



NEW YORK STATE SENATOR

Liz Krueger

## Testimony Before The New York City Rent Guidelines Board Regarding Proposed Rent Increases On June 22, 2006

LIZ KRUEGER July 15, 2010

My name is Liz Krueger and I represent the 26<sup>th</sup> Senate District, which includes the Upper East Side, East Midtown and Midtown areas of Manhattan. I want to thank you for providing me with this opportunity to testify on the range of proposed rent increases for rent stabilized tenants- anywhere from 3 to 6.5% for one-year leases and 5 to 8.5% for two year leases. Even if the rent increases ultimately approved are at the low end of the proposed ranges, I have many serious concerns about what this decision would mean for the more than two million low, moderate and middle-income rent stabilized residents of New York City who are already facing nearly unprecedented cost of living increases and dramatic large scale losses of every form of affordable housing.

During these extraordinarily difficult economic times, I fear that rent increases of 3% and 5% will lead to further hardships, and even evictions, for tens of thousands of New York City's families. The effects of these increases on seniors, the disabled and other vulnerable New Yorkers on fixed incomes would be especially grave.

I strongly encourage the board to reconsider its preliminary vote and to enact significantly lower guidelines. Such a decision would be entirely consistent with the legislative mandate and jurisdiction of the Rent Guidelines Board, which was established in 1969 to set rent guidelines that counteract the effects of an acute housing shortage. Free market conditions and the rules of supply and demand do not apply to the NYC rental market. This shortage still exists—according to the 2005 Housing and Vacancy Survey, the vacancy rate is 3.09%. A vacancy rate of less than 5% creates abnormal market conditions. The RGB’s mission is to construct or stimulate “normal” or “fair” rent levels in a market driven by chronic scarcity and instability.

Below are the key justifications for my position, as well as suggestions about how the RGB can expand its role in preserving affordable housing in New York City.

### **Why Are Lower Guidelines Appropriate This Year?**

- While it is reasonable to expect tenants and landlords to share the burden of increased operating expenses, this burden must be shared equitably. It is unconscionable for building owners in one of the most profitable economic sectors of our economy to pass all of their expenses onto tenants who have a median household income under \$32,000 and are facing numerous other regressive taxes and fees.
- Building owners legitimately claim that their operating expenses have risen during the last year due to the rising property tax rates and energy costs. However, the rent regulated real estate

market continues to be one of the most consistently profitable investments in New York City. This sector of the NYC's real estate market remains so strong that even after the recent rise in operating expenses, *Crain's New York Business* described it on May 5<sup>th</sup>, 2003 as "one of the hottest segments of the New York real estate market. The stock market is volatile, and the commercial real estate is too risky for many investors. Refinancing is cheap. Rent regulated buildings offer a consistent return."

- Owners of rent regulated buildings have done extremely well during the past decade – they have seen both their profits and the value of their properties rise exponentially. According to the RGB's 2006 Income and Expense Study, owners' Net Operating Income (the amount of income remaining after all operating and maintenance expenses have been paid) has risen almost every year since 1989. This same study reveals that owners' average net operating income increased by 17% from 1989 to 2004 after adjusting for inflation.
- This year's Price Index of Operating Costs (PIOC) must be understood in a larger historical context. The dramatic increase in Net Operating Income since 1989 suggests that the RGB has historically *overestimated* owners' operating and maintenance costs, and instituted guidelines higher than those which were required to enable owners to properly maintain their buildings and profit margins. Tenants received increases of 2% and 4% in 2002 despite the fact that all research revealed that owners' costs actually decreased.
- The RGB's 2006 Mortgage Survey reveals that interest rates for new and refinanced multifamily mortgages are at historic lows. Low interest rates, combined with high levels of competition

between lenders, have created extremely favorable conditions for owners of regulated buildings, and decreased the amount of revenue owners must allocate to debt service on their properties. This fact is not considered in the PIOC.

- One of the most important factors the RGB must consider is whether owners of regulated properties have the necessary income to maintain their buildings. The overall condition of the city's rent regulated housing stock is generally healthy; the RGB's 2006 Income and Expense Study reveals that 11.6% of all properties are distressed, down from 14% in 1990.
- Landlords have many additional methods to increase rents to account for costs and be reimbursed for necessary repairs—such as MCIs, vacancy increases, luxury decontrol and individual apartment improvements.
- Furthermore, owners of rent regulated units have the right to receive hardship increases if they do not receive a certain rate of return on their investments. The fact that so few hardship applications are filed each year reveals the overall health of the sector, as well as the reticence of owners to open their books to inspection as is required during the hardship application process.

