

TESTIMONY
BY
COMMISSIONER JONNEL DORIS
NEW YORK CITY
DEPARTMENT OF SMALL BUSINESS SERVICES
BEFORE
THE COMMITTEE ON SMALL BUSINESS
OF THE
NEW YORK CITY COUNCIL
FRIDAY, SEPTEMBER 17, 2021

Good morning Chair Gjonaj and members of the Committee on Small Business. I am Jonnel Doris, the Commissioner of the New York City Department of Small Business Services (SBS). I am joined by Bridget Anderson from the New York City Department of Sanitation and from my senior leadership team, First Deputy Commissioner, Jackie Mallon and Deputy Commissioner Blaise Backer. At SBS, we aim to unlock economic potential and create economic security for all New Yorkers by connecting them to quality jobs, building stronger businesses, and fostering thriving neighborhoods across the five boroughs. I am pleased to testify today on Intros 2000, 1796, and 2299 and talk about the work SBS has done to support small businesses in commercial tenancy and during emergencies.

I want to begin by acknowledging the terrible losses that New Yorkers and small businesses have faced following the flood impact of Hurricane Ida. Lives were lost and businesses have been ruined in its wake. SBS immediately activated our emergency response protocols to aid businesses in assessment and recovery. We have opened nearly 600 individual response cases and are working with businesses to connect them to legal support for commercial leases; guidance on accessing funding; expeditors to cut red tape; and connecting them with other services. Let us know if you

have businesses in your districts that still need our help or have them call our hotline at 888-SBS-4NYC.

At the onset of the pandemic, we quickly shifted our work to meet the challenges of the pandemic. SBS created a small business recovery plan designed to jumpstart the economy in the short-term, while laying the groundwork for sustainable small business recovery in the long-term. This small business recovery plan, developed in collaboration with business leaders, industry associations, and government partners, was based on four strategies to ensure an equitable, city-wide economic recovery: 1) support business innovation to increase revenue, 2) equip entrepreneurs to adapt and lower operating costs, 3) foster close collaboration with businesses to cut red tape, and 4) promote equitable economic growth and support diverse businesses of the future.

As a result, we launched **37** additional recovery programs, initiatives and campaigns, fielded over **70,000** calls through our hotline, and hosted over **780** webinars with over **53,000** attendees. We connected over 5,000 businesses to more than \$156 Million in local, state, federal and philanthropic funding and from April 2020, SBS assisted over 4,000

businesses apply for approximately \$305 million in PPP loans. We also visited over **100** commercial corridors reaching thousands of small businesses. During this work our focus has been on supporting the needs of our small businesses in the hardest hit communities including minority- and immigrant-owned businesses.

Facing the pandemic and now hurricane Ida, our city's small businesses have dealt with challenges that just a few years ago, we would never have been able to imagine. My team at SBS has been working non-stop to support the economic engines of our neighborhoods. When our businesses were forced to shut down last year, due to no fault of their own, SBS created the first grant and loan program in the nation to assist them. We built on these initial programs and developed a robust recovery aid strategy to better focus on high need businesses. Our existing strategy has three main components 1) **targeting**: making sure our products are aimed at the businesses in greatest need, 2) **outreach**: leveraging and funding our community and business partners to carry our message in a linguistically and culturally appropriate manner, 3) **technical assistance**: providing training, information sessions, webinars and one-on-one counseling services.

Examples of this approach are the LMI Storefront Loan, and the Interest Rate Reduction grant, which were designed for small businesses in low-to-moderate income (LMI) neighborhoods largely left out of the first round of federal aid. Using census data, we micro-targeted neighborhoods and staggered the rollout of the LMI loan to reach the lowest income neighborhoods first, allowing them more time to apply, followed by more moderate-income neighborhoods. Our outreach strategy is partner-based working with our network of Chambers, 76 Business Improvement Districts (BIDs) and merchant associations to reach businesses in their communities. In the neighborhoods that do not benefit from these networks, we developed the **Strategic Impact COVID-19 Commercial District Support** grant. This grant focused on hard-to-reach communities and funded neighborhood community groups as trusted partners and messengers of our programs to businesses, in their own languages. This work complimented our own boots on the ground outreach operations which consisted of the SBS Outreach team, the Council supported Chamber on the Go program, our Emergency Response Unit, and our Compliance Advisors all building trust and educating businesses on available assistance. Lastly our technical assistance team, accessible online or over the phone, created weekly and often daily webinars along

with 1-on-1 assistance to help businesses get the funding they needed. To date, 75% of the Storefront LMI loans and 90% of the Interest Rate Reduction grants have gone to minority-owned businesses. Even with this success, we continue to evaluate our work to determine better strategies to reach business owners. In this vein, we are supportive of Intro 2000, which provides transparency in funding distribution during emergency aid relief operations. By tracking and sharing this valuable metric we can evaluate and improve our strategies to continue to make them better.

Moving on to Intro 1796 and Intro 2299. New York's small businesses have taken a one-two punch of nearly biblical proportions and we need to provide the necessary relief to insure they recover and thrive. Prior to the pandemic, the Mayor stated the time was right to look at whether we can make commercial rent control work, and to find ways to continue supporting small businesses while protecting them from excessive rent increases. But reduced foot traffic due to the pandemic and the leap in e-commerce have fundamentally changed commercial real estate markets with many neighborhoods seeing increased vacancies and reduced rents.

Regulations could have unintended consequences that create new barriers hindering other local entrepreneurs from entering the market and starting

new retail businesses. Many of the businesses that we work with do not have formal leases and regulations could increase this trend, hurting these businesses in future years. These are some of the reasons why we need a comprehensive review of the economic impacts this could have on a range of small businesses and neighborhoods.

SBS has always committed to providing the tools businesses need to address their lease and rent challenges. And we've doubled down on those efforts since the onset of COVID-19. We know that the challenges small businesses face with rent uncertainty is often centered around difficulties navigating the leasing process and ensuring the right provisions are in place. To support them with their lease, we provide free legal services through our **Commercial Lease Assistance Program (CLA)**. Through this initiative, our pro-bono attorneys help businesses understand, amend, renew, or terminate an existing lease. They also negotiate on behalf of the commercial tenant with their landlord and provide advice and referral services when litigation cannot be avoided. Since its inception this program has served **925** businesses, and this year we increased the budget to **\$10.4 million** to provide more support during this difficult time. We also produced a 40-page commercial leasing guide. The guide covers the entire process of renting a commercial space including selecting a space,

explaining lease terms and the process of signing, hiring contractors, and lease renewal and termination. SBS compliments this with live commercial lease education workshops for more in-depth education.

In closing I thank you for your efforts and passion on behalf of our city's small businesses. I know that together we can provide support to one of our city's most vital assets. Thank you for your time today and I'm happy to take any questions.



sanitation

Edward Grayson Commissioner

**Testimony of Bridget Anderson
Deputy Commissioner for Recycling and Sustainability
New York City Department of Sanitation**

New York City Council Committees on Small Business

**Friday, September 17, 2021
10:00 A.M.**

Good morning Chair Gjonaj and members of the City Council Committee on Small Business. I am Bridget Anderson, Deputy Commissioner for Recycling and Sustainability at the New York City Department of Sanitation. Thank you for the opportunity to provide comments on behalf of the Administration on Intro. 568.

For background, households and businesses in New York City discard more than 1 million tons of food waste each year. According to Food Forward NYC, the City's 10-year food policy plan released earlier this year, as many as 1.6 million New Yorkers are food insecure, up from 1.2 million before the COVID-19 pandemic. To bridge this gap between those with excess food and those who are food insecure, the City has a robust network of food pantries and non-profits that receive donations of excess or surplus food. DSNY has also created the donateNYC online food donation tool to connect businesses interested in donating food to local organizations that feed hungry people.

Intro. 568, sponsored by Council Member Treyger, would require the departments of Sanitation and Consumer and Worker Protection (formerly Consumer Affairs) to create programs to establish a food donation program where food service establishments could have the civil penalties for eligible violations waived if they agree to donate their excess food. The proposed bill would apply to food service establishments and would only be applicable for types of violations identified in this bill by the respective departments by rule. The Administration agrees with the intended purpose of this bill, which would offer regulatory relief to some small businesses while incentivizing the donation of excess food to non-profits for the purposes of feeding hungry New Yorkers.

In its report on Local Law 74 of 2018 ("Report on the Feasibility of Establishing a Penalty Mitigation Program for Food Service and Retail Establishments"), DSNY specifically identified businesses covered by the commercial organics law as potential candidates for a penalty mitigation program related to food donation. Any food donation program created as a penalty mitigation program should be carefully tailored to avoid creating a glut of unwanted or inedible food and also must define clear requirements related to data tracking and compliance. In addition, many food businesses already engage in best practices for food donation, and we should be careful not to disrupt these existing relationships. The City looks forward to future discussions with the City Council on these important topics.

Thank you for the opportunity to testify today.



Donovan Richards Jr.

QUEENS BOROUGH PRESIDENT

Good morning, everyone. My name is Donovan Richards and I have the honor of serving as Queens Borough President. Thank you to the Committee on Governmental Operations for allowing me the opportunity to provide testimony on such a critical topic.

I don't believe anyone needs to be lectured on the right to vote. But if we look across the country, we see state after state propose and impose draconian, overtly racist restrictions on who can vote, how to vote and even if you're allowed to distribute water to people waiting to vote.

We watched in horror last year as the sitting U.S. president shamelessly cast doubt on the legitimacy of an election, while imploring officials to throw out legally cast ballots or otherwise disenfranchise millions of people from exercising their most basic fundamental right as Americans.

What we're seeing across the country should shock us. But it should also serve as a call to action right here in New York City — not just to protect the right to vote, but to expand it. And I wholeheartedly believe enacting Intro 1867 into law is a critical and necessary step toward doing just that.

This vital piece of legislation itself will serve as a pathway toward democracy by opening the political process to nearly one million noncitizen New Yorkers — giving them an equal say in the future of a city many of them have called home for years.

They are our frontline essential workers — healthcare heroes, grocery store workers, teachers, food service workers — who sacrificed so much for our city during its time of need

They are our loved ones, our friends, neighbors and colleagues.

Like all of us in this room, they are New Yorkers — active citizens who pay their taxes, start small businesses, create jobs and uplift their communities.

But when June's mayoral primary rolled around, they were needlessly prevented from making their voice heard as to who should represent them

How can we just sit here and ask so much of them, only to deny them that basic right to vote? If we are serious about protecting, expanding the right to vote in this city and finally addressing

this long-standing, modern form of taxation without representation, we must immediately pass Intro. 1867.

Our city in recent years has also made significant strides in recent years to increase community participation in our political process.

We've done that through enacting participatory budgeting, allowing all residents, regardless of immigration status, to vote on projects they want to see funded right in their neighborhoods.

We've done that through Ranked Choice Voting just a few months ago.

Allowing our lawful permanent residents and our DACA, TPS and special Visa recipients to vote in municipal elections will certainly represent a significant boost in voter turnout — something all of us in this room have sought, while also painting a more accurate picture of how a community views its candidates and its future.

We've seen similar laws enacted cities across Maryland and Massachusetts. And in the absence of both federal legislation creating a pathway to citizenship and efforts to address a growing backlog of citizenship applications, there is no reason why New York — one of the most diverse places on the planet — has not yet taken the lead on such a critical issue.

Nearly three dozen Council members have signed onto Intro. 1867, including 8 members who represent at least parts of Queens, and I thank them for their leadership.

Now I ask the full City Council to do its part to make our political process more inclusive and our city a fairer place to live. In a time when our vulnerable communities and democracy itself are under threat, passing Intro 1867 the least we can do to protect them.

Thank you for your time.

**Testimony of
the New York City Hospitality Alliance
Before the Committee on Small Business
September 17th, 2021**

My name is Andrew Rigie, and I'm Executive Director of the New York City Hospitality Alliance ("The Alliance"), a not-for-profit association representing restaurant and nightlife establishments throughout the five boroughs. I want to thank Chair Mark Gjonaj, and members of the small business committee for the opportunity to submit this testimony regarding Int. 568, Int. 1796, Int. 2000, and Int. 2299.

- [Int. No. 568 in relation to reducing civil penalties where food service establishments donate leftover food](#)

While we appreciate the intent of this legislation to support restaurants, we believe the quid pro quo established in this proposal sets a bad precedent. Fines levied to restaurants are already too high and they should be reduced because they are unnecessary and burdensome. Moreover, many restaurants donated food before, throughout, and will continue to do so after the pandemic. If government wants to encourage more restaurants to donate additional food, we urge this bill to be amended so it incentivizes them through public campaigns, tax incentives, and reductions and/or waivers of permitting and licensing fees, but not by reducing fines that are already too high.

- [Int. No. 2000 in relation to the equitable distribution of emergency funding by borough](#)

We support the concept of this proposed legislation. Restaurants, bars, clubs, and other small businesses in neighborhoods throughout the five boroughs are all vital to our city. When tragedy strikes, the City of New York should ensure that emergency funding is distributed as equitably as possible to all affected businesses, especially those that have access to fewer resources.

- [Int. No. 2299 in relation to lease agreements concerning storefront premises](#)

We support provisions in this proposed legislation. When business owners seek to enter into a commercial lease agreement, it should be a transparent process. They should provide relevant information about the storefront premise to be leased, including but not limited to real estate taxes, assessments, legal or regulatory violations pertaining to the storefront premises, etc. Business owners should also be entitled to a lease agreement, opportunity to cure violations and other rights provided for in this proposed legislation. We have also reviewed the provision in the bill that provides for lease renewal procedures and the option to extend the lease. While we are not sure this provision would have any adverse effect on commercial tenants, we are not sure how many would utilize it in practice. We will consult with additional businesses and report back to the City Council.

- [Int. No. 1796 in relation to the regulation of commercial rent](#)

Over the years, New York City has lost too many beloved restaurants and other small businesses due to large rent increases and other market and regulatory pressures. Policies must be enacted to support and help preserve these small businesses, as we've discussed with policymakers. We

have consulted with many hospitality business owners and received insights and varying opinions on the proposed regulation of commercial rent.

We've heard from many supporters of this policy in our industry who have made compelling arguments about how huge rent increases have resulted in otherwise successful independent restaurants and nightlife establishments shuttering, which often has a disproportionate impact in gentrifying areas, and how rent regulation would mitigate this displacement. We've also been told how landlords often have powerful leverage over small businesses in lease negotiations and they believe there needs to be a more level playing field. We've also heard from members of our industry who oppose this policy who have made compelling arguments that such policy can cause landlords to invest less in the upkeep and upgrades of the properties where businesses are located, disincentivize investment and new development that has supported the growth and success of hospitality businesses, and may eliminate landlord tenant improvements that will make it more difficult for new chefs/restaurateurs and undercapitalized entrepreneurs to open new restaurants. It could also stymie the decrease in retail rents and landlord contributions to be found in the Covid-19 market. It is for these reasons, we are not taking a position on this legislation at this time, but we will review the testimony from this hearing and consult with our members and industry further, before finalizing our position.

We appreciate the City Council and the Small Business Committee for the time and consideration on these bills, and ask that our recommendations be considered. We look forward to continuing our work with the City Council. Any questions or concerns, I am reachable at arigie@thenycalliance.org

Respectfully submitted,



Andrew Rigie
Executive Director
NYC Hospitality Alliance



Alliance for Downtown New York, Inc.
120 Broadway, Suite 3340
New York, NY 10271
212 566-6700 Fax 212 566-6707
www.DowntownNY.com

**Testimony of Jessica Lappin
President, Alliance for Downtown New York**

**Committee on Small Businesses
Hon. Mark Gjonaj, Chair**

**Int. 1796: "Commercial Rent Stabilization"
Int. 2299: "The Storefront Business Bill of Rights"**

September 17th 2021

Good afternoon Chair Gjonaj and members of the committee. I am Jessica Lappin, President of the Alliance for Downtown New York.

Small locally owned businesses are the backbone of New York City. They give us our character and employ countless New Yorkers. The COVID-19 crisis has wreaked havoc on them, especially in central business districts like Lower Manhattan. Our retailers have navigated confusing and inconsistent reopening rules, new mandates from city and state government, increasing prices and an ongoing staffing shortage- forcing many to close.

Every day small business owners tell us how desperately they are missing the nearly 300,000 public and private sector workers who came daily to Lower Manhattan pre-pandemic. I know many retailers around 250 Broadway are waiting expectantly for when the City Council is back!

And of course small businesses are still grappling with sometimes unresponsive city agencies, capricious and often aggressive enforcement, burdensome property taxes and layers of regulations that made it so difficult to operate a business in NYC even before the pandemic.

Unfortunately, neither Int. 1796 nor Int. 2299 address any of these problems and may even have unintended consequences that will make the climate worse for small business.

Int. 1796 would create a strong incentive for developers to lease retail spaces to exactly the sort of large format chain retailers many New Yorkers don't want to see in their

communities. Unlike residential units, commercial spaces are routinely divided into smaller spaces to accommodate different tenants and uses. Property owners would be far less likely to partition a large space to attract small, independent businesses if it would mean subjecting the newly created retail or office space to rent regulation.

This would also impact the availability and cost of real estate for small office users. Since 2016, fully 71% of new office leases signed in our district have been for spaces smaller than 10,000 sf. These small office tenants are often the new start up businesses that are the driver of the city's innovation economy.

Int. 1796 would also disincentivize property owners from investing in new retail spaces. Lower Manhattan has added over 2.9M square feet of new retail since 2014. Small businesses ranging from Blue Park Kitchen to Black Seed Bagels have flocked to these newly built spaces. Int. 1796 would create a powerful incentive for property owners to avoid creating new, small retail spaces that would be subject to this kind of regulatory regime.

Finally, there are serious questions around the Council's authority to implement the sort of rent regulation system proposed by Int. 1796. The legislation is almost certain to be challenged in court, creating confusion and uncertainty in a retail market that has been devastated by the pandemic. Lower Manhattan and other communities around the city already face a long and difficult recovery. Int. 1796 would only make that recovery more challenging and uncertain.

The other legislation being discussed today, Int 2299, would pose many of the same challenges at Int. 1796. Int. 2299 would disincentivize new, exciting and creative uses for ground floor space at a time when experimentation is key to helping our struggling commercial corridors emerge successfully from the pandemic.

Promoting healthy retail corridors should be a top priority for the City Council and will be a key to the city's pandemic recovery. There are alternative ways to do that, including slowing runaway assessment increases, developing incentives that would encourage property owners to lease vacant space to local small businesses and finally addressing over regulation and unnecessary red tape.

We all care deeply about our neighborhood businesses that are the heart and soul of the city. I hope that the Council will table these bills and continue to work with small business owners, landlords, and community leaders to develop a better set of solutions that would better address the 21st century problems facing our small entrepreneurs.

REBNY Testimony | September 17, 2021

The Real Estate Board of New York to The Committee on Small Business of the New York City Council Regarding Intro. No. 1796 and Intro. No. 2299

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 New York City Council Committee on Small Business for the opportunity to provide testimony about two bills that would each impose commercial rent control, Intro. 1796 and Intro No. 2299.

It goes without saying that it is important for City officials to take greater steps to support small businesses and retailers across the city. They bring vibrancy to our neighborhoods, provide employment, and opportunities for economic mobility to generations of immigrant entrepreneurs. Retail is a challenging business and failure rates have been consistent for decades - the average retail business survives less than 14 years - because there is always a new challenge.ⁱ This past decade the big disruptor is ecommerce, with a [123%](#) increase in the online share of the retail sales market from 2013 to 2020. Additionally from 2013 to 2020, the dollar volume of online sales increased [201%](#), while offline sales volume increased only [19%](#).ⁱⁱ The decade prior it was big box. Nearly twenty years ago it was 9/11, and before that suburban flight and urban blight.

The important conversation we need to have is how to enact proven policies that will support small businesses.

Commercial rent control is a flawed concept that fundamentally fails to address the root causes of the greatest challenges facing small businesses in New York City and as these bills are written, rests upon a questionable legal foundation and. Assuming the City Council has the authority to impose commercial rent control - which it does not - these bills are bad ideas even in a strong economy and even worse as the city recovers from the pandemic.

Throughout the pandemic which economically impacted owner and tenant alike, the real estate industry has been a staunch advocate for small businesses and commercial property owners have made it a priority to work with struggling tenants throughout the pandemic, adjusting and in some cases forgiving rent. Neither bill recognizes on-the-ground realities, most notably, the concept of percentage rent or, paying a percentage of gross revenue generated in the premises as rent. Many landlords provided Covid rent relief by converting fixed rent, or a portion of it, into percentage rent. Property owners also provided capital for outdoor dining and adapting lease structures to help these businesses survive. All

this, in spite of the City Council imposing unnecessary burdens upon owners such as Local Law 55 of 2020 which prohibits the enforcement of personal guarantees on certain commercial leases.

Unfortunately, many businesses have not survived. The pandemic's impact on restaurants is most severe. According to National Restaurant Association restaurants that closed they had been open on average for 16 years, and 16% had been open for 30 years. And yet, despite ongoing declines in retail rents and business closures, property owners persist in filling vacancies and sparking new opportunities for small businesses and entrepreneurs.

Enacting commercial rent control will upend this dynamic. Even as taxes and other costs continue to rise, rent caps determined by a politically-appointed body would only incentivize owners to avoid deals with small businesses and pop-up tenants, opting for larger, more credit-worthy tenants instead. Propping up businesses that are not economically viable will lead to economic disaster.

Despite the advocates' rhetoric, these bills are not simply a matter of protecting small storefront retailers from large property owners. Indeed, these bills would limit rents for tenants ranging from Starbucks to Tiffany. And Intro. No. 2299 would also prevent nearly 100,000 co-op households from effectively managing the ground-floor commercial space they rely on to maintain the financial health of their buildings and avoid ever-rising maintenance fees. Additionally, 3,043 condominium households and 488,175 rental households would be impacted by this legislation, as would not-for-profits such as houses of worship that earn income by renting space to other organizations. They could be adversely impacted by not being able to charge a true market rent or ensuring the tenant met the best community need.

Finally, these rent control schemes would reduce the value of retail properties and directly impacting property tax collections. The City cannot afford to forego that tax revenue.

For these reasons, the City Council should stop debating legally dubious commercial rent control proposals and instead pursue thoughtful policies that will create a better environment for New York City's small businesses to succeed. These include:

- **A legacy business tax abatement program**
Rather than artificially seek to limit rents through some form of commercial rent control, policymakers could instead develop programs that support property owners who work to keep legacy businesses and businesses owned by women, people of color, immigrants, artists, and new entrepreneurs in their buildings. One way to do so would be a new property tax abatement program that supports owners who work to keep those types of business owners in their location at affordable rents. Particularly in a strong market when there is competition for space, such a program could provide a meaningful incentive to property owners to keep existing tenants rather than market the space.
- **Eliminate the commercial rent tax**
The commercial rent tax is a 3.9% tax on gross rent paid by commercial tenants whose rent exceeds \$250,000 and are located in Manhattan south of 96th street. This tax costs businesses over \$840 million in Fiscal Year 2021 and is projected to rise to nearly \$1 billion by 2025. With the City budget now in excess of \$100 billion, the City can easily afford to eliminate this tax that unfairly raises the cost of doing business in Manhattan and will make it harder for the retail industry to recover.
- **Street Vendor Enforcement**

One of the challenges facing storefront retailers is the competition and disruption from street vendors who are not held to the same regulatory standards as storefronts and may not be operating legally at all. Indeed, in many parts of midtown Manhattan, street vending is not authorized during business hours. Yet, it occurs undeterred. For this reason, as the City sets up its new Street Vendor Advisory Group, it will be critical that enforcement of illegal vending be prioritized.

- **Reduce barriers to entry for new businesses created by outdated rules and regulations**
 In 2015, the Mayor’s Office reported that New York City has over 6,000 rules and regulations impacting businesses and over 250 different types of business licenses and permits. Consequently, it can take months – if not years – for businesses to open their doors. Rather than ask business owners to understand each and every type of permit and license they may need, the City should create a single small business permit for businesses with fewer than 100 employees. Entrepreneurs should be able to apply with a single form from their phone or computer and promptly get a response from the City. This type of plan, first put forward by then-Mayoral Candidate Kathryn Garcia, is the kind of policy change that will be needed to promptly fill vacant storefronts throughout the five boroughs.
- **Strengthen City services for small business owners**
 The City’s Department of Small Business Services (SBS) administers a number of programs to help businesses get up and running but more can be done. Specifically, SBS should strive to create a storefront presence in each business improvement district or community district to provide a visible presence in the neighborhood. Services provided should include help for new entrepreneurs starting a business as well as legal assistance to help businesses understand and enter into commercial leases.
- **Speed up and simplifying small business permitting**
 In 2015, the Mayor’s Office reported that New York City has over 6,000 rules and regulations impacting businesses and over [250 different types of business licenses and permits](#). Consequently, it can take months – if not years – for businesses to open their doors. Rather than ask business owners to understand each and every type of permit and license they may need, the City should create a single small business permit for businesses with fewer than 100 employees. Entrepreneurs should be able to apply with a single form from their phone or computer and promptly get a response from the City. This type of plan, first put forward by then-Mayoral Candidate Kathryn Garcia, is the kind of policy change that will be needed to promptly fill vacant storefronts throughout the five boroughs.

Bill specific comments may be found below.

BILL: Int 1796-2019

SUBJECT: This bill would establish a system of commercial rent registration and regulation applicable to retail stores of 10,000 square feet or less, manufacturing establishments of 25,000 square feet or less, and professional, services or other offices of 10,000 square feet or less. The Mayor would appoint a seven-member Commercial Rent Guidelines Board responsible for annually establishing guidelines and the rate of rent adjustments for covered commercial spaces.

SPONSORS: Council Members Levin, Gibson, Reynoso, Ayala, Lander, Chin, Van Bramer Dromm, Kallos, Menchaca, Rivera, Rosenthal, Diaz, Rose, Koslowitz, Ampry-Samuel, Brooks-Powers, Cornegy, Barron, Riley, Adams

Unlike other commercial rent control schemes the City Council has contemplated, we know exactly how a control board will operate and damage a market sector. Over multiple mayoral administrations, the City's residential Rent Guidelines Board has failed to issue increases aligned with rising expenses for a variety of reasons including flawed methodologies, outdated data, and political interference. There is no reason to believe a commercial rent guideline board would operate any differently, despite even the best of intentions.

Further, there is no practical way for an annual guideline to account for the myriad of retail corridor types, market conditions, building typologies, permitting requirements based on business use, and the variety within the sector, versus the relative homogeneity and intensity of residential use. The board would not be able to equalize the commercial controls and cost of such on the Upper West Side such as landmark approvals and zoning requirements to the none that exist on Astoria Boulevard, nor to equalize the insurance costs in a flood plain to those outside of it.

This bill fails to even contemplate what implementation would mean, what the qualifications of such a board should be, what the cost to assessments and tax value would be over time if rents are capped without explicit guardrails to ensure such flawed methodologies are not adapted here by the whim of a politically appointed board with no requirements for expertise in this space. As we work together to ensure a robust economic recovery now is the not the time to experiment with measures the City has little to no experience in.

BILL: Int 2299-2021

SUBJECT: This bill would establish protections for tenants of storefront premises through a "Storefront Business Bill of Rights." For any tenancy of more than one year, the bill would require a written lease for storefront premises. In addition, the bill provides for lease renewal procedures and the option to extend the lease in certain cases for up to one year with not more than a ten percent rent increase. The bill would further require an owner to provide a tenant with relevant information about the storefront premises to be leased. The bill would permit a court to impose civil penalties and award damages, equitable relief, attorneys' fees and court costs for failure to comply with these requirements. The Commissioner of Small Business Services would oversee administration of the bill's lease requirements and would also be required to make available online model commercial leases for storefront premises, as well as translations of such leases in other languages.

SPONSORS: Council Members Rosenthal, Levin, Gibson, Louis, Cumbo, Menchaca, Dromm, Chin, Admas, Ayala, Brooks-Powers, Rose, Koslowitz, Brannan, Riley, Kallo, By request of the Manhattan Borough President, Public Advocate Williams

We know that job growth in this city is fueled by new ideas. Yet, this bill will take away the rights of new entrepreneurs in two ways. First, by requiring that existing businesses have the right to remain in place regardless of their financial viability or neighborhood needs and takes spaces off the market for other users. Second, the bill dramatically increases the risk in signing a new, untested tenant. Under this framework, the City Council is forcing an owner to make the economically rational choice of waiting for someone whose idea is proven and can pay. In the interim, more storefronts will remain or become vacant again.

Further, it sets up a "gotcha" regime with its byzantine requirements to produce documents that are already publicly available in most cases, and when they are not, would require an additional cost to

access. These include documents that the City itself controls, such as certificate of occupancy or prior fine record.

Thank you for your consideration on these points.

Ryan Monell

Vice President

Real Estate Board of New York

212.616.xxxx

rmonell@rebny.com

ⁱ The rate of failure is the same today as 20 years ago. Only 80% of small businesses survive past their first year. "Success Rate: What percentage of businesses fail in their first year?" *USA Today*, May 21, 2017.

ⁱⁱ <https://www.digitalcommerce360.com/article/us-ecommerce-sales/>

APPENDIX

Combined Condominium and Cooperative Building Classes Properties with Retail Area between 1 and 10,000 sq. ft. – Intro.

No.1796

Borough	Property Count	Residential Unit Count
MN	880	44132
BK	119	5710
BX	49	2143
QN	39	2302
Totals	1087	54287

Council	Property Count	Residential Unit Count
1	219	3602
2	134	7056
3	178	6743
4	124	11033
5	62	7638
6	56	4237
7	44	1296
8	22	726
9	39	1863
10	13	488
11	3	226
13	2	292
14	3	61
15	10	291
16	6	223
17	13	439
18	1	61
19	2	297
20	6	100
21	2	15
22	2	260
23	2	407
24	3	141
25	3	65
26	3	180
29	8	602
30	3	40
32	5	195
33	17	1812
34	26	501
35	9	716
36	9	103
37	2	62
38	5	66
39	28	361
40	5	401
41	4	72
42	1	21
43	3	166
45	2	689
46	3	132
47	3	253
48	2	355

Community District	Property Count	Residential Unit Count
101	50	750
102	229	5957
103	82	2049
104	82	3266
105	87	3231
106	57	8975
107	75	4965
108	127	11628
109	28	878
110	26	762
111	17	953
112	20	718
201	5	199
202	9	324
203	6	161
204	7	381
205	5	111
206	10	344
207	4	270
209	1	61
211	2	292
301	28	517
302	15	2293
303	7	59
304	3	47
306	27	277
307	6	150
308	10	208
309	6	318
310	3	166
311	1	54
313	3	311
314	1	185
315	1	243
316	3	61
317	1	55
318	4	766
401	3	315
402	2	125
403	1	3
404	4	77
405	3	40
406	6	433
407	8	397
408	4	341
409	2	169
410	5	195
411	1	207

Cooperative Building Class Properties with Retail Area between 1 and 10,000 sq. ft. – Intro. No.1796

Borough	Property Count	Residential Unit Count
MN	878	43863
BK	106	5257
BX	49	2143
QN	14	1408
Totals	1,047	52,671

Council	Property Count	Residential Unit Count
1	219	3602
2	134	7056
3	178	6743
4	123	10868
5	62	7638
6	55	4133
7	44	1296
8	22	726
9	39	1863
10	13	488
11	3	226
13	2	292
14	3	61
15	10	291
16	6	223
17	13	439
18	1	61
19	1	289
20	1	38
21	1	3
22	1	186
23	1	200
26	2	168
29	7	524
33	15	1746
34	26	501
35	8	703
36	8	87
37	2	62
38	5	66
39	25	268
40	5	401
41	4	72
42	1	21
43	2	154
45	2	689
47	2	244
48	1	243

Community District	Property Count	Residential Unit Count
101	50	750
102	229	5957
103	82	2049
104	82	3266
105	87	3231
106	56	8810
107	74	4861
108	127	11628
109	28	878
110	26	762
111	17	953
112	20	718
201	5	199
202	9	324
203	6	161
204	7	381
205	5	111
206	10	344
207	4	270
209	1	61
211	2	292
301	28	517
302	13	2227
303	6	43
304	3	47
306	24	184
307	6	150
308	9	195
309	6	318
310	2	154
311	1	54
313	1	190
314	1	185
315	1	243
316	3	61
317	1	55
318	1	634
401	2	241
402	1	113
403	1	3
406	5	355
407	2	327
408	1	200
409	2	169

Condominium Building Class Properties with Retail Area between 1 and 10,000 sq. ft. – Intro. No.1796

Borough	Property Count	Residential Unit Count
QN	25	894
BK	13	453
MN	2	269
Totals	40	1,616

Council	Property Count	Residential Unit Count
4	1	165
6	1	104
19	1	8
21	1	12
22	1	74
23	1	207
26	1	12
29	1	78
35	1	13
36	1	16
43	1	12
47	1	9
48	1	112
33	2	66
24	3	141
25	3	65
30	3	40
39	3	93
46	3	132
20	5	62
32	5	195

Community District	Property Count	Residential Unit Count
106	1	165
107	1	104
302	2	66
303	1	16
306	3	93
308	1	13
310	1	12
313	2	121
318	3	132
401	1	74
402	1	12
404	4	77
405	3	40
406	1	78
407	6	70
408	3	141
410	5	195
411	1	207

Rental Building Class Properties with Retail Area between 1 and 10,000 sq. ft.

Source: NYC MapPLUTO 21v2 Building Classes: C0, C1, C2, C4, C4, C5, D1, D3, D5, D6, D7, D8, D9, S0, S1, S2, S3, S4, S5, S9

- Intro. No.1796

Borough	Property Count	Residential Unit Count
BX	1841	55909
BK	6680	67123
MN	7461	183043
QN	2245	29077
SI	167	1244
Total	18,394	336,396

Council	Property Count	Residential Unit Count
1	1436	28810
2	1201	25199
3	1175	26684
4	666	17250
5	730	20747
6	387	13615
7	423	12709
8	724	13476
9	626	17311
10	356	14209
11	142	5995
12	68	551
13	133	2244
14	200	8111
15	338	9387
16	232	9765
17	348	9468
18	117	3421
19	60	297
20	105	1116
21	252	1658
22	449	3891
23	23	105
24	49	546
25	113	1557
26	337	14922
27	71	251
28	124	459
29	73	1067
30	260	1441
31	16	276
32	127	580
33	854	12245
34	977	9023
35	403	4959
36	556	5021
37	632	3380
38	645	4460
39	646	5221
40	311	4941
41	340	4611
42	155	1355
43	508	4067
44	221	2514
45	182	1701
46	24	80
47	264	2601
48	148	1855
49	124	1109
50	36	109
51	7	26

Community District	Property Count	Residential Unit Count
101	182	7435
102	960	16396
103	1576	27230
104	630	14743
105	308	8939
106	531	19253
107	513	16792
108	978	22526
109	275	8250
110	525	12962
111	563	12080
112	415	16271
201	303	6388
202	124	3728
203	169	4563
204	224	11284
205	179	7088
206	207	5055
207	168	6756
208	55	2893
209	111	3425
210	86	1524
211	112	1677
212	108	1694
301	1113	13414
302	360	6396
303	556	5215
304	653	3969
305	295	1802
306	536	4477
307	539	3767
308	325	2348
309	227	4974
310	483	3843
311	309	2722
312	316	2598
313	119	1919
314	194	2103
315	142	1415
316	142	1669
317	324	4067
318	47	425
401	574	7762
402	209	11104
403	208	1998
404	161	1233
405	430	2205
406	30	760
407	139	1270
408	20	324
409	200	984
410	64	229
411	27	148
412	122	551
413	34	135
414	27	374
501	127	1122
502	33	96
503	7	26

Co-operative Building Class Properties with Retail Area Over 1 sq. ft. – Intro. No. 2299

Borough	Property Count	Residential Unit Count
MN	982	77399
BK	111	7265
BX	50	2273
QN	21	10086
Totals	1164	97023

Council	Property Count	Residential Unit Count
1	232	5250
2	154	11761
3	191	10380
4	154	15719
5	72	18839
6	64	6154
7	46	2395
8	24	3587
9	42	3307
10	14	557
11	3	226
13	3	422
14	3	61
15	10	291
16	6	223
17	13	439
18	1	61
19	1	289
20	2	146
21	1	3
22	1	186
23	2	2044
26	3	690
28	1	5860
29	10	868
33	18	2655
34	26	501
35	9	764
36	8	87
37	2	62
38	5	66
39	25	268
40	5	401
41	4	72
42	1	21
43	2	154
45	2	689
47	3	1282
48	1	243

Community District	Property Count	Residential Unit Count
101	54	1113
102	247	8091
103	86	4374
104	87	5460
105	103	5687
106	69	12881
107	84	6999
108	154	24127
109	29	1860
110	29	2206
111	19	3814
112	21	787
201	5	199
202	9	324
203	6	161
204	7	381
205	5	111
206	10	344
207	4	270
209	1	61
210	1	130
211	2	292
301	28	517
302	17	3197
303	6	43
304	3	47
306	24	184
307	6	150
308	9	195
309	6	318
310	2	154
311	1	54
313	2	1228
314	1	185
315	1	243
316	3	61
317	1	55
318	1	634
401	2	241
402	2	635
403	1	3
406	8	699
407	3	435
408	1	200
409	2	169
412	1	5860
413	1	1844

Condominium Building Class Properties with Retail Area over 1 and sq. ft. – Intro. No. 2299

Borough	Property Count	Residential Unit Count
MN	5	615
BK	15	674
QN	29	1607
SI	1	147
Totals	50	3043

Council	Property Count	Residential Unit Count
1	1	167
4	2	276
5	1	68
6	1	104
19	1	8
20	6	289
21	1	12
22	1	74
23	2	366
24	4	459
25	3	65
26	1	12
29	1	78
30	4	49
32	5	195
33	2	66
35	1	13
36	1	16
39	4	148
43	1	12
46	3	132
47	2	175
48	1	112
49	1	147

Community District	Property Count	Residential Unit Count
103	1	167
106	1	165
107	1	104
108	2	179
302	2	66
303	1	16
306	4	148
308	1	13
310	1	12
313	3	287
318	3	132
401	1	74
402	1	12
404	4	77
405	4	49
406	1	78
407	7	297
408	4	459
410	5	195
411	2	366
501	1	147

Rental Building Class Properties with Retail Area – Intro. No. 2299

Borough	Property Count	Residential Unit Count
MN	8624	263480
BK	17178	106429
BX	2748	67037
QN	7300	49070
SI	742	2159
Totals	36592	488175

Council	Property Count	Residential Unit Count
1	1629	44030
2	1378	31222
3	1564	45673
4	788	37201
5	791	29137
6	416	20441
7	441	13514
8	881	17111
9	678	18425
10	371	15415
11	223	6908
12	179	908
13	328	3131
14	230	8508
15	505	10232
16	293	12435
17	458	11217
18	219	5009
19	292	679
20	248	1920
21	583	3334
22	893	4947
23	243	493
24	180	1280
25	325	2314
26	708	21153
27	575	1460
28	767	1703
29	298	1679
30	1056	3056
31	115	2201
32	628	1463
33	1720	20431
34	1790	12036
35	1089	9501
36	1215	7511
37	1281	4805
38	1500	8070
39	1684	7559
40	995	7041
41	819	6821
42	497	2656
43	1577	6273
44	951	3896
45	669	2719
46	316	526
47	914	5184
48	550	2788
49	538	1773
50	144	285
51	60	101

Community District	Property Count	Residential Unit Count
101	243	17002
102	1270	19498
103	1713	33588
104	783	30143
105	355	15201
106	653	37429
107	540	21954
108	1093	33982
109	295	8819
110	564	13932
111	677	14220
112	432	17544
201	381	8972
202	141	4069
203	240	5571
204	264	11895
205	209	8958
206	300	5624
207	214	7019
208	89	3772
209	190	4967
210	245	1914
211	219	2314
212	262	2130
301	2076	18131
302	845	14140
303	1235	7705
304	952	5704
305	966	3909
306	1313	8087
307	1219	5300
308	842	3577
309	588	6312
310	1282	5587
311	1235	4318
312	1228	4329
313	245	3857
314	772	3444
315	671	2321
316	382	3297
317	860	5245
318	467	1166
401	1138	10798
402	463	15428
403	491	3203
404	433	2484
405	1336	4056
406	141	1098
407	394	2270
408	87	765
409	850	2236
410	483	1015
411	150	339
412	898	2445
413	336	653
414	100	2280
501	551	1801
502	131	257
503	60	101



In regards to Intros 568, 1796, 2000, and 2299

Good morning. My name is Kathleen Reilly and I am the NYC Government Affairs Coordinator for the New York State Restaurant Association. Our organization represents food and beverage establishments in New York City and across the State. We are the largest hospitality trade association in the State, and we have advocated on behalf of our members for over 80 years. Our members represent a large and widely regulated constituency in New York City, and their survival and well-being will be critical to the recovery of New York City and its economy.

