

The Real Estate Board of New York to The Committee on Environmental Protection of the New York City Council Concerning Int 1947

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 Committee for the opportunity to testify on legislation that would apply carbon emission caps to certain buildings containing rent-regulated units.

Achieving our shared climate goals requires participation from all sectors, a truth the real estate industry has long realized. Many real estate firms have for years maintained their own commitments to cut greenhouse gas emissions, lower energy consumption, reduce water consumption, and divert more construction debris from landfill. These efforts – often undertaken in partnership with City policymakers – combined with commitments to develop, operate, and maintain energy efficient buildings are central to the industry's guiding principles.

For this reason, REBNY shares the City's environmental goals and appreciates that the building sector collectively needs to make meaningful carbon reductions in order to reach those goals. REBNY supports data driven public policy to do so. It is therefore essential that the Council undertake a rigorous analysis of this proposed legislation as any expansion of local carbon reduction mandates must be reflective of buildings' physical and financial realities, particularly now in a moment of economic downturn.

BILL: Int. 1947-2020

SUBJECT: A Local Law to amend the New York city charter and the administrative code of the city of New York in relation to rent regulated accommodations.

SPONSORS: Council Members Constantinides, Kallos, Reynoso, Lander, Levin, Gibson, Van Bramer, Rosenthal and Rivera

Int. 1947 changes the exemption threshold for compliance with building emissions limits established in Local Law 97-2019. If passed, buildings greater than 25,000 square feet with less than 35% rent-regulated units would have to meet their respective carbon emission limits in 2024, 2030, and beyond. Under current law, these buildings are required to undertake a series of prescriptive measures rather

Important Note

than meet firm carbon emissions caps. Failure to comply with these caps would result in financial penalties of \$268 per ton of carbon emitted above the cap.

While understanding the scope of this law is challenging given a lack of access to quality data about the share of rent-regulated units in a building as well as the carbon emissions of each building, REBNY believes that over 1,600 buildings, many with a large percentage of regulated units, currently reach the threshold of 1-35% stabilization and are larger than 25,000sq.ft. and would immediately be liable for achieving the same carbon reductions as other buildings covered by LL97 but with 18 fewer months to plan and take the necessary actions to comply. Additionally, many more buildings with certain tax abatements would become covered by the law more rapidly unless City officials were able to secure preservation agreements with those buildings.

REBNY understands that the Council has long intended to expand the number of buildings required to comply with carbon emissions caps. The threat of climate change is only accelerating, and the City needs to meet its goals set forth by the Climate Mobilization Act. Yet, achieving these goals requires detailed policy analysis and evaluation, which is currently lacking when it comes to this measure.

Understanding the full impact of this legislation is indispensable at a time when buildings are burdened by the economic realities brought on by COVID-19. Rental vacancies in the city reached over a 14-year high in June of this year and the number only continues to climb.¹ The real estate industry realizes many residents have had their financial circumstances dramatically impacted by the pandemic and has shared in the burden by offering lease agreements with two or three months free, working out payment plans with residents and offering other concessions. In many instances, however, with recent lapses in rent payments, buildings are losing out on the income needed to cover operational expenses, mortgage payments, labor costs, and capital improvements.

Buildings' operational budgets were strained even before the impact of COVID-19 was fully realized. The Rent Guidelines Board reported that from 2017-2018 net operating income – the revenue used to pay for capital improvements – dropped by 0.6% in buildings with rent-regulated units. Similarly, the Rent Guidelines Board also found that operating costs rose faster than rental income.²

This is not to say that all buildings have no ability to make improvements. Rather, it simply reflects the fact that a meaningful analysis needs to be undertaken to determine the impact of this legislation on buildings and their residents so that those buildings that have a diminished ability to do this work can be better supported.

¹ https://www.elliman.com/resources/sites/resources/commonresources/static%20pages/images/corporate-resources/q2_2020/rental-06_2020-pdf.pdf

² <https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2020/04/2020-IE.pdf>

Important Note – Buildings with an expired abatement would still be considered regulated until all the affordable units turn over. If Int. 1947 were to pass, buildings with fewer than 35% affordable units would have to comply with LL97 as soon as the abatement expires - sooner than currently anticipated.

For instance, among the buildings that would be impacted by Int 1947 is a five-story walk-up with a quarter of the units still rent-regulated. The rest of the units rent for less than \$2600/month. Should Int. 1947 pass, this building would either be forced to spend significant money on capital improvements to comply with its 2024 emissions limits or pay more steep fines to the City. In either case, it would be difficult for the building to avoid raising rents on current tenants in the non-stabilized units.

For this reason, we implore the Council to measure the impact of this bill prior to voting on it. With the will and effort, the Council could readily understand how newly covered buildings would fair against their 2024 and 2030 limits, the environmental benefits, and the social and economic costs on owners and tenants alike. This is particularly important given the present economic circumstances.

Should this legislation move forward, however, it will not be successful without additional steps.

As a primary matter, significant work will need to be done to educate these buildings owners and their residents about the need to come into compliance with these mandates. Unfortunately, more than a year after Local Law 97 was passed, the City still has not implemented a meaningful plan to conduct outreach to impacted building owners to ensure they are aware of their obligations. As many of the building owners who will be newly covered by this will be much less sophisticated than larger commercial owners already covered by Local Law 97, promptly conducting meaningful outreach to owners will be vital.

Similarly, this legislation will not successfully result in carbon emissions reductions unless programs are developed and implemented to help buildings comply. This legislation intention is to create greater social equity and environmental justice by reducing carbon emissions – a public good. Without some public intervention through programs or incentives, however, the cost of achieving that public good will fall entirely on building owners who may not be able to shoulder such costs alone.

In the absence of more aggressive public programs, those struggling with existing operating expenses would potentially pass the costs of retrofits along to the market-rate units, driving up rents and potentially accelerating social displacement. Alternatively, many buildings may simply take no action and wait for the electrical grid to get cleaned. If this is the strategy taken, Int. 1947 would fail to reach its goal of ensuring residents in regulated housing enjoy meaningfully improved standards of living in greener, more comfortable buildings. Therefore, to help ease the burden on buildings and guarantee residents live in cleaner and more efficient homes, REBNY encourages the City to consider sharing in the cost of achieving public good through a much more aggressive set of programs to help buildings come into compliance with carbon reduction mandates.

Finally, it is worth noting that passage of this measure will subject hundreds of residential buildings with rent-regulated units to carbon emission caps and potential financial penalties as soon as 2024. Perversely, these buildings will have substantially less time to come into compliance with these mandates than larger buildings owners who became subject to the caps almost 18 months ago. For this reason,

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and given the financial realities facing many of these buildings today, the Council should strongly consider waiving financial penalties for buildings with rent-regulated units for the initial compliance period.

Thank you for the consideration of these points.

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