundreds of other advocates, rent regulated tenants, and elected officials at a rally to advocate for stronger rent laws in Albany on Tuesday, May 24. We are thrilled that Speaker Quinn will join us and would love to have you participate as well. We know this is an especially busy time given budget negotiations, but if you would like more information, please contact me.

I would be happy to answer any questions.



For THE RECORD

**Testimony of LISC NYC
Res No. 700
NYC Council Housing and Buildings Committee
May 9th, 2011**

My name is Sarah Hovde and I am the Director of Research and Policy for the NYC Program of the Local Initiatives Support Corporation (LISC). LISC is a national community development intermediary organization that helps community-based groups to transform distressed communities and neighborhoods into healthy, sustainable ones by providing capital, technical expertise, training and information. In NYC, LISC has provided over \$160 million in loans and grants and over \$1.7 billion in equity to more than 75 community development corporations (CDCs), resulting in the development close to 30,000 units of affordable housing in Harlem, the South Bronx, and Brooklyn.

LISC NYC's mission is about much more than just affordable housing; however, the availability of stable, affordable housing is critical to the development of vibrant and sustainable communities. When families and individuals live in quality, affordable housing, they put down roots in their neighborhood and participate in its civic life. Parents are better able to provide food, medical care, educational opportunities and other necessities for their families. Children have the stability they need to learn and excel in school.

New York City boasts the largest stock of public housing in the country; and the City of New York has, over the past three decades, invested huge resources in the development and preservation of affordable housing. Nevertheless, the majority of low- and moderate-income New Yorkers depend on the privately owned, unsubsidized rental housing stock to fulfill their housing needs. Within the unsubsidized rental universe, rent-regulated housing provides important protections to tenants that help stabilize neighborhoods – especially neighborhoods that are subject to gentrification pressures. Tenants in rent-regulated housing cannot be evicted without good cause, even at the end of their lease term; and they are protected from sudden and steep rent increases. Because rent-regulation provides this security of tenure, tenants are better able to assert their rights when landlords fail to provide services and repairs. Rent regulation does not – and was never meant to – ensure perfect affordability for low- and moderate-income households. But it does provide important protections for individual tenants, and slows the steep escalation of rents in “hot market” neighborhoods.

The current rent laws contain several loopholes that have weakened the effectiveness of these protections. Foremost among these are high rent vacancy decontrol, which allows units to leave the system upon vacancy when the rent reaches \$2,000 per month. Combined with a statutory vacancy increase of 20% and the ability to raise rents through Major Capital Improvements

(MCIs) and Individual Apartment Improvements, this provision has provided owners with incentives to create high rates of tenant turnover and perform unnecessary improvements (or misrepresent what they spend on improvements) in order to get units out of the regulatory regime.

Indeed, we believe that owners' and investors' perception that rent regulations could be circumvented via these loopholes contributed to the phenomenon of extreme over-pricing and over-leveraging in NYC's multifamily housing that we saw in the middle of the last decade. With the failure of investors' assumptions about an ever-rising market, and the real estate bust of three years ago, we are now facing a crisis of foreclosure, deterioration and in some cases outright abandonment of over-mortgaged multifamily properties in neighborhoods throughout the city – often the same neighborhoods that suffered the most from earlier waves of housing distress in the 70s and 80s.

For all these reasons, LISC NYC joins the Council in calling on the State to renew the rent laws; to strengthen them by closing loopholes and reforming regulations governing MCIs and Individual Apartment Improvements; and to restore home rule regarding rent laws to NYC by repealing the Urstadt Law.

Thank you for the opportunity to testify today.

**Testimony of Elana Shneyer, Director of Organizing
Pratt Area Community Council**

**Before the New York City Council Committee On Housing and Buildings
May 9, 2011**

Pratt Area Community Council (PACC) is a community-based nonprofit organization committed to working with residents of Fort Greene, Clinton Hill, Bedford Stuyvesant, Crown Heights and Prospect Heights in Brooklyn. As an affordable housing provider, we manage 740 units of rent stabilized housing and provide residents with clean safe homes in which they are given the right to renewal leases at RGB increases which provide stability and security in their lives.

