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**Gale A. Brewer, Borough President**

## **FROM THE OFFICE OF MANHATTAN BOROUGH PRESIDENT GALE A. BREWER:**

### **RENT REGULATION RENEWAL AND REFORM and 421-A LEGISLATION**

Most decisions affecting rental housing in New York City are actually decided in Albany because of the way our laws are structured. Next month, the State Legislature and the Governor will make decisions that impact the continuing affordability of close to one million regulated apartments in NYC.

Some decisions are locally based. The City of New York's Zoning Resolution currently has a voluntary program for affordable housing that developers can opt into. But zoning is just one of many tools to preserve and build affordable housing. Over the next few weeks, our office will continue to advocate for a better state framework for our affordable housing; afterwards this office will continue the work on changes to the zoning resolution and other local tools to develop and preserve affordable housing.

### **WHAT WE ARE FACING THIS JUNE**

- The Rent Stabilization Law (EPTA) will expire June 15<sup>th</sup> unless action is taken by the State Legislature. This is the law that provides rights and protections for 2.5 million tenants living in rent stabilized apartments city-wide.
- The 421-a Real Property Tax Exemption Program is also set to expire. This tax program was created in 1971 to help spur real estate development in New York City and continues to provide tax breaks to developers constructing new buildings in NYC.

### **THE POSITION OF THE MANHATTAN BOROUGH PRESIDENT:**

#### Renew Rent Regulation

The Rent Stabilization (EPTA) law is crucial to the affordability of housing in New York. However, simply renewing the law as it is will not be enough because of how the law has been amended over the years. Substantive change is needed to protect tenants and save affordable housing in NYC.

- 1) **Eliminate Vacancy Deregulation:** —. Under the current law, when the rent for a vacant apartment reaches \$2,500, the unit leaves Rent Stabilization. Because under the existing

law landlords can obtain substantial increases during a vacancy, this threshold is far too easy to reach, and more and more apartments are leaving Rent Stabilization and becoming market rate units. Thus, the current law provides a tremendous incentive for owners to drive tenants out and obtain vacancies.

- 2) **Eliminate Vacancy Increases:** When an apartment becomes vacant, landlords are able to impose a vacancy bonus on the legal rent (usually 20%). This, combined with the imposition of other permissible increases, often pushes the rent over \$2,500, the threshold for removal from regulation.
- 3) **Reform the Individual Apartment Increase Procedure (IAI):** Another way in which landlords raise rents on vacant apartments, up to the \$2,500 threshold for destabilization, is to add either 1/40<sup>th</sup> or 1/60<sup>th</sup> of the cost of “improvements” completed during the vacancy. However, with no oversight, these improvements are often exaggerated or not actually completed. Reforms should include:
  - a. DHCR approval for IAI increases, with agency inspection required.
  - b. Elimination of the four-year limitation in which tenants may challenge increases taken during vacancy. Tenants should be able to challenge these increases at any time if it appears that the claim of improvements was fraudulent or flawed.
  - c. Disallowing IAI increases for repairs or appliance replacement when the prior tenant had sought such repairs and/or the useful life of the appliance had expired.
- 4) **Major Capital Improvement (MCI) Reform:** MCI increases were designed to encourage building-wide improvements. But under current regulations, MCI increases are granted by DHCR even when landlords make necessary repairs or building upkeep (such as pointing or façade repair). These MCI increases then become part of the base rent, and any future increases are compounded onto this new base rent – again making apartments less affordable and eventually pushing the rent over \$2,500 and out of Rent Stabilization. Reforms should include:
  - a. Requirement that DHCR scrutinize MCI applications more strictly and a prohibition on MCI increases for expected, routine building maintenance;
  - b. Amortization – the cost of MCIs should remain a surcharge on rents, and then removed when the cost of the improvement has been recouped by the landlord.
- 5) **Preferential Rents/Four Year Rule:** Currently, landlords can rent an apartment at a “preferential rent” while registering the apartment with DHCR at a much higher rent. Upon lease renewal, the landlord can then revoke the “preferential rent” and charge the very high rent at which they registered the apartment. Often the higher rent registered by the owner was not proper or legal. But if four years have passed since it was registered, under current law it cannot be challenged. In order to reform this practice, the burden must shift – whenever landlords are increasing the rent above a certain percentage, they

must be required to substantiate the validity of the increase and maintain records to do so for a minimum of ten years.

- 6) **Reform Rent Control Increases.** For years tenants of Rent Control apartments have been subjected to annual 7.5% rent increases. We support amending the law to provide that annual increases for rent controlled tenants be limited to either 7.5% or an average of the last five years of one-year Rent Guidelines Board increases for Stabilized units, whichever is less.

### **Fix or End 421-a**

This program was designed years ago, to encourage construction of new market rate housing – a need that no longer exists. The program produces a small number of affordable apartments; but we must now question whether the 421-a program is worth the loss of hundreds of millions of tax dollars it costs. (In 2014 alone, the program cost New York City \$1.1 billion in tax revenue.) This outdated program must not be renewed unless important reforms are included.

- 1) **End “Double-Dipping” or Overlapping Subsidies.** Units built to satisfy the affordable housing requirements of 421-a must not be available to be counted toward satisfying the requirements of a second subsidy program. Owners should not get two subsidies for one unit.
- 2) **Required Affordable Apartments Must Be Calibrated To Area Median Income (AMI) Ranges Affordable to the Local Community.** We need to ensure 421-a subsidized apartments are affordable to local residents. This may require offering rental units at levels well below the program’s current requirement of 60% or 80% of Metro Area AMI.
- 3) **Permanent Affordability.** Affordable units developed using 421-a subsidies must remain affordable, either by Stabilization coverage or regulatory agreement.
- 4) **Transparency/Data Collection.** The program must provide that comprehensive data be collected, maintained and made publicly available, tracking each project that receives 421-a benefits. Only then can it be determined whether the subsidies are effective and serving the program’s purpose.