

TESTIMONY OF THE REAL ESTATE BOARD OF NEW YORK TO THE COMMITTEES ON AGING AND HOUSING AND BUILDINGS OF THE NEW YORK CITY COUNCIL CONCERNING INT. 06-2018 AND INT. 225-2018

December 12, 2019

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the Council for the opportunity to testify on legislation that would expand certain protections for seniors and people with disabilities.

BILL: Intro No. 0006-2018

SUBJECT: A Local Law to amend the administrative code of the city of New York, in relation to evictions of elderly tenants

SPONSORS: Council Members Barron, Brannan and Koslowitz

Int. 0006 would amend the New York City administrative code to require the owner of a dwelling unit to notify the NYC Department of Housing Preservation and Development (HPD) prior to or on the day the owner serves a petition of unit recovery to a senior occupant. The owner would have to provide HPD with the name, address and phone number of the senior occupant as well as that of the occupant's legal partner, if applicable. Failure to do so would qualify as a Class A misdemeanor. The bill requires HPD to provide the tenant(s) with a list of persons who can provide legal services. Additionally, HPD is obliged to collect and analyze the annual data from the owner notifications and will actively search for trends in senior evictions, which will be made publicly available.

REBNY understands the Council's concern for eviction proceedings and shares in its pursuit for fairness and justice in the process. However, except for senior housing, landlords generally do not collect information about or monitor the age of their tenants. To do so could conceivably lead to allegations of violating New York City's Human Rights Law which strictly prohibits age discrimination if, for example, it could be shown that a landlord declined to rent an apartment based on an applicant's youthful age. Consequently, it is unlikely that a landlord could comply with Intro 0006 without exposing herself to liability under New York City's Human Rights Law.

The City has made important strides in recent years to ensure more New Yorkers can obtain counsel in eviction proceedings. To ensure potentially vulnerable seniors have adequate protections in place, REBNY encourages the Council to provide adequate funding in this budget cycle to ensure all older adults have access to counsel in housing court as part of the City's universal right to counsel policy. In addition, REBNY suggests that the Council require HPD to create a simple, one-page form that could be distributed to all tenants served with an eviction proceeding notice that informs tenants of providers of legal services including under the City's right to counsel policy. Such a framework would ensure that all tenants, not just seniors, know how to obtain legal assistance and empower the tenant to act, rather than waiting on the agency to reach out with support.

BILL: Intro No. 0225-2018

SUBJECT: A Local Law to amend the administrative code of the city of New York, in relation to the installation of protective devices for seniors and persons with a disability who reside in multiple dwellings, and the provision of a tax abatement for certain related installations

SPONSOR: Council Member Brannan

Int. 0225 would amend the New York City administrative code to require a dwelling owner to install bathroom safety measures for senior or disabled tenants upon request. Protective devices include shower, bathtub, and toilet grab bars as well as safe manner treads in the shower and bathtub. The dwelling owner shall annually notify tenants of her obligation to install the safety measures upon request.

The bill would also establish a tax abatement to help reduce the fiscal burden on dwelling owners to install the listed safety measures. For all installations from Fiscal Year 2014 onward, owners will be eligible for an abatement of with a cap of \$250 to \$800 dollars, depending on the extent of supporting retrofits needed to install the protective devices.

REBNY shares the Council's concern for the safety and well-being of seniors and people with disabilities. Measures such as grab bars and safe manner treads can offer protection against risk of serious injury. Consistent with the requirements of the City's Human Rights Law, dwelling owners already make reasonable accommodations upon request for residents with disabilities and seniors, including installing grab bars and treads. For this reason, REBNY generally supports the legislation and believes the inclusion of a tax abatement will encourage greater proliferation of protective measures for senior and disabled tenants.

However, it is important to note that the installation of grab bars may not be possible in bathrooms in some existing dwelling units, especially in older buildings. This is the case because grab bars must be adequately anchored in walls in order to work properly. Certainly, there are existing bathrooms with walls that cannot easily accommodate or properly support such equipment. Proper efforts to anchor equipment may necessitate opening walls to install reinforcement beams, incurring additional cost or exposing other issues such as lead that may require additional intervention and cost. These costs could easily exceed the value of the proposed abatement.

To address this situation, the tax abatement will need to be increased in order to offset the full cost of such work. While it is important to cap the abatement from a fiduciary perspective, such abatement will lose its utility over time if the cost schedule is not adjusted upward, at minimum, to increase as cost of labor and goods increase. An automatic mechanism for the cap to do such, typically tied to CPI, is recommended. Finally, the legislation should be modified to address situations where existing bathrooms simply cannot reasonably accommodate grab bars.

Further, we believe the legislation could be improved in the following ways:

First, landlords are already required to provide tenants with ample annual notices on an expanse of topics. The legislation would be improved if clarified that owners could distribute such notices electronically or post such a notice in the building lobby for a defined period.

Second, the legislation should be clarified in the context of cooperatives and condominiums to ensure that when a unit in such a building is rented it is the obligation of the unit owner to make such improvements rather than the cooperative or condominium.

Finally, the legislation appropriately addresses the installation of protective devices, but we would request clarity about responsibility for the maintenance and or replacement of such devices as proper maintenance is essential for the safe operation of these devices. The legislation should clarify that in situations where tenants damage the equipment that it not be the obligation of the owner not be held responsible for violating the requirements. In addition, the legislation should clarify that the tax abatement may also be utilized for work related to the replacement and maintenance of such systems.

Finally, more generally, REBNY encourages the Council to ensure consistency of definition between Int. 0006 and Int. 0225. Both pieces of legislation provide different ages for the term "senior," 62 and 60 respectively. Both bills should use 62 as the defined age for a senior. This would be consistent with other regulations, such the Senior Citizen Rent Increase Exemption (SCRIE), which is defined in accordance with New York State law.

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