Need for Affordable Housing

Our top priority as an organization and the most pressing issue in our community is the need for affordable housing-affordable to truly low-income Brooklyn residents. The average income in Bedford-Stuyvesant is \$38,462, \$61,980 in Fort Greene/Clinton Hill/Brooklyn Heights, and \$37,202 in Prospect Heights/South Crown Heights¹, well below the Median Family Income for the NYC metro area (which includes Putnam County) of over 76,800. Affordable, as defined by 30% of income, would mean rents of \$930 (in Prospect Heights/Crown Heights)-\$1,549 (in Fort Greene/Brooklyn Heights). However, private rentals in the area are listed for well above that, up to \$2,390 for a two bedroom according to a search on Streeteasy.com. Dozens of individuals contact our office on a weekly basis seeking affordable housing in the area. As a local developer and manager of affordable housing, we can never produce the amount of affordable housing that is needed. The last lottery we conducted for 48 low-income rental apartments received 7,000 applications. It is therefore imperative to preserve the affordable housing that we have which is largely provided in our community by privately-owned older rent stabilized properties.

From the Residents' Perspective

The areas that we work in are typically thought of as a community of brownstones. But, among these unregulated, privately owned, small buildings are rent stabilized apartment buildings, ranging in size from 6 units to 100 units. In our service area 40% of the rental housing is rent stabilized². Working people, seniors, young professionals and families who have lived in the community for decades live in these apartments. Many have been there through the good and the bad times. The current rent laws in New York State put us closer and closer to losing this stock forever. Citywide, according to the RGB, over 18,000 units of rent stabilized housing were lost

¹ "How is Affordable Housing Threatened in Your Community," 2010 Community Analysis, Report by ANHD, available at www.anhd.org

² Rent Guidelines Board, http://www.housingnyc.com/downloads/research/pdf_reports/changes2010.pdf

in 2009 alone, nearly 3,000 of those units were in Brooklyn. Of those lost in Brooklyn, 73% were due to vacancy destabilization (also known as high rent vacancy decontrol). Since 1994, Brooklyn has lost over 10,000 rent regulated apartments. We anticipate that the numbers will be even higher in the coming years if the rent regulations stay the same, and even higher if the rent laws expire.

Most recently, in our neighborhoods, we have seen a new type of investment in rent stabilized housing. Private equity firms are buying up rent stabilized buildings. They are promising their investors returns that are well above what the present rent roll can produce. They have classified people's homes as "under performing assets." At begrudgingly agreed upon meetings with tenants, they have said that they will do what it takes to make a profit. Their prospectuses boast 20-30% per year turnover, substantially more than the normal turnover rate of 5-10% per year for rent stabilized units.

Why this sudden interest in rent stabilized housing; because rent regulations in New York State were weakened in 1997 and again in 2003. With virtually guaranteed rent increases, vacancy bonuses and vacancy destabilization, landlords have an opportunity to make a lot more money. Many in our area have already seized this unique window. At one such building in Clinton Hill, with 113 units, 1/3 of the units have turned over, and been de-regulated or will be upon the next vacancy. The weak rent laws allow landlords to vacate apartments and raise rents at unsettling rates.

Long-term tenants are facing difficulty obtaining timely lease renewals. When they do arrive, many contain mistakes--including higher rent increases than permitted and only one year renewals when tenants are entitled to a one or two year lease renewal. Recently, we have seen a number of lease renewals that suddenly, after decades in some cases, revoke preferential rents. A tenant that we work with had lived in his apartment for four years. When he first moved in, he was given a preferential rent. When his lease was up for renewal, the new owner revoked his preferential rent, causing his rent to increase by \$365.41 a month for a one year lease or \$417.61 a month for a two year lease. He was unable to afford the new rent and had to move out. At present he does not have a secure residence of his own.

Another tool being used to raise and deregulate apartments is the flawed Individual Apartment Improvement formula where landlords are passing along 1/40th of the cost of a renovation onto the tenant. This program has no oversight and we have seen landlords fraudulently increasing the rents without actually making improvements or over stating the cost of the improvement.