Thank you to the Small Business Committee and Chair Gjonaj for holding today's hearing on Intros 568, 1796, 2000, and 2299. The issues of fine reduction, equitable distribution of emergency funds by borough, and commercial tenant protections are all important to us as an organization.

Intro 568 would create a new opportunity for restaurants to limit their civil penalties by participating in a food donation program. The intent and big-picture vision of this legislation are both commendable: restaurants paying less in fines, and more usable leftover food making its way into the community where it can be eaten. That being said, the design and parameters of the legislation appear to apply to a fairly narrow set of circumstances, and by our estimation, most restaurants may not regularly be able to take advantage of this program. A program that incentivized donation of leftovers in a long-term and continuous way, that any restaurant would benefit from, rather than just those seeking fine abatement, may be a better way to attract more restaurants to food donation opportunities. Likewise, long-term and continuous strategies of city enforcement that are education-focused rather than punitive, prioritizing cure periods over fines, would likely have a stronger hand in helping restaurants to pay less in fines.

Intro 2000 would require SBS to estimate eligible businesses by borough prior to disbursing emergency financial assistance, and then at minimum make a good-faith effort to disburse the funds in near proportion to eligibility by borough. After seeing the way Covid-19 funds were disbursed, and the relative lack of funds received by the outer boroughs, it should be New York City's responsibility to consider how and why businesses in the outer boroughs missed out. If they were either not aware of, or lacked some resources to apply for, city assistance, then correcting that imbalance should be a priority the next time aid is disbursed. Intro 2000 seems well-poised to do that.

In regards to Intros 1796 and 2299, we overarchingly support more protections for commercial tenants, and the ability for small businesses to thrive, maintain their spaces, and know what to expect out of their leases, rental costs, and other costs of doing business in New York City. That makes it easy to support provisions of Intros 2299, which require landlords to inform tenants of the basic information about their property and the costs associated with it – before initial rent is paid – as well as a proper written lease ahead of time. We also support having more clarity about

end-of-lease protocols, including opportunities to renew and/or timelines to vacate if a renewal does not take place. NYSRA supports the city putting legislation in place to help landlords and tenants have clearer expectations of one another. That being said, at this time we do not feel that creating a brand-new appointed rental control board would be the best way to provide certainty to commercial tenants.

The New York State Restaurant Association is grateful to City Council, and the Small Business Committee, for discussing these important proposals aimed at improving the business environment in NYC and providing the support that small businesses need in this critical period of post-Covid recovery. We look forward to working on these issues in collaboration with all of you in the future. Thank you.

Respectfully Submitted,

Kathleen Reilly

NYC Government Affairs Coordinator

New York State Restaurant Association



September 17, 2021

**Testimony of Nelson Eusebio
Director of Government Relations
National Supermarket Association**

Before the

New York City Council

Committee on Small Business

Regarding

Commercial Rent Regulation and Food Donation

Thank you, Chairman Miller, and the rest of the committee members, for the opportunity to submit testimony.

My name is Nelson Eusebio and I'm the Director of Government Relations for the National Supermarket Association (NSA). NSA is a trade association that represents the interest of independent supermarket owners in New York and other urban cities throughout the East coast, Mid-Atlantic region, and Florida. In the five boroughs alone, we represent over 400 stores that employ over 15,000 New Yorkers. Our members work hard every day to run their businesses, support their families and provide jobs and healthy food options to their communities.

There were several bills heard as part of today's hearing, but I would like to focus my testimony on Intros 1796, 2299, and 0568. As we slowly recovery from the COVID-19 pandemic, it is imperative that the City take steps to ensure our small businesses can remain in their storefront properties. In our industry, we have seen the negative impacts of rising rents in recent years. During COVID supermarkets have contended with increased costs for PPE and a proliferation of fruit stands popping up in front of our stores. The supermarket industry operates on razor-thin margins to begin with and unlevel playing fields coupled with any increase in overhead, like rent, can seriously diminish the operation of our stores.

We believe that the protections and renewal options laid out in Intro. 2299, sponsored by Council Member Rosenthal and Manhattan Borough President Brewer, will provide a level of security for our members as they head into lease negotiations with their landlords and will further prevent the increase in vacant storefronts that have populated many of the once busy commercial corridors in the city. Furthermore, we also commend the Council for taking action to level the playing field in the commercial rent space by proposing to



implement a commercial rent guidelines board as written in Intro 1796 sponsored by Council Member Levin. As I previously mentioned, our members rely on predictable costs in their overhead to responsibly forecast their financial obligations. In having a set and established rental increase percentage, our members, particularly the smaller operators, can avoid being shellshocked when they receive a lease renewal with a significantly higher rent.

With regard to Intro 568, sponsored by Council Member Treyger, we support the Council implementing policies that incentivize versus penalize businesses to participate in various government programs and policies. Most of our stores already donate excess food but we feel this is a positive tool to encourage those that do not. Furthermore, we encourage the Council to examine this model of incentivizing further when considering future legislation involving the regulation of businesses.

We look forward to working with the Council on this legislation further.

Thank you.



New York State Association of REALTORS®, Inc.

New York State Association of REALTORS®, Inc.

130 Washington Avenue | Albany, NY 12210-2220

P 518.463.0300 | F 518.462.5474

info@nysar.com | www.NYSAR.com

September 17, 2021

New York City Council
Committee on Small Business
City Hall
New York, New York 10007

RE: Testimony on Proposed Int. 1796 (Levin)

The New York State Association of REALTORS®, Inc., a not-for-profit trade organization, respectfully submits the following comments on behalf of the more than 64,000 licensed real estate professionals living and practicing throughout New York State, including over 13,000 licensed real estate professionals in the five boroughs of New York City.

We thank you for the opportunity to testify regarding proposed introduction number 1796, which would establish a system of commercial rent stabilization in New York City. We believe the imposition of this bill fails to provide the real economic relief that small businesses in New York City need and would significantly deter commercial real estate investment, which is a vital source of economic activity and revenue for the City and State. It also ignores the rising costs associated with employing workers to maintain commercial buildings and the out-of-control property taxes small businesses are facing. If this bill were to pass, smaller commercial building owners who are unable to absorb these added costs would be put at a significant competitive disadvantage.

Additionally, we cannot ignore the inequity in our property tax system as it relates to commercial property in New York City, which continues to hurt small businesses. In September 2019, the City Comptroller found that retail tenants paid roughly twice as much in property taxes in 2017 (\$2.2 billion) as they did in 2007 (\$1.1 billion). Property taxes continue to rise rapidly, as New York City is the only municipality in the State not subject to a property tax cap. Any proposal to advance commercial rent stabilization should be tabled without first addressing the affordability issue of rising property taxes.

The commercial rent stabilization system proposed in Int. 1796 is modeled after the residential rent stabilization system in New York City. However, just as residential rent stabilization has failed to address New York's housing affordability problems, this bill will not address New York City's issue regarding commercial vacancies and affordability. Instead, it will create a strong disincentive for commercial real estate investment, jeopardizing City revenue and economic activity. Evidence has shown that New York City's housing supply has failed to keep up with its economic growth. Therefore, we would respectfully urge City lawmakers to work toward developing incentives for greater investment in affordable development rather than impose artificial rent control mechanisms on commercial properties.

The harmful impact of New York State's recent strengthening of its rent regulation law is already beginning to be realized throughout the New York City market. Affordable housing developers are leaving New York for markets with less onerous regulation, while sales and city tax revenues have fallen. Given

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Chief Executive Officer

these negative impacts of residential rent stabilization, it would be reckless to enact any form of commercial rent stabilization.

In addition to controlling commercial rent, this bill would impose fees of \$100 per year for each commercial space subject to the law. We would argue that imposing additional regulatory fees on small businesses is not a path toward greater affordability. We urge City lawmakers to instead provide small businesses with economic relief through mechanisms such as tax deductions or credits for the businesses in commercial spaces targeted by the bill, or regulatory relief from the other numerous fees and restrictions placed on small businesses.

Finally, we believe the State Constitution does not provide the City of New York the power to enact such commercial rent control measures. For that fact, we believe it would be inappropriate for the City Council to approve this bill.

We thank you for the opportunity to submit written testimony. Please contact us with any questions.



**Testimony of the Partnership for New York City
New York City Council Committee on Small Business
Int. 1796 (Commercial Rent Regulation) and Int. 2299 (Storefront Premises Lease Agreements)
September 17, 2021**

Thank you Chair Gjonaj and members of the committee for the opportunity to submit testimony on Int. 1796, which would create commercial rent stabilization, and Int. 2299, which would create requirements for storefront leases. The Partnership for New York City represents private sector employers of more than 1 million New Yorkers. We work together with government, labor, and the nonprofit sector to maintain the city's position as the preeminent global center of commerce, innovation, and economic opportunity.

The Partnership opposes both bills. The city's commercial real estate market is in turmoil. This is not the time to be passing laws that could delay and distort its recovery from the impact of the pandemic and the acceleration of e-commerce. Storefront and other commercial vacancies and rent arrears are high and the survival of many small business tenants remains unpredictable. In most cases, where these businesses are viable, property owners are making accommodations in rent. This process needs to play out before government can intelligently intervene.

A 2020 study by the New York City Department of City Planning (DCP) found that commercial vacancies are concentrated in certain neighborhoods. For example, DCP reported that local retail corridors such as Kingsbridge, Jackson Heights and Hamilton Heights had a higher proportion of occupancy (all over 70%) than regional destinations and areas impacted by remote work and cessation of tourism during the pandemic such as Flatiron/Union Square, SoHo/NoHo and Canal Street with occupancy of 40 to 50%. The Meatpacking district had a 29.7% vacancy rate compared to 10% on the Upper West Side in the second quarter of 2021.

The 2020 DCP study also concluded that many factors influence commercial vacancies including online shopping, changes in demographics, and local real estate trends. Increased costs of doing business – often a result of city mandates and regulations – are often greater factors than rent in determining the viability of a small business.

Placing caps or controls on commercial rents will have the greatest negative impact on small property owners who the city relies on for property tax revenues and, in the case of mixed-use buildings, as a source of relatively affordable rental housing.

In SoHo, Herald Square, and Lower Fifth Avenue in Manhattan average retail asking rents were down by more than 50% in the second quarter of 2021 compared with the same time five years ago. Five retail corridors in Brooklyn – Manhattan Avenue, Bedford Avenue, Grand Street, DUMBO and Court Street – posted year-over-year declines in average rent of more than 15%. Adoption of commercial rent control will further depress rents, property values, and tax assessments.

A far better focus for the Council would be on programs that incentivize new uses of vacant commercial real estate, such as incubator or accelerator space for start-ups and restarts to support recovery. For the past year, we have partnered with the city and the five borough chambers of commerce to run a Small Business Resource Network. We have learned from more than 20,000 entrepreneurs who have reached out for help from this network that rent is only one of many challenges they face. The Partnership would be willing to work with the Council on constructive efforts to reduce costs and stimulate recovery, as opposed to measures that further depress the economy.

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STEVEN SOMMER
MARILISA STIGLIANO
MICHAEL J. SWEENEY
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IRIS WEINSHALL
ELI ZAMEK
*Executive Committee Member

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September 17, 2021

Testimony by the New York Building Congress before the New York City Council's Committee on Small Business on Intro 1796-2019 and Intro 2299-2021

Chair Gjonaj and members of the City Council Committee on Small Business, thank you for the opportunity to provide testimony regarding Intro's 1796-2019 and 2299-2021, which would establish a system of commercial rent registration and regulations for lease agreements for storefront premises, respectively. While we appreciate the intent of the bills, to protect small businesses and provide them predictability in the leasing process, we do not believe these legislative proposals are the appropriate mechanism to achieve that goal and feel that the City of New York does not have legal jurisdiction over this matter. Should these bills progress, it will have disastrous consequences for the commercial real estate industry and be subjected to numerous legal challenges.

We applaud the City Council for their efforts to support the needs of small businesses and all those that operate commercial establishments covered by this proposal, however these proposals make a veiled attempt to villainize property owners as the preliminary culprit for the challenges that these businesses face. In Intro 1796, the Council is implying that the glut of vacancies across New York City is driven by landlords who prefer to withhold leasing space while they strategically wait for the opportunity to land a credit-tenant who can pay a higher rent. This is simply misguided and fails to consider the myriad of factors that drive vacancies and that vacancy rates between five and 10 percent is indicative of a healthy corridor. As noted in the Department of City Planning's [Assessing Storefront Vacancy in NYC](#) report from 2019, "vacancy rates are volatile, vary from neighborhood to neighborhood and street to street, and cannot be explained by any single factor." In the last decade alone, new regulations and market forces have placed significant burdens on small businesses, including rising property taxes, e-commerce and local consumer spending patterns, to name a few. It cannot be understated that rent is not the single driving force behind the crisis that afflicts small businesses.

These bills could also disincentivize landlords from making major investments to their properties. Commercial construction represents a considerable portion of the economy of New York City, as evidenced in the Building Congress' *Retail Snapshot* report. Between 2015 and 2018, construction starts for non-residential projects totaled \$81 billion for both public and private sector projects, representing thousands of jobs. Beginning in 2016, however, renovations and alterations began to outpace new starts within the retail construction space, when 64 percent of all retail construction was for alterations and renovations. Additionally, a recent report by the State Comptroller's Office found our industry was the fastest-growing sector from 2011-19 with a 43.5-percent jump in jobs. All of that was brought to a grinding halt when the pandemic began; most of that decade of progress has been nearly wiped away.

Before March 2020, the building industry in New York City was thriving, however, as a result of the pandemic, the industry suffered a loss of over 70,000 direct and indirect jobs and \$5 billion in wages. As proposed, Intros 1796 and 2299 would impose tremendous harm to the economy of the city during an already challenging period when the construction and commercial real estate industries are still looking to get back on their feet after suffering tremendously during the last 18 months.

Next, while the bill provides direction to the Commercial Rent Guidelines Board on factors that must be considered as part of its analysis, the reality of determining appropriate rents for a given space is a much more complex process with hundreds of factors that must be examined. It would be overly simplistic to believe that taxes, vacancy rate and operating costs are the only factors that influence rents; a prospective tenant and owner must also consider neighborhood character, distance to public transportation, foot traffic, storage capacity, elevator size and use restrictions (freight vs. passenger only), street frontage, ceiling heights and co-tenancy, among many others. It is also inaccurate to attempt to label commercial spaces in a uniform manner; no two commercial spaces of the same size and general character are the same for the purposes of calculating rent. While the bill does provide a mechanism for an owner to apply for an adjustment in the initial rent, in practice, thousands of petitions to examine individual spaces would lead to a gridlock in determining appropriate rents in a timely manner and will limit the ability for property owners to make independent decisions.

Should Intro 1796 pass, one unintended consequence we believe is possible is that large, well-capitalized businesses would be given a tremendous advantage in the leasing process when competing against tradition mom-and-pop stores. By setting a ceiling on rents, landlords could be more inclined to rent their premises to businesses that have the capacity to enter into longer-term leases or take on significant capital investments on their own rather than have the landlord provide tenant improvements.

Lastly, the City of New York does not have the authority to implement commercial rent control, thus limiting landlord rights regarding use and occupancy of their private spaces. The concept of regulating private leasing activity is several decades in the making with numerous blue-ribbon committees being formed dating as far back as Mayor Ed Koch. Time and time again, it has been found that it is unconstitutional for the City to implement such regulations as it is not granted under its Charter mandate and cannot be supported through its health and welfare powers.

Neither the City Charter, the Municipal Home Rule Law nor the State Constitution support the City unilaterally imposing rules to enact commercial rent regulation. In 1945, the State enacted a commercial rent regulation regime and it was permitted to expire on December 31, 1963 as per the sunset provisions in that legislation. By legislating in this area, the State has set the unmistakable precedent that it is of State concern to regulate commercial rents and that only the State has the authority to do so. Further, over the course of numerous court rulings, it has been made clear that the State Legislature is the sole authority that can provide for the enactment of such rules by way of the preemption doctrine. See [Albany Area Builders Association v. Town of Guilderland, 74 N.Y.2d 372, 377.](#)

The New York Building Congress opposes Intros 1796 and 2299 and we urge the City Council to examine the diverse range of issues that affect retail corridors and drive vacancies. Regulations that are overly inflexible or that prescribe the incorrect solution could lead to increased vacancies and other unintended consequences across the economy of the city, including for our small businesses. Thank you for your time and consideration.



Friday, September 17, 2021

Chair Gjonaj and Members of the Committee on Small Business:

Thank you for the opportunity to submit testimony for today's hearing on behalf of the Association for Neighborhood and Housing Development.

ANHD is one of the City's leading policy, advocacy, and capacity-building organizations. Our membership consists of over 80 neighborhood-based and city-wide nonprofits that have affordable housing or equitable economic development as a key part of their mission. We bridge the power and impact of our member groups to build community power and ensure the right to affordable housing and thriving, equitable neighborhoods for all New Yorkers.

ANHD is also a member of United for Small Business NYC, which is a coalition of community organizations across New York City fighting to protect small businesses and commercial tenants from the threat of displacement, with a focus on owner-operated businesses that are run by and serve low-income people and people of color.

Small businesses make up our neighborhoods: they are the restaurants, bodegas, laundromats, bookstores, and local shops that make each neighborhood distinct and unique. Many of New York's most vibrant businesses, especially in low-income communities and communities of color, rent their space, and are thus vulnerable to displacement when rents are raised.

Commercial tenants do not currently have any rent protections beyond what is included in their lease. This means that small businesses are often hit with rent increases they can't afford, which effectively function as evictions to make way for higher-paying tenants or lead to commercial vacancies.

Between 2007 and 2017, the commercial vacancy rate doubled across New York City. At the same time, retail rents rose an average of 22% citywide, with some neighborhoods seeing more than 50% rent increases on average.¹ **Vacancy trends also reflect our city's long-standing racial inequalities. The recently released Department of Finance storefront data from 2019 shows Central Brooklyn neighborhoods with storefront vacancy rates of 15%, Southeast Queens at 10%, and the South Bronx at 9%, all above the citywide average.**²

¹ <https://ny.curbed.com/2020/2/28/21145643/nyc-east-village-retail-blight-storefront-icon-realty>

² <https://anhd.org/blog/storefront-registry-will-help-small-businesses-combat-speculation>



When ANHD surveyed small businesses in the Lower East Side, the Northwest Bronx, and Jackson Heights in 2019, 82% of respondents ranked the cost of rent in their top three concerns.³ This was all before the COVID-19 pandemic devastated small businesses across the city. During the pandemic, rent became an existential issue for small businesses, but multiple levels of government failed to address it effectively.

During the pandemic, some commercial landlords have given their tenants a break on rent or temporarily lowered asking rents. However, nothing prevents them from raising rents back to or above what they were before the pandemic. This instability and uncertainty leaves small business owners unable to plan for the future even as our city struggles to recover from COVID. We cannot allow this crisis to go unaddressed, and we ask the city to pursue policies that address the commercial rent crisis.

Any such policy must do the following:

- Prioritize protections for small, independent businesses while being inclusive of the diversity of types of commercial tenants across the city.
- Require transparency for landlords and tenants and include a robust appeal process, as well as strong penalties for violations of the policy.
- Ensure that the decision-making and enforcement entities are representative of tenant interests and responsive to democratic input.
- Allow for the wide variation in economic conditions throughout New York City's commercial corridors rather than applying a single metric citywide.
- Account for the serious financial constraints faced by nonprofit city-funded owners of commercial space, either by exempting them altogether or by setting a floor for allowable rent increases.

We would also support a requirement for commercial landlords to provide standardized written leases and other critical information such as current contact information, certificate of occupancy, and violation history, as well as allowing tenants a reasonable time to cure lease violations. In combination with a policy to address the rent crisis, this would offer a robust framework for stabilizing New York City's smallest businesses, and provide an example to other cities across the country.

ANHD looks forward to continued work with the members of this committee and other stakeholders to ensure that small businesses in our city's most vulnerable communities are not driven out by speculative rent increases.

³ <https://anhd.org/report/forgotten-tenants-new-york-city-immigrant-small-business-owners>

CATHOLIC COMMUNITY RELATIONS COUNCIL

191 Joralemon Street, 2nd Floor, Brooklyn, New York 11201

**Testimony of Joseph Rosenberg, Executive Director
Catholic Community Relations Council
City Council Committee on Small Business
Int. 1796 – Commercial Rent Regulation
September 17, 2021**

Good morning Chair Gjonaj and members of the City Council Committee on Small Business. I am Joseph Rosenberg, Director of the Catholic Community Relations Council (“CCRC”), representing the Archdiocese of New York and the Diocese of Brooklyn on local legislative and policy matters.

We understand the New York City Council’s focus on preserving and protecting small commercial businesses in New York City, especially in the wake of the Covid-19 pandemic. But we are concerned that Int. 1796 is overbroad with unintended consequences that could compromise the social service and religious mission of religious organizations.

The bill would subject certain commercial spaces used for nonresidential purposes to commercial rent regulations. It would specifically cover retail stores of 10,000 square feet or less, manufacturing establishments of 25,000 square feet or less and professional services or other offices of 10,000 square feet or less. These are extremely broad definitions and create special challenges and burdens to religious organizations and nonprofits, especially those who rent spaces to local community organizations or other smaller nonprofits.

Religious organizations require the flexibility to use their scarce nonresidential spaces to further their religious and social service missions. Where spaces are not needed for mission-based services, faith-based organizations may choose to rent them out on a short-term basis to local community groups, private enterprises and organizations. But as needs change, the religious institution must have the ability to regain the use of the nonresidential space to advance important faith-based and social service imperatives that help to assist all residents of our City. This legislation currently does not allow this flexibility.

Accordingly, it is urged that the bill be amended to address this seemingly small, but important issue, by exempting religious organizations from its currently overbroad and inflexible mandates.

Thank you.



Council of New York Cooperatives & Condominiums

TESTIMONY TO THE NEW YORK CITY COUNCIL COMMITTEE ON SMALL BUSINESS

September 17, 2021

Good morning Members of the City Council and thank for this opportunity to testify.

My name is Mary Ann Rothman. I am executive director of the Council of New York Cooperatives & Condominiums which is the largest of several membership organizations for housing cooperatives and condominiums in the five boroughs and beyond. More than 170,000 New York families make their homes in our member buildings, which span the full economic spectrum from very modest housing to upscale dwellings. There are over 1,000 co-op buildings and over 50,000 households throughout the five boroughs that have commercial spaces which would be covered by Int. 1796. The owners of these buildings are not large real estate companies – they are average citizens, families, and voters who would be greatly impacted and harmed by any commercial rent control regime, and one as blunt and all-encompassing as Int. 1796. These home owners just want to have the best possible tenants living in their buildings and the most income possible to offset continually rising operational costs, but this bill would strip them of that right, which is both bad policy and legally dubious at best. As such, our organization and membership strongly opposes Int. 1796 and has concerns with Int. 2299.

Co-op and condo boards work hard to find tenants for their commercial space who will be an enhancement to the building and the neighborhood, who will pay on time, will comply with sanitation laws and all other city laws; who will not create noise or other disturbances. They are happy to retain such tenants and to work with them to find mutually agreeable rent terms. But there are disappointments; tenants do fail to meet these reasonable criteria, and then the building looks forward to the expiration of the lease and begins a more careful search for a perfect tenant. Sometimes a building is facing rising costs or the value of a commercial space increases, and therefore the building would seek a rent increase after a term expires, or a new tenant altogether. The bills being considered today would take that freedom out of their hands, and Int. 1796 would allow the government to set allowable rent levels. This is not only an infringement on our members' property rights, but a misguided attempt at a one-size-fits-all policy that will surely make life harder for our working homeowners, many of whom are already struggling to get by.



Council of New York Cooperatives & Condominiums

CNYC also strongly opposes Intro 1796 based on the idea that no appointed body can accurately set rent rates for an entire city. Every neighborhood is different. Every moment in time is different. Every commercial space and residential building is different. For this Board to dictate rates across the entire city based on what would surely be mostly political factors is a recipe for disaster. It will have a chilling effect on our City's economic recovery from the pandemic, and most certainly lead to increased maintenance costs for cooperative homeowners and working families across New York City. At a time when the City continually puts one unfunded mandate after another on our homeowner members, this is surely to cause more New Yorkers to seek lower costs of living in neighboring cities and states. That would be very unfortunate, and we hope that the City Council and Mayor will not allow 1796 to move any further.

Int. 2299 includes some positive aspects including the requirement of written commercial leases and the furnishing of certain important information to tenants. We do not oppose these measures. However, the ability for commercial tenants to essentially holdover at set rent rates in incredibly valuable spaces will further complicate life and operations for our member buildings. We look forward to working with the bill sponsors to improve this legislation.

CNYC respectfully suggests that commercial rent control was an oppressive and unrealistic remedy for a non-existent problem in the 1980s when it was first proposed. Today it is even less appropriate and would impart a real cost on families and homeowners.

Thank you for this opportunity to share our thoughts.

Mary Ann Rothman
Executive Director
Council of New York Cooperatives & Condominiums (CNYC)



Council of New York Cooperatives & Condominiums



**Council of the City of New York
Committee on Small Business
Intro 1796**

Friday, September 17, 2021

Testimony: Dan Biederman—President

34th Street Partnership

1065 Avenue of the Americas, Suite 2400, New York, NY 10018

Tel: 212-719-3434

Members of the Committee on Small Business, I am Dan Biederman, President of the 34th Street Partnership. Between Park and Tenth Avenues on 34th Street we now have twenty-six vacant stores out of 122 retail spaces: that's a 21 percent vacancy rate. It is the greatest number of vacancies since the Partnership began its services in January 1992.

Intro 1796 is being considered by the City Council at a time when our retail stores need to rebound after suffering a tremendous loss of business during the last eighteen months of the pandemic. Store vacancies need to be eliminated; they don't help either the retailer or landlord, as the retailer is impacted by lower sales volume and the landlord by lower rents. The Intros also fail to recognize the significant efforts many landlords made to work with their retail tenants to ensure that stores could remain open throughout the pandemic. This included flexible lease terms, reduced rents, and even in some cases rent abatements in order to help keep tenants in place.

Implementing regulations on rents for retail rents at this time would inhibit the City's economic recovery. The Intros will harm landlords trying to lease space to new, dynamic retailers in the Partnership's district. Commercial rent control would limit the ability of landlords to improve and modernize their stores to meet changing consumer interests.

Neither of these bills addresses the root causes of vacancies, such as rising property taxes, delays for government approvals, and other regulatory burdens faced by retailers, which studies have shown instigate a higher percentage of vacancies, as opposed to rents.

34th Street asks for your support of our retail economy. Please reject this unfair financial burden on our property owners and their retail tenants. We need our retail stores to prosper during these difficult times.

Thank you.



TESTIMONY OF:

**Joyce Kendrick, Attorney-in-Charge
Mental Health Representation Team**

BROOKLYN DEFENDER SERVICES

Presented before New York City Council

Committee on Mental Health, Disabilities and Addiction

Oversight Hearing on Coordinating City Agencies to Address Serious Mental Illness

September 17, 2021

My name is Joyce Kendrick and I am the Attorney-in-Charge of the Mental Health Representation Team of the Criminal Defense Practice at Brooklyn Defender Services (BDS). Over the last twenty years, I have represented thousands of clients living with mental illness in misdemeanor and felony cases in Brooklyn courts. I want to thank the Committee on Mental Health, Disabilities and Addiction, and in particular Chair Farrah Louis, for holding this important hearing on the City's responses to serious mental illness.

BDS provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy in nearly 30,000 cases in Brooklyn every year. Our Mental Health Representation Team works to support people living with serious mental illness (SMI) who have been accused of a crime in Brooklyn, representing clients at competency evaluations, hearings and other court appearances during the pendency of their case. In addition, our specialized attorneys regularly consult with others in BDS' criminal defense practice to advise on mental health concerns in their cases and provide internal expertise

Lisa Schreibersdorf
Executive Director

177 Livingston Street, 7th Floor
Brooklyn New York 11201

T (718) 254-0700 www.bds.org
F (718) 254-0897 @BklynDefender

to all of our criminal defense attorneys. We are also proud of having played an important role in the creation of the Brooklyn Mental Health Court in 2002. The Brooklyn Mental Health Court works with defendants who have serious and persistent mental illnesses, linking them to long-term treatment as an alternative to incarceration. BDS continues to collaborate with this court to advocate for its expansion to meet the needs of more people, including people with intellectual disabilities and people who have previous criminal legal system involvement.

Public Focus on Mental Illness and Crime

In recent months, the media has been engaged in an ongoing dialogue around mental illness and crime in New York City. Violence and suicide are most frequently mentioned specific in media coverage about mental illness. A disturbing trend in reporting is the emphasis placed on the number of violent crimes perpetrated by a person living with mental illness. This biased reporting is misleading and fails to acknowledge that people diagnosed with severe and persistent mental illness are more likely to be victims rather than the perpetrators of crime.¹

The false narrative that mental illness is linked to increase rates of violence exacerbates social stigma and decreases support for public policies that have been proven to benefit people with mental illness.² This messaging must be changed if we as a City are to make any progress in expanding access to mental health treatment or services within the community.

City Agencies Responses to SMI

For years, BDS has called for a non-police response to mental health emergencies and the expansion of mobile crisis teams and the removal of NYPD from all mental health responses. The City has attempted to change the response to SMI through legislation of EMS responses, including the Mayor's EMS pilot programs and Int 2210. As we feared, NYPD officers are still responding to mental health emergencies in most cases³. Allowing the NYPD to continue responding to these calls—even with additional training—does not address the real danger that police pose to people experiencing mental health crises, nor does it prevent the criminalization of mental illness. Police are not mental health experts or medical professionals, nor should they be tasked with filling this role.

Response to mental health emergency calls must be handled by medical professions or clinicians who are trained in de-escalation methods. When NYPD responds the result is far too often that instead of the person in distress receiving medical care and treatment, they are arrested and housed on Rikers Island. Rikers Island has become the largest mental health provider in NYC –

¹ Heather Stuart, Violence and mental illness: an overview, *World Psychiatry*, June 2003, Available online at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1525086/>

² Id.

³ Greg Smith, Cops Still Handling Most 911 Mental Health Calls Despite Efforts to Keep them Away, *The City*, July 22, 2021, Available online at <https://www.thecity.nyc/2021/7/22/22587983/nypd-cops-still-responding-to-most-911-mental-health-calls>

and rates of self-harm and suicide are increasing.⁴ This is true, despite the creation of diversion centers in the city, which are underutilized.⁵ Now, more than ever, given the escalating humanitarian crisis on Rikers Island, we cannot afford to have a police response to people experiencing a mental health emergency that will increase the chances of someone being sent to jail instead of to the medical treatment they may need.

Recommendations

Creating a coordinated response to mental health emergencies is crucial for the city, but this initiative must be coupled with increased support for people living with serious mental illness. We respectfully offer the following recommendations:

1. Divest from NYPD and invest in communities

We urge the City to move away from criminalizing mental illness and instead seek to improve access to mental health care and treatment by diverting funds from NYPD and using the funds to expand resources for mental health care providers and courts. Investment in communities must include resources for the care and treatment of people with serious mental illness. The City must invest in opening and improving awareness and usage of diversion and respite centers, drop-in centers, and permanent affordable housing to provide pathways to housing for New Yorkers with mental illness who are currently seeking shelter in subways and sleeping on sidewalks.

2. Courts should increase the use of supervised release, hospitalization, or ATD programs for people living with mental illness

As mentioned above, the population in the City jails continues to grow despite the current crisis inside the jails, the high rate of COVID-19 transmission and the growing rates of suicide and self-harm. The City Council should urge the courts to stop the pipeline of New Yorkers into the jail, and increase use of supervised release, alternatives to detention (ATD) programs, or—when medically indicated—hospitalization, particularly for people with serious mental illness charged with bail eligible case.

Judges of the New York City Criminal Court are appointed by the mayor. The Mayor and the Council must hold judges accountable for ensuring the proper implementation of the bail laws and the public safety of New Yorkers—including those who have been accused of a crime. The City Council should strongly remind courts and DAs that bail should not be used to detain, but rather, as a means to incentivize people to return to court. The Council should demand that judges and DAs are regularly using and offering all available options including: ATD programs are available but underutilized and the City Council should encourage courts to order these programs more regularly, and district attorneys to consent. Jail are not an appropriate place for

⁴ George Joseph and Raven Blau, Self-Harm is exploding in New York City jails, Internal numbers show, Gothamist, September 7, 2021, Available online: <https://gothamist.com/news/self-harm-exploding-new-york-city-jails-internal-numbers-show-rikers>

⁵Greg Smith and Reuven Blau, Failure to Thrive: NYC's \$100 Million 'Diversion Centers' for Mentally Ill Sit Empty or Barely Used, *The City*, May 9, 2021, Available online: <https://www.thecity.nyc/2021/5/9/22426250/thrive-nyc-nypd-diversion-centers-for-mentally-ill-sit-empty>

people with histories of mental illness. Judges have the option to order hospitalization for at least 72-hours *sua sponte*, at the request of the defense attorney or at the request of the defendant. When clinically appropriate, the court should consider hospitalization pursuant to Mental Health and Hygiene Law § 9.43 and this Council should question judges who are routinely denying defense requests for hospitalization. For New Yorkers living with serious mental illness, hospitalization should be an alternative to jail. Courts should regularly order, and district attorneys should regularly consent to, these alternatives to incarceration.

3. Close treatment gaps for individuals with serious mental illness

While the city has invested greatly in program like ThriveNYC, New Yorkers living with serious, persistent mental illness are continuing to fall through the cracks. There is a lack of high-quality, affordable therapy and psychiatry services for people living with a SMI, particularly those in low-income neighborhoods or areas without a local hospital. Every New Yorker should be able to access the mental health care they need in their community. We ask that the City expand evidenced-based treatments available to people with serious mental illness. This includes expanding access to Assertive Community Treatment (ACT) and Forensic Assertive Community Treatment (FACT) teams, investing in community based mental health treatment programs in low-income communities, and frontline workers—including Health Home care navigators and health insurance marketplace navigators—to ensure mental health care access is available for all New Yorkers.

4. Increase access to culturally competent, trauma informed providers

Cultural competency is a major barrier to services for many New Yorkers with mental health needs. The existing outpatient mental health programs are not equipped to address the extreme trauma and hardship faced by the people we serve. Receiving mental health care has cultural barriers and stigma for many of our clients. For people who do not speak English, are LGBTQ, have been incarcerated, or do not see their race or ethnicity reflected by providers, receiving mental healthcare that is affirming and culturally competent can feel impossible. For clients with complex trauma histories, the available low-cost mental health clinics do not have the competency or scope of services needed to treat our clients.

We urge the City to invest in free and low-cost mental health services that are designed for people who have experienced hardship, trauma, or incarceration. These programs must be equipped to meet the needs of people who are newly being introduced to mental health care, to create a familiar, nonthreatening therapeutic environment for those who may be hesitant to engage in treatment. Such programs must employ trained clinicians who are fluent in multiple languages. We must not place the burden on the patient to educate the clinician about the realities of incarceration, gun violence, or racism.

5. Include stakeholders in planning processes

This Committee and the City must proactively work to include stakeholders—including people living with serious mental illness, people who have experienced NYPD response to a crisis,

community mental health providers, and public defenders—in plans to improve the City’s efforts to address serious mental illness.

It is critical that people who have lived experience with the current systems be able to share their stories and help shape the solution. Additionally, because the NYPD is still included in most responses to mental health emergency responses, BDS encourages the Council to include public defenders, community mental health practitioners, and mental health advocates who have a unique perspective on the impact of police response to people in crisis.

* * *

BDS is grateful to the Committee on Mental Health, Disabilities and Addiction for hosting this critical hearing and shining a spotlight on this issue. Thank you for your time and consideration of our comments. We look forward to further discussing these and other issues that impact on the people we serve.

If you have any questions, please feel free to reach out to Kathleen McKenna, Senior Policy Social Worker at 718-254-0700 x210 or kmckenna@bds.org.

Alham Usman, Esq. Director,
Commercial Lease Assistance Program
Community & Economic Development
BROOKLYN LEGAL SERVICES CORP. A
ausman@bka.org
718-487-1311



I head the Commercial Lease Assistance Program (CLA) which is funded by NYC SBS. My team is the first, and often times only, contact point for NYC small business owners. CLA provides small business owners with high-quality attorneys to help them with their commercial lease related cases. To-date we have worked with over 1,400 small businesses and landlords in all five boroughs. In the last month two months alone of this fiscal year my team has represented over small business owners in 164 cases. We have worked with 104 different business owners and their landlords throughout in the Bronx, Brooklyn, Manhattan, Queens, Staten Island and Long Island.

We have assisted our clients with negotiating their arrears, new leases, renewing their leases, and terminating their leases and negotiating the myriad of details that go into ensuring fair contracts. Recently, I personally negotiated a reduction of almost \$90,000 in rental arrears for a minority-womyn owned small business so that she could terminate her lease and close the business. While this is a great result to ensure that our small business owners can survive as human beings, it speaks to the inability of them to survive as small business owners because they simply cannot afford the commercial rents.

The challenges faced by NYC small business owners have been placed under a magnifying glass with the Covid-19 pandemic. One of these glaring, enlarged, unavoidable is the issue of commercial rent. It is one that my team confronts every day with every business owner we speak with. It is de facto the single most consequential barrier in allowing small businesses to exist, succeed and/or survive. Unless we want NYC to become like the vacant towns in America with ghosts of the mom n' pops shops of the past, or the merry-go-round of repeated large chain shops, the uniqueness that is NYC, the diversity of its small businesses and ability to find anything and everything here, all of these things that have made this the capital of the world, will be lost. **Commercial rent stabilization is the survival of the NYC economy.**

Good morning,

My name is William Abramson, and I am the Director of Sales & Leasing at Buchbinder & Warren Realty Group, a small, woman owned family business, which has been around for over 60 years.

I want to thank chairman Gjonaj and the committee for taking the time to listen to my testimony and for focusing on how to help small businesses. Particularly, during these times, even pre-COVID, small business need our help.

Unfortunately, the Commercial Rent Control Bill is a bad idea at any time, and particularly during these times, because it fundamentally fails to address the root causes and greatest challenges of small businesses. By the way, this Bill would also be inclusive of office spaces and companies like Starbucks, which is obviously not a 'small business.'

I represent a small property owner, who's portfolio primarily consists of 800sf-1,200sf retail spaces, which lends itself to small business, start-ups, and 'mom & pop" retailers.

During COVID, and for over 60 years, we have diligently worked with all office and retail tenants to either: a) reduce rents, b) postpone rent payments, c) or even go months without receiving any rent payments at all.

Even prior to COVID, retail rents were on the decline. During COVID, all NYC property owners experienced significantly reduced income, while receiving no tax relief (actually property taxes increased), and most of the property owners expenses continued to increase; taxes, water bills, insurance, labor, etc., all continued to increase, while income continued to plummet.

Even prior to COVID, 25% of all retail spaces were available (according to Cushman & Wakefield 2019 Retail Report).

The main reason to this is the emergence of online sales and e-commerce. These factors have already transformed and disrupted the retail landscape.

