THE SENATE
STATE OF NEW YORK
ALBANY

TESTIMONY OF STATE SENATOR BRAD HOYLMAN BEFORE THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS REGARDING THE REQUEST FOR A VARIANCE AT 515 EAST 5TH STREET IN MANHATTAN CALENDAR #245-12-A

Thank you for the opportunity to submit testimony today strongly opposing the appeal by the owner of 515 East 5th Street in Manhattan requesting that the Board of Standards and Appeals ("BSA") vary several requirements of the New York State Multiple Dwelling Law ("MDL") (Cal. No. 245-12-A). As the State Senator representing 515 East 5th Street, I am very familiar with this property and the owner's decision eight years ago to construct two additional stories in violation of the current zoning and his continued refusal to bring the building up to code.

The building's owner illegally erected the 6th and 7th floor additions in 2006, without the proper permits and without complying with the provisions of the MDL. The owner has argued that compliance with the MDL would present a financial hardship, however this is a problem of his own making.

Since the illegal units were first completed eight years ago, the owner has profited handsomely by renting them to tenants paying market rate. It is estimated by tenants at 515 East 5th Street that the owner may have gained close to $1 million in revenue in that time. However, the exact figure is unknown as the owner has never disclosed his revenue nor been required to do so. A key requirement of gaining a waiver of this particular MDL provision is having to show the potential negative impact bringing a property up to code would have on the owner's finances. I ask that the disclosure of the owner's profits be made a requirement as part of any current and future applications, as these numbers are relevant if the owner is seeking to make a financial hardship argument. I also ask that the Board re-open the hearing on the zoning-variance application so that rental income can be taken into account on that application as well.

Furthermore, in the time since the owner chose to increase the size of the building and add two floors without necessary approvals, tenants have been occupying the

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additional units without a certificate of occupancy, and living in a building that is not up to code. It is outrageous that the owner is once again attempting to legitimize his wrongdoing by asking for a waiver of certain MDL standards designed to protect tenants. He is putting my constituents at risk, and if anything, causing them undue hardship. In fact, the Department of Buildings has repeatedly issued violations including nine for illegal apartments, four for working without a permit, and ten stop work orders. It is clear from these violations that criterion of the MDL were not being met before and that they are still not being met now.

Although the BSA has ruled in the past that the 7th floor penthouse must be removed, the owner has continued to rent the premises illegally and without a certificate of occupancy, as evidenced by the nine certificate of occupancy violations that are open with the Department of Buildings. The owner admitted that the penthouse must be removed in a letter to the BSA dated June 24, 2013. He needs to take action to do so, and the cost must not be considered part of his claims of hardship.

I believe that the only proper course of action is for this variance to be denied and I respectfully ask the Board to reject this application. I appreciate the Board's time and consideration, and I thank you again for the opportunity to comment.