## **Larger Implications and Economic Context of RGB's Decision**

- Section 26-510(b) of the Rent Stabilization Law requires the RGB to consider “relevant data from the current and projected cost of living indices” in its deliberations; the RGB members are also permitted to consider the effects of their decisions on the availability of affordable housing throughout the city. NYC is clearly recovering slowly from the economic recession that began before September 11<sup>th</sup>, 2001. Inflation-adjusted wages increased 3.7% in 2004, but any gains were offset by an increased inflation rate that of 3.9% in 2005, which was higher than the national rate of 3.4%. This was the fourth consecutive year that the rate of inflation was higher in the NYC area than in the United States as a whole. All of this is also occurring in climate of decreasing affordability and declining wages. The real median hourly wage went down by almost 5% between 2000 and 2005. While the incomes of rent stabilized tenants have gone down, rents have continue to increase. The overall gross rent-to-income ratio and the proportion of households paying more than 50% of their income in rent has increased since the 2002 HVS from 25.5% to 28.6%. Rent stabilized tenants now have a gross rent-to-income ration of almost 32%.
- There is a direct correlation between RGB increases, the loss of affordable housing as more units become subject to vacancy decontrol, and increased levels of homelessness. Approximately 14,045 rent-stabilized units were deregulated last year, more than 9,272 of these due to vacancy decontrol. This represents an increase of 57% more units lost than in 2004. In 2005, an average of 35,898 people stayed in city homeless shelters each night; the number of families staying in shelters was 70% higher than levels in the 1990s. The RGB’s proposed guidelines would exacerbate the already dire circumstances of New York’s low and moderate-income families.

- The proposed guidelines would also have significantly deleterious effects on middle-income families. The preservation of affordable rent regulated units is essential to efforts to keep middle-class families in NYC and to the maintenance of healthy stable communities. If we truly want the city to maintain its vitality and diversity, we must do all that we can to ensure an effective rent protection system.

### **Other Important Roles for the RGB in Protecting Affordable Housing**

- The RGB has made significant contributions to the public understanding of housing issues by producing a wide range of empirical studies. This research role has made the RGB a key participant in the ongoing public conversation about the fairness and effectiveness of the rent stabilized system, and I encourage the Board to utilize this resource to the fullest extent possible.
- The PIOC is an extremely imprecise and controversial measurement of owners' income and expenses. The NYC RGB should have the ability to make decisions based on owners' actual yearly data. The rent guidelines boards of Nassau, Westchester and Rockland counties, which have the power to subpoena owners' revenue and income data, consistently pass significantly lower increases than the NYC board. Tenants in NYC should have the same right as tenants in Nassau, Westchester and Rockland counties to know that the increases on their apartments are based upon their landlords' income and costs.

- The RGB has the power to adopt resolutions with respect to the legislative design and administration of the rent stabilization laws. I strongly urge the RGB to pass a resolution calling upon the City Council, the Mayor and the State Legislature to return home rule to New York City and support my legislation (S2735) repealing the Urstadt Law. Home rule - the right to self government – has always been an important and respected goal in New York State. Since 1971, when home rule over rent and eviction protections was taken away, New York City's housing situation has gone from chronic shortage to acute crisis. New York City is currently undergoing large and dramatic losses in almost every category of affordable housing. The city lost 23% of its 120,917 subsidized housing units between 1900 and 2005 and another 13% are soon to be lost over the next several years. Mitchell-Lama has lost the most with over a third of the stock, totaling 22,688, now out of the program. According to a report issued last month by NYC comptroller, William Thompson, just since 2004, more than 25,000 units have either withdrawn or have filed to withdraw from the program. The market for cooperatives, condominiums and rentals is so strong in every neighborhood of the city that owners can ask for and receive market rate rents well above what the average renter can afford. New York City local government is in the best position to understand and address the conditions created by this market. Currently, however, because its hands are tied by the Urstadt Law, local government is powerless to deal with the housing crisis within its borders.

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The RGB should also pass resolutions asking DHCR to keep more comprehensive data, to provide complete data to the Board and the public and to proactively investigate complaints of illegal deregulation of apartments, questionable MCI increases, and harassment charges. The RGB should also pass a resolution calling upon the State Legislature to require NYC landlords to provide data directly to the RGB each year. The RGB studies and reports are widely circulated and referenced

among housing policy makers and legislators and these hearings are the only regular, annual forum for airing landlord/tenant grievances. The importance of even more accurate and up-to-date data is critical in furthering the Board's work and making more informed decisions regarding the annual guidelines.