Frankly the issues, complaints and concerns I receive from our retail tenants are about: 1) enforcement of street vendors, which cannibalizes retailers, 2) constantly rising real estate taxes, 3) quality of life issues, 4) DOB permitting issues (length of time), 5) landmarks approval process (length of time), 6) New York State Liquor Authority (can take six months or longer to get a liquor permit), 7) assistance from SBS.

If the City Council truly wants to help support and assist small businesses, these are the items they can specifically deal with, which would make a tremendous difference and potentially impact the city's economic and economic development.

The Commercial Rent Control Bill is not only a bad idea based on flawed assumptions, but will also have a significant impact on small businesses and a negative impact on the overall economic health of NYC.

Thank you for your time.

William D. Abramson

Director of Sales & Leasing
Licensed Associate Real Estate Broker
Buchbinder & Warren Realty Group LLC
1 Union Square West
Fourth Floor
New York, New York 10003
O: 646-637-9062
M: 917-295-7891

**Variations Theatre Group; DBA Chain Theatre Testimony:
Commercial Rent Stabilization Hearing
Friday, September 17th 2021**

Dear New York City Council Member Levin and Committee Counsel Stephanie Jones,

My name is Christina Perry and I am the Director of Development for the Chain Theatre, a small theatre venue in midtown Manhattan. I am proud to say that since we reopened in June we have had over 3000+ masked and fully vaccinated patrons attend our programming with fully vaccinated artists. It's been an uplifting reopening, but a re-opening with a long road ahead.

I'm writing in support of Intro 1796, the Commercial Rent Stabilization bill introduced by Council member Levin. I'm a member of the independent theatre community. I am a small theatre venue, our space was shuttered for over 15 months. Intro 1796 will help to make sure that during this time of re-opening, they'll be able to stay open. After such a turbulent year, this legislation will provide stability for small businesses and indie theaters. We need your help to keep our independent arts spaces alive.

Our company is no stranger to the vicious nature of New York City real estate. We built and renovated our first space (when Hurricane Sandy hit) in Long Island City only to have our landlord break our lease, reduce the theatre to rubble and put up luxury condos. Now in our new space we find ourselves once again at the mercy of our landlords. An uncomfortable but common place for small non-profits like the Chain. I don't have the backing of lawyers and lobbyists so I come to you today to ask for your support on this very important bill. We are at the mercy of our landlords now and throughout the pandemic and now I seek your support during the worst housing crisis this city has seen for commercial rent relief.

The Chain Theatre is home to thousands of artists and dozens of theatre companies. I've joked with my colleagues that 'we are like an endangered species, we are, and we are crucial to the cultural ecosystem that makes this city. Help us preserve our spaces. We are one of the lucky *few* to still be open. Making affordable art spaces for artists that much more difficult. Commercial rent stabilization would keep venues from having to rebuild every time we are displaced. It will allow us to plan help us grow our futures based around predictable rents. 60% of our income goes to rent alone. Imagine if that could go into programming and more community events. Make it so it's not so easy for landlords to remove local cultural institutions such as ours.

If ever there was a time, now is it. Please pass Intro 1796 now.

Sincerely,
Christina Perry
Director of Development
Chain Theatre 312 W. 36th Street 4th Floor New York, NY 10018
chaintheatre.org



Testimony to City Council Committee on Small Business

Submitted to City Council Committee on Small Business on September 17, 2021

Prepared by Dance/NYC

Presented by: Gregory Youdan, Jr., Research & Advocacy Coordinator

On behalf of Dance/NYC (www.dance.nyc), a service organization that serves over 5,000 individual dance artists, 1,200 dance-making entities, and 500 non-profit dance companies and the many for profit dance businesses based in the metropolitan New York City area, including BIPOC (Black, Indigenous, and Peoples of Color) dance workers, immigrants, and disabled dance workers. Dance/NYC embeds the values of justice, equity, and inclusion into all aspects of its operations and frames the following requests through the lens of those values. Dance/NYC joins colleague advocates working across creative disciplines in thanking you for your leadership during this time and requesting:

- 1. The extension of commercial rent cancellation to help address the current and potential displacement of arts and cultural organizations and small businesses; and**
- 2. The establishment of a Commercial Rent Guidelines Board to set a maximum annual rent increase rate to help small businesses and independent arts and cultural spaces better plan and protect themselves from unpredictable rent raises and property tax assessments.**

The recently extended eviction moratorium, relief programs, and small business recovery grants are providing some support to the arts and culture sector as it continues to adapt to the new realities of the ongoing pandemic. Dance/NYC expresses its gratitude to the City Councilmembers, City Officials, Mayor's Office and other dedicated workers who have contributed to the recovery of the city's arts and culture sector. We applaud the City Council for passing legislation in support of protections and increased data collection for commercial tenants. All this, however, will be for naught, if the issue of unchecked rent increases is not



addressed. There are further considerations regarding commercial rent regulations in order for arts and cultural organizations, particularly the hardest hit small budget organizations, to recover, thrive, and be sustainable.

Since the start of the pandemic, Dance/NYC has been conducting the *Coronavirus Dance Impact Study* (<http://bit.ly/DNYCImpactSurvey>), which is a comprehensive research study on the impact COVID-19 is having on the dance sector. Dance/NYC's Coronavirus Dance Impact Survey found that dance organization, group, and project budgets shrunk by nearly one-third (31% on average) due to earned and contributed revenue losses. 18% of dance organizations, groups, and projects believe that permanent closure is likely or extremely likely; 84% of those facing permanent closure have budgets under \$100K. Separately, Dance/NYC has been tracking organizational closures and is aware of at least 24 organizations and facilities that have permanently closed their doors due to the pandemic; the majority of which includes studio facilities which are primarily small businesses and beacons in their communities. In Dance/NYC *Defining "Small-Budget" Dance Makers in a Changing Dance Ecology* (www.dance.nyc/sbmdmdata2020), we found that 83% of these organizations have existed in NYC for over a decade and 43% have existed for more than 20 years. Infrastructural support and regulations to prevent displacement and keep arts and culture organizations in their physical spaces is crucial to ensuring the resilience and long-term sustainability of the City's arts and culture sector.

The City's long standing affordability crisis due to high commercial rent and lack of regulation remains a force behind cultural displacement. The resultant storefront vacancy epidemic has a deleterious effect on neighborhoods that lose access to vital and affordable community services and cultural programs. Small businesses are essential to the kind of hyperlocal tourism that can drive the City's economic recovery. Arts and cultural organizations drive local residents and tourists to small businesses of all kinds, from restaurants to retail, hotels, parking, and community services. Notably, the arts and cultural community has long been experiencing



closures of spaces, unaffordable rent, and unpredictable leasing contracts, and continues to identify rent, leases, and property management as the largest expenses in their budgets. While Governor Hochul's recent extension of the eviction moratorium in New York is helpful, this short-term measure also increases the debt and already precarious financial situation small budget arts and cultural organizations are facing. Relief funding initiatives have been crucial responsive measures, but ultimately only alleviate some short-term and immediate needs. Long-term measures are needed to shift commercial spaces to a more sustainable model that supports tenant small businesses and arts and cultural organizations. Additionally, addressing systemic equity in the City goes hand in hand with land and property use. Regulating commercial rent can help combat systemic oppression, contribute to more equitable opportunities for small business owners from historically marginalized communities, and close racial wealth gaps by bolstering the generational longevity of small businesses.

Currently, commercial tenants are not afforded the same protections as residential tenants are afforded by the Rent Guidelines Board, which sets the percentage that landlords can raise rents for rent-stabilized apartments. For commercial tenants, landlords can decide to drastically increase rent rates and property tax assessments at any time. The creation of a Commercial Rent Guidelines Board would help small businesses plan and protect themselves from the whims of predatory landlords by setting annual limits on rates of rent increases. The Commercial Rent Guidelines Board would also decrease or freeze rates for small office, retail, and manufacturing spaces and impose penalties for rent overcharges. Commercial spaces covered by commercial rent stabilization include retail stores smaller than 10,000 square feet, manufacturing spaces smaller than 25,000 square feet, and offices smaller than 10,000 square feet, and all commercial tenants would be covered, so long as they lease a covered space. This ensures that landlords have no incentive to seek out chain businesses over small businesses, since rent adjustments would be the same either way. The Commercial Rent Guidelines Board would be composed of seven Mayoral appointees, including financial and economic experts, commercial tenants, commercial



landlords, and members of the public to ensure the needs and concerns of all constituents involved are taken into account.

Many tenant organizations are unable to make rent payments to landlords that have not offered or can no longer offer relief or flexibility. While commercial rent relief can provide immediate reprieve, sustainable affordability remains a paramount concern for arts and culture organizations that own and manage property as well as tenant organizations. Regulating commercial rent would provide commercial tenants with much-needed relief during the pandemic and also ensure the long-term survival of arts and cultural spaces by mitigating their displacement. This in turn improves the real estate market for small businesses, arts workers, and arts and cultural organizations as well as communities they serve.

The impact of commercial rent stabilization goes far beyond the tenants themselves. For studios and performance venues that provide low-cost rentals to independent artists, the repercussions of organizational displacement and closures are compounded; losing these spaces puts the working lives of arts workers and the art itself at risk. These impacts are felt most acutely by artists and organizations led by and primarily serving BIPOC, immigrants, disabled people, and other communities with less access to capital reserves, which in turn stands to exacerbate historical inequities in the field. Commercial rent stabilization is a concrete investment in both arts and cultural organizations and individual arts workers and is desperately needed to ensure long-term survival of our City's arts workforce.

Implementing commercial rent relief and stabilization has a twofold benefit: 1) directly supporting the financial viability and sustainable longevity of tenant organizations that would otherwise risk losing their space, while 2) regulating the administrative and economic power of landlords that lease to small businesses and arts and cultural organizations. Taken together, these measures provide much-needed relief during the pandemic and ensure the long-term capacity of arts and cultural spaces to serve their communities.



Dance/NYC joins the City's arts and culture sector in asking for commercial rent relief and rent stabilization to ensure the longevity of small businesses and arts and cultural organizations that have long been a part of the communities in our City. Small businesses can lead the City's economic recovery, and commercial rent stabilization can help ensure their resilience, growth, and long-term survival.

For Dance/NYC and its constituents, the most urgent priorities are:

- 1. The extension of commercial rent cancellation to help address the current and potential displacement of arts and cultural organizations and small businesses; and**
- 2. The establishment of a Commercial Rent Guidelines Board to set a maximum annual rent increase rate to help small businesses and independent arts and cultural spaces better plan and protect themselves from unpredictable rent raises and property tax assessments.**

We thank you in advance for your consideration and commend the City's ongoing efforts to support economic recovery and cultural resilience. Now is the time to act so that small businesses, workers, and communities continue to thrive for years to come. We look forward to the opportunity to ensure that New York remains a vibrant capital for small businesses to grow sustainably within their communities.

##

Dear Committee on Small Business,

I want to voice a message I've heard from many small-business owners, which is that commercial rent stabilization is needed but NOT at current market rates. Rent has been consistently rising in NYC over many years, based on overdevelopment and real-estate speculation. As an effect, small-business owners are squeezed from all directions, and they are paying out much of their revenue to their landlords, rather than sharing the wealth with their workers. The effect of these rising rents is that many small businesses are being displaced from the city, in parallel to the displacement of long-time tenants.

Ultimately, we need to pass community-led zoning plans like the Chinatown Working Group Zoning Plan and the SoHo/NoHo Community Alternative Plan to stop displacement of tenants and small businesses.

Thank you,
Dr. Tom LaGatta

Executive Member, Downtown Independent Democrats
DID Co-Representative to the Chinatown Working Group
Democratic County Committee Member, AD 65 ED 76

Testimony against Intro 1796

Good afternoon,

My name is Melissa Gomez. I am a small business owner, and my family owns a few commercial properties. I am here to testify against Intro 1796. I felt that it was important for the council members to hear how this negatively affects small business owners like my parents who are immigrants from the Dominican Republic. They're not the Durst's, Speyers, or Roths. They're the Gomezes. They are people who came to this country, not looking for a handout, but looking for an opportunity, and they found it via real estate. They can't rely on social security to pay for their needs. They were part of the gig economy before the gig economy was even deemed viable by so many. They don't have a pension. They have real estate. Their source of income is their tenants. This bill negatively affects them and so many others I know who are just like them. I don't know how many on the city council actually own commercial properties, but I want to talk about the cold hard facts of currently owning property in NYC. I'm going to use one of my parents' buildings as an example. It's located in Queens Village, which, by the way, is under an LLC on the advice of their attorney and accountant. For those that don't know, that's SouthEast Queens. It has a storefront on the first floor, and 2 residential apartments above. Due to NYC building codes, this property is deemed commercial no matter how many times my mother has tried to fight it and is taxed in a similar property class as the Empire State Building. In 2012, the annual property taxes were \$14,616.05. In 2020, they were \$47,058.94. The annual reported income for that building is \$79,000, and they have the deposits/leases to prove the income is accurate. Depending on the negotiated lease, a tenant in a 10 year lease might be responsible for all or the majority of those taxes. Those funds do not go to the landlord. Now, let's add other costs. Insurance has gone up. Property maintenance has gone up. They are mandated to do annual backflow inspections, annual sprinkler inspections, fire department inspections, and now gas inspections. The costs to maintain a typical Queens taxpayer building have become astronomical. How can a commercial landlord break even, let alone turn a profit in today's world? CM Levin expressed this wasn't to hurt those types of landlords, yet there is NO carve-out for these small business landlords. Many are citing that while the landlords on today's call are great, not all landlords are great. The same can be said for tenants. Some are amazing, but not all tenants are great.

I run a small business. My question is, why aren't we doing more for small businesses? Why aren't we offering financial incentives to small businesses? Perhaps a lower sales tax rate for them compared to franchise operations? How many of you go to Starbucks or Dunkin Donuts instead of your local coffee shop/deli? Why not tax internet purchases higher so that people will want to go to a small business and shop? Offer more grant programs? With less red tape for these programs? Even the SBA needs to do this. It's not as easy as they like to claim to get funding, especially if you're a start up or younger business. Have you ever looked at an application to become MWBE certified? There are a lot of cumbersome steps involved. Why isn't the city teaching more people how they can actually land city bids for contracts? That is a world of "who do you know". Why aren't we looking to offer programs that actually assist small businesses to offer healthcare for their employees? I pay \$1200 a month just for myself on the marketplace only to find that most healthcare facilities do not accept it and that I still have to pay more out of pocket. I want to offer the same incentives large corporations offer. I care about my employees.

When COVID happened- I didn't furlough them or send them to unemployment. I continued paying them even before PPP was announced, willing to take money from my own personal pocket to make sure everyone was ok. You mentioned the employee retention program from NYC, which had a deadline of April 3, 2020, even though so many of us were not allowed to open our doors until June 22nd even though large franchise chains were open. My business was not eligible because I had 5 employees at the time. Now, I have 6. I'm sure I am not the only small business that wasn't eligible. I even fed thousands of healthcare workers, fdny, and nypd during the COVID lockdown paying for their lunches and dinners for places like Elmhurst hospital and Jamaica Hospital. How did the city repay me? When we were FINALLY allowed to re-open- They came to threaten me with a fine if I didn't have the floor markers even though I had everything else for my COVID plan and haven't been allowing the public into my office. What is the city doing to crack down on crime? My block has become riddled with emotionally disturbed individuals and it scares my employees or clients when coming to my office. Why is it my responsibility as a small business owner to ensure that other small businesses I hire have their insurance certificates to avoid paying more worker's compensation? I can't tell you how many small businesses couldn't hire people when the federal pandemic unemployment was offered because people would rather stay home. I was finally able to fill a position I've been looking to fill this past week. That position has been available for 6 months. I am asking each of you, what is New York City doing for small businesses to keep them here and help them thrive instead of just surviving?

It's easy to create legislation when it doesn't affect you or someone you know. I am asking you to take a step back and see the overall picture. Unfortunately, this legislation doesn't cure the problem. Let's work together to create more opportunities for small businesses. Also, please keep in mind that many of these commercial landlords aren't the big developer guys, especially not where I'm from in Southeast Queens. They are their own small businesses, and yes, you would be hurting them. They're just trying to fight another day and create something that they can pass on to their families. I am here to speak out for those that can't take time from their small businesses or don't know that their voice should be heard.

Thank you for taking the time to listen to everyone's testimony today. I hope we can all figure something out that genuinely benefits NYC.

--



MELISSA GOMEZ

Principal Broker/Owner, **ERA Top Service Realty, Inc.**

☎ (718) 464-5800 ext 121

📱 (646) 533-4102

✉ melissagomezera@gmail.com

📍 219-21 Jamaica Avenue, Queens Village, NY 11428

📍 ABR, ITI, MRP, SRES



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by [Melissa Gomez](#) | 2020-02-12 | **12942**

FIFTH AVENUE

Testimony before Committee on Small Business September 17th, 2021

Good morning, Chair Gjonaj and members of the New York City Council. My name is Jerome Barth and I am the President of the Fifth Avenue Association, which represents about 1,000 businesses, including the most famous retail stretch in the world, between 61st and 46th Street on Fifth Avenue, and 57th Street between Madison and Sixth Avenue.

In the 1960's when speaking of his country's rent control system, noted Swedish Democratic Socialist economist Carl Assar Lindbeck wrote "in many cases rent control appears to be the most efficient technique presently known to destroy a city – except for bombing."

While the statement was meant to shock, I would urge that we consider its import through the lens of the last 18 months. Prior to 2020 we collectively bemoaned the demise of physical retail. The shift to online shopping severely impacted traffic in our stores and on our major shopping avenues. As we struggled against the scourge of Jeff Bezos, 2020 saw the rise of a new challenge. A pandemic which proved to be a 21st century plague for the retail industry. A new term soon entered the main-stream lexicon. The Ghost Tenant. Businesses, who unable to survive months of forced closure, simply walked away from properties.

I have no need to share statistic after statistic as to the number of empty store fronts on Fifth Avenue, Madison, Prince, Bleecker or Gansevoort. You need only to walk the city and feel the shadow of a 1970's New York. Some of you may remember streets which typified Linbeck's analogy. Empty storefronts which soon become the foundation of a broader decline. What we don't see as easily are the offices left empty by a workforce content to work from home. Offices that corporations are now viewing as a luxury as opposed to a necessity. This is where we find ourselves today as we consider this change to our pricing system for retail real estate.

The fact is that commercial rents have been decreasing, as landlords adjust to market conditions. This is not an instantaneous process, but it is regular and easy to observe. Now, we are discussing tying the hands of our property owners and reducing their incentives to lease to retail tenants. Owners who will lose the ability to fairly negotiate lease deals on their own commercial spaces will over time become less interested in this segment of the market.

There is no shortage of commercial space in this city. There is no waiting list of retailers eager to open stores or corporations looking for impressive suites. What of the new small owners who seek to enter the market? The next generation of investors who have start-up capital but are not yet fluid enough to withstand an economic storm. Rent control will make it harder for families to invest and build wealth. The same on-site owners who turn commercial districts into neighborhoods. Only large corporations and REITS will be comfortable in the now rent controlled environment envisioned here.

If the cities concern is the retail sector, it should invest money to enable retailers to access ownership. Develop Co-Ops which help sustain and educate new retailers on best practices which will ensure their success. FUND private/public partnerships which will mentor new business owners on issues as basic as understanding foot traffic patterns. Provide tax incentives to ecommerce sites who open physical stores and thereby fuel the vitality of the city. Level the playing field between online retailers and brick and mortar businesses which have a very different tax burden. Prevent illegal vendors from unfairly competing with brick and mortar on commercial arteries. Address rising crime which is a major deterrent to tourism flourishing again in the City. Most importantly, the city should focus on removing the red tape which forces these owners to focus on things other than growing their business.

Somehow over the last decades, we collectively decided to judge policy on intent as opposed to results. We made decisions based on perception as opposed to facts. The facts tell us that Assar Linbeck's observation is grounded in truth. There is no example of this type of policy producing good outcomes anywhere. For all these reasons, and there could be many more, I urge you to not to pursue Intros 1796 or 2299.

Thank you for your consideration.

GREENHILL DEVELOPMENT LLC.

194-02 Northern Blvd. Suite 215, Flushing, NY 11358 Phone: (718) 224-2640 Fax: (718) 224-2656

September 17, 2021

Re: Commercial Rent Control

To: City Council Committee on Small Business Plans,

Enacting the proposed bill limiting rent increases on commercial spaces will do more harm to a city that is already suffering from the effects of the Corona Virus pandemic and is quite frankly un-American.

The free market that made America what is today will come to an end with the passage of a bill that is suited for communist countries where economies are under command and control. History does not look well upon Marxist policies that in the end contribute to the downfall of nations.

The argument that small businesses are losing out to chain stores is incorrect, period. As a landlord in queens our buildings are filled will tenants that are not part of a chain or franchise. In fact, we do not have a single national tenant. They are all small business owners that have created something that the larger national tenants cannot compete with. It's the creativity and fire of these entrepreneurs that sets them apart and turns a one store business into to two and then five and then a ten store business. To regulate the market rent that is paid is to create stagnation in the creativity and competition that makes these businesses better.

Additionally, in an environment where taxes in the city continue to rise, how do the council members expect property owners to make ends meet? Increases in the tax we must pay coupled with a cap on the income that we collect will destroy the NYC commercial real estate Industry. Are landlords not allowed to make profits any longer in the city?

How will property improvements be paid for when landlords are asked to take a cut in the income that can be produced by a property. This in turn will affect the long term esthetic of the buildings owned as less and less property owners will be able to afford to upgrade their buildings and as a result hurt the city by encouraging landlords to let their buildings deteriorate. There is no upside to the proposed bill, the only thing it promises to do is degrade a city that has already been through enough.

Marc P. Pescatore
Managing Member



**TESTIMONY OF CHRISTIAN GONZÁLEZ-RIVERA
OF THE BROOKDALE CENTER FOR HEALTHY AGING, HUNTER COLLEGE
BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON SMALL BUSINESS**

**HEARING ON INT. 1796-2019 (LEVIN)
(AMEND ADMIN CODE -- REGULATION OF COMMERCIAL RENT)**

SEPTEMBER 17, 2021

My name is christian gonzález-rivera and I'm the director of strategic policy initiatives at the Brookdale Center for Healthy Aging. We are a research center that is part of Hunter College. We are changing the future of aging by supporting innovative research and developing policies and practices for New York City that will become models used around the world. Through this work, we strive to create opportunities for everyone to age as well as anyone can.

It may seem unusual that a research center dedicated to the study of how people may age better would want to weigh in on a discussion about commercial rent control, but we have good reason for doing so. Commercial rent control holds promise to keep longtime small businesses serving their neighborhoods. Many of these businesses not only add unique character to neighborhoods but are also part of the social fabric of neighborhoods.

And perhaps no group of people benefits the most from the social fabric of a neighborhood than older New Yorkers. More than half of New Yorkers in their 70s and older and almost half of New Yorkers in their 60s have been living in the same place for over a decade. Older New Yorkers are more likely than younger people to have social ties to the place where they live.

And those social ties are very important, especially as a person grows older. These ties could be fostered at a friendly local diner where older people meet with their friends, or a bodega where the owner knows their regulars by name, or a hardware store where regulars can reliably find what they need. These places are nodes in the intricate social web of support that people come to depend on more and more as they age.

That web of support comes under threat when businesses that had been neighborhood stalwarts close down and are replaced with places that cater to new, often younger residents. Every time a long-time business closes down, an older adult's world closes down that much more, too.

Small businesses are also important employers of older adults. When a business closes, employees lose their jobs. And older workers have a much harder time than younger people to get another job quickly. Nationally, half of small business owners are age 50 and above. So business closures threaten the economic security of older people and decrease their contributions to their communities as business owners and workers.

The 65+ population of this city is projected to grow by more than 230,000 people. Already there are more New Yorkers age 65 and above than there are children under the age of 16. This means that making this city a better

place to be older should be a top priority. And part of making New York more age-friendly is preserving more of the small businesses that employ older adults and are touchstones that allow all New Yorkers to age more comfortably in their neighborhoods.

This is not about preserving neighborhoods in amber or stopping the continual change that is part of the dynamic of the city. It is about being more thoughtful about what we value about our neighborhoods. It is about rebalancing the value of cherished places to the residents of neighborhoods with the financial interests of property owners. Ability to pay rent should not be the ultimate measure of whether a business adds value to a neighborhood. For the older adults who are often the longest-term residents of our neighborhoods, these businesses have value as crucial nodes in their social webs.

Therefore, we support Int. 1796-2019. We support balancing the desire of landowners to seek value with preserving the value of longtime businesses to the residents who have long called their neighborhoods home.



September 17, 2021

Testimony of Lesley Campbell, General Counsel & Senior Vice President, ICSC

**Hearing Before the New York City Council, Committee on Small Business Regarding
Intro 1796-2019 and Intro 2299-2021**

Members of the Council,

I am Lesley Campbell, a Harlem resident, and General Counsel of ICSC. Our association represents the Marketplaces Industry, with 6,500 members in the Tri-State Area who own, develop or invest in retail and other commercial properties.

ICSC members include small businesses such as retailers, restaurants, gyms, childcare providers, health care and wellness centers, as well as small landlords. These businesses comprise an essential part of every city and town across the country, with small businesses representing nearly 70% of marketplace tenants.

The Marketplaces Industry produced an estimated \$6.7 trillion of annual pre-COVID consumer activity. Nearly 1 out of 4 American jobs is retail related. Pre-pandemic (2019) the businesses we represent generated approximately \$400 billion of all state and local taxes supporting schools, public safety resources and infrastructure.

The COVID economy, however, significantly impacted our industry and sent many ICSC members into a tailspin. I will be including for the hearing record a 2020 impact statement. Last year due to emergency closures and other COVID-related measures, our sector lost 334,000 jobs in New York, \$906 million in sales and \$100 million in retail sales taxes normally generated for the state. ICSC member surveys from that period revealed 96% of respondents were offering rent relief to tenants in various forms, from deferment to extended lease terms, to rent reduction or abatement of rent altogether. Landlords want to keep good tenants viable and spaces occupied. Every dollar of rent typically supports over \$20 dollars of investment. At the start of the leasing relationship, it is common practice for the property owner to build out the space designed for that type of tenant; thus, the landlord routinely makes a major financial investment to attract the business. Despite the difficulties that arose last year, landlords were shut out of federal assistance – owners of passive real estate were not eligible for either the Paycheck Protection Program or Main Street Lending Program. Few qualified for state or local programs and many are subject to New York's Commercial Eviction moratorium, now extended through mid-January 2022.



Today's New York Times article "Retailers Rethink Pandemic-Battered Manhattan" <https://www.nytimes.com/2021/09/17/business/retail-vacancies-midtown-manhattan.html?referringSource=articleShare> offers valuable insight into the current market conditions in the city as retailers continue to deal with an unprecedented drop off of office workers and tourists. The story reads, "By the end of 2020, the number of chain stores in Manhattan – everything from drugstores to clothing retailers to restaurants – had fallen by more than 17 percent from 2019, according to the [Center for an Urban Future](#), a nonprofit research and policy organization." Anecdotally, if chains are shrinking their footprint and shuttering, it stands to reason independents are similarly affected, which all together creates a crisis for landlords.

And as many ICSC entrepreneurs struggle to regain footing, the timing of Intro 1796-2019 and Intro 2299-2021, both of which we strongly oppose, could not be worse. These bills are a misguided and unprecedented intrusion of government control into the commercial rental market. Rather than allow the laws of supply and demand to set the appropriate price for commercial space, the bill would establish a board of political appointees to set the annual allowable rent increases for retail stores of 10,000 square feet or less.

As written, we believe Intro 1796 could disincentivize landlords from seeking out smaller tenants and affect the tenant mix, which is so critical in neighborhoods. Intro 1796 also fails to account for the fact that many storefront retail spaces are owned by residential co-ops and condominiums, whose residents rely upon the retail revenue to support the cost of capital repairs and ongoing building maintenance. The suggestion that a board of appointees should dictate rent increases ignores the financial obligations of residential co-op and condo owners and landlords who are bound by a mortgage, operating expenses, utilities and payroll. The process envisioned by this bill would almost certainly lead to below-market annual rental rates increases, as appointees may succumb to political pressure. With reduced rental income available to fund ongoing maintenance and upkeep, residential co-op and condo owners would further struggle to maintain the affordability and upkeep of their residential buildings and retail landlords would be unable to invest in the needed upgrades to meet the changing needs of the community. Chronic under-investment will create a deterioration and eventual obsolescence in existing retail space. Without the price signals, the market will fail to respond with the development of new space.

Intro 2299 not only represents government interference in market forces but also waives and completely rewrites contractual obligations between private parties. The bill establishes an automatic right-to-renewal process that would allow a tenant the option to extend their lease in certain cases for up to one year with not more than a 10% rent increase. ICSC objects to the lopsided proposal and the uncertainty and havoc it will wreak on the business community.



These bills are premised upon an assumption that all storefront premises are owned by and for the sole benefit of wealthy, profit-driven landlords, and that storefront tenants are all mom-and-pop single store operations. The reality is that in NYC there is no “one size fits all.” Broad-based bills like these are ill-suited for the complexities of commercial retail.

In closing, ICSC urges the Council to oppose these harmful bills and to focus on enhancing the city’s business climate.

Thank you.

The Impact of COVID-19 on New York's Shopping Centers



New York Annual Statistics	2019	2020	US 2020
Number of Shopping Centers	3,520	3,524	115,049
Retail Real Estate Establishments	91,727	89,615	1.6 mil.
Retail & Food Service Jobs ¹	1.6 mil.	1.3 mil	24.5 mil.
Retail & Food Service Share of Total Jobs ¹	12.4%	10.3%	12.6%
Retail Real Estate Sales	\$341.9 bil.	\$341 bil.	\$5.9 tril.
Retail Real Estate Sales Share of GDP	19.3%	20.1%	28.2%
Retail Real Estate State Sales Taxes ²	\$13.7 bil.	\$13.6 bil.	\$332.1 bil.
Shopping Center Property Taxes	\$3 bil.	\$3 bil.	\$29.2 bil.
Retail Construction/Redevelopment Spending	\$2.2 bil.	\$973 mil.	\$24.6 bil.

¹ Other service jobs (non-food, non-retail) are not included in this number.

² Sales tax revenue generated at retail real estate properties, except for states not taxing: Alaska, Delaware, Montana, New Hampshire and Oregon. Local government sales tax revenue not included.

Sources: U.S. Bureau of Labor Statistics; CoStar Group, Inc., U.S. Bureau of Economic Analysis, U.S. Census Bureau, The Sales Tax Clearinghouse, NAIOP, Dodge Data & Analytics, Yelp, NCREIF, ICSC Research.



70% of shopping center tenants are small businesses

ICSC is proud to represent the retail real estate industry. Our nearly 50,000 member network includes property owners, developers, financial institutions, professional service providers and, importantly, shopping center tenants such as retailers, restaurants, gyms, child care providers, health centers and service providers. These businesses comprise an essential part of every city, town and village across the country. For more information, contact us at gpp@icsc.com.

**Written Statement of
Khari White
Chair of the Jamaica Branch Economic and Development
Committee
147-15 130th Ave
To The
Committee On Small Business**

**My name is Khari White and I'm the Chair of the
NAACP Jamaica Branch Economic and Development
Committee. In this committee we identify economic
injustices which often stagnates the Economic
advancement in our local black and brown urban
communities.**

**In the past months of March, April and May of 2021 we
worked to find additional resources that would help
service our local small business owners who are in**

**dire need of funding since the beginning of the
Pandemic.**

**On Friday February 19, 2021, we the Jamaica Branch
Economic Committee held a meeting and discussed
some of the challenges small business owners face.**

**As a result of that meeting, we decided to promote
and inform local business merchants on the Pay
Check Protection Program.**

**As the Paycheck Protection Program neared depletion
on May 11, 2021 the Jamaica Branch NAACP
Economic Committee conducted a final community
walk promoting Paycheck Program Protection loans
to local small business owners.**

As we canvased businesses throughout the area one particular business comes to mind. A Small business owner who managed two Organic Caribbean food health restaurants on Merrick Blvd. (Roti Road House) He told me he was unable to maintain both and was forced to close one of the locations because of the rent being too high.

This is the same sentiment that was shared throughout the day from the mouths of many business owners I encountered.

This one example of how unregulated rent adversely affects our small business owners. We can't allow predatory landlords to increase rents forcing mom and pop shops out of business.

Is it fair that currently many business owners whom are slowly recovering from a year of lack luster sales to no sales due to the Pandemic must now be burdened with a possible increase in rent? With unregulated rent laws small business will not be able to survive.

In closing during the housing crisis of 2008, South East Queen was the Epic Center of all housing fore closures which mainly affected minorities. We can't allow this to happen again to our small businesses.

Small businesses are the heartbeat of our community.

They are the wheels that drive our local economy and we must at all cost do all we can to protect them.

We need to stabilize our neighborhood businesses please pass Intro 1796 now.

I declare under penalty of perjury under the laws of the state of New York that the above is true and correct.

Sincerely,

Khari White



Remarks delivered by: Guy Yedwab, President, Board of Directors

On behalf of: League of Independent Theater

September 17, 2021

Committee on Small Business

Testimony to the Urgent Need for Commercial Rent Stabilization (Intro 1796-2019)

Legendary theater director Peter Brook said: “I can take any empty space and call it a bare stage. A man walks across this empty space while someone else is watching him, and this is all that is needed for an act of theatre to be engaged.”¹ Unfortunately he was missing one other thing you need to make theater in New York: money for rent.

I am President of the League of Independent Theater, an advocacy organization representing the interests of those who create theater performances in or run 99 seat or less theaters, and non-traditional theater. Our members are the grassroots, creating new theater across all five boroughs, from every cultural community of this city. We estimate roughly 60,000 theatermakers work in theater in New York, and virtually every single one passes through the small, independent venues. We are also a member of the United for Small Business NYC coalition, fighting to defend small businesses across the city. We are here to implore you to pass Intro 1796 today.

To respond to a comment from the Chair, not all commercial tenants are for profit. Our city’s storefront churches, food pantries, and cultural spaces are just as burdened by commercial rents as our beloved bodegas and restaurants.

Intro 1796 will create a level playing field by establishing a Commercial Rent Guidelines Board. This Commercial Rent Guidelines Board would set the maximum amount the rent could be increased in any given year, taking away the incentive for landlords to kick out small

¹ PETER BROOK, THE EMPTY SPACE 7 (FIRST TOUCHSTONE EDITION 1996).



businesses in favor of large chains or, worse yet, vacancy. It also limits landlords from hiding property taxes or other fees as “pass-alongs” that are often unwelcome surprises to the small business. The tenant will have one clear lease and one clear number with which to plan their future.

By setting a maximum on how much the increase, this bill does not “pick winners and losers,” it creates a level playing field. Now, a food pantry knows its lease won’t be pulled out from under it for a bank branch willing to pay double. They can plan for the future knowing the most they would have to pay and know they won’t be ambushed by property taxes or other pass-alongs. That’s why this legislation only works if it covers every commercial tenant – if it doesn’t, the landlord would never rent to a small business.

One example: The Metro Theater opened in 1933 closed due to rents in 2006.² It’s still vacant today – despite multiple attempts to turn it into a cultural venue.³ According to Councilmember Levine, the owner is holding out for a tenant who’ll pay \$1m per year in rent.⁴ NYC Planning’s Vacancy Study found the same: small businesses can’t find spaces to rent because they’re competing with ghosts.⁵ With stabilized rents, landlords will no have a reason to ignore small businesses while dreaming of exorbitant rents from big chains.

The Mayor’s Office of Media and Entertainment’s 2019 economic impact study, found that small theaters generate \$1.3B in economic output and \$512M in wages, but that “Since 2011,

² Gus Saltonstall, *Petition Started to Revive Long-Shuttered Metro Theater on UWS*, PATCH, (Mar. 30 2021), <https://patch.com/new-york/upper-west-side-nyc/petition-started-revive-long-shuttered-metro-theater-uws>

³ *Id.*

⁴ Mark Levine, City Councilmember, Remarks at League of Independent Theater 2021 Meet the Candidates (Mar. 30, 2021).

⁵ NYC Planning, *Assessing Storefront Vacancy in NYC: 24 Neighborhood Case Studies* (2019), <https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/assessing-storefront-vacancy-nyc.pdf> (“Some owners kept spaces vacant while seeking high rents;” “soaring rents contributed to higher vacancy”).



[...] 100-plus theater organizations have closed. The small theater industry faces increasing challenges from rising operation costs, including affordable rehearsal and performance space[.]”⁶
This rent crisis is why Intro 1796 so vital for NY’s culture.

As with everything, this existing crisis was deepened by COVID. The Center for an Urban Future found that a staggering 49% of surveyed culture organizations lost access to a physical space to perform.⁷ Deeper still, 25% of surveyed organizations in lower income communities lost their sole space – 75% of which are led by Black, Indigenous, and other People of Color.⁸ This is a crisis that is robbing communities of the cultural ties that hold neighborhoods together, and the burden is falling hardest on poor people of color.

Before I close my remarks, I want to honor the people’s whose voices you won’t hear today. I spoke with theater small business owners who have struggled with rising rents, but who are afraid to speak publicly on the record. Right now, there are no protections – their landlord could double or triple their rent. The only thing protecting them is the good graces of their landlord, and they are afraid to be here in case a landlord retaliates by raising the rent.

Thank you to the committee for the opportunity to testify before you today, and for making this hearing accessible online to the small businesses who have been rocked by COVID, Ida, and so many other crises of late.

Now is the moment, finally, to pass Commercial Rent Stabilization. This legislation doesn’t harm landlords who make reasonable adjustments to rents as their costs change over

⁶ MAYOR’S OFFICE OF MEDIA AND ENTERTAINMENT, ALL NEW YORK’S A STAGE (2019), <https://www1.nyc.gov/site/mome/news/11202019-small-theater-study.page>.

⁷ ELI DVORKIN, CHARLES SHAVIRO, AND SARAH AMADOLARE, CREATIVE COMEBACK: SURVEYING NYC’S CULTURAL ECOSYSTEM IN THE WAKE OF COVID-19, CENTER FOR AN URBAN FUTURE (2021), <https://nycfuture.org/research/surveying-nycs-arts-after-covid>.

⁸ *Id.*



time. It simply prevents bad actors from leaving spaces vacant in hopes of a Bank of America or Starbucks paying an exorbitant rent, or as a punishment against those who speak out. Instead, pass Intro 1796 and bring some needed stability to our vibrant cultural small businesses.



Appendix 1 – Proposals for Strengthening 1796

Covered Properties

- Rewrite definition of covered commercial spaces so that it focuses on uses permitted by Certificate of Occupancy or lease in a particular space, as opposed to what any particular tenant is engaged in at any given time
- Add entertainment venues and places of assembly to covered spaces
- Add commercial spaces where grocery stores are permitted
- Clarify that leasing where written lease is for less than year, but tenancy survives after written lease expires, are covered

Appointees to the Rent Guidelines Board

- The chair should have expertise in community development or community organizing, in addition to finance and economics
- None of the public members should be commercial landlords
- Mayoral appointments (and removals) should be approved by city council
- Add a definition of “chain business” for purposes of limiting appointee representing tenant perspective

Initial Rents

- The initial rent for an occupied space should be the rent 60 days before the law becomes effective (otherwise landlords will raise rents in the interim).
- The initial rent for a space that is vacant when the bill becomes law should be set based on the last lease for the space prior to the law going into effect.
- Since the initial rent for a vacant space is essentially at the discretion of the landlord, we would like to see a robust appeal process in place: tenants and owners should have 60 days after the notice of initial registration to file for an adjustment of the rent, with an opportunity for the other party to respond.

Operations of the Guidelines Board

- Add definition of “affected area:” an area defined by the board each year for the purpose of setting a uniform rent adjustment policy for that year. Each affected area defined shall be no larger than the entire City of New York, and no smaller than a community district.
- Clarify that the administering agency will be a new agency established by the Mayor, the Commercial Rent Guidelines board.
- Clarity that the Mayor will need to designate another agency to oversee compliance with the guidelines set by the board.
- Require landlords to register leases and all riders to the enforcement agency every year. Rents should be frozen after any year where a registration is missing, false, or incomplete. The freeze should be lifted only when all missing registrations are filed and all false registrations are corrected.
- The enforcement agency should send a complete rent history to the tenant every year. The history should include, if applicable, any overcharges, rent adjustments won through appeals or court cases, the effective date of any new and collectible rents, and any tax benefits or financing programs that apply to the building.



