



NEW YORK STATE LEGISLATURE

April 21, 2023

Governor Kathy Hochul
2nd Floor
State Capitol Building
Albany NY, 12224

Dear Governor Hochul:

We write to you regarding your budget proposal to ban fossil fuel equipment in residential and commercial buildings. We urge you to drop this proposal and instead focus on the issues that are at the forefront of the minds of New Yorkers, such as public safety and affordability.

As we are sure you are aware, a recent ruling from the United States Court of Appeals for the Ninth Circuit held that a locality or state cannot ban natural gas hookups as it is preempted by federal law. The case, *California Restaurant Association v. City of Berkeley*, involved a City of Berkeley ordinance that sought to “eliminate obsolete natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated.”

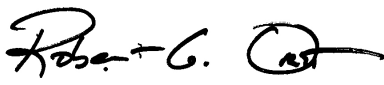
The Appeals Court held that the Berkeley ordinance was preempted by the Federal Energy Policy and Conservation Act (EPCA), which expressly preempts state and local regulations related to energy use of many natural gas appliances. The court wrote, “in sum, Berkeley can’t bypass preemption by banning natural gas piping within buildings rather than banning natural gas products themselves.” The Court further wrote “by completely prohibiting the installation of natural gas piping within newly constructed buildings, the City of Berkeley has waded into a domain preempted by Congress.”

We urge you to stop pushing this ban as it has been clearly deemed unconstitutional. Instead of trying to push a one size fits all fossil fuel ban in our state’s budget, which will undoubtedly be a fruitless effort as determined by the courts, we request that you instead advocate for affordable solutions in pursuing a cleaner energy future, such as independent cost studies and full

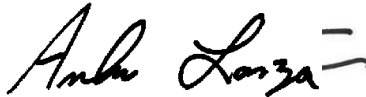
transparency; support diverse energy sources; keep needed power supply online to ensure reliability of our grid; and oppose unaffordable mandates on consumers.

Thank you for your consideration in this matter. Please do not hesitate to contact us if you wish to discuss this further.

Sincerely,



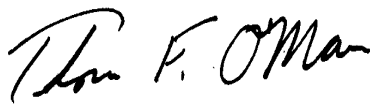
Robert G. Ort
Senate Minority Leader
62nd District



Senator Andrew Lanza
24th District



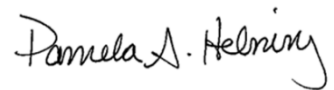
Senator Peter Oberacker
51st District



Senator Tom O'Mara
58th District



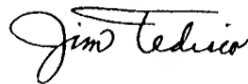
Senator Anthony Palumbo
1st District



Senator Pam Helming
54th District



Senator George Borrello
57th District



Senator Jim Tedisco
49th District



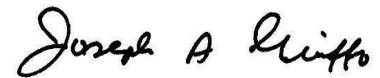
Senator Daniel G. Stec
45th District



Senator Patrick Gallivan
61st District



Senator Alexis Weik
8th District



Senator Joseph Griffio
47th District



Senator Mario Mattera
2nd District



Senator Mark Walczyk
49th District



Senator Jake Ashby
43rd District



Senator William Weber
38th District



Senator Dean Murray
3rd District



Senator Steve Rhoads
5th District



Senator Jack M. Martins
7th District



Senator Patricia Canzoneri-Fitzpatrick
9th District



Senator Rob Rolison
39th District