



NEW YORK STATE SENATOR

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Testimony Before The New York State Division Of Housing & Community Renewal (DHCR) Regarding Proposed Changes Of The Rent Stabilization Code And Emergency Tenant Protection Regulations On Demolition On August 12, 2008

LIZ KRUEGER July 15, 2010

My name is Liz Krueger and I represent the 26th Senate District, which includes the East Side and Midtown areas of Manhattan. I serve as the Ranking Member of the New York State Senate's Committee on Housing, Construction and Community Development. I want to thank you for providing me with this opportunity to testify on the proposed amendment changes in the Rent Stabilization Code (RSC), the New York City Rent and Eviction Regulations and the Emergency Tenant Protection Regulations (TPR) on demolition regulation changes. I urge the Division of Housing & Community Renewal (DHCR) to seriously reconsider and reject many of these proposed amendment changes.

The Proposed Definition of Demolition is Far Too Broad

The current proposed regulatory changes would codify the definition of demolition to allow owners who intend to perform "a complete gutting of all interior space in the buildings." Current law allows owners to apply to DHCR for permission to not renew rent stabilized renewal leases and essentially force tenants out of their homes. This overly broad definition has resulted in unjust loopholes allowing in a surge of "phony demolition" applications and has resulted in a grave threat to the preservation of affordable, rent regulated housing and

could cause many of my constituents to be forced out of their homes. DHCR should amend the code to prohibit owners from evicting tenants for demolitions that are only replacing building systems. Demolition should be an actual demolition which means the complete razing of the entire building and its exterior walls. This is the definition that I believe the Legislature intended when they allow owners to not renew leases. That is why I have joined Assembly Member Deborah Glick in introducing legislation, [A5742/S7571] that would clarify the definition of demolition.

Owners Should Be Required to Meet Certain Criteria Before a Demolition is Approved

The original intent of the demolition provision of the Rent Stabilization Law (RSL) was to allow owners to completely demolish dangerous and dilapidated housing and replace it with new, safe housing. Before 2000, the RSC required the owner to establish that he/she “seeks in good faith to recover possession of the housing accommodations for the purpose of demolishing them and *constructing a new building*.” The owner should be required to prove that the building being considered for demolition is unsafe. In addition, when an owner submits a demolition application, they should also be required to submit approved building plans from the New York City Department of Buildings (DOB) and demonstrate proof of financial ability to both demolish the building and construct a new building. Having these requirements would ensure that owners are held accountable and prevented from simply using the prospect of demolition as a method to intimidate and harass tenants out of their homes.

The Stipend Formula Should Be Revised and Should Be Substantially Increased

The proposed stipend formula which requires that owners provide tenants with a stipend equal to 20 percent above the difference between the monthly mean registered rent in the tenant’s zip code and the tenant’s rent multiplied by 72 months, is unrealistic because it assumes that tenants can find alternative rent stabilized apartments in their zip codes. As more and more rent stabilized apartments disappear due to vacancy decontrol and other

reasons, it is extremely difficult to find rent stabilized apartments, particularly in Manhattan. A stipend that is based on rent stabilized registered rents is not realistic in the current rental market where affordable housing is scarce. The DHCR should eliminate the stipend option and require that owners relocate all tenants to similarly sized apartments for similar rents in the same community board. If the DHCR does want to continue to allow owners the stipend option, then owners should be required to pay the difference between the tenant's old rent and the cost of renting a new comparable apartment as long as the tenant remains in the new apartment.

The Hearing Requirement Should Be Re-instated & Required in All Demolition Applications

DHCR should re-implement its policy of having mandatory formal hearings before all demolition cases. Prior to 2002, these hearings were required and were eliminated during the Pataki administration. Considering the fact that people's homes are at stake, DHCR should not rely solely on a paper application to evaluate and scrutinize an owner's intentions. A hearing will provide both tenants and owners an opportunity to testify, disclose relevant information, and to determine if the owner is seeking to demolish in good faith. If a tenant or the DHCR's Enforcement Unit establishes at a hearing that the owner has harassed tenants in order to force them from their units, then DCHR should deny the owner's application. DHCR should require that owners provide all supporting documentation including the actual plan filed with the City's DOB that demonstrates the required financing necessary with their application. Discovery should be permitted in demolition proceedings as it is in other administrative proceedings.

DHCR Should Fulfill its Mission of Preserving Affordable Housing

In its explanations for these regulatory changes, DHCR has stated that these proposals merely codify past New York State Supreme Court legal decisions. DHCR, as an Executive agency, does have discretion in crafting regulations and policies that allow it to best fulfill its

mission. It is disappointing to see that with these proposals, DHCR has chosen to act in a manner that is contrary to its mission. Earlier this year, I along with many of my colleagues in state and city government sent to DHCR, a list of several critical recommendations regarding demolition. I was extremely disappointed that none of these recommendations were included in any of these proposed changes. I urge the DHCR to reconsider its proposed demolition regulations and to incorporate the alternative recommendations that my colleagues in government and I have proposed.

Thank you and I appreciate this opportunity to testify and I look forward to continuing to work with DCHR on these and many other important housing issues.