- The board must establish, and landlords of all covered commercial spaces must use, a **standard vacancy lease**.

Appendix 2 – Brief Comments on Intro 2299-2021

As a stand-alone piece of legislation, Intro 2299-2021 will have little impact on the crisis facing small businesses. However, certain elements of the legislation, when combined with Commercial Rent Stabilization and expanded to cover all the commercial spaces covered by Intro 1796 covers, will form a robust framework for stabilizing New York City's smallest businesses.

As drafted, Intro 2299-2021 does not cover the majority of independent theaters across the city.

These elements of Intro 2299-2021 can be combined into Intro 1796-2021 to strengthen the legislation:

1. Requiring a written lease for any tenancy longer than 1 year; though such a requirement needs to clarify that the lack of written lease will not be cause to terminate a tenancy and evict a tenant who wants to stay.
2. Requiring landlords to use a standard vacancy lease.
3. Requiring commercial landlords to provide tenants with the Certificate of Occupancy, a record of violations issued or construction done during the 10 years before they move in.
4. Requiring continuously updated contact information for the landlord.
5. Allowing commercial tenants reasonable time to cure lease violations.
6. Providing a process for lease renewal and an option to extend the lease for up to one year in the event renewal negotiations fail, coupled with the rent protections in Intro 1796.



Appendix 3 – Known Arts and Culture Spaces Closed since 2011

285 Kent - 11211
29th Street Theatre - 10001
3rd Ward - 11237
78th Street Theatre Lab – 10024
92Y Tribeca - 10013
Actors Playhouse – 10014
Amato Opera Theatre – 10003
Avenue C Studios - 10009
b.pm. – 11211
Big Irv's – 11211
Bowerie Lane Theatre – 10002
Brooklyn Rod & Gun - 11211
Center Stage – 10010
Champion Studios - 10001
Chelsea Repertory Company – 10011
Chelsea Studios - 10001
Collapsible Hole - 11201
Collective Unconscious - 10002
Common Basis Theatre - 10036
Creative Place Theatre - 10036
Culture Project – 10012
Dance New Amsterdam - 10007
Death By Audio - 11211
Douglas Fairbanks Theatre – 10036
Douglass Street Music Collective - 11217
Emerging Artists Theatre – 10036
Exit Art - 10018
Flatiron Theatre – 10011
Galapagos Arts Space - 11201
Gene Frankel Underground – 10012
Glasslands - 11211
Greenwich Street Theatre – 10014
Goodbye Blue Monday - 11221
Grove Street Playhouse - 10014
Hinton Battle Dance Laboratory - 10036
House of Candles – 10002
Incubator Arts Project - 10003
Intar Theatre on 53rd Street – 10019
Interart Theater - 10019
Location One - 10013
John Houseman Theatre - 10036
Jose Quintero – 10036
Joyce Theater - 10012
The Artist Co-Op - 10019
The Living Theatre – 10001
The Living Room – 10002
Magic Futurebox - 11232
Manhattan Theatre Source - 10011
Michael Weller Theatre – 10036
Montgomery Gardens -
Nat Horne Theatre - 10036
Oasis Theatre - 10019
Ohio Theatre - 10012
Pelican Theatre - 10036
Perry Street Theatre – 10012
Playroom Theater - 10036
The Piano Store – 10002
The Pink Pony – 10002
The PIT - 10001
Red Room – 10003
RIOULT -- 11101
Provincetown Playhouse - 10012
Sanford Meisner Theatre - 10011
Shetler Studios - 10019
Show World Theatre – 10036
Simple Studios - 10001
The Spoon Theatre – 10018
Stage Left Studio - 10001
Studio Dante - 10001
Sullivan Street Playhouse - 10012
The Tank on 42nd Street - 10036
Theatorium - 10002
Theatre 5 - 10036
Theatre Studio - 10036
Theatre1010 - 10028
Todo Con Nada - 10002
Two Moon Art House and Café - 11215
Trilogy Theatre – 10036
Upright Citizens Brigade -- 10012
Variety Arts Theater - 10003
Village Gate Theatre - 10012
Vital Children's Theatre on 42nd Street - 10036
Where Eagles Dare – 10018
Zebulon - 11211
Zipper Factory - 10018



MONICA BLUM
PRESIDENT

1881 Broadway, Suite 2R
New York, NY 10023
T 212.581.3774 F 212.581.3563
mblum@lincolnsquarebid.org
www.lincolnsquarebid.org

September 17, 2021

Testimony submitted by Monica Blum, President of the Lincoln Square Business Improvement District, to the New York City Council Committee on Small Business regarding Int. 1796-2019 – Regulation of Commercial Rent.

Thank you to Chair Mark Gjonaj, Councilmember Levin, and members of the Committee on Small Business for the opportunity to submit testimony on behalf of the Lincoln Square Business Improvement District (BID) in relation to Int. 1796-2019 to create commercial rent control. We support the statement submitted on behalf of the NYC BID Association, but we would like to offer our own testimony in opposition of Int. 1796-2019.

This is a period of time when many commercial property owners have struggled to collect rents from commercial tenants for the last year and a half. Prior to the pandemic, retailers were already struggling with competition from e-commerce, which was exacerbated by the pandemic, and has resulted in a blight of vacant storefronts along commercial corridors throughout the City. Instituting another financial burden on property owners after a year and a half of economic hardship brought on by the pandemic risks causing irreparable harm to commercial corridors throughout the City, including Lincoln Square.

At the Lincoln Square BID, we have close working relationships with the property owners and commercial tenants in our district. In our experience, property owners want their tenants to stay and are willing to work with them to allow them to do so, especially during the pandemic. They do not want vacant storefronts and do not benefit from vacant retail spaces, but rather they understand the value that a vibrant retail mix brings to their tenants and the community at large.

Commercial rent regulation may cause property owners to become less flexible in accommodating their tenants in order to avoid locking in artificially low rents in the event of economic downturns such as the pandemic. The result would be the proliferation of vacant storefronts that would undercut our efforts to create a vibrant and dynamic streetscape in Lincoln Square. Commercial rent regulation will also incentivize property owners to rent to large, nationwide chains who are seen as more credit-worthy tenants rather than renting to small businesses.

I am also concerned that it is unclear how this legislation will impact spaces leased for pop-up retail businesses, where property owners may offer favorable lease terms in order to avoid the blight of retail vacancies while searching for long-term tenants. We have many such businesses in Lincoln Square and, as a result, we have a more active and vibrant streetscape. This bill may discourage property owners from offering these short-

term leases, exacerbating the retail vacancy problems as our commercial corridors attempt to rebound from the devastation brought on by the pandemic.

Now is not the time to implement sweeping legislation that will drastically impact commercial corridors throughout the City while so much remains uncertain. Adding to the uncertainty, in a very short period of time, the rulemaking and appointments will be overseen by a new administration. Our neighborhood, in particular, which is home to Lincoln Center for the Performing Arts—the largest performing arts center in the world and the economic engine of Lincoln Square—is just beginning to open, and while we're hopeful that it will have a positive impact, the future of retail remains very uncertain. Given the number of variables in the balance, now is not the time to impose additional burdens on property owners with this legislation.

I recommend that you and your colleagues explore more supportive measures to promote a vibrant commercial sector in the City that set both retailers and property owners up for success rather than asking private property owners to bear the financial burden alone. Int. 1796-2019 will do irreparable harm to commercial corridors like Lincoln Square.

Commercial Rent Stabilization

To Whom It May Concern,

I would like my testimony submitted on the Commercial Rent Stabilization.

My name is Lynette C Wood, and I own two buildings on the Columbia Waterfront District in Brooklyn. Both buildings have storefronts and apartments above. I run two businesses out of the buildings, a community music center and a restaurant.

I support Commercial Rent Stabilization. Vacant storefronts hinder the business success of remaining businesses, decreasing customers and increasing fear of an area. I have seen kind landlords try to keep up with increasing rents at nearby storefronts, only to have a block of vacancies, which serves no one. A new business would be hesitant to start up on a block like this.

As a landlord, I would be happier to have a tenant who is contributing to the neighborhood even if it meant a few hundred dollars less each month. We need to change the law that allows landlords to collect tax rebates for the vacant storefronts at the amount of the last rent - this serves only to push landlords to increase the rent to unsustainable levels.

I can be contacted at lynette@jalopytheatre.org with any questions.

Thank you,

Lynette C Wood

Lynette Wiley

Executive Director

Jalopy Theatre/Living Traditions/Brooklyn Folk Festival

315 Columbia Street

Brooklyn NY 11231

www.jalopytheatre.org

www.brooklynfolkfest.com

718.395.3214 (o)

718.541.6464 (c)

Please support the Jalopy Theatre, to learn more <http://jalopytheatre.org/about-us>



Nicola Heryet, Principal
nicola.heryet@avisonyoung.com
530 Fifth Avenue
4th Floor
New York, NY 10036
United States

T 212.858.0593
F 917.591.9300

avisonyoung.com

September 17, 2021

My name is Nicola Heryet, and I am a principal with Avison Young. I have been in commercial real estate for over 36 years.

I find the two proposed legislations troubling.

Covid has affected everyone – both tenants and landlords in office, retail and industrial. I don't believe the council realizes that many landlords have gone out of their way to help struggling commercial tenants but have received no relief from the City. Property taxes have nearly doubled in less than 8 years for Manhattan properties with retail. Vacant storefronts have no tax benefit, landlords need to lease their space.

Imposing restrictions on rents and renewals will have negative repercussions. Landlords will be reluctant to decrease rents if those rents then become permanent and landlords will be discouraged from leasing space to pop-ups or other types of short-term rentals. In today's market, many tenants don't want long term leases and would prefer short term.

Rather than impose restrictions, the council should consider alternate ways to help small businesses like eliminating commercial rent tax and developing a legacy business tax abatement program that would benefit both tenants and landlords.

Landlords want to keep viable tenants and want to help tenants prosper but landlords cannot be penalized for doing this. I encourage the council to consider what has happened to the residential market following the changes that were made by the NY State Senate. Residential landlords have been disincentivized from investing capital into improving their properties which has resulted in thousands of apartments being left vacant – exactly the opposite of what the Senate had hope to achieve.

In my opinion, rent controls don't benefit anyone.

Dear Council on Small Businesses,

I am so grateful to hear that you are considering a bill on commercial rent stabilization, this is a subject that I feel passionately about as a NYC based fashion designer who produced the majority of her clothing in the NYC Garment District.

I launched my brand, NOMIA, in 2007 after interning at another NYC based brand who also produced in the Garment District. I was lucky enough to meet their factories and begin developing my collection with them, especially since as a small, indecently owned brand, my quantities were extremely small and therefore could only be produced in small batches, locally.

Since 2015, though, since many of the garment district “manufacturing” spaces were rezoned to B-Level office space, their rents have skyrocketed, and many of them have struggled to stay open. Those who have managed to stay in business have of course had to raise their manufacturing prices, and therefore I have in turn had to raise mine to my customers, though both of us are absorbing the bulk of the increase to try to keep our prices in line with the competitive market. Soon though, I fear that with the combination of inflation, rental increases and lower consumer demand, we will either have to close, lay off workers (many factories and fashion brand I know have had to cut hours of their workers to keep up with rental costs) or look for manufacturing abroad.

The NYC fashion industry is a vital, and vibrant part of the fabric of our community and economy, but it is at risk of collapse due to rezoning, unmitigated rental increases and high turnover as a result of those factors. I have seen countless “Tech” related firms, pay high rents only to shutter a year or two later, leaving landlords with vacant spaces, rather than keeping reliable manufacturing tenants who might pay a lower rent, but have a more reliable and sustainable business model which actually would keep the highest amount of money circulating within the local NYC economy.

I really hope the council can see this as a long term solution that keeps local communities employed and thriving. Thank you for your time,

Sincerely,

Yara Flinn, Owner NOMIA

NYC ARTIST COALITION

Testimony on: (Int. No. 1796-2019) Commercial Rent Stabilization
The New York City Council Committee on Small Business
by NYC Artist Coalition
Friday September 17th, 2021

Thank you for the opportunity to testify here today. My name is Olympia Kazi and I am a founding member of the NYC Artist Coalition and the Music Workers Alliance. I also serve as the vice-chair of NYC Nightlife Advisory Board.

Let's make sure that we all understand what are the stakes at this hearing today. What we're discussing here isn't a matter of dollars and cents. It's about something much more complex than the bottom line. It's about life and death:

It's the life and death of our Communities

It's the life and death of our Neighborhoods

It's the life and death of our Culture

Ultimately it's about the life and death of this Great American City

Commercial rent is the number one concern of grassroots cultural and community spaces and you'll hear from many of them today. New York's affordability crisis had devastated and shuttered many beloved and long standing small businesses and nonprofits before the pandemic. Then, COVID hit and the inequities of our city were laid bare during the pandemic. There is no doubt that we need systemic change.

To the SBS Commissioner Doris' and others concern on whether there be unintended consequences, our answer is: There could be unintended consequences and we'll deal with them. If there are any legal conflicts, laws can and should be amended and/or repealed.

Bill Intro 1796 won't impact good faith small landlords, it will only stop predatory landlords from evicting beloved community spaces. Let's protect our small businesses & nonprofits by enacting commercial rent stabilization. They offer services, invest in communities, create jobs & keep our neighborhoods thriving but we allow for them to be evicted overnight by unchecked rent increases. Capping rent increases for commercial tenants who often invested for decades in our communities is a basic protection against predatory landlords. This kind of protection is actually the norm in France, Italy and many other global metropolises.

We cannot continue to close our eyes and ears in front of the intended consequence that predatory landlords have already had to our neighborhoods and communities. We needed to act decades ago, we needed to act before the pandemic. So I'm asking the Mayor, the Speaker: if not now when?

NYC ARTIST COALITION

The tale of the two cities will not end with more studies and won't end by eliminating red tape. We need immediate action, so please:

Strengthen and Pass Intro 1796.

NYC Artist Coalition is also a member of United for Small Business NYC and we endorse their recommendations for improving Intro 1796 hereby attached:

APPENDIX A

USBnyc Recommendations for How To Improve Intro 1796 to Get Strong Commercial Rent Stabilization in NYC

Covered Properties

- Rewrite definition of covered commercial spaces so that it focuses on uses permitted by Certificate of Occupancy or lease in a particular space, as opposed to what any particular tenant is engaged in at any given time
- Add entertainment venues and places of assembly to covered spaces
- Add all commercial spaces where grocery stores are permitted to covered spaces
- Clarify that leasing where written lease is for less than year, but tenancy survives after written lease expires, are covered

Appointees to the Rent Guidelines Board

- The chair should have expertise in community development or community organizing, in addition to finance and economics
- None of the public members should be commercial landlords
- Mayoral appointments (and removals) should be approved by city council
- Add a definition of “chain business” for purposes of limiting appointee representing tenant perspective

Initial Rents

- The initial rent for an occupied space should be the rent 60 days before the law becomes effective (otherwise landlords will raise rents in the interim).
- The initial rent for a space that is vacant when the bill becomes law should be set based on the last lease for the space prior to the law going into effect.
- We would like to see a robust appeal process in place: tenants and owners should have 60 days after the notice of registration to file for an adjustment of the rent, with an opportunity for the other party to respond.

Operations of the Guidelines Board

- Add definition of “affected area:” an area defined by the board each year for the purpose of setting a uniform rent adjustment policy for that year. Each affected area defined shall be no larger than the entire City of New York, and no smaller than a community district.

NYC ARTIST COALITION

- Clarify that the administering agency will be a new agency established by the Mayor, the Commercial Rent Guidelines board.
- Clarify that the Mayor will need to designate another agency to oversee compliance with the guidelines set by the board.
- Require landlords to register leases and all riders to the enforcement agency every year. Rents should be frozen after any year where a registration is missing, false, or incomplete. The freeze should be lifted only when all missing registrations are filed and all false registrations are corrected.
- The enforcement agency should send a complete rent history to the tenant every year. The history should include, if applicable, any overcharges, rent adjustments won through appeals or court cases, the effective date of any new and collectible rents, and any tax benefits or financing programs that apply to the building.
- The board must establish, and landlords of all covered commercial spaces must use, a standard vacancy lease (this is also in the Storefront bill of rights bill).



**TESTIMONY BEFORE NYC COUNCIL
COMMITTEE ON SMALL BUSINESS**

September 17th, 2021

Good afternoon Chair Gjonaj and Members of the New York City Council. My name is David Estrada and I'm testifying today on behalf of the NYC BID Association. I am also the Executive Director of the Sunset Park 5th Avenue BID.

The BID Association represents the 76 Business Improvement Districts throughout the City that serve as stewards of our diverse commercial corridors and neighborhood public spaces. Our mission has always been to support the almost 100,000 local businesses we serve, to keep our neighborhoods clean and safe, and to bring prosperity to our communities. Never has our work been more vital and essential than it has been during the COVID-19 pandemic. We are pleased to present testimony today on proposed commercial rent control legislation.

The BID Association strongly opposes Int. 1796, and has significant concerns about Int. 2299. We share a desire to stem the tide of storefront vacancies and the decline of "mom and pop" shops, but we must strongly caution against blunt policy instruments that may do more harm than good to our City.

Int. 1796 would create a new rent guidelines board with the power to set blanket rent caps across New York City. We have several overriding concerns with this proposal. First of all, every space is unique – the market conditions, the value, and countless other factors. For this board of nine appointed individuals to somehow set a rent cap for the entire city would completely ignore these unique factors and it would therefore be impossible to set rent guidelines in an appropriate manner. Furthermore, we have reason to believe that this board might be more inclined to follow political winds and not hard data when setting rates, which again makes the possibility of responsible policy-making highly unlikely. Lastly and most importantly, this is government overreach into private-party transactions that sets a worrying precedent for our city's economy. Ultimately this is the most blunt policy solution possible to an incredibly complex challenge. There is unfortunately no silver bullet as this legislation intends to be, and this legislation is sure to have a chilling effect on our City's economy at a moment when we're struggling to recover from the pandemic.

Int. 2299 is a less onerous proposal that would require certain information to be provided to commercial tenants, along with a lease renewal process and an option to extend or holdover an expiring lease. We support the requirements of a written commercial lease and that certain critical information be provided to commercial tenants. We are wary, however, of any mandatory lease renewal at set rates. This appears to be a first step towards government-enforced price controls that will have a chilling effect on the real estate market



and our City's economy. We believe there are good intentions behind and effective aspects of this legislation and look forward to working with BP Brewer and CM Rosenthal to improve the legislation.

If the City Council would like to help small businesses, there are far better ways to do so. The BID Association has a Working Group on Storefront Vacancies that put forward ideas for how to help small businesses and commercial corridors as a whole. We hope that the City will look at the following potential solutions:

- Adopt regulatory reform measures that focus on punitive fines as a last resort such as the recently passed Gjonaj/Gibson bills
- Encourage policies for the flexible and creative use of ground floor space such as pop up tenants
- Consider the establishment of a small business czar or commission
- Consider at property and further commercial rent tax reform
- Enact a tax rebate program for property owners that renew leases of certain smaller legacy businesses
- Establish a legacy business support program that would provide bridge financing, marketing, and other incentives to assist our "mom and pop" businesses
- Require a business impact analysis for new legislation proposed by the City Council
- Increase support for SBS and BIDs which serve and assist businesses

First and foremost, we strongly encourage the City and the Council to assess the state of vacancies in New York City. The City has yet to conduct a robust vacancy survey or establish a vacancy database as required by legislation previously passed by the City Council. While we've heard many anecdotes from advocates and will surely hear more today, our Association would like any potential policy solution to be based on a thoughtful process and data as opposed to blunt and haphazard legislation that could do more harm than good. The BID Association remains committed to working with the Council on these and other solutions to the challenges our commercial businesses face, but we strongly oppose Int. 1796 and have significant concerns with Int. 2299.



TESTIMONY

Hearing on Int. 1796-2019,
“Regulation of Commercial Rent.”

Presented to

New York City Council, Committee on Small Business
Hon. Mark Gjonaj, Chair
Friday, September 17, 2021

Prepared By:

Andrea Bowen

Government Affairs Consultant for NYC Network of Worker Cooperatives

Good morning, Chair Gjonaj, Council Member Levin, and other Council Members and staff assembled. My name is Andrea Bowen, and I am testifying today as government affairs consultant with the NYC Network of Worker Cooperatives, or NYC NOWC. NYC NOWC is the trade association for worker cooperative businesses in the NYC metropolitan region. We aim to increase public awareness of workplace democracy and improve business conditions for democratic, worker-owned businesses. I'm here today to testify in favor of Int. 1796, for commercial rent regulation.

Several worker cooperatives are testifying today as to the importance of commercial rent regulation, speaking from their personal experience and hardships. I want to highlight the importance of worker cooperatives to the New York City economy. Worker cooperatives, businesses owned and managed democratically by people working there, offer workers greater control of their own job conditions and fruits of their labor. The worker-owners of worker cooperatives are predominantly from Black, Indigenous, and Person of Color, or BIPOC, communities, predominantly from low-income communities, and predominantly from immigrant communities. While BIPOC people, women, and immigrants are frequently exploited throughout our economy, the worker cooperative structure allows workers, as they are also owners, to determine wages, benefits, and job stability. Not surprisingly, because coops prioritize maintaining their jobs and community members, they have proven resilient through the COVID-19 crisis. Council has recognized the importance of worker coops by increasing the funding of the City Council Initiative that supports coops in the last adopted budget. We're grateful for this.

Individual coops, and NYC NOWC, are members of the United for Small Business NYC or USBNYC coalition, and support Intro 1796, because it is incumbent upon our collective

power to ensure that rents do not drive our BIPOC, women, and immigrant-led worker-owners out of business. Increases in commercial rent threaten the well-being of businesses but also the social fabric of affordable communities, community institutions such as coops, social services, and more, that have long-served affordable communities. Small businesses are a lifeline of the city, and USBNYC is a coalition fighting gentrification and displacement *of* small businesses, inclusive of the people who work in them.

It is also worth noting that NYC NOWC and other cooperatives supported Int. 1796 in its municipal policy platform,¹ and that platform was supported by Council Members Gibson, Levine, Powers, among other primary election winners who are highly likely to be part of the next government of New York City in various roles. We thank Council Member Gibson for co-sponsoring 1796, and look to Council Members Levine and Powers to follow suit.

NYC has an internationally notable system for worker cooperatives, but the survival of that system is dependent on neighborhood affordability, and neighborhood affordability is strongly determined by commercial rents. Keep our worker coops and small businesses thriving. The market has always required taming, and should not be prioritized over the thriving of worker cooperatives, among the many institutions that determine our community fabrics.

On a personal note, speaking as a transgender and queer person, I love to work with coops because they provide a means for community members who are frequently denied access to economic means, to start and run their own businesses. Not long ago, I was speaking with Sarah Schulman, one of this city's most storied queer activists, about neighborhood affordability, and she noted how commercial rent regulation is necessary to maintain the affordability of

¹See: <http://www.workercoop.nyc/en/spaceandinfrastructure>, supporters at <http://www.workercoop.nyc/en/partners>

NYC's storied queer enclaves. As go queer enclaves, so go other communities that rely on neighborhood affordability.



TESTIMONY

Small Business Committee Hearing:
"The Importance of Commercial Rent Stabilization for Worker Cooperatives Businesses"

Presented to

New York City Council, Committee on Small Business
Hon. Mark Gjonaj, Chair
Friday, September 17, 2021

Prepared By:

Ruth Lopez Martinez, Founder, and Worker-Owner
Pa'lante Forward Green Cleaning

Pa'lante Forward Green Cleaning

PO Box 721199; Jackson Heights, NY 11372

[\(347\) 845-6674](tel:3478456674)

info@palantecleaning.coop

<https://www.palantecleaning.coop/>

Buenas tardes. Mi nombre es Ruth López Martínez, soy una dueña trabajadora de la cooperativa Pa'lante Green Clean. Somos un negocio de limpieza de apartamentos, casas, oficinas y post construcción.

Somos 8 dueños trabajadores, estamos en el mercado desde el 2014. Tuvimos un crecimiento económico considerable desde nuestros inicios hasta antes de la pandemia. Sin embargo, a pesar de este crecimiento, no era fácil para nosotros encontrar un espacio físico, donde hacer nuestras actividades administrativas, atención al cliente y nuestras reuniones.

Después de trabajar mucho en la búsqueda de este espacio, en 2018 encontramos un espacio muy confortable y central en Jackson Heights. Queens y aunque era algo caro, valía la pena el esfuerzo por tomarlo para elevar nuestro negocio a una mejor posición. Fue un espacio útil para el negocio, para guardar nuestras herramientas de trabajo, hacer un archivo físico organizado a pesar que mes con mes era muy difícil pagar la renta.

La pandemia, la pérdida de clientes y los precios tan altos de las rentas comerciales nos obligaron a entregar el espacio y no renovar el contrato, al igual que ocurre con los pequeños negocios de Queens, Jackson High, Corona, Elmhurst, etc.

El impacto para nosotros fue devastador, todas nuestras cosas incluyendo papelería, documentación importante, fueron repartidas a las diferentes casas de los dueños trabajadores, creando en nosotros incertidumbre, tristeza e inseguridad en el futuro de nuestra compañía. Hemos perdido muchos documentos importantes en esta falta de espacio, visibilidad y contacto con la comunidad.

Luego, de esto PA'LANTE, no ha podido tener un nuevo espacio, las rentas tan altas y nada accesibles en esta zona de la ciudad, no nos permiten tener este espacio y pensar de nuevo en organizarnos físicamente. Estamos frustrados, tristes y creo que es el momento que ustedes miren y apoyen el tener rentas comerciales accesibles y seguras, no solo para las cooperativas sino para los pequeños negocios de toda la ciudad.

Merecemos esa oportunidad : pagamos taxes, creamos empleos, ayudamos al crecimiento económico de Nueva York y apoyamos directamente a nuestra comunidad. Hoy, necesitamos de ustedes, para tener rentas accesibles, seguras, para todos volver a ser negocios visibles para nosotros y la comunidad .

Gracias

Good Afternoon. My name is Ruth López Martínez, I am a worker-owner of Pa'lante Green Cleaning cooperative. We are a cleaning business for apartments, houses, offices and post construction.

We are 8 worker-owners, and we have been in the market since 2014. We had considerable economic growth from our beginnings until before the pandemic. However, despite this growth, it was not easy for us to find a physical space, in which to do our administrative activities, customer service and our business meetings.

After working hard to find a location, in 2018 we found a very comfortable and central space in Jackson Heights. Queens and, although it was somewhat expensive, it was worth the effort to take it in order to elevate our business to a better position. It was a useful space for the business, to store our work equipment and to organize our documents and archives despite the fact that month after month it was very difficult to pay the rent.

The pandemic, the loss of customers and the very high prices of commercial rents forced us to surrender the space and not renew the contract, as is the case with small businesses in Queens, Jackson Heights, Corona, Elmhurst, etc.

The impact for us was devastating, all our things including paperwork, important documentation, were distributed to the different houses of our worker owners, creating in us uncertainty, sadness and insecurity in the future of our company. We have lost many important documents due to this lack of space, visibility and contact with the community.

After this, PA'LANTE has not been able to have a new space, the rents that are so high and not at all accessible in this area of the city, do not allow us to have this space nor think again about how to physically organize ourselves. We are frustrated, sad and I think it is time for you to look and support having affordable and safe commercial rents, not only for cooperatives but for all small businesses throughout the city.

We deserve that opportunity - we pay taxes, create jobs, help New York's economic growth, and directly support our community. Today, we need you to act for affordable, secure rents, so that all of us can return to being businesses visible once again to ourselves and the community.

Thank you.



Writer's Email: skirkpatrick@romerdebbas.com
Writer's Direct Telephone: (212) 246-4500

WRITTEN TESTIMONY OF STEVEN KIRKPATRICK

**NEW YORK CITY COUNCIL SMALL BUSINESS COMMITTEE
HEARING ON INT. NOS. 1796 (COMMERCIAL RENT STABILIZATION)
AND 2299 (STOREFRONT BUSINESS BILL OF RIGHTS)**

September 17, 2021

Good morning. My name is Steven Kirkpatrick, and I am a partner of the law firm Romer Debbas, LLP. I have practiced real estate law for over 25 years, representing both property owners and commercial tenants in connection with lease disputes and also in negotiating and drafting commercial leases.

I previously testified before this committee on behalf of the Real Property Law Committee of the New York City Bar Association because I helped prepare that committee's legal analysis regarding Intro 737A-2018 - - the Small Business Jobs Survival Act and that report was filed in connection with the prior bill. However, I am not currently a member of the Real Property Law Committee and thus I am not testifying on behalf of that committee or the New York City Bar Association, but rather in my individual and personal capacity only.

Although these are new bills with a different structure and focus, there are some important similarities to the 2018 bill. The main common element is that all three bills attempt to impose commercial rent regulation in New York City without any enabling state legislation.

When the Real Property Law Committee analyzed the Small Business Jobs Survival Act, it concluded that the New York City Council was not authorized to enact that legislation because it is tantamount to rent control as it limits a landlord's rights regarding the use and occupancy of his or her commercial space. In its common definition, rent control is a statutory scheme which places limitations on the amount of rent that may be charged, and may include other requirements such as mandatory lease extensions.

When I reviewed and analyzed the two new bills being considered at today's hearing, my legal conclusions were very similar to those regarding the prior bill - - that the new bills are also improper because the City Council lacks the power to enact commercial rent controls by local law.

There is also significant concern about these bills' unintended consequences. Like the prior bill they apply broadly to property owners, to commercial tenants acting as landlords because they are subleasing space, to individual "agents" who could now unexpectedly find themselves facing massive personal liability even though they may have played a minor role in a transaction, and to a broad spectrum of commercial tenancies in the City if they occupy retail or office spaces of up to 10,000 square feet under Int. 1796, which is a very large space in New York City, and a lower floor space of any size with respect to Int. 2299.

For instance, the legislation applies to residential cooperatives renting a store or office in their building, or even just a cellar storage space, or an exercise room. The bills apply to churches renting extra

space, not just a retail space but even a meeting room under Int. 1796. They apply to mom and pop building owners, including those who are renting their one store to a national chain tenant with hundreds of stores nationwide, and an army of lawyers behind it. They apply regardless of the tenant's size and sophistication, and without regard to how many locations it may have, either in the City, or nationwide.

Int. 2299's coverage with regard to "pop-up" stores and leases would likely decimate that type of rental and harm start-ups which often use pop-up stores to see if a retail operation makes sense. Covering pop-ups would also make it more difficult for an out-of-town business exploring opening a retail location in the City to do that because owners will be concerned that a six-month pop-up at a low rent to generate some income could harm them financially going forward too, and the renewal rights would inject even more unpredictability into renting a commercial space to someone.

Indeed, under Int. 1796, a landlord would never rent to a pop-up because doing that would effectively lower the rent that could legally be collected for that space forever under Section 22-1204, as that rental after the enactment of the bill would create a lower "initial legal regulated rent" than could be achieved by holding out for a higher paying tenant. Moreover, the last sentence of that provision would force owners to hold out for rents at least as high as a prior rent collected and would also punish and prevent landlord from reducing a commercial tenant's rent as many did during the Covid pandemic because of a landlord lowered a rent temporarily, it would be stuck at that lower level going forward.

The renewal rights in Int. 2299, which would apply to a local pizzeria in Harlem or a Fortune 500 company renting 10,000 square feet of office space in midtown for a New York City executive office, would create significant uncertainty for owners, and would thus also impact new tenants considering moving to a new space because they would be unable to plan a move because of the possibility that the existing tenant may choose to stay in a space rather than leaving as expected.

It would also further complicate things for subleases because subtenants would be able to potentially exercise their right to extend even though the prime tenant did not want to, and thus it would be impossible for a company with excess space that might be rented to a start-up at a lower rent to sublease that space because doing so could potentially give them more rights than the prime tenant has and create rights overlapping in time. For example, if a large law firm with 100,000 feet of space wanted to sublease 20,000 feet of that space it would be forced to do so in blocks of more than 10,000 square feet because if it rented out individual offices or groups, it is possible that the subtenant could exercise extension rights that go beyond the term of the prime lease making it impossible for the firm to surrender and exposing it to massive holdover liability. Similarly, the bill would make it impossible for a large retailer to sublease or possibly even license areas of a store, which is something that is now commonly done and helps smaller businesses and startups.

Another consequence is that it would reduce tenant turnover, and thus availability of commercial spaces to new incoming tenants. This is an issue that comes up regularly with residential rent regulation, where there is very little turnover of units, especially larger units, and tenants will often stay in a large apartment because it is cheap and there is no financial or other reason for them to move into a more suitable smaller apartment and open up the larger apartment to a new tenant.

Similarly, the uncertainty of whether a tenant will actually leave when expected will make it much more difficult and expensive in terms of transactional costs to get a new space. What prospective tenant is going to take the time and incur significant costs to negotiate a lease knowing that he or she may lose it? What will be the impact on brokers who invest resources in marketing a space and find a new tenant, only to have the original tenant decide after all that it wants to remain in the space? Does a commission get paid to that broker? If so, what happens to the existing tenant's broker? Could owners be obligated to have to pay two commissions as a result of Int. 2299? Given the incredible broadness of the legislation's applicability, the unintended consequences are likely to be unexpected and overwhelming.

The fact that so many unintended consequences are obvious after having only a short period to review the two bills make it clear that the harms caused by the bills will outweigh the benefits to commercial tenants that the City Council seems to be trying to achieve. Unfortunately, these bills seem like they are intended more to punish the landlords of commercial spaces rather than helping commercial tenants because the net effect of both bills is to force landlords to hold out for the highest rents possible - - something that the City Council has previously criticized - - and also to avoid renting to pop-ups and small businesses and startups.

The prohibition on “pass-alongs” in Int. 1796 would also make it even harder for building owners to operate their buildings profitably and would likely result in the additional conversions of buildings to condominiums, which would also impact the availability of housing and in particular affordable housing because the bar on pass-alongs would make it impossible for an owner to generate rental income to keep up with real estate tax increases, especially where residential rents in the building are regulated because, real estate taxes could increase at a rate higher than legal rent increases. This has happened for many years on the residential side where real estate taxes have increased at a higher rate than the RGB increase amounts, forcing owners to rely upon and impose additional rent increases to commercial tenants.

There are also a number of provisions in Int. 1796 that would likely cause unexpected harms to landlords and are extremely punitive. For example, the fact that there is no limitation on the look back period used to analyze legal rents would mean that owners who disposed of records without foreseeing that a bill like this might be enacted would suffer because they would not be able to prove prior rents and would then be subject to an arbitrary setting of rents by the agency administering the law. Similarly, the fact that rents going back six years would be immediately considered upon enactment of the bill would subject at least some rents to an effective roll back even below current levels which were in many cases already reduced by market forces arising from the pandemic. The provisions in Int. 2299 providing for written notices to be given by text message are also concerning because they would make recordkeeping and submitting evidence in court much more difficult. The provisions also likely conflict with existing lease notice provisions and also possibly with evidentiary rules under the CPLR and State common law.

Not only would these bills adversely affect ordinary “for-profit” landlords, but they would also severely harm cooperative and condominium unit owners who would certainly face maintenance increases because commercial rents would no longer be able to cover operating expenses and real estate taxes as they once did. Similarly, the bills would adversely affect churches other non-profits who often lease out commercial spaces to generate additional revenue.

It is also hard to imagine a worse time for the City Council to impose these new laws on commercial landlords, as they have been suffering greatly because of the Covid pandemic, with many commercial and residential tenants not paying rent, while expenses including real estate taxes stay the same. Although the City Council has enacted a number of laws to help commercial tenants and even individual lease guarantors, many of these laws have harmed landlords, and rather than providing relief the City instead chooses to impose punitive default interest on owners who are late in paying their real estate taxes even though in many instances that delay or inability to pay was caused by laws barring landlords from enforcing their contractual rights or by a court system that is not functioning in a manner that allows landlords to enforce their legal rights in court.

The power of a local government in New York State, such as the City, to enact local laws must be based upon a grant of authority found within its charter, the State Constitution, the Municipal Home Rule Law, or a State enabling statute. And there is no State enabling statute expressly authorizing the City to control rents, let alone commercial rents which have historically not been regulated in the same manner as residential rents.

Further, the City Charter, the State Constitution and the Municipal Home Rule Law contain no express provision authorizing the City to control commercial rents. Rather, each of these sources of authority grants a general power to municipalities to enact local laws, not specifically barred or pre-empted by State law, or not inconsistent with the State Constitution or other State law, and either relating specifically to their own property, affairs or government, or generally for health and welfare purposes.

Although no cases could have arisen specifically resolving the City's power as to commercial rents or spaces, attempts by the City to enact residential rent control legislation without explicit State authorization have been invalidated by the courts. Because the interests of residential tenants are much more closely related to "health and welfare" concerns of a local government than commercial tenants as a general class, the result in the residential area would seem to apply to the commercial area.

The enactment of the bill would also create inconsistencies with existing provisions of the State Real Property Law and other state laws. For example, the bills purport to create a number of new substantive rights for commercial tenants not now existing under State law, including a right to lease extensions under Int. 2299. These rights conflict with the rights of commercial landlords under Real Property Law § 228, to terminate tenancies at will on 30 days' notice and to re-enter the space, and under Real Property Law § 232-a, to terminate month-to-month tenancies on 30 days' notice. Furthermore, the provisions also conflict with Real Property Law § 229, which provides for the recovery by Landlord of double rent from hold-over tenants. Entitling tenants to automatic renewals also thwarts contractual relationships between landlords and tenants.

Intro 2299 also conflicts with Real Property Law § 235-d (2), which explicitly excludes the refusal to renew a lease as a form of harassment. Even though that law explicitly permits conflicting local law (*Id.* at § 235-d (5)), it does so only for existing Local Law and amendments thereof, but not for new Local Laws. Thus, these provisions of the bill expressly conflict with State law.

The bill's requirement that landlord-tenant disputes be resolved by the methodology set forth in the local law also infringes on the State's control over the court system as it establishes a parallel adjudicatory system in conflict with existing State court powers, which are governed by Municipal Home Rule Law, § 11(1)(e), providing that the State retains power over legislation which applies to or affects the courts.

Similarly, the dispute resolution mechanism also conflicts with landlords' and tenants' rights to resolve their disputes through judicial proceedings, such as summary eviction proceedings brought under Real Property Actions and Proceedings Law Article 7, and Civil Practice Law And Rules §§ 7501 and 7511, which recognize that the parties are entitled to litigate their controversies unless by contract they have agreed to arbitrate them and make all arbitral awards subject to judicial review before they are enforceable at law.

While the courts have not firmly established a clear and bright line test regarding which types of inconsistencies are impermissible, the inconsistencies relating to lease renewal and termination between the bill and existing State Real Property Law are so substantial and involve such a significant State interest that commercial rent control laws enacted by the City would likely be invalidated.

Given the history of court decisions finding local laws attempting to control residential rents and the landlord tenant relationship to be invalid in the absence of express State authority, the New York City Council lacks power to enact commercial rent controls by local law.

WRITTEN TESTIMONY OF ALEXANDER LYCOYANNIS, ESQ.
NEW YORK CITY COUNCIL SMALL BUSINESS COMMITTEE
HEARING ON INT. NO. 1796-2019
SEPTEMBER 17, 2021

Good morning. My name is Alexander Lycoyannis, and I am a member of Rosenberg & Estis, P.C., the largest real estate boutique law firm in New York City. I have practiced at Rosenberg & Estis for almost 20 years, and in that time I have represented countless commercial landlords and tenants in actions and proceedings before Federal, New York State and New York City courts. I have also extensively litigated in the area of New York's Rent Stabilization Law, and in connection therewith have studied the history of rent regulation in New York and the legal authority under which rent regulation statutes have been enacted.

