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January 7, 2021

TESTIMONY OF MARK HANKIN, ESQ. BEFORE THE NEW YORK STATE SENATE HOUSING/JUDICIARY COMMITTEES: GOOD CAUSE EVICTION BILL (S 3082)- TECHNICAL CORRECTION TO REMOVE CO-OPS

Committee Members,

My name is Mark Hankin and I would like to thank you for the opportunity to speak before you on this extremely important issue By way of background, I am a practicing attorney in the City of New York for over 35 years in the firm of Hankin & Mazel, PLLC, we represent Co-op Board which includes over 20,000 units of Co-op housing; I am the Chairperson of the Queens Bar Association Co-op & Condo Committee and writing on behalf of our Committee members.

In our review of The Good Cause Eviction Bill, A.573/S.3082, it appears that Co-ops are inadvertently included in this legislation, which is clearly designed to protect tenants from their landlords in a traditional rental situation. In the situation with a Co-op, I think we can all agree that these provisions of this bill provide no protection to the Co-op shareholder and will have a devastating impact on their business operations. Therefore, we are simply requesting a technical correction to remove Co-ops from this legislation.

The Good Cause Eviction Bill prohibits eviction or removal from housing accommodations for anything other than "Good Cause", which includes nuisance, illegal use, violation of substantial terms of the lease, and failure to provide access. It will make evicting a non-complying shareholder more onerous and expensive, resulting in higher costs for all shareholders.

Please remember, in a Cooperative all the shareholders are deemed "tenants", so if one shareholder does not pay their maintenance, it falls upon the other shareholders to make up the difference. This statute would have the unintended consequence of rewarding shareholders who do not pay their maintenance and collectively punish the remaining shareholders.

In addition, the bill creates an artificial cap in increases in maintenance at 3% or 1.5 times the Consumer Price Index. The bill completely ignores the fact that a Co-op Board is required to submit a balanced budget to their shareholders on an annual basis. This is a basic principle of accounting and any impediment to allowing for a balanced budget may result in financial ruin for the Co-op.

Any increase in maintenance is a direct result in increased costs, many of which is the result of skyrocketing tax increases in New York City and the numerous unfunded mandates that Co-ops must comply. This bill also completely ignores the fact that Co-op budgets contain no profits. All income over expenses is put into reserves accounts or reinvested in the Co-op.

It is important to note that the budget of a Co-op is prepared and decided upon by the Board of Directors. These Boards are made up of volunteer shareholders, who must pay any increases themselves. It stands to reason that these volunteer directors would try to keep maintenance as low as possible in light of this direct interest.

Under this proposal investment Co-op and Condo owners must provide renewal leases and subleases under these terms and cannot recapture their own units except for Good Cause. Therefore, the unintended effect of this legislation will result in a substantial reduction in the number of units available for rent in Co-ops will be dramatically reduced. Reducing the amount of affordable housing in New York City is counter-intuitive and will have a negative impact on the rental market by tightening the supply and may result in the increase in rents.

This legislation will make the operations of balancing a Co-op budget problematic; collection of arrears will be far more costly and difficult and fewer units will be sublet, reducing the affordable housing stock. This legislation will have a devastating impact on all Co-op shareholders and no discernible benefit. A technical correction as requested above is a fair and reasonable request and we hope this Committee seriously considers it in their deliberations.

Respectfully Submitted,

Mark Hankin, Esq.

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