For example, two young women moved into their apartment in 2006 in Clinton Hill at a rent of \$1,300. A new landlord took over in 2007. At their lease renewal he tried to raise their rent to \$2,100 saying that there had been renovations in the apartment, even though the tenants had been

there the entire time and no renovations had been made. The tenants attempted to speak with their landlord who re-iterated the claim about renovations and would not back down. The tenants thought they were going to have to move. However, they were advised by a neighbor to file an overcharge complaint with DHCR. The tenants got a decision in their favor resulting in a rent reduction and credit. Their example is rare. Most tenants moving into deregulated apartments have no idea how the rent was calculated and have to make the compliant as an unregulated tenant without any protections from arbitrary evictions. DHCR also would have permitted the apartment to be deregulated if the tenants had not been tipped off by their neighbor.

The Major Capital Improvement formula is another area where rents are marching toward the \$2,000 deregulation threshold unjustly. As it currently stands, tenants have to pay for the increase forever, even after the cost has been paid back to the landlord and the value of the improvement has diminished. PACC strongly supports the reforms proposed that would make the improvement a surcharge to pay back the cost, but not added on as a rent increase forever.

All of these weak rent regulation laws, preferential rent, MCIs, IAIs, bring apartments closer to reaching the \$2,000 vacancy destabilization threshold. Simply raising the trigger for vacancy destabilization is insufficient. If you were to raise the price at which apartments become decontrolled, the loss of affordable units by would still rise. It might delay the problems we are seeing for a year or two, but it would by no means solve the problem. Vacancy destabilization creates the incentive to de-regulate apartments and de-stabilize communities. The only way to save rent regulated housing is to close the vacancy destabilization loop hole and that means permanently repealing vacancy destabilization.

Finally we strongly support the repeal of Urstadt to return home rule to New York City, thereby allowing our local elected officials to make rules that truly work for our neighborhoods.

PACC is a member of the real rent reform campaign. We are working to renew and strengthen the rent laws including the full repeal of vacancy destabilization, the extension of rental protections to former Mitchell-Lama and Project Based Section 8 buildings, reforming the MCI and IAI programs, changing the preferential rent provisions and returning home rule to NYC.

The City Council has a history of supporting affordable housing. We urge you to continue fighting for Brooklyn renters. Without rent regulation, rents in our area would continue to rise, but at even higher rates pricing out many of the people who fought to make our neighborhoods the desirable places they are today.

Submitted by:

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 5/9/11

(PLEASE PRINT)

Name: Lauren Lagas

Address: 400 E. 57th St

I represent: 400 E. 57th Tenants Cmty. C.

Address: 400 E. 57th

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. 700

in favor in opposition

Date: 5/9/11

(PLEASE PRINT)

Name: Hava Epstein

Address: 172 E 9th St

I represent: Urban Justice Center

Address: 123 William St

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. 700

in favor in opposition

Date: May 9, 2011

(PLEASE PRINT)

Name: Adrienne Holder

Address: 199 Water St NY NY 10038

I represent: The Legal Aid Society

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

5/9/11

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Colin Harris-McTigue (PLEASE PRINT)

Address: 41 Essex, Apt 16

I represent: Working Families Party

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: KAMA NASSER (PLEASE PRINT)

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I represent: Chhaya CDC

Address: 37-43, 77th St, NYC-11372

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 5/9/11

Name: DAVID HANZEL (PLEASE PRINT)

Address: _____

I represent: ASSOCIATION FOR NEIGHBORHOOD AND HOUSING

Address: DEVELOPMENT

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: May 9, 2011

(PLEASE PRINT)

Name: George TEANUES

Address: 529 East 6 St. NY, NY 10009

I represent: Self

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 700

in favor in opposition

Date: 5/9/11

(PLEASE PRINT)

Name: Ravn Rasmussen

Address: _____

I represent: Legal Services NYC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 700

in favor in opposition

Date: 5/9/11

(PLEASE PRINT)

Name: Sam Luu

Address: _____

I represent: Legal Services NYC

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 700

in favor in opposition

Date: 5/9/11

(PLEASE PRINT)

Name: SARAH HOVDE

Address: _____

I represent: LISC NYC

Address: 501 7th Ave NYC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 700

in favor in opposition

Date: 5/9/11

(PLEASE PRINT)

Name: Maggie Russell-Cardi

Address: 236 W 27

I represent: Tenants & Neighbors

Address: 236 W 27

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 700

in favor in opposition

Date: 5/9/11

(PLEASE PRINT)

Name: Elana Shneyer

Address: 201 Defalk Ave Bklyn, NY 11205

I represent: RACC

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