Based on my review of such history, New York State's constitutional framework and the relevant case law, I have concluded that the New York City cannot unilaterally enact a commercial rent control statute such as Int. No. 1796-2019 without authority from state enabling legislation. The legal basis for such conclusion is summarized below, and was explained in detail in an April 20, 2020 New York Law Journal article I wrote together with my colleague Dejan Kezunovic (which can be found at the following link: <https://tinyurl.com/j4w9ft9h>).

Unlike New York State, New York City is not a sovereign body with general police powers. Accordingly, the City's authority to enact local laws must stem from one of four possible sources: the City's Charter, the State Constitution, the Municipal Home Rule Law ("MHRL"), or an

enabling statute passed by the State Legislature. *See La Guardia v Smith*, 288 NY 1, 8 (1942). The best way to understand this framework -- and why the City lacks the independent power to enact commercial rent regulation -- is to study the history behind residential rent regulation in New York.

In 1949, New York City passed local rent regulation, colloquially known as the “Sharkey Law.” However, in *F.T.B. Realty Corp. v Goodman*, 300 NY 140 (1949), the Court of Appeals struck the law as contrary to Article IX of the State Constitution, which defines and limits the home rule powers of local governments. However, days later, the State Legislature exercised its prerogative and retroactively validated the Sharkey Law through appropriate legislation.

Thereafter, in connection with efforts to reimpose residential rent regulation in New York and in light of the recent experience with the Sharkey Law, the Legislature sought to ensure that such regulation was imposed consistently with New York’s constitutional framework. Accordingly, in 1962, the Legislature passed the Local Emergency Housing Rent Control Act (LEHRCA), which empowered New York City to “adopt and amend local laws or ordinances in respect of the regulation and control of residential rents.” Thus enabled by LEHRCA, the City Council enacted the Rent Stabilization Law of 1969. Similarly, in 1974, the Legislature passed the Emergency Tenant Protection Act (ETPA), which enabled New York City to declare a housing emergency and expand rent regulation consistent with the parameters set by the Legislature.

Here, by contrast, the State Legislature has not passed an enabling statute such as LEHRCA or ETPA that would authorize the City to enact Int. No. 1796-2019.

Indeed, none of the City Charter, the State Constitution or the MHRL authorize the City to independently enact commercial rent regulation. Article IX of the State Constitution and the MHRL grant local governments authority to enact legislation in connection with their “property, affairs and government.” MHRL § 10(1)(ii). Some have asserted that this provision authorizes

the City to unilaterally enact rent regulation. The courts, however, have repeatedly rejected this argument, finding that “State rent control legislation does not relate to the ‘property, affairs or government’ of the city” because “[r]ent control is a matter of State concern.” *210 E. 68th St. Corp. v City Rent Agency*, 76 Misc 2d 425, 427 (Sup Ct, NY County 1973), *mod*, 43 AD2d 687 (1st Dept 1973), *affd*, 34 NY2d 560 (1974); *see 241 E. 22nd St. Corp. v City Rent Agency*, 33 NY2d 134, 142 (1973) (holding that “the subject of rent control is primarily a matter of State concern and a function of the State at large”); *City of New York v State*, 67 Misc 2d 513, 514 (Sup Ct, NY County 1971), *affd*, 31 NY2d 804 (1972) (rejecting the City’s argument that rent control was within the City’s home rule powers).

Similarly, the City Charter, the State Constitution and the MHRL give local governments the power to enact laws in connection with “health and welfare” of their citizens (MHRL § 10[1][ii][a][12]; City Charter § 28), provided that such laws are not inconsistent with State law. *See New York State Club Association v City of New York*, 69 NY2d 211 (1987). New York courts have uniformly held that local governments may not, under the guise of protecting their citizens’ “health and welfare,” regulate areas that are primarily matters of State concern, such as rents. *See, e.g., F. T. B Realty*, 300 NY at 147-48.

Finally, and notwithstanding the foregoing, the City Council lacks authority to enact commercial rent regulation pursuant to the doctrine of preemption, which represents a “fundamental limitation” on home rule powers “in an area that the State has clearly evinced a desire to preempt.” *Ba Mar, Inc. v County of Rockland*, 164 AD2d 605, 612 (2d Dept 1991) (citing *Albany Area Builders Ass'n v Town of Guilderland*, 74 NY2d 372, 377 [1989]). The preemption doctrine, which embodies the Legislature’s “primacy” to act with respect to matters of State concern and its overriding policy interests, applies both in cases of express conflict between local

and State law and in cases where the State has evidenced an intent to occupy the entire field. *See Albany Area Builders*, 74 NY2d at 377. The State’s intent may be “implied” from the nature of the subject matter being regulated, or from the purpose and scope of the State legislative scheme. *See Ba Mar*, 164 AD2d at 612.

To illustrate, in *Albany Area Builders*, the Town of Guilderland projected a substantial population increase over 20 years, that such increase would require capital improvements on its existing road system, and that its revenue was insufficient to fund these improvements. Based on these projections, the Town enacted a local law which imposed an “impact fee” on all new developments that would generate additional traffic. Applying the preemption doctrine, the Court of Appeals held that the law was invalid because the State had already enacted comprehensive highway funding legislation, thus preempting local legislation on that subject. *Id.* at 377-79.

Similarly, the preemption doctrine clearly applies to the City’s attempts to impose commercial rent regulation through Int. No. 1796-2019. This is so for two reasons. First, as explained above, New York courts have uniformly held that rent regulation is primarily a matter of State concern, barring parallel regulation by local governments absent an express enabling statute. Second, in 1945 the State enacted a commercial rent regulation statute, which froze all commercial rents in the City at certain specified levels. Such statute, however, was permitted to expire pursuant to a sunset provision on December 31, 1963. By legislating in this area, the State evinced an unmistakable intent to occupy the field of commercial rent regulation -- and permitting the commercial rent regulation statute to expire was as much of a policy choice as enacting the statute in the first instance. *See, e.g., Gennis v Milano*, 135 Misc 209, 209 (App Term, 1st Dept 1929) (invalidating City legislation which was “substantially a re-enactment” of expired State law, because the subject field was “exclusively State concern”).

By reason of the foregoing, state law and the New York State Constitution clearly prohibit New York City from independently enacting Int. No. 1796-2019. Rather, the City can regulate commercial rents only if expressly authorized to do so by a state enabling statute -- which, as of the date hereof, does not exist.

September 22, 2021

To Whom It May Concer:

Thank you for taking my testimony under consideration. My name is William Rogers. I am the owner of the 26-year-old restaurant Sisters Cuisine in Harlem, and founding board member and treasurer of Uptown Grand Central.

I am writing in favor of Intro. 2299, the Storefront Bill of Rights:

To the Chair: I wholeheartedly agree there is a need for "Fair negotiations." Those words are at the center of the real issues with the current market. In addition to the remarks I am making now, I have included something I wrote 3 years ago now, about my business' experience and how imbalanced the current market and regulations can allow these negotiations to be. I have heard a lot of anecdotal examples for why no further intervention is needed, allow this to tip the scales appropriately.

You posed the question, "Does business have a right to space?", what we should be asking ourselves is what do we want our streets to look like? Because we are on our way to a city of two options, big box and mass-produced and boutique and super luxury, with nothing left in between. This is an existential question threatening the cultural fabric of our communities. Where does this council stand?

CM Yeger: I agree with a lot of what you had to say, especially about how to incentivize. I disagree however about the vacancies. There are times when landlords are not aligned with small business in their priorities or desires. Please see my attached document. To suggest as you did is simply a half truth and in my opinion disingenuous.

SBS Commissioner Dorris: Please be careful with your language. To suggest that SBS "provides what small businesses need in regards to lease negotiations" is not exactly true, as the attorneys in your Commercial Lease Assistance Program can neither represent the business in court (the most expensive part) nor force landlords to negotiate in good faith (as there is no current legal means to do so).

A REQUEST FOR SISTERS CUISINE

I wrote the piece below back in 2017. Since then, nothing has been done to improve or change the realities of leasing in up-and-coming neighborhoods. As a result, after 26 years on the corner of 124th Street and Madison Avenue, my family's business is being pushed out of our location. I hope after reading this you will sympathize with our plight and understand the importance of a small business being able to have more than a month-to-month agreement with their landlord in place.

Without a firm lease solidified, we are not able to meet the requirements of the State Liquor Authority to be able to apply to serve beer, wine and mixed drinks -- and therefore generate the much-needed income to allow my business to remain in this community long-term.

The Case for Intro. 2299, the Storefront Bill of Rights:

Change can only be achieved when communities organize efficiently around shared goals and make their demands loudly and clearly. To that end, I write this letter first to my fellow business owners in Harlem; then to fellow entrepreneurs citywide; and finally, to the communities we so proudly serve. The issue I lay out below while pervasive and unjust, fortunately has a clear precedent for a solution.

The current commercial real estate market promotes predatory leasing practices in depressed, yet up-and-coming, neighborhoods. We need to stop deluding ourselves—there simply cannot be a balanced negotiation of lease renewal between a property owner and a small business in a developing area. Without any regulations for settling disputes, business owners are left with a take-it-or-leave-it choice. The latter option usually means losing their livelihood. Storage prices in this city are through the roof; the expense of gutting one's business, moving it to storage, and holding it there while you find another space, would bankrupt even the most frugal operator in a matter of months. This means that during negotiation, all leverage lies with the property owner. Fully aware of their advantage, landlords routinely impose unreasonable lease terms on small business owners.

So how is this different than other renewal negotiations in the city? Why does this effect minority communities more harshly? There are a number of dovetailing realities that empower property owners in economically depressed districts. Firstly, there is an absolute dearth of comparable spaces. In an area like the East 125th Street the corridor, where my restaurant is located, vacancy has been close to 50% the entirety of the 20+ yrs we have been in business. By comparison the city considers a healthy commercial district to have around 5% vacancy.

Common sense may lead you to believe that with 50% vacancy I should have a lot of options available if I am unhappy with my landlord. In fact, most of these vacancies represent undeveloped lots, or dilapidated spaces in need of a complete gut renovation. This is the first stark difference with premier business districts. Constant development in the most expensive commercial corridors means any business can expect to find a similar space to the one they occupy with the requisite amenities and characteristics offered by a competing property owner. Such competition deters landlords from being too punitive in their negotiations, because they know you could just as easily move down the block.

But my neighborhood, like many in this city, is not an efficient marketplace. Property owners have a pseudo-monopoly on suitable commercial space, and they know it. This state of affairs pressures businesses into uneven agreements that drastically favor property owners. Moreover, the current status quo allows for landlords to continue to accept rent payments indefinitely if lease renewal terms cannot be reached. While this may allow the business to stay open, benefits are once again heavily skewed toward the property owners. Owners can now shop a business's space to the highest bidder knowing full well they can remove the current tenant on a whim at the end of any month.

This arrangement puts businesses in a state of perpetual precarity, stifling their ability to be competitive. Once you get past the legal handcuffs of operating without an active lease, there is the added dilemma of not wanting to make any serious capital investment into your space if you can be kicked out the next day.

To demonstrate the inequality I am attempting to highlight, let me use my own business as an example. In order to open her restaurant in 1995, my mother gut-renovated an 800-square-foot commercial space on 124th Street between Park and Madison. My parents and extended family spent weeks cleaning and pulling up linoleum and warped wood panels by hand. My mother then built out an entire kitchen, laid down new flooring and electrical, and installed an A/C duct system and new ceiling.

For the first 20 years in business, we had two leases of manageable terms. Towards the end of 2015, when it came time to renew our lease, we received a document completely at odds with our established business arrangements, a document that evinced no understanding of the value our restaurant has added to the building and neighborhood as a community staple, one of the few holdout businesses in a 5-block radius to last 10 years, let alone 20.

The first spit in the face was a lease term of three years. There was no way to securely invest in a space with such a short term. Yes, they also asked for what I believe is an unreasonable increase in my rent. More egregious, however, was their stipulation that we not only need *their* consent to sell our business, but that should they give that consent, the property owner is entitled to *half* the price of sale! They simultaneously squeezed our business so as to make a sale more likely, while guaranteeing their own stake in said sale. In other words, tails they win, heads we lose. They are the type of demands that only a monopoly can make, because they hold all the cards. I was fortunate enough to have one of the top hospitality attorneys in the city look over the lease. He was shocked, calling the terms “ridiculous.”

Unwilling to accept their terms, we have been paying month-to-month for over a year now. I cannot make a serious investment to update my A/C system or kitchen knowing that we could be kicked out at any time. Without a lease, I cannot get a liquor or beer and wine license, which makes it untenable for me to compete against new restaurants in the area that pay most of their rent through their bar tabs.

My business is not alone, however. Speaking with different organizations that support small businesses, it is clear that there are thousands of us throughout Harlem and the outer boroughs that are stuck in this month-to-month purgatory. Whether you want to call it unreasonable business practices, reverse redlining, or institutionalized racism, the results are clear: The lack of a regulated commercial leasing market has allowed for lopsided and predatory lease negotiations that have drained wealth from predominantly minority communities. In addition, it has spurred displacement and gentrification. Not only do you end up with ballooning real estate rates across the board, but there is additional pressure on businesses to price out historical demographics and cater to new wealthier residents.

As a son who has seen so many in business try and take advantage of his mother, and as a black man who has dealt with persecution and inequality many times throughout my life, this is but the latest in a long list of revelations on how the game is rigged against people who look like me and come from communities like mine. It is exhausting to think about, let alone live through. Let's not forget that just a couple of years ago, during the financial crisis, these same predominantly minority neighborhoods were targeted by some of our biggest and most trusted financial institutions for predatory lending practices. Their racial prejudice was so salient, multiple documents of Wells Fargo Bankers refer to our community as “Mud People” and the subprime trash they were pushing as “Ghetto Loans.” I see the realities around commercial leasing as yet another iteration of society turning a blind eye to the persecution of minority communities for the further elevation of the rich.

The Storefront Bill of Rights would take real and practical steps toward making a better commercial leasing marketplace citywide. It would encourage communication between tenants and landlords, by creating a structure around the lease renewal process that allows responsible tenants to renew for up to a year if an agreement cannot immediately be agreed upon. It also requires property owners to be transparent about the conditions of their buildings, and creates standard lease templates in a multitude of languages -- a provision especially important for immigrant businesses such as mine. The bill is not full commercial rent control, but it makes practical steps toward laying precedent for small business protections.

William "RanDe" Rogers
910-818-3924

TAKEROOT JUSTICE

Intro 1796-2019, Regulation of Commercial Rent Intro 2299-2021, Lease Agreements Concerning Storefront Premises

September 17, 2021

My name is Paula Z. Segal. I am Senior Staff Attorney in TakeRoot Justice's Equitable Neighborhoods practice. Thank you very much for the opportunity to testify today.

TakeRoot works with grassroots groups, neighborhood organizations and community coalitions to help make sure that people of color, immigrants, and other low-income residents who have built our city are not pushed out in the name of "progress." As part of SBS's Commercial Lease Assistance Program, our Equitable Neighborhoods and Capacity Building practices provide direct representation to small minority-owned businesses on commercial lease matters, including new leases, renewals, amendments, and disputes over past-due rents.

TakeRoot is also a member of United for Small Business NYC (USBnyc), a coalition of organizations and community groups in NYC fighting to protect small businesses and non-residential tenants from the threat of displacement.¹ Under the threat of landlord harassment, impending displacement, and a lack of city resources, USBnyc aims to create strong, lasting protections for commercial tenants. We believe these goals must be implemented to protect our city's vibrant and integral small businesses.

Unregulated Commercial Rents Regularly Result in Rent Increases of Over 100%

A current client of mine that is in the middle of negotiating a renewal lease – a small family-owned restaurant that has weathered the pandemic – is being offered a lease that locks in

¹ USBnyc members are Asian American Federation, Association for Neighborhood & Housing Development (ANHD), Bridge Street Development Corporation, Brooklyn Legal Services Corporation A, Chhaya CDC, Cooper Square Committee, League of Independent Theater of New York (LITNY), Legal Aid Society, NYC Artist Coalition, NYC Network of Worker Cooperatives, Street Vendor Project, TakeRoot Justice, Volunteers of Legal Service (VOLS), and Women's Housing and Economic Development Corporation (WHEDCo).



a reasonable rent of \$3000 for the first year, then more than doubles it to \$6500 in year two, and then adds subsequent escalations in years three through ten. My client knows that his business will never be able to sustain a rent increase like that, though he wants to stay and continue to be a part of the community that the restaurant has helped nurture for decades. **There is no law that requires his landlord to limit the amount of money she can demand in exchange for letting the business stay.**

Another client – an African hair braider renting a salon in Harlem – agreed to a rent increase from \$1100 to \$2800 just four months after the pandemic emergency was declared so that she would be able to stay in the neighborhood where she had developed her business. She had developed a stable clientele during the term of her initial five-year lease, which she had negotiated with the family that owned the building when she decided to set up her business there; she was hopeful that her customers would come back to her as NYC reopened, and sure that if she moved, she would have to start building her business anew. By the time she renegotiated the last July her landlord had sold the building to a hedge-fund-backed portfolio. When she agreed to the new rent, she knew that she would be cutting wages, raising prices, and cutting into her own proceeds from the business, on which her family relies for its survival.² **Again, there is no limit to how much the new landlord was able to demand that my client pay to keep her business in its community.**

I *have* seen some landlords give our clients temporary breaks on rent, but nothing prevents them from increasing rent again at any time or writing huge jumps into leases after the concession period expires. The concessions we have been seeing all ended last summer when the State started providing re-opening guidelines. We are seeing rents on both new and renewal leases that are at least as high as they were before the pandemic. The pandemic has not reset the market for commercial spaces,³ but with commercial rent stabilization, we have an opportunity to completely re-align the power structure and give small businesses a chance in the post-COVID world.

Commercial Rent Stabilization, Intro 1796

Intro 1796 will create a level playing field by establishing a Commercial Rent Guidelines Board. Each year, after a public hearing and consideration of relevant factors, this Board would set the maximum amount the rent on smaller commercial spaces can be increased, taking away

² These impacts are typical. See ANHD, *The Forgotten Tenants: New York City's Immigrant Small Business Owners* (March 6, 2019), <https://anhd.org/report/forgotten-tenants-new-york-city-immigrant-small-business-owners> (52% reported having to raise prices to make rent; 38% of businesses in Kingsbridge, Bronx reported having to fire workers in order to make rent).

³ See also Oscar Abello, *Can NYC's Storefront Registry Help Level the Playing Field for Embattled Commercial Tenants?* (July 20, 2021), <https://nextcity.org/daily/entry/can-nyc-storefront-registry-level-the-playing-field-for-commercial-tenants>; M. Egkolfopoulou & C. Ballentine, *New York Renters Face 70% Increases as Pandemic Discounts Expire*, Bloomberg News (Sept. 15, 2021), <https://www.bloomberg.com/news/articles/2021-09-15/new-york-city-rents-landlords-jack-up-prices-70-in-lease-renewals-post-covid>.

the incentive for landlords to kick out small businesses in favor of large chains or, worse yet, vacancy. After this bill becomes law, tenant in smaller spaces will have one clear lease and one clear number with which to plan their future: property taxes or other fees will need to be incorporated in the rent instead of being included elsewhere in leases as “pass-alongs” that often result in unwelcome surprise bills to small businesses that never negotiated over these additional fees.

We urge the City to use its powers under the New York State municipal home rule and its police powers to regulate the commercial leasing market.⁴ In stark contrast with the regulation and control of housing accommodations,⁵ there is no state statute like the Urstandt law forbidding the City from regulating commercial leases and no current State regulation of that area of the economy. Absent such law or regulation the City is free to act; in the current climate, where rent escalations are forcing small businesses out daily, it is imperative that it does.

To make the framework even stronger, we urge the Council to make changes before enacting Intro 1796 as recommended by USBnyc, attached as Appendix A. These include:

1. Requiring that Mayoral appointments to the Guidelines Board be approved by the Council.
2. Adding small entertainment venues and places of assembly, and all commercial spaces where grocery stores are permitted, to covered spaces.
3. Setting initial rent for a space that is vacant when the bill becomes law at the amount of rent and pass-alongs paid by the last tenant of record.
4. Adding a robust appeal process through which both tenants and owners can file for an adjustment of the rent to bring rent into line with neighborhood norms.
5. Clarifying that the rent-setting agency will be a new agency, called the Commercial Rent Guidelines board, and *another* agency will be designated by the Mayor for enforcement (e.g. to oversee compliance with rent orders and handle overcharges and appeals);

⁴ See legal memo, attached as Appendix B, laying out the City’s power to enact commercial rent stabilization. Note that the memo was written in December 2019. Since then, federal courts have affirmed that the City has the right to regulate landlord behavior by upholding the personal guarantee limits that this Council created to limit landlord’s ability to collect past-due business rents from business owners’ personal assets during the COVID-19 pandemic. *See Melendez v City of NY*, Ind. 20-CV-5301 (S.D.N.Y. Nov. 25, 2020), available in full at <https://media2.mofo.com/documents/opinion-re-nyc-guaranty-law.pdf>. This recent decision is the only one in which any court addresses regulation of commercial tenancies by the City within our present-day statutory framework.

⁵ N.Y. Uncons. Laws § 8605 (sometimes referred to as “the Urstandt law”).

6. Requiring landlords to register leases and all riders to the enforcement agency every year and requiring the agency to send copies of registration and a complete rent history to tenants every year.

Storefront Bill of Rights, Intro 2299

When combined with Commercial Rent Stabilization and expanded to cover all the commercial spaces covered by Intro 1796 covers (not just retail stores that sell goods), the Storefront Bill of Rights will be part of a robust framework for stabilizing New York City's smallest businesses. We these elements of that bill as well:

1. Requiring a written lease for any tenancy longer than 1 year; though such a requirement needs to clarify that the lack of written lease will not be cause to terminate a tenancy and evict a tenant who wants to stay.
2. Requiring landlords to use a standard vacancy lease.
3. Requiring commercial landlords to provide tenants with the Certificate of Occupancy, a record of violations issued or construction done during the 10 years before they move in.
4. Requiring continuously updated contact information for the landlord.
5. Allowing commercial tenants reasonable time to cure lease violations.
6. Providing a process for lease renewal and an option to extend the lease for up to one year in the event renewal negotiations fail, coupled with the rent protections in Intro 1796.

APPENDIX A

USBnyc Recommendations for How To Improve Intro 1796 to Get Strong Commercial Rent Stabilization in NYC

Covered Properties

- Rewrite definition of covered commercial spaces so that it focuses on uses permitted by Certificate of Occupancy or lease in a particular space, as opposed to what any particular tenant is engaged in at any given time
- Add entertainment venues and places of assembly to covered spaces
- Add all commercial spaces where grocery stores are permitted to covered spaces
- Clarify that leasing where written lease is for less than year, but tenancy survives after written lease expires, are covered

Appointees to the Rent Guidelines Board

- The chair should have expertise in community development or community organizing, in addition to finance and economics
- None of the public members should be commercial landlords
- Mayoral appointments (and removals) should be approved by city council
- Add a definition of “chain business” for purposes of limiting appointee representing tenant perspective

Initial Rents

- The initial rent for an occupied space should be the rent 60 days before the law becomes effective (otherwise landlords will raise rents in the interim).
- The initial rent for a space that is vacant when the bill becomes law should be set based on the last lease for the space prior to the law going into effect.
- We would like to see a robust appeal process in place: tenants and owners should have 60 days after the notice of registration to file for an adjustment of the rent, with an opportunity for the other party to respond.

Operations of the Guidelines Board

- Add definition of “affected area:” an area defined by the board each year for the purpose of setting a uniform rent adjustment policy for that year. Each affected area defined shall be no larger than the entire City of New York, and no smaller than a community district.
- Clarify that the administering agency will be a new agency established by the Mayor, the Commercial Rent Guidelines board.
- Clarity that the Mayor will need to designate another agency to oversee compliance with the guidelines set by the board.



- Require landlords to register leases and all riders to the enforcement agency every year. Rents should be frozen after any year where a registration is missing, false, or incomplete. The freeze should be lifted only when all missing registrations are filed and all false registrations are corrected.
- The enforcement agency should send a complete rent history to the tenant every year. The history should include, if applicable, any overcharges, rent adjustments won through appeals or court cases, the effective date of any new and collectible rents, and any tax benefits or financing programs that apply to the building.
- The board must establish, and landlords of all covered commercial spaces must use, a standard vacancy lease (this is also in the Storefront bill of rights bill).

APPENDIX B

From: Paula Z. Segal, Senior Staff Attorney, TakeRoot Justice
Date: December 3, 2019
Re: **New York City’s Authority to Regulate Rents of Commercial Spaces**

Commercial Rent Regulation in NYC in 2019

There is currently no City or State agency that monitors, licenses or otherwise regulates commercial landlords or the relationship between such landlords and their current or potential tenants. New York State regulated such relationships between 1945 and 1962¹ but has since ceased. Commercial spaces are not a “housing accommodation” and thus not subject to the complicated State system of regulation in that arena.²

The State controls the courts, where landlord-tenant relationships at the end of a tenancy are sometimes adjudicated in the form of holdover proceedings. N.Y. Municipal Home Rule Law, § 11(1)(e) (McKinney 1969 & Supp. 1987) (State retains power over legislation which applies to or affects the courts); *see also* Real Prop. Law § 228 (McKinney 1968 & Supp. 1987) (codifying landlords’ rights to terminate tenancies at will); Real Prop. Law § 232-a (McKinney 1968 & Supp. 1987) (codifying landlords’ rights to terminate month-to-month tenancies); Real Prop. Law § 229 (McKinney 1968 & Supp. 1987) (codifying recovery from holdover tenants).

¹ See 1945 N.Y. Laws 3; *see 20th C Associates v. Waldman*, 294 NY 571 (1945) (commercial rent regulation by the State was a valid exercise of its police powers).

² The City is particularly not restricted by limits that the State has put on its activity in the regulation of housing:

No housing accommodations presently subject to regulation and control pursuant to local laws or ordinances adopted or amended under authority of this subdivision shall hereafter be by local law or ordinance or by rule or regulation which has not been theretofore approved by the state commissioner of housing and community renewal subjected to more stringent or restrictive provisions of regulation and control than those presently in effect.

N.Y. Uncons. Laws § 8605 (sometimes referred to as “the Urstandt law”) (enacted July 2, 1971). Cases in which the courts interpret this housing-specific provision are likewise irrelevant to an analysis of commercial rent regulation, *e.g.* *241 E. 22nd Street v. City Rent Agency*, 33 N.Y.2d 134 (1973); *210 E. 68th Street v. City Rent Agency*, 76 Misc. 2d 425, (Sup. Ct. N.Y. 1973), *aff’d*, 34 N.Y.2d 560 (1974); as are pre-1963 cases regarding conflicts between State and City regulation of rents for housing accommodations, *e.g.* *Gennis v. Milano*, 135 Misc. 209 (1st Dep’t 1929).

Commercial Rent Regulation Local Law
Proposed by the New York City Council, Intro. 1976

The system that this potential Local Law would establish is based on a Commercial Rent Guidelines Board (“Board”) that will control how much rent can go up for commercial tenants in some spaces³ in the City of New York by setting annual rental rate adjustments that apply to both the base rent and any additional charges.⁴ The Board would be established within a city agency tasked with enforcing the law, and where complaints and tenant harassment claims would be filed. Each owner of a commercial space would register with the agency and pay an annual fee to support enforcement.

The proposed legislation does not impact the rights of landlords and tenants at the end of a tenancy. It simply creates a system of price controls.

N.Y.S. Home Rule

New York State’s basic system of local governance is set forth in Article IX of the State Constitution.⁵ Adopted in 1963, a year after the expiration of commercial rent controls in the City by the State of New York, Article IX was intended to expand and secure the powers enjoyed by local governments. The powers of local governments to act in their own jurisdiction are meant to be construed broadly by the courts. N.Y. Mun. Home Rule L. § 51 (providing that home rule powers “shall be liberally construed”); N.Y. Stat. Local Gov. § 20(5) (same). Article IX authorizes local governments to adopt local laws in a wide range of fields including the government, protection, order, conduct, safety, health and well-being of persons or property within the locality. N.Y. Const. art. IX, § 2(c)(ii)(10); Municipal Home Rule Law § 10(1)(ii)(a)(12); N.Y. City Charter § 28(a).⁶

³ All retail stores of 10,000 square feet or less, manufacturing establishments of 25,000 square feet or less, and professional services or other offices of 10,000 square feet or less.

⁴ Initial rental rates upon which annual adjustments would henceforth be based would be set by agreement between landlord and tenant after the implementation of the Law for vacant properties, or the most recent agreement before implementation for those that have tenants.

⁵ See generally, N.Y. State Bar Association, *Report and Recommendations Concerning Constitutional Home Rule* (April 2, 2016), available at <https://www.nysba.org/homerulereport/>.

⁶ Municipalities have expanded sovereignty when their local laws address their own “property, affairs and government,” N.Y. Municipal Home Rule Law §10(1) (ii); see *Adler v. Deegan*, 251 N.Y. 467, 472 (1929). While the presently-proposed Local Law would likely be found to be part of this set of laws, there is no need to rely on such a finding when the broader Home Rule grant easily applies. The Court of Appeals has been clear that N.Y. Municipal Home Rule Law §10 authority can go

further than structuring the organization and administration of town government ... No such limitation is apparent from the plain language of [section 10\(1\)\(ii\)\(d\)\(3\)](#), which refers not only to ‘the property, affairs or government of the town’ but also to ‘other matters in relation to which and to the extent to which [a town] is authorized to adopt local laws by this section.’ Moreover, we find nothing in the Bill Jacket that compels such a cramped construction of the section; indeed, the Bill Jacket

This legal structure does not require New York State to expressly delegate or enable local government action that is encompassed in the Home Rule grant of authority. *See People v. New York Trap Rock Corp.*, 57 N.Y.2d 371, 378 (1981) ("[i]t is, therefore, well settled that if a town or other local government is otherwise authorized to legislate, it is not forbidden to do so unless the state, expressly or impliedly, has evinced an unmistakable desire to avoid the possibility that the local legislation will not be on all fours with that of the state").

Home Rule addresses two basic questions: (1) can the State legislate in a way that impacts the City? and (2) can the City legislate in a particular arena? First, the Proposed Local Law is a City law, not a State imposition onto municipal sovereignty. New York law, since 1963, has balanced municipal sovereignty with New York State's interests in the welfare of its residents while answering both of these questions.

Second, for the purposes of analyzing whether the City can legislate in the arena of commercial rent regulation, it is important to distinguish between the line of cases that arose out of State legislative actions and those that arose out of the actions of municipalities and other local governments. For example, in *City of New York v. State of New York*, 67 Misc.2d 513, 514 (Sup. Ct. N.Y. 1971), *aff'd*, 31 N.Y. 2d 804 (1972) the City of New York attempted to restrain the State of New York from implementing Residential Vacancy Decontrol Law. No City law was before the Court. The City hadn't exercised its own home rule powers but was instead attempting to assert its sovereignty to overturn a State law. The Court of Appeals affirmed this, in light of the fact that the state had legislated in residential vacancy decontrol and therefore that the City was clearly precluded from legislating in this arena; here, the specific legislative action was the subject of the case.

The Proposed Local Law is Not Preempted by of In Conflict with Any State Law

When the question is whether a City can properly enact a local law per its Constitutional powers, courts look to specific conflict and preemption doctrines in the context of N.Y. State Home Rule.

A local law will be preempted either where there is a direct conflict with a state statute (conflict preemption) or where the legislature has indicated its intent to occupy the particular field (field

reflects a recognition, voiced as a criticism, that the legislation could 'enable drastic changes and lead to unusual innovations in local government which cannot be foreseen.'

Kamhi v. Town of Yorktown, 74 N.Y.2d 423, 434 (1989). Thus, under Home Rule, courts treat local laws designed to address specifically local conditions with deference. *See e.g. Board of Elections v. Mostofi*, 108 N.Y.S.3d 819, 830 (Sup. Ct. N.Y. Co. Sept. 19, 2019) ("while there are municipalities in other parts of the state that have [limited English proficiency ("LEP")] voters who would benefit from having interpreters, given the sheer number of LEP voters in the City who need language assistance the scope of the need for interpreter services is unique to the City, and supports this local initiative to address the issue" (emphasis added)).

preemption).

Eric M. Berman, P.C. v. City of New York, 25 N.Y.3d 684, 690 (2015).

Local laws that do not prohibit what State law expressly allows or that allow what State law expressly prohibits are not viewed by the courts as unlawfully in conflict. *See e.g. Wholesale Laundry Bd. v. City of New York*, 17 A.D.2d 327, 329 (1st Dept.), *aff'd*, 12 N.Y.2d 998 (1963) (State law permitted paying workers a minimum wage; City law that raised that wage was not lawful because it prohibited paying workers an hourly amount that State law explicitly permitted); *Chwick v. Mulvey*, 81 A.D.3d 161, 169 (2d Dep't 2010) (“without a ‘head-on collision’ between the [State] Law and the amended ordinance, conflict preemption does not apply;” local ordinance regulating colored guns upheld even though State Penal Law regulates gun ownership). The *Chwick* court explained,

the mere fact that the Legislature's silence appears to allow an act that a local law prohibits does not automatically invoke the preemption doctrine. ‘If this were the rule, the power of local governments to regulate would be illusory. Any time that the State law is silent on a subject, the likelihood is that a local law regulating that subject will prohibit something permitted elsewhere in the State. That is the essence of home rule.

81 A.D.3d 168-9 (quoting *People v. Cook*, 34 N.Y.2d 100, 109 (1974)).

As there is no State law that explicitly regulates the rental pricing of commercial space, the proposed Local Law does not conflict with any State law as the State (i) has no system in place to regulate commercial rents at all and (ii) has not had one since before the codification of Home Rule.

Simply legislating in an area is not sufficient to occupy the field. Even where there are some State interests, where the State’s interests are “minor” and its regulation limited, courts have allowed local laws that supplement the State’s limited engagement in particular arenas. For example, in *Council for Owner-Occupied Housing, Inc. v. Koch*, 119 Misc. 2d 241 (Sup. Ct. N.Y. 1983), the court found that since existing State laws in the area of cooperative and condominium conversions were primarily disclosure statutes, there was no conflict with a City ordinance that added a new requirement that a three percent reserve fund be established in cooperative or condominium conversions. Even where there is some State law that seems to overlap with a local law, but the court finds that State enforcement is limited, local legislation will survive a challenge. *See e.g. Ambulance and Medical Transp. Ass'n v. City of New York*, 98 Misc. 2d 537, 539 (Sup. Ct. N.Y. 1979) (more exacting City regulation of wheelchair-accessible transportation upheld given evidence of less-than-forceful State enforcement of a parallel provisions); *see also People v. Judi*, 38 N.Y.2d 529, 531 (1976) (Court of Appeals upheld a City ordinance criminalizing possession of toy guns without intent to use unlawfully even though State law required that possession with intent to be used unlawfully be proven); *People v. Lewis*, 295 N.Y. 42 (1945) (City penalties for black market activities which exceeded State penalties were found not to create unlawful inconsistency). State laws governing the process of

termination of tenancy will likely be found to be evidence of a minor interest in the relationship between commercial landlords and tenants, insufficient to establish a conflict.

The proposed local law will not impact the termination-of-tenancy and holdover processes established by State law. Thus *Tartaglia v. McLaughlin*, 190 Misc. 266 (Sup. Ct. Kings 1947), *aff'd* 273 A.D. 821, *rev'd on other grounds* 297 N.Y. 419 (1948) and *F.T.B. Realty Corp. v. Goodman*, 300 N.Y. 140 (1949), *Haque v. Pocchia*, 186 Misc.2d 806 (App. T. 2d Dep't 2000) and related cases are inapposite as they address an explicit limit on Home Rule power that is written into the statute,

The proposed local law is not an attempt to establish a regulatory agency which parallels a State agency as there is no current State agency that controls commercial leasing. *Compare People v. Kelsey's Seafood*, 112 Misc. 2d 927, 930 (Dist. Ct. Suffolk 1982) (local law that required shellfish wholesalers to obtain local permit in addition to the permit that the State already required found to be preempted).

In order for a court to find that a local law is preempted by State law, there must be evidence that the State desired to preempt the field. "A desire to pre-empt may be implied from a declaration of State policy by the Legislature or from the fact that the Legislature has enacted *a comprehensive and detailed regulatory scheme* in a particular area. *Consol. Edison Co. of New York v. Town of Red Hook*, 60 N.Y.2d 99, 105 (1983) (emphasis added). *See Board of Elections v. Mostofi*, 108 N.Y.S.3d at 830 (no conflict preemption for local law mandating the provision of interpreters at polling places despite the State Election Law providing a comprehensive regulatory scheme as no provision of the Election Law expressly governs the ability to provide interpreter services to voters; "[t]he Election Law contains no express legislative statement of an intent to preempt municipal action"); *New York Bankers Ass'n, Inc. v. City of New York*, 119 F.Supp.3d 158, 194 (S.D.N.Y. 2015) (local law regulating state-chartered banks found to be preempted by State law where that State "evinces an intent to preempt the field of regulating state-chartered banks" by including language in the statute creating a State regulatory agency that it is "the policy of the state of New York that the business of all... banking organizations shall be supervised and regulated through the" State agency which will "have broad powers of regulation to control and police the banking institutions under their supervision" (internal citations and quotations omitted)). *Chwick*, 81 A.D.3d at 170 (detailed Penal Law scheme for firearms licensing preempts local law licensing provisions).

Here, the State has neither made a declaration of its intention to occupy the field of commercial leasing, nor enacted any regulatory scheme that applies to the field.

Further, the fact that both the State and the City seek to legislate in the same area does not alone create an inconsistency. *Eric M. Berman, P.C. v. City of New York*, 796 F.3d 171, 174 (2d Cir. 2015) (finding "no express conflict between the broad authority accorded to [New York State] courts to regulate attorneys under the [New York] Judiciary Law and the [local] licensing of individuals as attorneys who are engaged in debt collection activity falling outside of the practice of law," and further finding that the "authority to regulate attorney conduct does not evince an intent to preempt the field of regulating" all services rendered by attorneys (internal citations and quotations omitted)); *see also People v. Webb*, 78 Misc. 2d 253, 256 (Crim. Ct. N.Y. 1974). The existence of State laws governing the process of termination of tenancy will not

likely be viewed as a bar to a finding that the Local Law creating a system for commercial rent regulation is lawful.

Police Powers

In addition to the Home Rule powers enumerated above and granted by the Constitution and specific State statutes, municipalities have police powers.

Legislation which has for its object the promotion of the public welfare and safety, falls within the scope of the police power and must be submitted to even though it imposes restraints and burdens on the individual.

People v. Ortiz, 479 NYS2d 613, 620 (2nd Dept 1984).

The police power has been defined generally as the power to regulate persons and property for the purpose of securing the public health, safety, welfare, comfort, peace and prosperity of the municipality and its inhabitants *Village of Carthage v. Frederick*, 122 N.Y. 268 (1890) (affirming village law imposing responsibilities on owners of real property in its limits). The power is as old as is the organization of municipalities.

Price Controls are a Hallmark of Police Powers

In *People v. Cook*, the Court of Appeals affirmed that police powers of a local government give it the power to establish price controls. 34 N.Y.2d at 104 (“the leading New York cases interpreting the police power of municipalities support the validity of municipal price regulation in certain instances”).

It is a “a proper exercise of the City's police power to regulate ... businesses in the public interest,” *Short Stop Industrial Catering*, 485 N.Y.S.2d 921, 924 (Sup. Ct. N.Y. Co 1985), and there is no exclusion for the regulation of real estate businesses.

Rent Regulation is not a Taking that Requires Compensation

Every restriction upon the use of property, imposed in the exercise of the police power, deprives the owner of some right theretofore enjoyed, and is, in that sense, an abridgment by the state of rights in property without making compensation. But restriction imposed to protect the public health, safety, or morals from dangers threatened is not a taking The state merely prevents the owner from making a use which interferes with paramount rights of the public.

