

E·R·A·S·E



EDUCATION
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SUPPORT TO
ELIMINATE
RACISM

January 27, 2022

Dear Joint Legislative Budget Hearing committee,

My name is Elaine Gross, and I am the President of ERASE Racism, a Long Island-based civil rights organization working on housing and education equity. I am an initial organizer of and continue efforts with a state-wide coalition of housing advocates, to play a prominent role in recommending and advancing the package of fair housing bills that Governor Hochul recently signed and for new policies in this area.

My testimony is in regard to Governor Hochul's "FY 2023 NEW YORK STATE EXECUTIVE BUDGET EDUCATION, LABOR AND FAMILY ASSISTANCE ARTICLE VII LEGISLATION," specifically part AA on the creation of accessory dwelling units. While our organization supports the creation of ADUs as a public good because of their potential to increase the affordable housing stock, we **oppose** the legislation as currently proposed.

Our three main concerns center on the fact that, as the legislation currently stands, ADUs will not be accessible to all New Yorkers and must be amended in the following ways to correct this serious deficiency. First, the bill must clearly state that ADUs shall abide by fair housing and tenant protection laws. Second, these ADU units shall not be exempt from fair housing protections under the so-called Mrs. Murphy exemption when there are two units or fewer and the owner occupies one of the units. Third, ADU rentals receiving monetary help from state funding, shall be required to maintain below market rates to maintain affordability.

Without these amendments ERASE Racism will not support this legislation.

Concerning protections afforded under existing fair housing laws, there is abundant evidence, including from ERASE Racism's housing discrimination lawsuits, that, despite the fair housing laws, individuals are still denied rental housing because of they are Black or because of other protected characteristics such as race, source of income, and others included in the New York State Human Rights Law. We concur that there is a severe shortage of affordable housing on Long Island and ADUs can help address that problem.

With this knowledge, it would be unconscionable to create the benefit of ADUs and not take the steps required to ensure that all New Yorkers have access to ADUs, especially those most vulnerable to ongoing racial discrimination. Therefore, affordability is paramount, and it must be tied to equal access, which

requires fair housing protections. We know aggressive enforcement is required but, absent legal repercussions for landlords who discriminate, this new ADU legislation as currently proposed will help ensure that there will be discrimination.

Further, because Long Island continues to be severely racially segregated, if only individuals already living in certain communities know about the existence of available ADU rentals, it is very easy to limit access to the units in a discriminatory manner.

Therefore, there is another provision that must be included in the bill. Units that are not being used by family members shall be made known to the general public of the region. This can be accomplished via a state-maintained online registry that is free to the listing owner or at low cost and/or owners can be required to publicly advertise vacancies on regional online rental sites. This does not preclude other means of getting the word out about a vacancy, but unless availability is made publicly known immediately to the region, access will be limited for individuals with certain protected characteristics, such as race.

With this additional protection, ERASE Racism can support this bill.

Further, while the legislative ADU bill, Senate Bill S4547A, states that ADUs built with lending or grant support from state funding will need to keep their rents below market rate for at least 15 years, the Governor's version does not have the same provision and it should. Without this provision, ADUs become something that financially helps private owners only, and is not a public good. It is therefore unacceptable. Increasing affordable housing is paramount, and the omission of this provision undermines a central purpose of the bill. In addition, the bill must require that ADUs are held to the same legal standards as single-family or multifamily rental housing, especially regarding codes, obligations of the landlord to maintain habitability, and all tenant protections.

Finally, there is one additional provision in the existing legislation that should be reconsidered. As currently proposed, local municipalities are able to establish their own administrative appeal processes for an applicant to appeal the denial of a permit for ADUs and the burden is put on the applicants to navigate the instructions. This provision will allow for local municipalities to create and implement an administrative appeal process that can be cumbersome and uneconomic for low-income aspiring ADU owners, who often do not have access to legal support that can help them through such a process.

Respectfully submitted,

Elaine Gross

V. Elaine Gross
President
ERASE Racism