

Testimony of Stuart M. Saft

Before The New York State Senate Judiciary Committee and
Senate Housing Committee on Good Cause Eviction Legislation S3082/Salazar

January 7, 2022

Dear Committee Members:

My name is Stuart Saft and I am a lifelong resident of the City of New York, born in Brooklyn, raised in Queens, and presently residing in Manhattan. I am also Chairman of the Council of New York Cooperatives and Condominiums, an attorney representing the elected boards of over a hundred cooperative housing corporations and condominium associations throughout the City of New York, a former chairman of the Board of Directors of the National Cooperative Bank, and the President of the Board of a Manhattan Co-Op. I also served as Chair of the New York City Workforce Investment Board for twelve years.

I have been actively involved in cooperative and condominium housing in New York City for more than 40 years having done numerous workouts of defaults in affordable cooperatives in Brooklyn, Queens and the Bronx including refinancing Co-Op City 20 years ago to keep it solvent, inventing a form of financing to assist Parkchester North and South Condominiums in the Bronx from crumbling, preventing Kings Village and Clinton Hill in Brooklyn and Hyde Park Gardens, Boulevard Gardens and Hampton Court in Queens and many others from being forced into bankruptcy and dissolution. During the real estate recession of the 90s, I served on the Manhattan Borough President's Affordable Housing Task Force, the Queens Borough President's Co-Op Task Force and four New York State Attorney General's Task Forces on the Martin Act. I have met with representatives of Fannie Mae and Freddie Mac to keep funding New York Co-Ops and, as I indicated above, and for twelve years I served on the Board of the National Cooperative Bank including four years as Chair of the NCB Board and six years as the Chair of NCB's Loan Committee and my goal was to make certain that funds would always be available for co-ops and condos in New York City.

Moreover, I have voluntarily advised the tenants of numerous rental buildings about tenant sponsored conversions so they could obtain equity and control of their environment. I have also spent decades protecting the ability of co-op and condo buyers, owners and boards to manage their real estate and preserve the quality of life of approximately five hundred thousand New Yorkers who live in co-op and condominium buildings.

I can summarize my testimony in one sentence: The Good Cause Eviction Legislation will have a negative impact on every co-op in New York. I am here today to advise you that the Good Cause Eviction Legislation would be a disaster for co-ops and their residents, who elect their boards to manage their jointly owned property and pay all the bills because it will impede the board's ability to operate the property when a shareholder defaults. Every Co-Op and Condo is the same in New York; the burden of ownership does not fall on a wealthy absentee landlord but on all the other owners of the building.

Legislation has been introduced in the New York State Senate (S-3082) and the New York State Assembly (A-5573) (collectively, the “Bill”), that effectively creates rent control by the state for virtually every residence in New York including cooperatives and condominiums. Even hotels permitting stays of more than thirty days would be affected.

The Bill provides that every tenant has a right to a renewal lease at a rent increase that cannot exceed the greater of 3% or 1½ times the increase in the Consumer Price Index. The Bill would also preclude the owners of apartment buildings (including cooperatives and condominiums), and hotels with guests staying over 30 days, from being able to evict a tenant, sub-tenant, or someone without a lease or other occupancy agreement, unless the landlord can demonstrate to a Judge that there is a good cause for the eviction. The Bill would require a Judge to determine whether the Landlord has a good reason for evicting a tenant and the tenant’s failure to comply with the terms of the Lease would not necessarily be enough.

Moreover, the Bill provides that no landlord of a housing accommodation can evict a tenant, without showing good cause even if the occupant does not have a valid lease. Good cause includes failure to pay rent unless the tenant received a rent increase that was unreasonable. An unreasonable rent increase would be an annual rent increase of more than 3% or 1½ times the increase in the consumer price index, regardless of the building’s actual operating expenses. The landlord’s failure to satisfy this requirement would allow an occupant to remain in the space without paying for it and the fact that the lease expired or the occupant never had a lease is irrelevant. The Bill, if enacted, would fundamentally change how someone owning real estate could treat an occupant of space regardless of whether the occupant had a legal right to occupy the space, which would seriously damage the economic viability of residential real estate including reducing property’s value and the property taxes going to New York City and the Transfer Taxes needed by the State and City.

Good cause also includes the occupant’s refusal to allow the owner of the space access to the space for the purpose of making “necessary” repairs or improvements and it would be up to a court to determine what would be considered a “necessary repair or improvement.” As a result, a court would be asked to determine if a repair or improvement was necessary and, if the court did not think so, the occupant would not have to allow the owner into the apartment to make repairs and improvements. Moreover, the occupant could obtain an injunction stopping a nonpayment, objectionable tenancy, or holdover proceeding for years while a Judge determines if the Judge believes there was good cause for the eviction and, even if the court agrees with the landlord, there would be another year’s delay as the tenant appeals the decision.

It should be noted that while the rent can only increase by 3%, for the last decade real estate taxes have been increasing by far more than 3% per year. Additionally, recently enacted laws and regulations by the City and the State mandating actions that have to be taken to reduce a building’s carbon footprint combined with the recently enhanced Local Law 11 regulations, which require the facade of every building six stories or greater to be inspected and repaired every five years, will cause operating expenses to continue to increase significantly. There is little doubt that operating costs will increase by significantly more than 3%. This will also mean that co-ops cannot require their shareholders to pay maintenance and assessments above 3% and rental landlords cannot increase rents by more than 3% regardless of their increased operating

costs. Moreover, co-op shareholders and condo unit owners would not be able to rent out their homes and apartments and obtain increases of more than 3% a year regardless of how much their maintenance or common charges and real estate taxes increase, which increases are caused primarily by the City and State of New York.

Every new law has unintended consequences and what will be the consequences of this one? I indicated that I served on the Board and as chair of NCB's Loan Committee and I can tell you that this piece of legislation that is intended to help someone, somewhere, will make it more difficult and, in an economic downturn impossible, for boards from being able to obtain financing. How will lenders judge the impact of a lease default when in addition to the Landlord and Tenant, there will be a mediator, an arbitrator, a phalanx of lawyers, and a yet unnamed City Agency who are going to become participants in the process?

The most pressing issue the Legislature could tackle to improve the lives of the hundreds of thousands of co-op owners in New York is to make co-ops more affordable.

These co-op owners cannot afford to keep paying for mandate after mandate and ever higher real property taxes.

Thank you.