Tirolerland, Inc. v. Lake Placid 1980 Olympic Games, Inc., 592 F.Supp. 304 (N.D. N.Y. 1984) (quoting *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 417 (1922) (Brandeis, J., dissenting)).

The Supreme Court of the United States has recognized only two “relatively narrow” categories of regulatory takings: regulatory actions (1) that permanently invade the owner’s property, or (2) completely deprive an owner of “all economically beneficial us[e]” of the property.” *Lingle v Chevron U.S.A. Inc.*, 544 U.S. 528, 538 (2005) (quoting *Lucas v S.C. Coastal Council*, 505 U.S. 1003 (1992)).

Where a property retains some of its value, courts will consider whether such action constitutes a partial taking. A government action that “merely adjust[s] the benefits and burdens of economic life,” is not a “taking.” *Penn Central Transp. Co. v. New York City*, 438 U.S. 104, 124 (1978). Denying the owner a “reasonable return” on the land does not prevent economically viable use, and is thus not a “taking.” *Rent Stabilization Ass’n v. Dinkins*, 805 F. Supp. 159, 163 (S.D.N.Y. 1992) (upholding New York City’s Rent Stabilization Law). The Supreme Court “has consistently affirmed that States have broad power to regulate [...] the landlord-tenant relationship without paying compensation for all economic injuries that such regulation entails.” *Loretto v. Teleprompter Manhattan Catv Corp.*, 458 U.S. 419, 440 (1982). A court will not likely find that a reduction of potential future rental income through regulation of how much rents can be increased relative to rents at the time the Regulation law is enacted constitutes a reduction in a property’s value. Rent increase regulation does not destroy all economically beneficial or productive use, and thus is unlikely to be a “taking.” See *Dawson v. Higgins*, 610 N.Y.S.2d 200, 207 (App. Div. 1st Dept. 1994) (upholding regulatory rule permanently preventing certain evictions from rent-controlled units).

Taylor James

Intro 1796-2019, Regulation of Commercial Rent

Committee on Small Business

Thank you for this opportunity to comment on the issue of Commercial Rent Stabilization. My name is Taylor James, and I am staff attorney at The Legal Aid Society's Community Development Project, a unit that addresses some of the most urgent problems facing New York City's small businesses, including the threat of displacement.

The Community Development Project (CDP) provides targeted support to small business owners and nonprofit organizations to help our clients achieve long-term success and employment, thereby promoting economic and social stability in their communities. We provide advice on selecting the right legal structure, writing corporate bylaws, and additional services related to establishing and growing businesses owned by low-income individuals in our communities. The Legal Aid Society is also a member of United for Small Business NYC (USBnyc), a coalition of organizations and community groups in NYC fighting to protect small businesses from the threat of displacement. USBnyc aims to create strong, lasting protections for commercial tenants.

Black and Brown-owned businesses in gentrifying areas are at risk of displacement due to high increases in rent. When they cannot afford to renew--these neighborhoods transform, physically and culturally. POC-owned businesses that have kept neighborhoods afloat deserve protection and predictability when it comes to their rental cost. Currently, there is no rent protection for commercial tenants when their lease ends. That is where the trouble usually starts for our small business clients that need the landlord to issue a new lease.

Our client, a Washington Heights restaurant owner of 40-years, was given an eviction notice along with seven other Latinx-owned businesses. The businesses' owners were each given the option of paying higher rent — for the restaurant that essentially doubled the current rate of \$5,000 a month. Our client could not afford that option. Since there is no law preventing a landlord from doubling the rent, a long-term tenant has no protections to ensure stability. In the process, much is lost. An eviction meant our client was not only losing their restaurant but their life savings that were invested to open their business. They were also losing the opportunity to provide employment for themselves, for their family and for other members of the community. This is also a loss for the community because POC- and immigrant-owned small businesses offer everyday goods, services and amenities that had been denied to Black and Latinx neighborhoods during decades of commercial redlining. They provide a neighborhood's unique character and

cultural identity, with products and services geared to the needs and desires of residents. In this case an entire block of Latinx, including long-term business owners were displaced.

Unfortunately, our client's rental burden was not unique, in 2019 a report identified rent burden as the top concern for immigrant small business owners throughout New York City.¹ (See ANHD, The Forgotten Tenants: New York City's Immigrant Small Business Owners (March 6, 2019), <https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners>) even before coronavirus forced them to shut down.

Commercial Rent Stabilization, Intro 1796

Intro 1796 will protect commercial tenants from displacement due to enormous rent hikes by creating a board to set annual rent increases. The rent protections set by the board ensures that landlords have no incentive to seek out big chain businesses over small businesses, since rent adjustments would be the same for either tenant. This legislation will provide predictable rents for small businesses, allowing them to maintain their livelihood. Landlords will not be able to add additional charges because taxes, water or operating fees will be included in the rent set by the board.

The Legal Aid Society encourages the council to pass commercial rent stabilization to ensure the survival of small businesses, and in turn ensure the vitality and vibrancy of New York's neighborhoods.

¹These impacts are typical. See ANHD, The Forgotten Tenants: New York City's Immigrant Small Business Owners (March 6, 2019), <https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners>

To Councilmen St. Jones and Levin,

My name is Sarah Timberlake and I am the owner of Timberlake Studios, Inc., a theatrical costume shop in the heart of the garment district of Manhattan. I am writing today to urge you to pass Intro 1796, once again allowing legislation to stabilize commercial rent rules, especially for small businesses.

The health and success of my shop depends on the accessibility to work (being located IN the theater district), being able to pay rent and pay my employees a living wage. None of this can be accomplished if we are forced to move outside of easy access to theatres, rehearsal spaces and the actors that occupy them. At the same time, any lease with even a 5% yearly increase (such as mine at present) becomes unsustainable, forcing me to look again for suitable space at some price range that will allow this business to remain viable, only to repeat the process every time a lease expires.

New York City is an innovative, working, manufacturing city. Each part and parcel of the working parts is important to the health of every business, every worker, and reaches out like a spider web with impacts on the support businesses such as the supply chain businesses and local food service businesses . The city needs to realize small manufacturers are as important to the mosaic of the city as the more web-based and/or social media-based businesses.

We have proved that we NEED these particular spaces - they are absolutely crucial to our success (look at the surviving businesses from COvid Pandemic - it is the manufacturers still bringing workers into the city, using mass transit. The dot-com businesses have vacated many large spaces - even those recently renovated to their specifications and are allowing their workers to work from home - BECAUSE THEY CAN - manufacturers CANNOT). We are not just wanting a vanity address to look good to our customer base.

Intro 1796 would allow these communities to continue, grow and thrive.. I implore you to give this bill your every consideration. It would really benefit so many. Thank you for your attention..

Sarah Timberlake, Owner
Timberlake Studios, Inc
260 W 36th St., Ste 500
NY NY 10018



**Intro 1796-2019, Regulation of Commercial Rent
Intro 2299-2021, Lease Agreements Concerning Storefront Premises**

September 17, 2021

United for Small Business NYC (USBnyc) is a coalition of community organizations across New York City fighting to protect New York's small businesses and non-residential tenants from the threat of displacement, with particular focus on owner-operated, low-income, people of color-run businesses that serve low-income communities and communities of color. Small businesses are cornerstones of our city and neighborhoods. Small businesses provide jobs, culturally relevant goods and services, and community, keeping our neighborhoods thriving and vibrant places to live. The rising cost of rents leads to displacement that impacts both long-time small businesses across New York and burgeoning entrepreneurs. The communities that tend to be hardest hit are communities of color and immigrant communities facing rapid gentrification.

Under the threat of landlord harassment, impending displacement, and a lack of city resources, USBnyc aims to create strong, lasting protections for commercial tenants. We believe these goals must be implemented to protect our city's vibrant and integral small businesses.

NYC Needs Commercial Rent Stabilization

The rising cost of rent impacts commercial tenants across New York City. The communities that tend to be hardest hit are communities of color and communities facing rapid gentrification.

Right now, there is no rent protection for commercial tenants outside their lease. No law prevents a landlord from raising rent by 400%.¹

We need commercial rent stabilization in order to curtail vacancies, to protect low-income and immigrant New Yorkers and to preserve culture and community in our neighborhoods.

Between 2007 and 2017, the commercial vacancy rate doubled across New York City, with many neighborhoods experiencing almost 20% vacancy rates. At the same time, retail rents rose an average of 22% citywide, with some neighborhoods seeing more than 50% rent increases on average. The vacant spaces you see are most likely empty because the landlord is holding out for rent much higher than a small business can pay, and the amount they want is an

¹ See A. Randle, *Is a 400% Rent Increase the Future of Coney Island?* N.Y. Times (Jan. 15, 2020) <https://www.nytimes.com/2020/01/15/nyregion/coney-island-rent-hike.html>.

astronomical increase from the last rent a tenant paid at the same location. Many small rental buildings have changed hands in the last two decades, moving from small landlords to larger portfolios. Small and nonprofit landlords often charge reasonable rent increases to keep existing tenants in their space. The larger owners can and do wait for higher paying tenants.²

48% of New York City's small businesses are run by immigrants, and roughly 26% of New Yorkers work at a small business. When small businesses vanish, so do jobs, community spaces, and affordable goods and services. In 2019, 77% of immigrant small business owners surveyed in different commercial corridors stated they were overburdened by their current commercial rent. 28% said they had to lay off workers to meet the rising rents.

If rising rents do not push out local businesses altogether, they make goods too expensive to be affordable to the communities they serve, including low-income communities that depend on affordable goods and services within walking distance. When storefront tenants are blindsided by huge increases that force them to lay off workers.³

Some commercial landlords have given temporary breaks on rent, but nothing prevents them from increasing rent again at any time, leaving small businesses unable to plan for recovery. The pandemic has not reset the market for commercial spaces,⁴ but with commercial rent stabilization, we have an opportunity to completely re-align the power structure and give small businesses a chance in the post-COVID world.

² NYC Planning, ASSESSING STOREFRONT VACANCY IN NYC: 24 Neighborhood Case Studies (Aug. 2019),

<https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/assessing-storefront-vacancy-nyc.pdf> ("Some owners kept spaces vacant while seeking high rents;" "soaring rents contributed to higher vacancy").

³ ANHD, *The Forgotten Tenants: New York City's Immigrant Small Business Owners* (March 6, 2019), <https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners> (52% reported having to raise prices to make rent; 38% of businesses in Kingsbridge, Bronx reported having to fire workers in order to make rent).

⁴ Oscar Abello, *Can NYC's Storefront Registry Help Level the Playing Field for Embattled Commercial Tenants?* (July 20, 2021), <https://nextcity.org/daily/entry/can-nyc-storefront-registry-level-the-playing-field-for-commercial-tenants> ("[Real estate broker] Francisco Gonzalez says during the pandemic he saw some vacant commercial spaces being offered at prices he hadn't seen since the 1990s. **But they were only offering leases at those prices for one or two years at most, anticipating they could re-raise rents to whatever they want once the pandemic is completely over.** And now, even after some commercial tenants completely folded during the pandemic, Gonzalez says commercial landlords are already back to asking for prices that are close to pre-pandemic levels."); see also M. Egkolfopoulou & C. Ballentine, *New York Renters Face 70% Increases as Pandemic Discounts Expire*, Bloomberg News (Sept. 15, 2021), <https://www.bloomberg.com/news/articles/2021-09-15/new-york-city-rents-landlords-jack-up-prices-70-in-ease-renewals-post-covid>.

Commercial Rent Stabilization Helps Small Businesses Find Space and Grow

Learning from Residential Rent Stabilization: Commercial rent stabilization will protect commercial tenants from displacement due to exorbitant rent hikes and unregulated fees. It will provide stability for small businesses and the people who depend on them. This system builds on generations of know-how: 2.5 million New Yorkers already have rent stabilization in their apartments.

One Lease / One Number: Commercial rent stabilization would also ensure that pass-alongs like taxes and utilities are included in the rent, so that businesses can clearly predict the total cost of renting a space over time and are not hit with surprising bills that put their business at risk.

Planning for the Future: Today, small businesses have no idea how much their current space will cost once their lease ends; many are operating in spaces where they are month-to-month because renegotiating the rent after a lease expires comes with a huge risk of a rent hike. Many others have closed or moved because landlords demanded high rents when leases ended.⁵ Setting guidelines on the rent ensures that small businesses can responsibly plan for the future, knowing how much they'll need to pay for use of the location their business needs to operate.

Level playing field: By ensuring that covered commercial spaces are regulated the same, regardless of who is renting them, ensures a level playing field for small businesses, rather than allowing chain businesses to out-bid them by agreeing to exorbitant rents.

Strengthening Intro 1796

We have attached a set of recommendations about how to strengthen Intro 1796 to create the strongest possible commercial rent stabilization framework for New York City (see [Appendix A](#)). Below is a summary of the improvements USBnyc believes are crucial:

1. Requiring that Mayoral appointments to the Guidelines Board be approved by the Council.
2. Adding small entertainment venues and places of assembly, and all commercial spaces where grocery stores are permitted, to covered spaces.
3. Setting initial rent for a space that is vacant when the bill becomes law at the amount of rent and pass-alongs paid by the last tenant of record.
4. Adding a robust appeal process through which both tenants and owners can file for an adjustment of the rent to bring rent into line with neighborhood norms.

⁵ Abello, *above*, quoting Gonzalez: “They’re under contract [to rent their space] for so many years but once that contract expires, the rents go up and the business closes. That’s the real deal when it comes to that.”

5. Clarifying that the rent-setting agency will be a new agency, called the Commercial Rent Guidelines board, and *another* agency will be designated by the Mayor for enforcement (e.g. to oversee compliance with rent orders and handle overcharges and appeals);
6. Requiring landlords to register leases and all riders to the enforcement agency every year and requiring the agency to send copies of registration and a complete rent history to tenants every year.

Storefront Bill of Rights, Intro 2299

Unless rents are regulated, the below elements of the proposed Storefront Bill of Rights will not keep our cultural and community spaces from disappearing; however, when combined with Commercial Rent Stabilization and expanded to cover all the commercial spaces covered by Intro 1796 (not just retail stores that sell goods), the combination of Intro 2299 and Intro 1796 will form a robust framework for stabilizing New York City's smallest businesses, and we would support combining them in such a way:

1. Requiring a written lease for any tenancy longer than 1 year; though such a requirement needs to clarify that the lack of written lease will not be cause to terminate a tenancy and evict a tenant who wants to stay.
2. Requiring landlords to use a standard vacancy lease.
3. Requiring commercial landlords to provide tenants with the Certificate of Occupancy, a record of violations issued or construction done during the 10 years before they move in.
4. Requiring continuously updated contact information for the landlord.
5. Allowing commercial tenants reasonable time to cure lease violations.
6. Providing a process for lease renewal and an option to extend the lease for up to one year in the event renewal negotiations fail, coupled with the rent protections in Intro 1796.

-//-

USBnyc members are Asian American Federation, Association for Neighborhood & Housing Development (ANHD), Bridge Street Development Corporation, Brooklyn Legal Services Corporation A, Chhaya CDC, Cooper Square Committee, League of Independent Theater of New York (LITNY), Legal Aid Society, NYC Artist Coalition, NYC Network of Worker Cooperatives, Street Vendor Project, TakeRoot Justice, Volunteers of Legal Service (VOLS), and Women's Housing and Economic Development Corporation (WHEDCo).

APPENDIX A

USBnyc Recommendations for How To Improve Intro 1796 to Get Strong Commercial Rent Stabilization in NYC

Covered Properties

- Rewrite definition of covered commercial spaces so that it focuses on uses permitted by Certificate of Occupancy or lease in a particular space, as opposed to what any particular tenant is engaged in at any given time
- Add entertainment venues and places of assembly to covered spaces
- Add all commercial spaces where grocery stores are permitted to covered spaces
- Clarify that leasing where written lease is for less than year, but tenancy survives after written lease expires, are covered

Appointees to the Rent Guidelines Board

- The chair should have expertise in community development or community organizing, in addition to finance and economics
- None of the public members should be commercial landlords
- Mayoral appointments (and removals) should be approved by city council
- Add a definition of “chain business” for purposes of limiting appointee representing tenant perspective

Initial Rents

- The initial rent for an occupied space should be the rent 60 days before the law becomes effective (otherwise landlords will raise rents in the interim).
- The initial rent for a space that is vacant when the bill becomes law should be set based on the last lease for the space prior to the law going into effect.
- We would like to see a robust appeal process in place: tenants and owners should have 60 days after the notice of registration to file for an adjustment of the rent, with an opportunity for the other party to respond.

Operations of the Guidelines Board

- Add definition of “affected area:” an area defined by the board each year for the purpose of setting a uniform rent adjustment policy for that year. Each affected area defined shall be no larger than the entire City of New York, and no smaller than a community district.
- Clarify that the administering agency will be a new agency established by the Mayor, the Commercial Rent Guidelines board.
- Clarity that the Mayor will need to designate another agency to oversee compliance with the guidelines set by the board.



- Require landlords to register leases and all riders to the enforcement agency every year. Rents should be frozen after any year where a registration is missing, false, or incomplete. The freeze should be lifted only when all missing registrations are filed and all false registrations are corrected.
- The enforcement agency should send a complete rent history to the tenant every year. The history should include, if applicable, any overcharges, rent adjustments won through appeals or court cases, the effective date of any new and collectible rents, and any tax benefits or financing programs that apply to the building.
- The board must establish, and landlords of all covered commercial spaces must use, a standard vacancy lease (this is also in the Storefront bill of rights bill).

TESTIMONY

Small Business Committee Hearing:
“The Importance of Commercial Rent Stabilization for Worker Cooperatives Businesses”

Presented to

New York City Council, Committee on Small Business
Hon. Mark Gjonaj, Chair
Friday, September 17, 2021

Prepared By:

Vanna Valdez
Worker-owner at Bronx Clay
vannavaldez@gmail.com
(347) 420-0110

Good afternoon and thank you for this opportunity to testify today.

My name is Vanna Valdez. I am a resident of and small business owner in the South Bronx. I am here to testify in support of Intro 1796.

I am part of a recently formed worker-owned cooperative called Bronx Clay. Our goal is to open a ceramic studio in the South Bronx to provide classes and programming to our community members, local schools, and local community centers.

We have been searching for spaces where we can establish ourselves and serve our community. In our search we grew discouraged seeing that rents went from anywhere from \$4000 to \$17,000 per month arbitrarily, for spaces around the same size, with the majority of spaces being on the higher end of that price spectrum. It was hard to understand how small businesses are even able to survive with such extreme prices and clear to me why so many didn't survive during this pandemic.

During my search I also learned that there were very little protections for small business owners when signing leases, there is nothing to stop the landlords from doubling the rent on you after you've spent thousands making improvements on the space. This is a specific concern for me because as a ceramic studio we will have to make substantial and expensive improvements on the space we rent, improvements that the landlord will continue to benefit from whether we are there or not. What is there to protect me from being booted out by price hikes and being taken advantage of?

Passing this law will ensure predictable rents for small businesses. It will mean that I won't have to fear my rent suddenly doubling or tripling at renewal after having spent thousands to improve the space. I won't have to worry about being priced out because new developments are being built nextdoor. It will mean that more small business will be able to form and thrive, in turn allowing our neighborhoods to thrive and our communities to come back from COVID 19 even stronger than before.

Small businesses strengthen our communities and bring them to life. Lets protect them by passing Intro 1796 now.

Thanks again.



9/21/21

Via: Online Testimony Submission Portal

Committee on Small Business
New York City Council
250 Broadway
New York, NY 10007

Chair Gjonaj and Members of the Committee on Small Business:

My name is Imran Hossain and I am a Staff Attorney in the Microenterprise Project at Volunteers of Legal Service, or VOLS, one of the three non-profit legal service providers partnering with SBS under the Commercial Lease Assistance (CLA) Program. In that role, I provide counsel to scores of marginalized commercial tenants in our city facing innumerable systemic obstacles to small business ownership. Chief among these existential barriers for our clients, before and during the pandemic, is the injustice and uneven playing field caused by unchecked, unregulated, runaway rents based upon pure speculation that in turn harm small business owners, employees, and residents in their communities through rampant vacancies, evictions, and bankruptcies.

As fellow New Yorkers, I think we can all agree that our small businesses are what make this city special. These small businesses, almost half of which are immigrant owned, provide us with a diversity of experiences that embody the cultural fabric of the city. Unfortunately, these businesses are facing an existential crisis in the form of hiking commercial rent. The unreasonable rising costs of rent tend to disproportionately impact immigrants and our communities of color, who face the perpetually elevated threats of residential displacement.

Exorbitant commercial rents have been a consistent problem for small businesses for over a decade. One study has shown that in the ten years between 2007 to 2017, retail rents increased by an average of 22%, with some neighborhoods seeing more than 50% increases in commercial rent.¹ As a result, many neighborhoods faced 20% vacancy rates for commercial spaces.²

Often, our city's most vulnerable population bear the brunt of an unregulated system. About three quarters of the immigrant small business owners feel overburdened by commercial

¹ <https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/assessing-storefront-vacancy-nyc.pdf>

² Id.

rent.³ Consequently, about one third of these business owners were forced to layoff workers in response to the increases in commercial rent.⁴

While vacancies and laid off workers are the obvious harmful effects of uncontrolled commercial rent, there are many more subtle but equally insidious consequences. Often, in response to rising rent, local businesses are forced to raise prices, making their goods and services too expensive for the communities they serve and who depend on local, affordable, and culturally relevant businesses.

Over the past year, I have worked extensively in the New York City small business tenant community and unfortunately, seeing the harrowing numbers regarding vacancies is not surprising in the least. I have seen this vicious cycle play out countless times. A tenant cannot pay an increase in commercial rent due to unforeseen circumstances, which the COVID-19 pandemic has made painfully obvious. In my experience, these tenants are unable to afford an attorney to assist in negotiating their leases, which leaves them powerless in the face of crisis. A landlord spends time, energy, and money in an eviction proceeding and if the landlord is successful in the proceeding, what are we left with? A small business owner without a space to do business, a community that loses an institution that once provided it affordable goods and services, and a vacant storefront.

One of my clients, an iconic bookseller in Manhattan, offering popular books for a low price, stands to lose its business after operating in the community for decades. Another client, a dry-cleaning business located in Midtown, cannot afford to pay its high rent given the fact that offices have been closed for over a year. If small, independently owned restaurants, coffeshops, stores, and other businesses are forced to close due to increasing commercial rent, what will we be left with? A mundane city of chain stores and big-box businesses, barren of the culture that makes New York so special.

Commercial Rent Stabilization offers a unique opportunity to give small businesses a chance to thrive in the competitive New York City business environment while acknowledging landlords' interests in deriving market-based value from their commercial real estate holdings. Instead of landlords setting arbitrarily high commercial rent prices, Commercial Rent Stabilization allows for all invested parties to collaborate in setting a fair price for rent under thoughtful, transparent, and equitable guidelines. This fair rent will enable small businesses and landlords alike to make future plans by knowing in advance that their rents can only be increased by a certain amount. These measures will ensure small businesses are less prone to mass displacement and that we maintain the integrity of our neighborhoods without rampant vacancies. To optimize the effect of Intro 1796, we believe the bill needs some improvements; including:

- We believe that mayoral appointments to the Guidelines Board need to be approved by the Council.

³ <https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners>

⁴ *Id.*



- Adding small entertainment venues and places of assembly, and all commercial spaces where grocery stores are permitted, to covered spaces.
- Setting initial rent for a space that is vacant when the bill becomes law at the amount of rent and pass-alongs paid by the last tenant of record.
- Adding a robust appeal process through which both tenants and landlords can file for an adjustment of the regulated rent to bring rent into line with neighborhood norms.
- Clarifying that the rent-setting agency will be a new agency, called the Commercial Rent Guidelines Board, and another agency will be designated by the Mayor for enforcement.
- Requiring landlords to register leases and all riders to the enforcement agency every year and requiring the agency to send copies of registration and a complete rent history to tenants every year.

While the city has made efforts, such as enacting the eviction moratorium, to help small businesses during the pandemic, these measures simply kick the can down the road. Generally, small businesses still carry the liability for the rent they could not afford to pay while they were not allowed to operate. Council has raised concerns regarding the constitutionality or general legality of commercial rent stabilization; however, these concerns are unfounded. There is precedent in upholding past efforts to enact similar legislation for residential and commercial leases. Ultimately, Intro 1796 gives small businesses the opportunity to survive in the ultra-competitive New York City market.

Sincerely,

Imran Hossain, Esq.



Intro 1796-2019, Regulation of Commercial Rent
Intro 2299-2021, Lease Agreements Concerning Storefront Premises
September 17, 2021

Introduction

Good morning. My name is Kerry McLean and I'm the Vice President of Community Development at The Women's Housing and Economic Development Corporation (WHEDco). I'm pleased to speak to you today about the importance of commercial rent stabilization to businesses in the Bronx.

WHEDco is a community development organization founded on the radically simple idea that all people deserve healthy, vibrant communities. WHEDco's mission is to give the South Bronx access to all the resources that create thriving neighborhoods – from sustainable, affordable homes, high-quality early education and after-school programs, to fresh, healthy food, cultural programming, and economic opportunity.

For over 25 years, WHEDco has served thousands of children, youth, seniors and families, including over 500 brick-and-mortar businesses in low-to-moderate income (LMI) neighborhoods of color in the West and South Bronx where our affordable housing developments are located. Given our 30 years of experience working in LMI neighborhoods of color, WHEDco takes great interest in the potential role that Intro 1796 could have in protecting Black, Brown, and immigrant-owned small businesses, their employees and the residents and the neighborhoods serve.

Our neighborhood work is centered primarily in Council Districts 16, and 17 in the neighborhoods of Highbridge/Concourse, Melrose and Crotona East/Morrisania. Like the demographic composition of the community residents where we work, most business owners in our neighborhoods and their employees are Black, Brown, or immigrants themselves. Many of these businesses are longstanding family-operated micro-enterprises with fewer than five employees that typically operate on thin profit margins, putting them at risk when their expenses or revenue changes dramatically.

Over the years, and increasingly throughout the past five months, we have heard alarming accounts of landlords imposing rent increases and pass-along fees that have overburdened many of area businesses. We have seen businesses that, faced with rent increases of over four times their previous rent, have had to close their doors after over a decade of operation. We have heard of businesses whose pass-along fees have accounted for 25% of their monthly rental costs and others who are scared to enlist City-funded legal services for fear of retribution. We worry that such continued actions could force many of the existing small businesses that are struggling to recover from the impacts and debt caused by the COVID-19 pandemic, to close, replacing legacy businesses where residents gather to socialize while they exchange goods and services with chain stores. We also fear that rising rental costs will make our neighborhoods' commercial spaces unaffordable to would-be future entrepreneurs from our own residents.

WHEDco supports the City Council's attempts to mitigate these dangers through policies like commercial rent stabilization. We implore City Council continue to analyze how this measure could be

implemented to ensure that LMI, immigrant and entrepreneurs of color have equitable access to commercial spaces and economic opportunities without the fear of being priced out of our city by big chains. WHEDco supports USBNYC's recommendations to strengthen intro 1796 (see USBNYC [Appendix A](#)), in particular by:

- Adding small entertainment venues and places of assembly, and all commercial spaces where grocery stores are permitted, to covered spaces;
- Setting initial rent for a space that is vacant when the bill becomes law at the amount of rent and pass-alongs paid by the last tenant of record; and
- Adding a robust appeal process through which both tenants and owners can file for an adjustment of the rent to bring rent into line with neighborhood norms.

Please let me know if you have any questions. Thank you for your attention today and your ongoing commitment to protecting small and local businesses, local jobs, and the economy of the Bronx and NYC, and especially in these very critical times.

August 6th, 2021

The Yemeni American Merchants Association (YAMA) is a grassroots nonprofit social service organization founded in 2017. Our mission is to educate and elevate Yemeni American merchants and their families through education, civil rights advocacy, business, and social service support. Based in Bay Ridge, Brooklyn, we seek to advance policies that support New York City's estimated 6,000 Yemeni American bodega owners and their families.

We applaud the primary sponsors Council Members Mark Treyger and Diana Ayala on [Int. No. 0568](#), the proposal to amend the administrative code of NYC in relation to reducing civil penalties where food service establishments donate their leftover food.

There are dozens of Yemeni restaurants and delis across New York City that would benefit from such a bill being passed. Yemeni immigrants generally come to the United States with dreams of being happy, safe and successful as well as giving back to their communities. Many Yemeni immigrants have opened up their own businesses, many of which include food service establishments such as delis and restaurants. Yemeni restaurants, and especially Yemeni-run delis, are an important cornerstone of NYC culture. On a daily basis, the average food wasted costs the merchant ---. In the Muslim tradition, discarding food instead of giving it away is frowned upon.

As newcomers to the United States, many Yemeni immigrants are still learning the laws of the country, and many of these individuals will receive penalties, fines, and citations for wrongdoings they are not fully cognizant of. Given this, this local bill being proposed will help these very restaurant owners waive their eligible violations in exchange for bettering their communities by donating their food to food donation program(s). This program will help them feel good about giving back and they are not violating their religious teachings, "Thou shall not waste."

Not only this, this law will allow for Yemeni restaurants and delis to contribute and help those struggling with homelessness, hunger, and poverty. As of June 2021, there were over 50,815 homeless individuals across New York City according to statistics provided by the coalition for the homeless. With the introduction of this bill, there will be dozens.

The Yemeni American Merchants Association (YAMA) is proud to continue our advocacy efforts on behalf of Yemeni restaurants, during these challenging times. Now more than ever, we

need our partners in government to work alongside our members to assure Yemeni restaurants are supported. We believe [Int. No. 0568](#) is a step in the right direction.



The Yemeni American Merchants Association (YAMA) is a grassroots nonprofit social service organization founded in 2017. Our mission is to educate and elevate Yemeni American merchants and their families through education, civil rights advocacy, business, and social service support. Based in Bay Ridge, Brooklyn, we seek to advance policies that support New York City's estimated 6,000 Yemeni American bodega owners and their families.

We applaud the primary sponsors Council Members, Mark Gjonaj, Laurie A. Cumbo, Robert E. Cornegy, Jr., Francisco P. Moya, Farah N. Louis, Peter A. Koo, Robert F. Holden, Justin L. Brannan, Paul A. Vallone, and Kalman Yegercing on [Int. No. 2000](#), to ensure equitable distribution of emergency funding by borough.

YAMA has been advocating on behalf of our members throughout the pandemic to get their fair share of COVID-19 related emergency funding. Like many immigrant-owned small businesses, our members cannot afford to pay a traditional accountant and costly payroll services for their small number of employees. They manage their business in traditional ways. Accounting for business operations is done by pen and notebook. During the pandemic, loans and subsidies should have been available to all of our small bodega owners who are in good financial standing, unfortunately, they weren't.

Local immigrant businesses were disadvantaged for the sole reason that they do not meet some of the administrative requirements that are unrelated to their standing as good business operators. Therefore, banks and loan lenders were distributing the loans to large corporations who could provide the required documents. This led to inequitable distribution of funding throughout New York City. We call on the City Council to get a step further and make these funds grants, not loans. Many of our small businesses that qualified for the pandemic loans are struggling to pay those loans back. We ask the City Council not to burden them with more debt. Instead, call on SBS to dispense this emergency funding as nonrepayable grants.

YAMA is proud to continue our advocacy efforts on behalf of small businesses during these challenging times. Now more than ever, we need our partners in government to work alongside our members to assure small businesses are given the necessary tools to keep their businesses open and operating. We believe that [Int. No. 2000](#) with our recommendation to make this emergency funding as non-repayable grants is a step in the right direction.



The Yemeni American Merchants Association (YAMA) is a grassroots nonprofit social service organization founded in 2017. Our mission is to educate and elevate Yemeni American merchants and their families through education, civil rights advocacy, business, and social service support. Based in Bay Ridge, Brooklyn, we seek to advance policies that support New York City's estimated 6,000 Yemeni American bodega owners and their families.

We applaud the primary sponsors Council Members Stephen T. Levin, Vanessa L. Gibson, Antonio Reynoso, Diana Ayala, Brad S. Lander, Margaret S. Chin, James G. Van Bramer, Daniel Dromm, Ben Kallos, Carlos Menchaca, Carlina Rivera, Helen K. Rosenthal, Darma V. Diaz, Deborah L. Rose, Karen Koslowitz, Alicka Ampry-Samuel, Selvena N. Brooks-Powers, Robert E. Cornegy, Jr., Inez D. Barron, and Kevin C. Riley on [Int. No.1976](#). The proposal would create a board to regulate annual rent increases, decrease or freeze rates for small office, retail, and manufacturing spaces, and create penalties for rent overcharges.

As an organization that represents thousands of Yemeni merchants across New York City, we are proud to say we are dedicated to educating, advocating, and elevating our community. The rising cost of rent has impacted our merchants like all immigrant-owned small businesses in New York City as rapid gentrification continues. Many of our merchants have had to lay off workers to meet the rising rents. Our members run bodegas that are cornerstones of their communities. Our members' businesses and their essential workers have continued to operate during the pandemic to ensure community members have access to basic necessities.

Rising rents continue to push out local businesses and make goods too expensive to be affordable to the communities they serve. We believe in the implementation of [Int. No.1976](#) will save small businesses, the families who are dependent on them, and the neighborhoods they operate in.

Our bodegas owners, like all small businesses, were hard hit by the COVID-19 pandemic as designated essential businesses. Business declined with the drop in customers, leading to the need to lay off clerks and to take out loans to stay afloat. Our members are currently facing competing costs as they have to pay back the loans, pay their rent, manage their payroll, and support their families. It is important to note that our merchants not only have financial responsibilities here but also back home due to the ongoing war in Yemen.

As the city plans for reopening, we demand commercial rent regulations. NYC's recovery from COVID depends on stabilizing rents for the small businesses that survived the crisis of the last 18 months. The rent crisis has been a concern prior to the pandemic. Many small businesses are



still struggling financially because of the pandemic and more recently Hurricane Ida. These small businesses urgently need commercial rent stabilization to help them recover.

YAMA is proud to continue our advocacy efforts on behalf of small businesses during these challenging times. Now more than ever, we need our partners in government to work alongside our members to assure small businesses are given the necessary tools to keep their businesses open and operating. We believe [Int. No.1976](#) is a step in the right direction.



TESTIMONY

Small Business Committee Hearing:
“The Importance of Commercial Rent Stabilization for Cooperative Businesses and Small
Businesses in the Wellness Sector”

Presented to

New York City Council, Committee on Small Business
Hon. Mark Gjonaj, Chair
Friday September 17, 2021

Prepared By:

Catherine Murcek, Worker-Owner
Samamkaya Yoga Back Care & Scoliosis Collective

Samamkaya Yoga Back Care & Scoliosis Collective

119 W 23rd Street, Ste. 406

646-964-5772

info@samamkayabackcare.com

www.samamkayabackcare.com

Thank you Chair Gjonaj and Honorable Council Members of the Committee on Small Business for the opportunity to testify, and for changing the hearing to a virtual one to increase accessibility. My name is Catherine Murcek and I am a worker owner at Samamkaya Yoga Back Care & Scoliosis Collective and an elected member of the Advocacy Council coordinated by the NYC Network of Worker Cooperatives (NYCNoWC), a partner organization of the Worker Cooperative Business Development Initiative (WCBDI) and a member of the United for Small Business NYC (USBnyc) coalition. The worker co-op community is so appreciative of your continued support for co-ops through WCBDI and we are now **urging you to support Intro 1796 for Commercial rent stabilization.**

Our community of democratic worker-run businesses is small, but mighty, predominantly led by women and people of color, representing communities across the five boroughs and a wide array of industries from cleaning to catering, manufacturing, media, childcare, and more. NYCNoWC is deeply committed to serving and lifting up the voices of its members for social and economic justice, especially in historically marginalized communities, through programs like the Advocacy Council, The Principle 6 Program, the Cooperative Sustainability Fund, and many more. Through NYCNoWC's Advocacy Council, of which I am honored to be a part, we are elected by the full membership and are given the tools and support to be able to bring our voices to policy spaces like these. After multiple years of research and collecting feedback we have identified priority needs of our community and developed our own NYC Co-op Policy platform (see www.workercoop.nyc), which many Council members have signed onto in support of. **Our municipal platform includes Intro 1796 because access to affordable commercial space continues to be a major priority for our community year after year.** The majority of co-ops in NYC have never even been able to access a brick and mortar space because the costs of rent are just too prohibitive. **A fair and just system of commercial rent stabilization would help to level the playing field, making much needed spaces more attainable not just for co-ops, but for all small businesses in communities that have been historically oppressed by a system that focuses on profit maximization over community wellbeing.**

My business, Samamkaya Yoga, is a beautiful, little, unique studio in Chelsea focusing on the therapeutic applications of yoga for people with a wide range of body types and ability levels, including those with Scoliosis, herniated discs, spinal fusion, and more. We even have an adaptive yoga class for folks with disabilities including but not limited to Multiples Sclerosis, prosthetic limbs, and neurological disorders like Parkinson's, Cerebral Palsy, etc. My 17 other worker-owners and I have been democratically running the studio together in the same space for the last 6.5 years, which we spent tens of thousands of dollars building out to our very specific needs with yoga rope walls and every kind of prop you can imagine.

The pandemic naturally wrought havoc on our business as it did the rest of the wellness industry in Chelsea and NYC's entire small business community. Our profits plummeted when we had to close our doors even though we were able to offer online classes. We were incredibly fortunate to have received both rounds of PPP and small grants from the Cooperative Development Foundation and the Cooperative Economics Alliance of NYC. However, demands to the city for commercial rent relief did not bear fruits, and because we did not qualify for the Employee

Retention Grant and Small Business Continuity Loan program, there was very little city-level support we could benefit from. The new lease we negotiated fortunately starts at a reduced rate, but gradually increases to “market” rate over the course of ten years. Unfortunately, that makes our future uncertain because our business has limited options for growing attendance because our space is so small. Moving to a different space would almost surely put us out of business because we haven’t been able to pay down the loan for our start-up costs to build out the space we already have. **Intro 1796 would protect our immense investment in our space and help us plan for the future by limiting the amount our rent can go up to ensure we can stay in our very unique space long term.**

Other wellness spaces in our neighborhood were not as fortunate as we were. One well-loved yoga studio I used to teach at in Flatiron, called Yoga Union, closed mid-pandemic after nearly 10 years of offering care, because they already knew at the end of their lease the landlord planned to double their rent which was already around \$14k / mo! These are the types of tragedies commercial rent stabilization would prevent. **The determinants of whether a small business will succeed or fail rely in a huge part on the whims of how much their commercial landlord wants to raise their rent at the end of the lease.**

To anyone who says that regulating commercial rents is bad for the economy I have to ask, is it good for the economy to close long-standing, well-loved businesses, causing workers to lose their jobs, adding to the blight of vacant storefronts, and making it harder for communities to build their own wealth, all in the name of maximizing profits for the few? Does it make sense that businesses are being forced to close while vacant spaces are being hoarded across the city, waiting for the highest bidder? **Passing Intro 1796 would be a monumental shift toward a just recovery, and is the right thing for the city to do right now to protect its small business community.** It’s true the bill is not yet perfect, but as a coalition member of USBnyc, I have included our recommendations for improvement in the Appendix below. I am confident the bill sponsor will listen to further feedback and make any amendments needed so that the bill can best suit all parties involved in a compassionate, cooperative way, but we need to get it passed first!

The pandemic is not over. High rents are by far the greatest obstacle our small business community faces. Commercial tenants should not be expected to bear a greater burden than their landlords, many of whom only care about maximizing profits and not about what that does to destroy neighborhood culture and economy. **Please pass Intro 1796 for commercial rent stabilization for a just recovery that will help our city thrive long into the future.** Thank you for reading my testimony.

APPENDIX A

USBnyc Recommendations for How To Improve Intro 1796 to Get Strong Commercial Rent Stabilization in NYC

Covered Properties

- Rewrite definition of covered commercial spaces so that it focuses on uses permitted by Certificate of Occupancy or lease in a particular space, as opposed to what any particular tenant is engaged in at any given time
- Add entertainment venues and places of assembly to covered spaces
- Add all commercial spaces where grocery stores are permitted to covered spaces
- Clarify that leasing where written lease is for less than year, but tenancy survives after written lease expires, are covered

Appointees to the Rent Guidelines Board

- The chair should have expertise in community development or community organizing, in addition to finance and economics
- None of the public members should be commercial landlords
- Mayoral appointments (and removals) should be approved by city council
- Add a definition of “chain business” for purposes of limiting appointee representing tenant perspective

Initial Rents

- The initial rent for an occupied space should be the rent 60 days before the law becomes effective (otherwise landlords will raise rents in the interim).
- The initial rent for a space that is vacant when the bill becomes law should be set based on the last lease for the space prior to the law going into effect.
- We would like to see a robust appeal process in place: tenants and owners should have 60 days after the notice of registration to file for an adjustment of the rent, with an opportunity for the other party to respond.

Operations of the Guidelines Board

- Add definition of “affected area:” an area defined by the board each year for the purpose of setting a uniform rent adjustment policy for that year. Each affected area defined shall be no larger than the entire City of New York, and no smaller than a community district.
- Clarify that the administering agency will be a new agency established by the Mayor, the Commercial Rent Guidelines board.
- Clarify that the Mayor will need to designate another agency to oversee compliance with the guidelines set by the board.
- Require landlords to register leases and all riders to the enforcement agency every year. Rents should be frozen after any year where a registration is missing, false, or incomplete. The freeze should be lifted only when all missing registrations are filed and all false registrations are corrected.

- The enforcement agency should send a complete rent history to the tenant every year. The history should include, if applicable, any overcharges, rent adjustments won through appeals or court cases, the effective date of any new and collectible rents, and any tax benefits or financing programs that apply to the building.
- The board must establish, and landlords of all covered commercial spaces must use, a standard vacancy lease (this is also in the Storefront bill of rights bill).

DO NOT Pass Intro 1796 or Intro 2299

Mr Levin & Speaker Johnson,

I own a small building in which my family lives in and we rely on the rent of the retail tenant. The retail tenant has a lot of money and they still haven't been paying their rent. They claim hardship due to Covid but their business has never been busier and everyone knows it.

I'm facing a possible foreclosure because my retail tenant is not paying me the rent that is owned and the court system is so backlogged that I can't even get a court hearing.

Under your proposal you are requiring me to give this tenant a renewal option which makes absolutely no sense.

PLEASE DO NOT PASS INTRO 1796 OR INTRO 2299.

Fundamentally they do not make any sense.

Thank you for your consideration.

Adam

Testimony in support of Intro 1796-2019, Regulation of Commercial Rent

To the NY City Council Small Business Committee:

I am submitting written testimony in support of Intro 1796-2019, Regulation of Commercial Rent.

I have been a resident of the East Village for 8 years, and of New York City for over 15 years, and in that time have been involved with many small East Village businesses such as East Village Vintage Collective and 3rd & B'zaar.

I strongly believe we need commercial rent regulation. I have seen directly the stress and fear that business owners feel when they cannot rely on a predictable rent pattern or cap. Small businesses are the backbone and cultural lifeblood of our neighborhoods, and they deserve to have confidence in their sustainability and livelihood.

This law would prevent drastic rent increases, and the fear of such. It would provide predictable rents, and would even the playing field between small businesses and bigger chains moving into the neighborhood. It would also reduce vacancies, which are an extra impediment to small businesses.

Passing commercial rent regulation now is urgent. Our recovery from COVID depends on stabilizing rents for the small businesses that survived the crisis of the last 18 months.

Please see the more detailed testimony below.

Sincerely,

Alex Carpenter
Resident, 219 Ave B, Apt 1B, New York, NY 10009

==

Intro 1796-2019, Regulation of Commercial Rent

Intro 2299-2021, Lease Agreements Concerning Storefront Premises

September 17, 2021

NYC Needs Commercial Rent Stabilization

The rising cost of rent impacts commercial tenants across New York City. The communities that tend to be hardest hit are communities of color and communities facing rapid gentrification.

Right now, there is no rent protection for commercial tenants outside their lease. No law prevents a landlord from raising rent by 400%.^[i]

We need commercial rent stabilization in order to curtail vacancies, to protect low-income and immigrant New Yorkers and to preserve culture and community in our neighborhoods.

Between 2007 and 2017, the commercial vacancy rate doubled across New York City, with many neighborhoods experiencing almost 20% vacancy rates. At the same time, retail rents rose an average of 22% citywide, with some neighborhoods seeing more than 50% rent increases on average. The vacant spaces you see are most likely empty because the landlord is holding out for rent much higher than a small business can pay, and the amount they want is an astronomical increase from the last rent a tenant paid at the same location. Many small rental buildings have changed hands in the last two decades, moving from small landlords to larger portfolios. Small and nonprofit landlords often charge reasonable rent increases to keep existing tenants in their space. The larger owners can and do wait for higher paying tenants.^[ii]

48% of New York City's small businesses are run by immigrants, and roughly 26% of New Yorkers work at a small business. When small businesses vanish, so do jobs, community spaces, and affordable goods and services. In 2019, 77% of immigrant small business owners surveyed in different commercial corridors stated they were overburdened by their current commercial rent. 28% said they had to lay off workers to meet the rising rents.

If rising rents do not push out local businesses altogether, they make goods too expensive to be affordable to the communities they serve, including low-income communities that depend on affordable goods and services within walking distance. When storefront tenants are blindsided by huge increases that force them to lay off workers.^[iii]

Some commercial landlords have given temporary breaks on rent, but nothing prevents them from increasing rent again at any time, leaving small businesses unable to plan for recovery. The pandemic has not reset the market for commercial spaces,^[iv] but with commercial rent stabilization, we have an opportunity to completely re-align the power structure and give small businesses a chance in the post-COVID world.

Commercial Rent Stabilization Helps Small Businesses Find Space and Grow

Learning from Residential Rent Stabilization: Commercial rent stabilization will protect commercial tenants from displacement due to exorbitant rent hikes and unregulated fees. It will provide stability for small businesses and the people who depend on them. This system builds on generations of know-how: 2.5 million New Yorkers already have rent stabilization in their apartments.

One Lease / One Number: Commercial rent stabilization would also ensure that pass-alongs like taxes and utilities are included in the rent, so that businesses can clearly predict the total cost of renting a space over time and are not hit with surprising bills that put their business at risk.

Planning for the Future: Today, small businesses have no idea how much their current space will cost once their lease ends; many are operating in spaces where they are month-to-month because renegotiating the rent after a lease expires comes with a huge risk of a rent hike. Many others have closed or moved because landlords demanded high rents when leases ended.[v] Setting guidelines on the rent ensures that small businesses can responsibly plan for the future, knowing how much they'll need to pay for use of the location their business needs to operate.

Level playing field: By ensuring that covered commercial spaces are regulated the same, regardless of who is renting them, ensures a level playing field for small businesses, rather than allowing chain businesses to out-bid them by agreeing to exorbitant rents.

Strengthening Intro 1796

Below is a summary of the improvements are crucial to improving Intro 1796:

Requiring that Mayoral appointments to the Guidelines Board be approved by the Council.

Adding small entertainment venues and places of assembly, and all commercial spaces where grocery stores are permitted, to covered spaces.

Setting initial rent for a space that is vacant when the bill becomes law at the amount of rent and pass-alongs paid by the last tenant of record.

Adding a robust appeal process through which both tenants and owners can file for an adjustment of the rent to bring rent into line with neighborhood norms.

Clarifying that the rent-setting agency will be a new agency, called the Commercial Rent Guidelines board, and another agency will be designated by the Mayor for enforcement (e.g. to oversee compliance with rent orders and handle overcharges and appeals);

Requiring landlords to register leases and all riders to the enforcement agency every year and requiring the agency to send copies of registration and a complete rent history to tenants every year.

Storefront Bill of Rights, Intro 2299

Unless rents are regulated, the below elements of the proposed Storefront Bill of Rights will not keep our cultural and community spaces from disappearing; however, when combined with Commercial Rent Stabilization and expanded to cover all the commercial spaces covered by Intro 1796 (not just retail stores that sell goods), the combination of Intro 2299 and Intro 1796 will form a robust framework for stabilizing New York City's smallest businesses, and we would support combining them in such a way:

Requiring a written lease for any tenancy longer than 1 year; though such a requirement needs to clarify that the lack of written lease will not be cause to terminate a tenancy and evict a tenant who wants to

stay.

Requiring landlords to use a standard vacancy lease.

Requiring commercial landlords to provide tenants with the Certificate of Occupancy, a record of violations issued or construction done during the 10 years before they move in.

Requiring continuously updated contact information for the landlord.

Allowing commercial tenants reasonable time to cure lease violations.

Providing a process for lease renewal and an option to extend the lease for up to one year in the event renewal negotiations fail, coupled with the rent protections in Intro 1796.

-//-

[i] See A. Randle, Is a 400% Rent Increase the Future of Coney Island? N.Y. Times (Jan. 15, 2020) <https://www.nytimes.com/2020/01/15/nyregion/coney-island-rent-hike.html>.

[ii] NYC Planning, ASSESSING STOREFRONT VACANCY IN NYC: 24 Neighborhood Case Studies

(Aug. 2019), <https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/assessing-storefront-vacancy-nyc.pdf> (“Some owners kept spaces vacant while seeking high rents;” “soaring rents contributed to higher vacancy”).

[iii] ANHD, The Forgotten Tenants: New York City’s Immigrant Small Business Owners (March 6, 2019), <https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners> (52% reported having to raise prices to make rent; 38% of businesses in Kingsbridge, Bronx reported having to fire workers in order to make rent).

[iv] Oscar Abello, Can NYC’s Storefront Registry Help Level the Playing Field for Embattled Commercial Tenants? (July 20, 2021), <https://nextcity.org/daily/entry/can-nyc-storefront-registry-level-the-playing-field-for-commercial-tenants> (“[Real estate broker] Francisco Gonzalez says during the pandemic he saw some vacant commercial spaces being offered at prices he hadn’t seen since the 1990s. But they were only offering leases at those prices for one or two years at most, anticipating they could re-raise rents to whatever they want once the pandemic is completely over. And now, even after some commercial tenants completely folded during the pandemic, Gonzalez says commercial landlords are already back to asking for prices that are close to pre-pandemic levels.”); see also M. Egkolfopoulou & C. Ballentine, New York Renters Face 70% Increases as Pandemic Discounts Expire, Bloomberg News (Sept. 15, 2021), <https://www.bloomberg.com/news/articles/2021-09-15/new-york-city-rents-landlords-jack-up-prices-70-in-lease-renewals-post-covid>.

[v] Abello, above, quoting Gonzalez: “They’re under contract [to rent their space] for so many years but

once that contract expires, the rents go up and the business closes. That's the real deal when it comes to that."

**TESTIMONY OF DR. TOM ANGOTTI TO THE NYC COUNCIL COMMITTEE ON SMALL BUSINESS
REGARDING THE PROPOSAL FOR COMMERCIAL RENT REGULATION**

SEPTEMBER 20, 2021

As a long-time advocate of strong legislation to protect small businesses throughout the city, I can appreciate some of the benefits promised by the law under consideration.

However, *I oppose this law* because it does not go far enough, preserves all of the problems tenants face with residential rent control, and dodges the most urgent responsibility of limiting the power of the real estate industry and its well-funded lobbyists in determining the future of the city. Most of all, it fails to make rent regulation part of officially-endorsed community-based planning that values both regulated preservation and regulated development.

The Council should table the proposal and consider substantial improvements that incorporate some of the elements of the long-ignored Small Business Jobs Survival Act. Most important, the law should guarantee long-term leases, an essential element in the preservation of local retail that serves community needs. It should incorporate long-term planning that protects the investments by “mom-and-pop” stores and aims to achieve community stability.

Finally, at a moment in time when commercial rents have plunged, the Council must come to terms with the perception that its legislation will only bail out property owners facing widespread vacancies without benefiting existing tenants over the long-term future.

As a long-time advocate of preserving and improving commercial retail in our vibrant neighborhoods, particularly communities of color and new immigrant neighborhoods, it is heartening to see the City Council finally move forward, but the current proposal is too little, too late and does not take into account the urgent need for long-term community planning that engages community residents, either via community boards or other venues.



Tom Angotti, Ph.D.
Professor Emeritus
Hunter College and The Graduate Center, City University of New York
tangotti@hunter.cuny.edu

Commercial Rents - Freeze!

Dear Speaker Johnson & City Council Members,

We are a small business located in Chelsea Manhattan NYC. We have been struggling very hard as a result of the covid 19 pandemic. We've been in business for 23 years, always solvent, always paid our bills on time. All the government help so far has help us to a degree. Unfortunately the biggest threat to keeping our small business going is the extremely high commercial rents.

We paid all our bills through out 2020, but could not continue to do so in 2021. We have been able to only pay half the rent, since January 2021. We make rent payments every month, but only half. When the last eviction protections expired, our landlord Olmstead Properties Inc - London Terrace LLC, immediately began eviction proceedings on us.

We are currently being help by Brooklyn Legal Services Corporation A, 1471 Fulton Street, Brooklyn, NY 11216
Christopher Antonelli, Esq.

Christopher is trying to get the landlord to lower the rents for the next year or two.

Please help us save our small business! Please vote to freeze the commercial rents. Please!

Thanks for your consideration,

Bertilda Garcia Gonzalez
Owner - President

Chelsea Barbers
465 West 23rd ST
Store Front
NY NY 10011

212-741-2254 Business
347-334-1078 Cell

www.chelseabarbers.com

Testimony to NY City Council Small Business Committee Hearing

From Beth Krieger, Upper West Side Save Our Stores (UWS SOS)

Friday, September 17, 2021

Re: Local Law Int 2299-2021

I want to thank the City Council's Small Business Committee for accepting our testimony in favor of Local Law Int 2299-2021, otherwise known as the Small Business Bill of Rights, seeking to amend the administrative code of the city of New York in relation to lease agreements concerning storefront premises.

I speak on behalf of Upper West Side Save Our Stores, a non-profit community advocacy group of residents that came together in January 2019 because of the growing epidemic of vacant storefronts in our neighborhood. As we educated ourselves about the problems of retail blight and its causes, we learned that, in 2018, the Upper West Side was among the top ten NYC neighborhoods in retail vacancies between 2007-2017; during that time, vacant retail space in New York City increased by 5.2 million square feet.

Now, as a result of the pandemic, this situation has only gotten worse.

Today, the UWS's Broadway corridor UWS (encompassing zip codes 10023 and 10024) is listed among the TOP THREE commercial areas suffering from vacant storefronts. We can only imagine what other neighborhoods are experiencing due to the thousands of small businesses (and chains) that couldn't survive the pandemic. In some locations, whole blocks are home to shuttered stores--many further hampered by unsightly scaffolding. Store vacancies contribute to darker streets, poor sanitation and safety issues that only exacerbate the loss of commercial businesses and the vibrancy of street life in our neighborhoods.

Thankfully, the historically high commercial rents on the Upper West Side that had led to many vacancies dropped in this year-- particularly on Columbus and Amsterdam Avenues. We've been encouraged to see new businesses opening. Our fear and that of our neighbors is that

property owners will deny renewals to these newcomers (many of whom have short-term leases) or will hit them with astronomical rent increases--dooming them to failure and us to shuttered businesses once again. This has already happened in the residential rental market: According to an article that appeared on Sept 15 in *Bloomberg Wealth*, "Landlords are jacking up rents — often by 50, 60 or 70% — on tenants who locked in deals last year when prices were in freefall." [[New York City Rents: Landlords Jack Up Prices 70% in Lease Renewals Post-Covid - Bloomberg](#)]

If we are going to come back as the robust city of neighborhoods that New York City has always been, and as a recovered, prosperous, and healthy home to business and residents alike, New York must be more business friendly by encouraging and supporting these small business owners—the young start-up entrepreneurs, the immigrants, the artists, the inventors—who are determined to make a go of it.

The legislation before us is attempting to UNTANGLE and MAKE MORE TRANSPARENT the most process involved in starting or building a business—the negotiation and renegotiation of a commercial lease. New York City government websites are unwieldy and mired in legalese. Legislation aimed at codifying practices and giving lessees the information they need—rather than making them search for it—should have already been in place! This is a low bar. But better late than never to ensure:

- Full disclosure of all the costs involved for the lessee (utilities, property taxes, commercial taxes, other fees/assessments)
- Statement of the potential for added costs related to construction, violations, repairs, scaffolding
- Clear information regarding time to cure violations
- Provision of the property owner's contact information with timely updates
- Fair process for renegotiating leases, with extension options and regulated, short-term rent increases
- Templates for contracts, *provided in multiple languages*

This last item, concerning the need for contract templates and information in multiple languages, was made so clear to some of our UWS SOS members recently, when we volunteered to help the Manhattan Chamber of Commerce distribute information to small businesses in our neighborhood. We went door-to-door to explain how they might get free help to apply for Federal PPP grants and loans and found that many business owners and employees in our neighborhood were immigrants whose first languages are Chinese, Vietnamese, Korean, Spanish, Italian...and more we couldn't identify. How can they possibly understand the jungle that is New York City commercial real estate law if they can't access the information easily and in their own language?

The members of UWS SOS are not small business owners. We are not commercial real estate brokers. We are not NYC commercial property owners. But we are residents. And taxpayers. And voters. As such, we consider ourselves stakeholders in seeing to the successful revival of the commercial life of our neighborhood and our city. Please advance this bill and undertake to pass it, so the NY City Council can address the challenges of small business owners and storefront vacancies as quickly as possible and help ensure the recovery of the city that is our home.

Bonnie Slotnick Cookbooks
28 E Second St., New York, NY 10003
212-989-8962
bslotnickbooks@gmail.com

September 17, 2021

To the New York City Council Small Business Committee:

My name is Bonnie Slotnick, and I am the owner of a 25-year-old business, Bonnie Slotnick Cookbooks, on East Second Street. Believe it or not, I don't sell my books online, yet I'm still in business. I would like to testify in support of Intros. 1796 and 2299.

In 2014 my previous landlord, HM Village Realty, refused to renew my lease at 163 West Tenth St., where I'd been a commercial tenant since 1999. I'd never been given more than a 3-year lease, and every third year I'd be choked with panic wondering if he would offer a renewal.

The first year my shop was on Tenth St. I was billed \$800 total for property tax. In fiscal year 2014-15 the total property tax bill was \$13,107.15. The rent increases were modest by comparison, but the monthly tax payments more than made up for that.

When my lease came up for renewal in 2014, I braced myself for another rent increase. Instead, I got a letter stating that the owner would not discuss a lease renewal. He didn't answer my phone calls or letters, and when I ran into him on the street, he jumped into his car and slammed the door shut.

When, without much hope, I began my search for a new space, I looked at tiny, overpriced storefronts in the East Village, some of them long vacant; some of them are still empty six years later. I was warned to avoid certain landlords because of their predatory ways.

My story, miraculously, has a happy ending, because Margo and Garth Johnston, who were born and raised in a house on East 2nd St. and now own it, reached out to me and *asked* me to be their tenant. These bookstore lovers, children of a literary family, gave me a 10-year lease (on a space three times the size of my previous shop) at an affordable rent, and they treat me like a member of their family. Unbelievably, at the start of the COVID lockdown Margo took the rent check I handed her and said, "You know, I'm not going to deposit your checks until this is over." I realize that not every small business can enjoy such incredible good fortune, but they should at least have a fair chance to stay in business.

Please pass Intros. 1796 and 2299, and please continue to create legislation to help the city's small businesses survive and thrive. I've lost too many of my colleagues already, and for no justifiable reason.

Sincerely,
Bonnie Slotnick

From: Boss Studio

To: WHOM CONCERN

High cost of commercial rent impact on the manufacturing business

In a business, there is some fix cost, such as overhead and rent. Rent is the big chunk of the overhead. Every country is pushing for customer spending and build up the economy. Without the base, local workers, to boost the economy, how could we push up the gpd. On the other hand, if the rent is too high, small business cannot survive, business close, workers get laid off, they drive the economy to go backward. Further, that drive the gap between the poor and the rich bigger, it will affect countries stabilize as well. Everything has to get their balance. If the housing rental can be stabilized and having subsidized housing, why we cannot apply the same theory to manufacturing. If the government rethink to support the manufacturing, export less know how and maintain the competitive advantage in the US, the US

bargaining power will be much bigger than today. The chips business will not be in the hand of Tsm or Samsung. The chip maker machine will not on the hand of Australia and Japan.

We move the manufacturing out of US in the 70..it makes us to face all the consequence now and our economy is down hill in a sense of under develop since we do not update for 20 years just like airport and subway system.

Therefore, here, I urge he government has to support the manufacturing to survive in this tough competitive environment and have a affordable ground for us to continue to contribute to the local economy.

Every Realtor boasts about us restaurants when they sell real estate in our neighborhoods. Look up any site and you will find my place. Those same realtors are fighting this bill and treating us like replaceables.

1998 I opened Chez Oskar in Fort Greene crime was high and we were glad if we had even 10 customers a day. We had put everything we had into this business with a 10 year lease. Constant renovations and repairs did come at a cost and we grew. With our neighbors we became Fort Greene's restaurant row and felt this great sense of community. We helped each other out with bags, napkins, tablecloths, gas for soda and more. Slowly all the little pioneers that made Fort Greene vibrant and multicultural have disappeared. None of the original businesses are still there - each (including me) has a painful eviction story.

Box stores and high end restaurants dot the streets. I was able to renegotiate my lease once when I still had 3 years left: charge me more and give me more years. My team is my family. Oskar's chef, Octavio Simanacas, had been with me since 1999, my GM Angelique Calmet Strakker since 2002. 2012 I realized my landlord was ripping me off on taxes and water bills. When confronted he said: "that's it, I'll never give you another lease". Luckily I was able to buy in Bed Stuy, but I still hurt from the loss of our corner.

In Fort Greene I had nothing to show for 18 years of really good business, no equity at all. My landlord sold my kitchen for scrap, collected key money and had a tenant paying more than double what I did. That is not equitable law and allows for many landlords to behave badly, so they do. It makes affordable dining impossible too.

Small businesses invest hundreds of thousands of dollars to open and when their leases are up there is no chance to take it with them nor do they have any rights to continue to conduct business in the communities they built. Every realtor loves to boast of the diverse family restaurants that make communities vibrant, so why are they fighting this bill?

Your landlord can play god. In this system of zero checks and balances. **A benevolent landlord is just a sucker. The rotten ones win.**

Here in Bed Stuy I am the only surviving business on my block because I own. Many dreams are shattered, now giant debts, while landlords have their mortgages on pause and wait for the pandemic to blow over. This is not equitable.

Businesses that invest into a place as much as restaurants do from sweat equity to solid infrastructure need rent stabilization. Look at the French model: a commercial lease is a lease for life and should be, much like once a taxi medallion

Let's clarify gentrification: there are communifiers and commodifiers:

Communifiers invest themselves and do their best to give services that improve life in their communities.

Commodifiers calculate how little they have to give and how much they can pull out of their community: keep empty storefronts, overcharge and bring in chain stores. What do they care? the less they give the more they will be rewarded.

We need laws that differentiate between the two. small businesses that work hard, invest themselves into communities should not be thrown out to benefit commodifiers/landlords. Differentiate and protect those who make communities vibrant and stop rotten landlords from shattering small business dreams.

Please follow the French model: that is why Paris is not a ghost town an NYC is.

Hello I am Dana Davis representing the fashion brand mara hoffman who has been operating in NYC for 21 years-We currently have our headquarters located in downtown manhattan with retail opening in November.

I am also here to represent The New York Fashion Workforce Development Coalition (NYFWDC) whose mission is to build an equitable and resilient fashion future for New York City through collaboration and by uplifting our individual and collective work.

Regulating commercial spaces will help level the playing field between small businesses like ours and larger chains that are coming into our neighborhoods. It will also reduce vacancies which as we know is a major problem right now. Limited rent increases ultimately means that stores are less likely to go out of business.

I also want to ensure the voices of our partners in this industry- the people behind each garment- the factories in the garment district. These individuals continuously need to vacate their spaces due to rent increases. Passing commercial rent regulation now is urgent. Our recovery from COVID depends on stabilizing rents for the small businesses that have struggled to survive the crisis of the last 18 months.

Please pass Intro 1796 now,

Thank you,

Dana Davis

Mara Hoffman Inc

dana davis | vice president of sustainability, product & business strategy

255 Centre St, 6FL

New York, NY 10013

P 212.505.3020 xt 108

M 917.549.2865

E dana@marahoffman.com

Hello My Name is Dana May Schwister,

I have been an entrepreneur in NYC for almost 30 years, and have lost two businesses in that time due to rent increases. At this point rents are so out of control that I don't know if I will be able to continue running my remaining business into the future. The unaffordable rents have created retail deserts in the city. Affordable commercial space benefits every one in the city, creating jobs and vibrant dynamic neighborhoods. I would love to see NYC revitalized with new commercial corridors of young striving entrepreneurs.

Thanks

Dana May Schwister

Hello - My name is Gabrielle Giattino, I am a small business owner on the lower east side and a tenant in district 33.

I'm sorry I cannot attend the hearing on Friday. I am traveling out of the country on Thursday, but I support the efforts of all of those fighting to pass commercial rent stabilization.

I own a small art gallery, and have for the past 11 years. I was very lucky during the Covid 19 lockdowns and slow downs. My clientele was able to keep supporting our business, and I could keep my staff and artists paid and employed. I know many neighbors both near my gallery, and my home who were not so lucky. Countless businesses closed, from Gaia Cafe on Houston to Brooklyn Spectacle on N5 in Williamsburg. I have seen a list of more than 100 businesses just in district 33 which closed in the past 18 months.

My 10-year lease is coming up for renewal in a year and because of issues due to leaking and poor maintenance I will need to move. I know that the market rate for retail spaces such as my own have at least doubled in the past 10 years. This, at a time when we see an incredible rate of commercial vacancies across the city.

At this rate, the only businesses that will survive the commercial rental market is the big box stores and chains. I've seen it happen in my neighborhood on Bedford Avenue in Williamsburg. It's banks and big chains. Small stores have survived by mutual aid and the kindness of citizens who raise money for them on go-fund-me. It's just wrong.

This is not what makes our city great. We are losing small businesses because of the stranglehold that big real estate has on our city and our politicians. We need to protect small businesses and make rent a predictable and sustainable expense, not a surprise, skyrocketing cost for business tenants.

I urge you to support this bill, to protect the innumerable small businesses who continue to struggle to make their businesses adjust to unreasonable rent increases.

Thank you,

Gabrielle Giattino

BUREAU
178 NORFOLK STREET
NEW YORK NY 10002
bureau-inc.com

Gabrielle Giattino
giattino@bureau-inc.com
+1 917 861 9300

The proposed Commercial Rent regulations will cause small landlords to write short leases, won't be as selective in their choice of tenants, and can't be flexible in reducing rents in a declining retail market (like the recent rise of e-commerce and Covid). Small property owners, the Mom & Pop owners like me will no longer be as selective or think in terms of long-term rather than short-term profit.

I have been the owner/manager of three commercial/residential buildings on the UWS for 43 years. My job, like that of my commercial tenants, is to make a living by selling my product (store space), not by providing charity to worthy retailers. Like many if not most small property owners, I know that if my tenants aren't successful financially, I won't be either. Consequently, under the current supply/demand market rent system, I have raised rents when the market is strong and tenants have had strong sales, and voluntarily lowered rents when retail sales have dropped. That's a common business decision, whether City Council members believe it or not. Market rents have risen and fallen for the past 40 years and not just because of e-commerce and, more recently, during the Covid pandemic. Most of my tenants have hung on during several recent years of declining sales and so have I - because we've worked together. It's a common story of mutual survival.

Profit is my motive and it's the motive of my tenants who charge customers what the market will bear, not what the legislature stipulates. I have frequently waited for the "right" tenant to come along rather than take one I felt would not compliment the other tenants in my building. As a result, most of my tenants have stayed in business for about 20 years. It's an absolute fact that my freedom and willingness to choose will end with the advent of commercial rent control. 1) I won't consider probable tenant-longevity when I have a vacancy. 2) I won't reduce rents and work with a good tenant who is having temporary difficulties, because I can't run the risk of establishing a new base rent. 3) I will favor credit-worthy tenants (banks, national stores) who will pay the rent in a downturn, even though they add nothing to the character of the block or compliment the neighboring businesses. 4) I will think "short term" regardless of how that affects my current tenants and the community.

Here's one of many examples of how commercial rent control will leave one of my current tenants and me worse off. In 2004 I signed a lease with a popular clothing store on Amsterdam Avenue, a wonderful destination tenant. Even with substantial rent reductions when their sales declined as former customers shopped increasingly online, they went out of business in 2018. There were a few responses to the "For Rent" sign I put in the window, but not many because the market was in bad shape. I turned down a vape shop, a liquor store (\$5 bottles and mixers), a bodega (there are two well-established bodegas on adjacent corners), a nail salon (there's one on the next block), and a couple of people who said they didn't know yet what they wanted to put into the space. Instead, I decided to take a month-to-month pop-up store operated by a woman with experience and a good idea, for a lower rent. Without commercial rent control I was

able to take a chance and it has paid off. She has paid a sliding rent geared to her sales, and although the business declined in the early months of Covid, it has continued to grow and now has a strong customer base. My decision was based on experience and the expectation of a long-term profitable relationship. Now she wants a lease but with the likelihood of commercial rent control, it's not in my best interest to give her one. The reason is simple. Her rent would have to start out at less than market rent and grow incrementally as her business grows during the next 10-15 years over the course of several anticipated lease renewals, as her rent would increase along with her sales. What if the renewal increases were capped by rent guidelines, though? I'd be worse off than if I took a market rate tenant now, whether or not it's long range prospects seemed good. Maybe my current pop-up tenant will take a one year lease at the higher market rent. If not, I know I can rent the store at a much better rent. I know because I've had fairly recent offers from a pizza restaurant (not my first choice because we live over the store and the neighborhood has many pizza shops) and a popsicle shop. If the vape shop comes back with the highest offer, I'll consider that, too. Vape shops aren't all that bad and if it goes out of business, someone else will come along. Everyone knows that landlords are greedy. But with commercial rent control, greed will have to be much shorter term.

--

George H. Beane

A.R. Walker & Company, Inc.

225 West 80th Street, Room 2B

New York, NY 10024

Good afternoon, Chair Gjonaj and the distinguished members of the Committee on Small Business. My name is Hani Salama, and I am Chair and Chief Executive Officer of the Building Owners and Managers Association of Greater New York, or BOMA New York. I appreciate this opportunity to testify regarding the two Commercial Rent Control bills being heard today.

As background, BOMA New York represents more than 750 property owners, managers, and building professionals who own or manage 400 million square feet of commercial space in New York City. We are an association within BOMA International, a federation of 90 US associations and 19 international affiliates that own and operate approximately 10.5 billion square feet of office space in the United States.

BOMA New York strongly opposes both Intro 1796 and Intro 2291. We encourage the Council in the strongest terms not to pass these bills, which are not legally viable, would not create good policies for protecting small businesses, and are not necessary.

First, the Council does not have the authority to regulate commercial rent. The New York State Bar Association determined as much in their 2018 "Report on Legislation by the Committee on Real Property Law." In a summary section titled "New York City is not authorized to enact legislation tantamount to rent controls," the Committee found that the Council could not enact commercial rent control via either its "general powers with respect to the property, affairs or government" or its "health and welfare powers." These are the only routes available to the Council, as there is no such authority granted by "its [City] charter, the State Constitution, the Municipal Home Rule Law or a State enabling statute."

The Committee also found that local laws that are inconsistent with a State interest are illegal. They conclude that such inconsistencies between "commercial rent control legislation and existing State Real Property Law are so substantial and involve such a significant State interest that commercial rent control laws enacted by the City would be invalidated."

Although this analysis was undertaken in relation to proposed local law 737-A of 2018, as you can tell from the language quoted above, the New York Bar Association's conclusions would apply to any legislation, including the two proposed bills being heard today, that are tantamount to commercial rent control.

Next, neither of these laws creates policy approaches that would substantially help small businesses, especially at this time, but also in general, and therefore they are unnecessary. The Council should look at other approaches to helping small businesses that are both within its legal jurisdiction and directly solve the problems those businesses face.

For starters, even as we start to come out of the COVID pandemic, the market is still in a very good place for tenants. Even in places like mid-town Manhattan, there is a significant amount of available space for small businesses, even in neighborhoods such as Times Square.

Although we see anecdotally cases of iconic businesses being forced out of long-held spaces due to major rent increases, this is far from the norm. Most building owners want to retain tenants, and only ask for relatively minor increases under renewed leases. At the same time, tenants of course can shop the market looking for better deals. Landlords also often add perks to keep tenants in place. BOMA New York, for example, gets one month free of rent each year.

After five years in the same space, our rent is set to increase, but not by an amount that raises concern.

What small businesses do face, however, is a maze of laws, rules, and regulations, and their associated fees and fines. And they often face a significant tax liability. These hurdles not only stop small businesses in their tracks, but they often prevent them from getting off the ground to begin with. Removing many of these regulatory and financial obstacles would go a long way in protecting and promoting small businesses in New York City, as would setting up a system to help them easily navigate the remaining ones. These are strategies that are well within the Council's purview. For example, the commercial rent tax should be repealed, letting small businesses reinvest their money, as they desperately need to do. Protecting legacy, minority- and women-owned small businesses, and other special classes of businesses from undue rent increases could be done through tax abatements for certain small landlords who often rent to those businesses. BOMA New York would be more than happy to work with the City and other stakeholders to identify and help implement such policies in the future.

Thank you once again for this opportunity to testify today. I'll be happy to take any questions.

Commercial lease rent control

I want to comment on your proposed Commercial Lease rent control. My building has 2 commercial stores and 22 rent regulated apartments. It is the commercial rents that are holding up this building. They help subsidize the rent stabilized and rent control apartments. If you want to regulate how much rent I can charge for my commercial store tenants, who is going to make up the difference in my income? Year after year, the city keeps jacking up my property taxes, but won't give me a commensurate amount in return in rent increases [Rent Guideline Board]. Do you think that is fair? Would you like it if I regulate how much money [salary] you can make? I think not.

Howard Chin

New York City Council
Committee on Higher Education
City Hall Park
New York, NY 10007

Dear Council Members,

My name is Hugo Fernandez, and I am a professor of Photography and Fine Arts in the Humanities Department at LaGuardia Community College. I am also a senator representing LaGuardia at CUNY's University Faculty Senate (UFS). For the UFS I serve as an At-large Member of its Executive Committee and as such am a representative at the CUNY Board of Trustees Committee on Student Affairs and Special Programs.

CUNY has counseling and wellness centers at every college, yet they are historically understaffed. In some cases, it is the same office that advises students on what classes to take as addresses their mental health issues. COVID has exacerbated the need for mental health services. While government funds such as the CARES Act have afforded the hiring of additional licensed clinicians, they tend to be part-time and will unlikely survive the inevitable funding cuts at the end of the COVID-19 pandemic.

Students are, on average, unaware that mental health counseling services, including multiple sessions per semester with a licensed psychotherapist, are available to them. To make that information known is something most CUNY staff would concede is woefully needed. Adding to the challenge, many students come from backgrounds with no historical precedence for receiving mental health counseling. The stigma associated with those services must be combated at every level: individual, family and student body. Meanwhile, those students who do seek mental health services, whether through private insurance, government funded programs, or through CUNY, encounter long waiting lists.

Most faculty experience student mental health issues when they manifest as struggles in the classroom. On rare occasions we can see the deeper issues behind problematic behavior and recommend students to take advantage of mental health services. But students cannot be mandated to attend, they must do so willingly. More often, symptoms go undiagnosed by faculty, who are not mental health professionals. Students struggle and, too often, either drop the course or fail, wasting valuable financial aid dollars.

Our students come to us with complicated histories. Most have suffered some form of trauma by virtue of living in communities of socioeconomic distress, exposure to domestic violence in the home, or even having escaped war and violence in their countries of origin. We also, of course, have a large population of veterans coming back from foreign wars who suffer from PTSD and other challenges. Other communities, such as our Asian students, are experiencing heightened xenophobia, and our LGBTQIA+ students are no strangers to the stress of intolerance. Then there is our population of students that are formally incarcerated who need all the support they can get.

Additionally, students are reeling from the stressors brought on by the pandemic, including the loss of family members and friends to COVID 19 illness, compounded by economic concerns, the pressures of adapting to online education, and the uncertainty of today's domestic and global environment. What we have is a perfect storm of need and a lack of services for the very folks who are, in many cases, already paying for those services through student fees and taxes.

In my research for this presentation, I discovered many programs throughout CUNY attempting to provide services that include suicide prevention, something our population is particularly susceptible to, as well as training for students to be mental health professionals in our community. One of the few rewards for surviving trauma are lessons learned that can be shared with others who are struggling. We have an opportunity—a responsibility—to take the needs of our students seriously, to help them to cope, to heal, to thrive. Perhaps some may even become the mental health leaders of our future city.

In my research for this presentation, I solicited feedback from faculty throughout the University. Many responded with specifics about their own experience and the work being done at their campuses. Some recommend taking advantage of recent tools of online education to work with groups and individuals as a possible solution to the problems. The folks at my own Wellness Center at LaGuardia have shared data from their work using CARES funds which to date has been quite successful, but it is subject to future funding. If you would like me to share this information with you and possibly continue this discussion through a dialogue, I am available.

Thank you for your time.

Sincerely,

Hugo Fernandez
Professor
LaGuardia Community College
646-250-8318
hufernandez@lagcc.cuny.edu

Below are bullet points that describe some of the Wellness Center’s initiatives throughout the COVID-19 Pandemic.

- The Wellness Center received CARES funding in 12/2020 to support the mental health and well-being of students. With the funding, 6 part-time clinicians with backgrounds in Social Work and Mental Health Counseling were hired. They supported the Wellness Center by providing individual and group counseling services (e.g. LGBTQIA Group, Asian-American Wellness Group, Grief & Loss Group, Self-Care for Spanish-Speaking Student, Anime for Wellness), crisis counseling for high-risk clients, presenting mental health workshops (in English and Spanish) on topics such as Anxiety & the COVID-19 Pandemic, Embracing Healthy Thinking, Managing Stress, Zoom Fatigue and more. They also supported events such as the annual Wellness Center Open House, Mental Health Screenings for Anxiety and Depression and Town Halls discussing mental health and Race. In addition, a part-time health promotions coordinator was hired to focus on improving the marketing and promotion of the Wellness Center. Their focus was (and continues to be) connecting with students and educating them about mental health and wellness via Social Media and other platforms.
- The CARES funding was also used to support the professional development of clinical and non-clinical staff. Each staff person was allocated a stipend to pursue training on a relevant mental health-related topic(s) to support students. Staff pursued training on topics such as suicide prevention, trauma-informed care and supporting individuals with anxiety and depression. In addition, training was purchased to educate and prepare clinicians to deliver mental health services via tele-mental health. Thirteen clinicians participated in the Telemental Health Training Certificate Program. The program provided evidence-based, advanced, and comprehensive training to prepare clinicians to offer behavioral health services while in a different location than the client through the use of technology.
- The Wellness Center received accreditation through the International Accreditation of Counseling Services (IACS) in 2019. IACS accreditation indicates that a counseling center opened its doors to a team of counseling professionals who reviewed and certified that its services meet the highest established standards in the field.
- SAMHSA Funding – Begins September 30th – focus will be on Suicide education and prevention education to Faculty, Staff , and students.

Data Information:

<u>Total Number of Attended Appointments since March 2020</u>	<u>3404</u>
Intakes and Individual Counseling sessions	89.80%
Students in Mental Health Crisis	7.30%

Identification with a Particular Group

No Identification	59.50%
LGBTQ (Lesbian/Gay/Bi-Sexual/Transgender/Queer)	22.50%
Veteran	0.50%
Person with a Disability	6%
International Student	5.50%
Non-Citizen	12.50%

Ethnographic

Data

African American / Black	20%
Asian American / Asian	17%
Hispanic / Latino/a	37%
Native Hawaiian or Pacific Islander	0.50%
Multi- racial	6%
White	11.50%
Other	4%

Hi Hugo,

I don't know if this is appropriate, but what about the use of the CARES Act funding allocation to support student mental health? Resources were rolled out, e.g. Kognito and Crisis Text Line, etc. What's been learned and how have they impacted CUNY students? What else is needed and how have CUNY students been invited to weigh in on this?

Ellen

From the University Student Senate. That could determine whether or not it's worth including in your points.

Hi Hugo!

How was your first week? Probably like mine... more of the same business...

I have a concern that doesn't seem to be taken into account by the current practices of our wellness center:

If students are dealing with difficult, personal issues, it may be very difficult to open up to one counselor and then another one in a short space of time. As far as I know, students meet with LAGCC counselors for a limited number of times.

Just my two cents...

Be well!

Tonya Hendrix

Collaboration

Benjamin Journey

4-year program 1.5 million 144 students peer specialist niche between trained specialist/buddy. Three-month curriculum office of mental health license internships employee partners institute for community health working with outside population "Lived experience" similar experiences trauma train current and former students

Got to be area

Framed as COVID Relief project – first responder program LaGuardia doing their part people are in need 6 month turnaround to help COVID

Wellness and Peace.

Our students have been impacted by the declining mental health of their children due to the increased negative use of social media and isolation during the pandemic. Our

students need to have resources directed towards helping them deal with their children's declining mental health.

Thank you for the opportunity to contribute to this ever evolving societal concern

Cordially
Dr Wright

Hi Matthew,
I hope that mental health issues involving anxiety, depression, and agoraphobia that many in the CUNY community are experiencing now that there is an opening up of places and activities could be discussed.

Thank you,
Naomi Zack

Naomi Zack, Professor of Philosophy
Lehman College, CUNY
250 Bedford Park Blvd West
Carman Hall 360
Bronx, NY 10468

718-960-1976

Good Evening Professor Hernandez,

Thank you for sharing. I am concerned about the lack of Mental Health professionals and effective programs on CUNY campuses. I believe more attention and resources should be made available to students needing Mental health counseling and assistance, especially at this time.

I wish you success.

Best,

Deborah

CUNY is falling way behind in providing professional mental health services. More quality therapists should be made available through health benefits.

Ying Zhu

Professor

College of Staten island

New Book: Soft Power with Chinese Characteristics: China's Campaign for Hearts and Minds

Prof. Fernandez,

I would like to see the Counseling Center proactively reach out to students with programming, activities, and check-ins rather than more passively waiting for students to come to them for help. I'd like to see greater efforts to normalize and de-stigmatize students (and faculty) seeking help for mental health challenges.

Regards,

Brett

[Brett Whysel \(He/Him\) Lecturer](#)

[Business Management | Fiterman 730M | \(212\) 220-8221](#)

[Borough of Manhattan Community College](#)

Good evening, Hugo,

I hope you are well.

That is great you are speaking at the NYC Council regarding this issue. My advice is that you inform the City Council that it is great if they would not only fund CUNY regarding mental health services for students, but they ALSO set up a marketing scheme so that the students are not only aware of the services but that they also need to feel comfortable with no stigma attached for receiving the services.

I hear through the grapevine that CUNY offers such services but the students are not utilizing enough of the mental health services. I bet the students are stigmatized...

Best,

Kimora

Reverend Professor Kimora

John Jay College of Criminal Justice

LPS; ANT; SOC; Honors; Core Faculty, Master's Program in Criminal Justice;
Chair, Student Affairs Committee, University Faculty Senate, (2017-2018)

Executive Committee, University Faculty Senate, (2018-2021)
CUNY Board of Trustees Student Affairs and Special Programs (2018-2019)
CUNY Board of Trustees Committee on Faculty, Staff and Adm (2019-2020)
CUNY Board of Trustees Committee on Facilities Planning and Management (2020-2021)
CUNY Interfaith Advisory Board (Member)
UFS Libraries and Information Technology (Liaison, 2018-2019)
UFS Status of the Faculty (Liaison, 2019-2020)
UFS Academic Freedom Committee (Chair, 2020-2021)
UFS Higher Education in the Prisons Committee (Liaison) (2018-present)
University Student Senate (USS) (UFS Faculty Advisor); SERC (2019-2020)
Faculty Coordinator, Corrections, at John Jay College of Criminal Justice
Correctional Education Academy (CEA) (Founder and President),(2019-present)
Princeton Review, Second Best Professor in the U.S., 2012;
Criminal Justice Pursuit, Best Criminal Justice Professor in the U.S., 2015
BMCC Distinguished Teaching Award, 2020
524 West 59th Street, Room 422T, NYC, NY 10019
kimora@jjay.cuny.edu

Hi..thanks for asking. We are about to launch the Bronx's first Counselor Education: Clinical Mental Health Counseling MSED program at Lehman so here goes:

Every counseling center should have much larger #s of licensed clinical mental health counselors and social workers.
We need to create training pipelines between both sets of clinical programs on multiple campuses and internships and future hires.

We need much more consultation with faculty, staff, and students in mental health in all levels of the institution.

We need trauma-informed training to address ongoing pandemics of racism and COVID19 and how they've increased mental health concerns for students on all campuses.

We need psychiatric care on all campuses...paid psychiatrists

We need couple and family counselors--LMFTs so many students are single parents and struggling with their own studies and the study and personal issues of their children and adolescents.

Thanks so much,

Stuart Chen-Hayes, Ph.D., NCC
Department Chair (interim), Counseling, Leadership, Literacy, and Special Education (CLLSE)
Professor/Program Coordinator, M.S.Ed. in Counselor Education: School Counseling
CUNY Lehman College

Carman Hall B-20A
250 Bedford Pk Blvd W, Bronx, NY 10468
stuartc@lehman.cuny.edu

Pronouns: He/Him/His

*VIEW my work: <https://tinyurl.com/msr24e7> [tinyurl.com]

*READ about CE:SC on our website: <https://www.lehman.cuny.edu/academics/education/counselor-education/index.php>

*REGISTER for a VIRTUAL Open House: TU 5-7pm Oct 5, Nov 2, Dec 2, 2021 & Feb 1 2022 online via ZOOM: <https://tinyurl.com/n6dk2sc> [tinyurl.com]

*APPLY: (opens 11/1; deadline 3/15; No late apps.!) <https://app.applyyourself.com/?id=lehmangrad>
[\[app.applyyourself.com\]](https://app.applyyourself.com)

Hello Hugo,

I'm writing regarding your solicitation for points to share with the Committee on Higher Ed. I am an associate professor of Media Studies at the Department of Film & Media Studies at Hunter College. In my department, I serve as a department advisor and have observed the following points:

- Many students are lost and confused by the combination of virtual and in person education. I've noticed students regularly inadvertently joining my lecture class when they mean to join others. It seems to be because of poor home connectivity and poor personal computers. **Internet connectivity needs to be a utility just as electricity, water and gas are.** With our lives increasingly online and with the pandemic some aspects such as education entirely online, internet access must be a utility. This I feel will benefit student's general mental health and the state of their homes.

- Our faculty are not trained to help students with learning disorders or mental health issues. There needs to be greater attention to CUNY offices dedicated to mental health resources, because faculty are not equipped.

- Students need greater training in using CUNYfirst and CUNYfirst needs to be updated to be more user friendly and accessible. Although largely functional, CUNYfirst appears to have the UX of a 2000 system.

Ricardo Miranda
Associate Professor, Media Studies
Hunter College, CUNY
President of the Board of Directors, Franklin Furnace

Dear Professor Fernandez,

Thank you for taking on this important task. I just had a couple of concerns, probably nothing that you have not already encountered, but with some students working front line essential jobs, including teaching, and others themselves parents of young children,

or caring for other family members who are older, or perhaps sick with COVID, the added stress has made learning, especially online, extremely challenging or at times crippling for a serious portion of our Queens College student population. I would say that as many as 10 percent are at risk in this respect, if I had to try to quantify my observation. Still another factor that is not directly related to mental health conditions, but affects it, is a lack of appropriate computer technology to work effectively from home. As instructors, I know that I and my colleagues have tried over the past year and a half to take this stress into account when grading and establishing deadlines for homework. On occasion I have also referred a student for counseling. What I don't think has been attempted, and I could be wrong, is a systematic survey of the student population aimed at measuring where these problems are grouped, and offering assistance to students in need. I know it's a really big system, thus a challenge, but the more personal and direct such outreach can take in form the better.

All the best,
Greg

Dear Hugo,

Each CUNY (I think each) now has a Kognito representative to train staff/faculty on best practices when encountering students with wellness challenges. Perhaps your rep has sent out the training for you and others to take at your College. It is a very good tool.

I've attached my outreach letter, which has some information that might coincide with your preparation. I sent this to 1500 emails at CityTech (staff/faculty, NOT students).

Best,

Prof. Justine Pawlukewicz

Dr. Justine Pawlukewicz [pav-lou-kiev-itch]

Justine Pawlukewicz LCSW, Ph.D., CASAC
Professor, Human Services Department
Kognito, Mental Health Liaison
CUNY/New York City College of Technology
285 Jay Street A805
Brooklyn, New York 10201
718-260-5135

<https://www.citytech.cuny.edu/human-services/>

"Homeless challenge, not Homeless Person"

Dear Hugo (if I may),

I received an email indicating that you are preparing testimony for the CUNY BOT about mental health resources for students. I have been concerned for some time about what I perceive to be a crisis-level epidemic of anxiety and depression among my students, especially at Hunter but also at the CUNY Graduate Center. This was very evident even

before the pandemic. In the last full, pre-pandemic semester at Hunter, a half-dozen students in my small course of c.25 students experienced major mental health crises that led them to withdraw from or fail the course. Once the pandemic hit, especially in Spring 2020, I received numerous emails from students who were caring for ill family members or for the children of ill family members, who had buried parents and grandparents, or who were sick themselves. Even in Spring 2021, I had a student who lost his mother in the middle of the semester.

I have many times had to function as an uncredentialed social worker. I have become aware that the counseling services, while very professional and well-intentioned, are far from adequate in meeting current needs. CUNY Central announced to a lot of fanfare some months ago that there was going to be an additional budget allocation for all the counseling services, but when I did the math it seemed that each campus would only receive slightly more than \$200,000. The needs are vastly greater than that.

I hope these observations are of use. Thank you very much for pursuing this issue with the BOT.

Regards,

Marc

Marc Edelman

Professor of Anthropology

[Hunter College](#) and [the Graduate Center](#), City University of New York

Tel. +1 212-772-5659

Dear Hugo,

I am an assistant professor at Biology Department at Lehman College. I have received an email on your behalf asking for input regarding the mental health of our students at CUNY, and I wanted to give you some input from my experience.

This semester I am teaching two classes in hybrid format, lecture and lab of Parasitology. I am encountering some students hesitant of vaccinating, not because they do not want to vaccinate, but because their families are religious and they kind of feel it like a betrayal to their families (this is my subjective opinion). I believe this is a more common situation that we may think. I would like to propose to approach different spiritual leaders of different religions that support vaccination, to be available to our students (and maybe families) to physiologically support them and provide them with a peace of mind. To help to explain them that vaccination has nothing to be with religion and that by vaccinating they are not committing any sin/insult to their religion.

I hope this information can help you in some way.

Best regards,

Julio

Julio Gallego Delgado, PhD
Assistant Professor
Lehman College, CUNY
250 Bedford Park Boulevard West
Bronx, New York 10468
Davis Hall, Room 024
Office: 347-577-4109
Lab: 347-577-4111

Dear Professor Fernandez,

Thank you so much for your work to represent the concerns of CUNY students at the City Council. I am a faculty member at BMCC and have worked on various projects that explore how our students basic needs are being met. As part of this work I have spoken with staff at our campus Counseling Center to understand the scope of their work.

My sense from speaking with my students is that the Counseling Center provides excellent care. However, I know from speaking with staff at the Counseling Center that they are stretched very thin. I have a couple of concrete suggestions to share that would improve their ability to serve our students.

1) **Hire more counselors.** In my conversations with counseling staff I have learned that there is a national association that provides guidelines for the ratios of counseling staff to students. (I'm sorry I can't recall the name of the organization, but if you want me to track it down I would be happy to do so.) I believe that BMCC's staff to student ratio is at the low end of the recommended ratio or perhaps even below it. This ratio is based on recommendations for all campuses, and I believe that, for a variety of reasons, our community college students may have even greater need for campus based counseling services.

2) **Dedicate more space for counseling services on campus, including larger rooms for group therapy.** Counseling staff would be able to serve more students with more dedicated space. This could be achieved in two ways: through offering group therapy sessions and through providing supervision for counselors in training, who could then serve more students with counseling sessions.

Again, thanks so much for your work on this. If any of this is unclear I'm happy to talk more.

Warmly,

Kirsten

Kirsten Cole

Teacher Education Department - Early Childhood Education
Borough of Manhattan Community College
199 Chambers St. S616G
New York, New York 10007
(212) 220-1289

Pronouns: she/her

CUNY is falling way behind in providing professional mental health services. More quality therapists should be made available through health benefits.

Ying Zhu

Professor

College of Staten island

New Book: Soft Power with Chinese Characteristics: China's Campaign for Hearts and Minds

https://urldefense.proofpoint.com/v2/url?u=https-3A_www.the-2Damerican-2Dinterest.com_2020_03_30_hard-2Dtruths-2Dabout-2Dchinas-2Dsoft-2Dpower_-3Futm-2Daccess-3Dmbayles&d=DwIFAg&c=2tStSn3Yyb7CMXxZW9nuG-Sh-vz6mhnySBmFi7HdCsM&r=cjb9_DgKYVfLEWHy5xE5p_ivJs29kC9kJ3N5YyIrE0&m=89JByvCnmxfW4VFGM_XIPwQCfbiknPqFjWXYGr-8R7ts&s=sREc68xL7Dv6WLMETJInc_DmVTAmXR1y3YmGBwWIPss&e=

Dear Hugo,

Thank you so much for asking for our input; it means a lot to know that you are willing to represent some of our thoughts and concerns at this important forum. I have included some of the things I hope you will consider including in your discussion, though I understand that might prove challenging in light of time constraints and the requests of others. Still, I can't help but hope they might somehow merit a mention:

- As a psychology professor, I see a persistent issue among my students of feeling deeply disconnected from their campus as a resource for their mental health. Even before the pandemic, so many students knew little to nothing of their capacity to receive psychological services from their campus counseling office at no charge. This, in great part, stems from counseling offices being too overwhelmed and short-staffed to perform even the most basic outreach and advertisement, and shortages in full-time staffing have also resulted in troubling inconsistencies in service provision

due to rotations of part-time counselors and general overloading of therapist case loads. *Funding toward the increase of full-time mental health staff is required in order to ensure continuous high-quality services on our campuses, as well as to curtail burnout among already overtaxed mental health staff currently and tirelessly working for our students. Funding is also required to provide counselors with any necessary equipment and training necessary to optimize telehealth service provision, since many of our mental health employees continue to serve our students virtually.*

- I serve as co-director of an intensive internship and training/pipeline program (Get PSyCh'D) that helps prepare aspiring mental health professionals on our 2-year campus for what lies ahead, both professionally and academically. They support their peers on campus by providing mental health information, valuable resources, and a compassionate ear. *With funding and support for more campus-based peer support programs like ours, more students will get a valuable opportunity to receive the support they need to progress in the field of mental health, not only as they support their fellow students, but also toward eventually competing graduate degrees in mental health fields and giving back to their larger communities as professionals.*
- I am the coordinator of the LGBTQI+ Resource Room on our campus, which has been met with both its greatest limitations and its greatest calls for action during these pandemic times. Our LGBTQI+ students, some of them struggling due to limited campus access, are facing particularly harrowing experiences as they seek community, emotional support, and access to myriad resources. Spaces like ours (staffed dedicated spaces serving LGBTQI+ students/faculty/staff) are uncommon in CUNY, as are specialized trainings and resources supporting the preparation of campus-based mental health service providers to handle the needs of LGBTQI+ clients appropriately. *More focus, funding, and professional development is sorely needed on all our regional campuses to support LGBTQI+ initiatives, programming, education and outreach for the benefit of LGBTQI+ student mental health.*

Once again, thank you so much for asking for our input; best of luck at the hearing!

All my best wishes,
Emily

Emalinda L. McSpadden, Ph.D.

Pronouns: All

Assoc. Professor, Psychology, Dept. of Social Sciences

Co-Director, Peer Support & Career Development Program (Get PSyCh'D)

Coordinator, LGBTQI+ Resource Room



#asiansforblacklives

BRONX COMMUNITY COLLEGE, CUNY

2155 University Avenue, Bronx, NY 10453
www.bcc.cuny.edu

One of the issues that I became more aware of after Covid was the interface of mental health support and learning/pedagogy. We had some students whose mental health issues impaired their ability to succeed in their classes. If they did not want mental health counseling then there was really nothing that we could do. The stance of the mental health folks on campus was that we can only ask if they wish to receive these kinds of services.

The problem is that many faculty do not know how to address the needs of these students in terms of their learning/course taking. I have wondered whether there was some kind of support that was not quite mental health counseling but something focused on helping students to understand what they could do to be more successful in the classroom despite their mental health issues. The Disability Services Office did not seem to have the resources for this kind of work. -Kevin Sailor

Kevin Sailor
Professor
Lehman College

Hi Hugo,

Per your request to share with you any points for you to mention to the NYC City Council regarding mental health, I send you this message regarding the needs of our medical students at CCNY. Although it is not in my official role to discuss mental health issues with students, as a learning specialist, these issues do come up during our sessions as mental health is inextricably linked to learning. Prior to the pandemic, there was never a wait list for our students to access mental health professionals but we have consistently had students since March 2020 having to wait months to be able to meet with someone. These students are our future healers and helpers. I would plead to those who have it in their power to increase mental health resources available to our students to think of the crucial role our medical students will play in the future. Most of these students will practice medicine in NYC, but not if they are plagued by depression, anxiety, and PTSD and receive no help. These are our students who are most at risk, yet they stand to revolutionize medicine by following part of our mission to diversify the physician corps in this country. We will need these students to care for us in the future so we should care for them now.

Let me know if you have any questions!

Anabelle Andon, Ph.D. (She/Her/ella)
Clinical Professor/Director, Learning Resource Center
International Editor, *Teaching & Learning in Medicine*
Students: [Make an appointment with me \[med-cuny.accudemia.net\]](http://med-cuny.accudemia.net)
Or, [Message me directly via Slack \[join.slack.com\]](https://join.slack.com)

[Visit our website](#)

Thanks for your invite.

I am concerned that students are really stressed about in person and hybrid courses, especially courses where students have to do fieldwork. The stress seems to be coming from the vaccination requirement, and the speed with which it changed from testing or vax, to must be vaxed. Students need support in understanding the need for vaccination, the safety and risks of vaccination, and reliable information rather than myths and fear mongering. They also need reliable info about the virus in general. There is also the trauma from lives lost, Covid brain fog, and fear of being in public.

Thanks for your work and all you do!!

Best,
Leslie

Dr. Leslie Craigo
Assistant Professor,
Teacher Education Department
Borough of Manhattan Community College
199 Chambers St, New York, NY, 10007 room S616 A
212 220 1218

Good afternoon.

Thank you for reaching out.

My colleagues and I at CSI and York conducted a study last year on the effects of COVID-19 on faculty and students at our 3 campuses. My article focused on the mental health of students during the evacuation of CUNY campuses and subsequent pandemic. I am sharing an excerpt of the article illustrating CUNY students' responses to our survey: ".....preliminary results are showing that the well-being of a large proportion of students is adversely affected. For instance, the prevalence of students reporting moderate or severe depressive symptoms (19.4%, 30.5%), moderate or severe anxiety symptoms (19.8%, 22.3%), moderate or severe insomnia (26.1%, 12.3%), and moderate or severe traumatic stress symptoms (18.5%, 26.4%) are trending high. The prevalence of COVID-19 stressors is also trending extremely high, with 85.7% of students reporting that they know someone who tested positive for COVID-19. What has been most astonishing is the high trending prevalence of students reporting that they know someone who died as a result of COVID-19 (70.6%). These preliminary results demonstrate a high prevalence rate of mental health symptoms among students during this COVID-19 pandemic. We have yet to examine any associations between a report of COVID-19 stressors and mental health symptoms. Nonetheless, these results reveal an urgent need

to develop appropriate crisis interventions and long-term mental health assessments and interventions for students during this COVID-19 pandemic."

The article, *A Call for Person-Centered and City-Centered Student Supports* is available through the Urban Social Work journal.

This is an important conversation. Thank you again for reaching out to CUNY faculty

*Crystal L. George-Moses, LMSW, MPhil.,
Lecturer
Department of Social Work
School of Health Sciences, Human Services, and Nursing
Lehman College, Carman Hall, B16-B
250 Bedford Park Boulevard West
Bronx, New York 10468
718-960-8418
preferred pronouns: she, her, hers,*

"My humanity is bound up in yours, for we can only be human together."
—Desmond Tutu

Hello Professor Fernandez,

Thank you for asking if any of us have input as you address the City Council. I am the chair of Reentry@Lehman and our Taskforce on Reentry. Our objectives are to make our campus more informed and educated on the challenges facing formerly incarcerated students and their families, and to offer support and welcome whenever we can.

All our students have been facing great odds this year but this marginalized community often faces even more obstacles with less support. If you can mention this to the committee so they can be sensitive to the emotional, financial, employment, housing and school related issues of justice impacted people, that would be appreciated! Thank you.

Penny Prince

Dr. Penny Prince
Reentry@Lehman
718 9607796

Hi Hugo,
thank you!

1. Our students need mental health counseling particularly grief support as many of them have had close relatives die of COVID-19. They speak about this with faculty and fellow students during classes. We can tell they are grieving and need support.

2. Our students need support for the anxiety and depression that come from fear and social isolation. Students reach out to faculty for emotional support regularly and we refer them to our Wellness Center, which needs continued funding and support. Support should be culturally

sensitive (and with different language options that support our diverse community) and appropriate for our students' various ages (some are just out of high school; other students are parents themselves, etc.)

3. Our students need financial support for books, art supplies for Fine Arts and Design courses, tuition, laptops/laptop loans, and internet service such as the broadband assistance from the FCC. Job/income loss and ongoing poverty contribute to negative mental health.

4. Our students need more outlets and visibility for their creative/literary/artistic responses to the pandemic -- we have students making art about their pandemic experiences, and these artworks and experiences represent NYC and deserve to be seen and heard, such as in the City of New York exhibition The COVID City. This type of outlet can support mental health and resilience.

Best,
Liena

I'm sure you've heard this many times, but my experience with student mental health is that it is negatively impacted by problems at home. These problems are frequently related to sickness or death in the family. These problems are exacerbated for international students who feel very stressed when they can't be near their loved ones in times of trouble.

Ken Abbott
(917) 714-4810

From: Howard Ruttenberg <hruttenberg@york.cuny.edu>

Sent: Friday, September 17, 2021 11:38 AM

To: Announce outcomes of deliberations and share information with full-time faculty <CIS-UFS@listserv.cuny.edu>

Subject: Re: On Behalf of Hugo Fernandez

Talking with trained therapists is part of the process by which education increases the capacity and strength of the minds of students. Since this is the greatest resource we have, it must not be regarded as an additional benefit to be sacrificed when necessity limits our budgets: some way must be found to increase the role of the therapeutic in education.

Dear Professor Hernandez,

Thank you for taking on this important mission: representing and advocating for the mental health needs of CUNY students at the New York City Council meeting next week.

Speaking as a professor and medical anthropologist (psychosocial aspects of HIV and breast cancer, especially stigma/shame), I am awed by the unrelenting stresses many of our students endure as they seek a higher education, their resilience, and the relief and empowerment a small

number of them get to experience when they learn they are not alone in their mental health suffering--that there is a name and reason for their suffering that is not their fault.

I don't know what your speaking points are, but I am sure you will cover the importance of sponsoring (funding) initiatives to create diverse venues where very busy students can learn about mental health--that the biomedical tendency to isolate and individualize pathologies does not mean they have failed in some way.

After a F2F class two weeks ago, a student came up and started sobbing--silently. She could not stop; she simply could not stop. I took her hand and patted it and told her to take her time. Finally, she was able to eke out how this was her first F2F class--that the past year, she'd performed poorly in classes--and it was all JUST TOO MUCH. Being so close to other human beings, social anxiety, the pressure to perform.

If students needed diverse forms of outreach before, they sure need it now; now is not the time for NYC to be stingy with its future, and that means funding current CUNY students' mental health wellbeing.

Thanks for reading this and all your hard work,

Robin Root, MPH, PhD
Professor of Anthropology
Department of Sociology & Anthropology
Baruch College, City University of New York
One Bernard Baruch Way
New York, NY 10010
Email: robin.root@baruch.cuny.edu
[Virtual office \[baruch.zoom.us\]](#)
[Faculty URL](#)

Hello

I have had success referring students for mental health services and getting quick response for them from the team at Hunter. However, what I often hear from students is that the referral process often leaves them scrambling and looking for therapists and other supports after those initial meetings. They get frustrated, discouraged and often give up. Im not sure if this is a follow up issue or that there need to be more short term mental health practioners that are available to students right at the college. I believe that there needs to be ongoing appointments/support for certain students until they have worked out another viable means of support.

Thank you for representing this issue
Louisa Thompson Pregerson
advisor Hunter College Department of Theatre.

Louisa Thompson Pregerson
Professor
Academic Advisor

Hunter College Department of Theatre
Baker Theatre Building Room 660
151 East 67th Street
Ny, Ny 10065

718-812-7287
lthomp@hunter.cuny.edu

ACADEMIC ADVISING

+

ZOOM OFFICE HOURS

Please make an appointment here:

<https://hunter-cuny.campus.eab.com/pal/oBiveJUkF9> [hunter-cuny.campus.eab.com]

Dear Hugo,

Thank you for inviting the community to pass along information, thoughts or concerns regarding mental health resources for students at CUNY.

If you are still taking thoughts for Monday's meeting, I'd like to share the following:

"In my 14 years working as a Social Worker within community-based organizations, the NYC Department of Education and now CUNY, I have borne witness to the interpersonal pain and violence felt by the communities I have worked with, as a result of the systemic barriers and lack of funding and resources (not) allocated to the most oppressed and marginalized communities of NYC.

As CUNY re-envisions a hybrid educational model, I would encourage the continued availability of tele-counseling for students, to include both individual and group counseling modalities, while also honoring an in-person option, if necessary. I would advocate for the continued option for counseling staff within CUNY to have the option to work a hybrid or remote model; and to allocate the appropriate funding for staff to be able to meet these needs. This honors the continued advocacy by persons with disabilities who have fought for decades for flexible remote work and educational policies, only to have these needs met as soon as it had impacted abled-bodied folks during the first wave of the pandemic.

Similarly, I am advocating for funding for at least a few licensed mental health professionals in all CUNY support programs - these programs can greatly benefit from the wisdom and mental health support for both staff and students; and of course, this would include re-envisioning the way we interface with current counseling centers within CUNY, whereas we would be able to enhance the collaborative work we already do with them.

It would be ideal if CUNY would be able to have satellite mental health clinics on every campus; working with students who may have limited access to external therapeutic resources, for reasons from status to lack of health insurance. Ideally, accessing this resource would be free for students.

I would advocate for more licensed mental health professional to staff every counseling center within CUNY; to have less than 20 staff members staff a counseling center that serves the community college in the thousands is frankly a gross misuse of public funding and perpetuates inequities in public funding around what is or isn't valued for students.

Lastly - licensed mental health professionals often need to participate in continued education for the rest of their lives, in order to maintain their state licensure - being able to maintain this licensure directly impacts their work with students - not only are licensed mental health professionals consistently keeping up with best practices within our professions; often times, this continued education can cost upwards of thousands of dollars every few years. It would be a step in the right direction for CUNY to consider supporting funding for licensed mental health professionals (aside from PSC funds) to support their consistent learning and development which would support the work we/they do everyday with students."

Thanks so much!
Adela

Adela Effendy (she/her/hers), LMSW
Program Coordinator
CUNY Start/Math Start at LaGuardia Community College
Cell phone: 646-926-7706

Dear Hugo Fernandez,

I am a counselor educator who retired two years ago from Brooklyn College where I taught in the masters level school counseling program for 19 years and before that taught human services and psychology courses at BMCC for over 5 years, where I found many students to be especially overwhelmed by the emotional struggles brought about by their challenging circumstances. I can reaffirm what I'm sure you already know and what other colleagues have told you, that most of our students have a tremendous need for mental health and counseling services. This need existed prior to and will extend beyond the already dire issues they continue to face from the COVID pandemic.

In a decent and just society CUNY would not have to fight the relentless cutbacks and attacks against our working class students and students of color in the name of bogus austerity claims, given that there is sufficient resources that are not being tapped, such as the failure to tax the wealthy's income. That is a primary and unacknowledged source of mental stress itself.

In such a healthy CUNYverse our struggling urban students and their families would deserve and have a sufficient number of counselors who are highly familiar with their particular stresses and traumas. While they would help alleviate student's stress and help them cope and function in school, they would have an informed and insightful understanding of the connection between inequitable social and economic

conditions and structures of communities, families, issues of immigrants and racial disparities on one hand, and students' stress, trauma, anxiety, depression, and issues of internalized issues of self-doubt, self-blame, individualistic competition, substance abuse on the other and work with others to change inequitable conditions.

That is, mental health is not just about adjusting and coping individuals for normative success in neoliberal terms of higher education but it should mean understanding the connections and working with others to transform the school culture and society itself. Professors and administrators would be educated in this regard and would be sensitized to build this knowledge into their classroom culture. There would be many support groups and discussions/teach-ins for students on the link between the social conditions and mental health, and task forces would be given the resources and commitment to work to change the overall climate and interpersonal culture of each campus. There would be a way for a college community to reflect on the meaning and value of a higher education within a polarized, neoliberal society instead of succumbing to materialist and corporatist pressures, majors, etc.

If there is an opportunity to work with others on this issue I would be happy to contribute.

Best,

David Forbes, LMHC, PhD
Emeritus Associate Professor, Urban Education Doctoral Program
CUNY Graduate Center

Associate Professor, retired
School Counseling Program
School of Education
Brooklyn College/CUNY

Author, *Mindfulness and Its Discontents: Education Self, and Social Transformation*
2019, Fernwood Press, Canada

Jake Skinner

Testimony for the New York City Council

September 17th, 2021

Good Morning, Councilpeople.

I am speaking today not just to inform on my personal interest, but on my greater experiences, awareness, and passion of the commercial restaurant business that will be affected by systemic rent increase.

Rezdora. Kochi. Jua. Tsukimi. Don Angie. Francie. Vestry. These are the newest Michelin star additions to New York City. These excellent restaurants, restaurants I dine at, restaurants New Yorkers dined at, kept alive, made popular, continued to make available to those agents of the Michelin group, would not be alive today if their rents were just a bit higher.

Not just these restaurants, recognized for their greatness. No, our local restaurants that are recognized for their local greatness. Casa Adela and La Fonda Boricua. Papaye and Africa Kine. The list really goes on, and on, and on. We could talk about noodle spots in Chinatown and argue whether it's Di Fara or Roberta that makes the best pizza. None of that will matter if you increase the rent on these institutions, especially now.

There is an inflationary bubble on food products right now. You'd seen it. Maybe your help has seen it. I don't know, you're public officials. You're rich, or something.

These prices aren't just felt by you, they are also felt by restaurants. The demand on lamb is high and the supply is low. Lambs are baby goats, after all. There were no restaurants buying lambs during the pandemic closure and now the lambs are all grown up. The farmers were smart and didn't breed more lambs when there wasn't a demand for it. Now there's a demand. Demand

is high. Supply is low. This is leading to an increase in price that is affecting how New York City restaurants create and price their menus.

This is just one example. We could easily look at how the recent Trump tariffs on wine have affected wine lists across New York State, but especially in New York City. Alcohol is generally the saving grace of restaurants and the demand for international products remains high. The commerce of wine from Europe has been steady, but vintage prices have been exaggerated due to the GOP driven political destabilization of international wine commerce. The distribution of Sake and Asian beers due to SARS-2 remains erratic, which poses a problem to Asian restaurants reliant on Japanese, Korean, and Southeast Asian alcohol lists.

We're still trying to emerge from the SARS-2 crisis. We need a concerted effort to protect the people who are trying to maintain New York City. I'm a native, one of the few and perhaps one of the last. I grew up in a very different Upper West Side than we have today. I remember Needle Park, but I also remember La Caridad. The ORIGINAL La Caridad. Remember that? No? It closed last year. A stalwart Puerto Rican restaurant for 52 years.

Remember Big Nick's? The sloppiest, oldest burger spot in New York, done-zo. How many people ate there? You don't know? Ask a local.

The P&G Bar. My babysitter used to work there. She was the first woman in the Bartenders Union. The bar was shown on Seinfeld. Is it still there? No.

Am I saying that we should protect every business? No. No, but we should encourage creative, ingenious, thoughtful people to present excellent cuisine. Taxes should not burden those who create new things. The market demands new things and, regardless of your perspective of LATE CAPITALISM, the market REQUIRES new things.

Ignoring the effect on business for just one moment, let's examine the effect that this new tax will have on the workforce. I'm a sommelier and I have been at several restaurants in New York City. That means I sell you wine. If you want wine at a nice restaurant, you're inevitably talking to someone like me.

Is that all I do? No. I deliver cocktails, take food orders, run food from the kitchen to your table, pick the dirty plates and silverware off the table, ask you how you're doing, make idle chat, and take an interest in your life. I'm one of the many cogs of the restaurant machinery that makes sure you have a good time when you go out to eat. Supporting this tax will either give me more to do at work without compensatory pay or make me unemployed, which I guarantee will make the hospitality experience less desirable.

This is what it comes down to: Without young business economy fails. Without new ideas, culture fails.

Be the smart, thoughtful city council we need you to be. Vote no on dumb ideas like taxing restaurants. We are the last semi-public spaces that you've allowed to be creative and fun. Let's do that right.

Dear City Council Members,

I am a small business owner. My grandparents, parents, uncles and aunts were immigrants to this country and when they came here, they became entrepreneurs. As a result, our extended family owns several businesses in Brooklyn and Manhattan.

Over the years, we have also went from renting the spaces we did business, to purchasing some properties so some of our businesses had permanent homes. Some of the properties has extra space our business didn't need to use, we rent out to other business tenants. We also rent commercial spaces we need as well where our properties are not appropriate to the business need, like warehouse space, retail outlets.

Our family are both commercial landlords AND commercial tenants, above all we are small business owners on both sides of the table. As such, we strongly stand against City Councilmember Levin's poorly thought out and deeply damaging bill, INTRO 1796, which will make doing business, especially for more vulnerable small businesses and startups harder, and will drastically consolidate NYC's real estate into the hands of large real estate corporations and developers. There will be no possibility for small business owners like my family to acquire real estate the way we did unless we were very cash rich and were able to generate far larger profits.

It is true that doing business in NYC is hard and has been getting more so. Affordability is an issue, and for us, it is largely NOT because of rent because 1) we are our own landlords and 2) where we rent, like most businesses, we negotiate long enough leases with contractually agreed upon increases to ensure that we recoup any investment we put into the location. It is unaffordable because of property taxes, insurance, and compliance.

Let's take property taxes, the one bill every space is supposed to pay. It is our "rent" to the city.

On one of our family's properties in Lower Manhattan, where we run a retail store on the ground floor and rent out office space upstairs, between 2010 and 2020, the property tax collected by the city went up by 77%. This comes out to an annualized increase of about 6% a year. For a property in Brooklyn (Sunset Park) where we occupy the entire property for a food business, the property taxes doubled in 10 years (annualized increase of over 7%). For another property in Brooklyn (Williamsburg) where we used to do manufacturing and now use as a warehouse and rent out, the property taxes went up almost 2.6x in 10 years (annualized increase of about 10%).

We have to increase the rent on all businesses on the properties to pay for the increased tax expenses, including rent for our own businesses. In fact, because there are leases with anywhere from 2-10 year terms in place for our tenants where the increases are already set at between 0% to 3%, we sometimes have to increase rent on our own businesses exclusively to make up the cash flow shortfall until a lease is over and we can re-adjust the rent based on the new property tax expenses. On a lease where I've had 3% annual increases the past 10 years while property tax has gone up 10% every year, I would have to more than triple the rent on a renewal to catch up to the increases that the city has given me.

When the city discusses affordability, they should take a look at themselves first. If I doubled the rent on that tenant upon lease renewal, people would claim that that was an unconscionable increase, and yet it is only $\frac{2}{3}$ of the increase the city has levied on that same property. That is utter and complete hypocrisy.

And now you want to have a Rent Guidelines Board determine what is fair? From what I've seen about the residential RGB, they average a minuscule 0%-2% increase annually, which completely disregards the increases in expenses we have, including from the city itself that can be 10x as much!! In tax year 2020, the city collected between 4% to over 14% more property taxes from us than tax year 2019, DURING A PANDEMIC. And how much of an increase did the RGB allow during that time?

If another RGB comes for our commercial properties, the only result I can see from this is that our businesses will become distressed and we would have to sell our properties. We get calls every day from developers who want to buy our properties, large ones with a lot of cash. Small business owners like our families would no longer be able to afford to own the property our business occupies and become vulnerable to displacement.

Doing business is always hard, but we're creative and the existing system already gives plenty of tools for small businesses to negotiate leases that give them what they need. If I am about to invest a lot of money into the space for their business, I can negotiate long term leases for 10, 20 years, or with options to extend. There are many property owners who have no issue with not having to look for a new tenant for the next 10 years. Adding additional arbitrary regulation will just distort the market the way it has for residential, where very wealthy individuals can occupy spaces for next to nothing while everything else is more expensive to make up for it. We don't need those games in commercial spaces.

If the city wants to make the city more affordable, they should take a look at themselves first. Aside from the unspoken and dramatic increase in taxes, there is an ever increasing burden in regulation, from gas inspections to COVID precautions, sprinkler bills, all of which increases our expenses and none of which come with support to implement.

Please support small business owners and small property owners and vote NO to INTRO 1796.

Sincerely,
Jane Lok

Hello, my company Chair up has sold restaurant and bar furniture to over 1000+ locations in New York tri-state area. Since we sell majority of our products to restaurants, venues and bars we struggle when they struggle.

The banning and limiting of of gatherings has made my products impractical for many commercial venues. The restaurant/bar industry is depleted and I am a supplier of that industry. Even after any ban/limiting is lifted a number of our customers will be drained of funds for many months (if they dont go out of business entirely. We have a showroom in Manhattan and a warehouse in Brooklyn that is very costly and with so many extra costs having to do with. We have experienced many price increases in the last 15 months mainly due to the increased cost of international shipping and inflation. Container rates have went from \$4,000 to \$34,000+ . On top of that raw material costs and domestic shipping costs are at the highest they have ever been. We are currently operating in an unprecedented inflationary environment. Ocean freight has continued to increase dramatically, raw materials are experiencing double, and triple-digit increases over the last several months and the USD has continued to be devalued against other currencies. In our many years in business, we have not experienced inflation of this magnitude and unfortunately, we do not see an immediate end to this costing pressure. We could really use some help in any shape or form and rent relief could go a long way for us.

jared@chairup.com

As a 25 year resident of Manhattan's upper west side, I have watched in dismay and disgust how unstable commercial rent policies decimate neighborhoods. In my neighborhood of the upper west side exists multiple, high traffic, optimal storefronts that sit empty - some for nearly 7 - 10 years! - in the 5 block radius of my address on west 83rd street. These vacancies pre-date COVID.

I own/operate an eco-product store and would love to have a presence in my neighborhood. My products are all sustainable, everyday products that help to reduce our daily waste footprint. It's a useful product. It would do well in a small storefront in my family populated neighborhood. But the amount of product that I would have to move to meet a \$10,000 monthly rent is a fantasy.

Please recognize that whatever real estate laws that make it possible for building owners to charge astronomical rents and/or leave storefronts empty (for years!!) for the tax incentives, play directly into the hands giants like Amazon. And amazon delivery and others popular online stores add to the congestion and carbon pollution plaguing our city.

If we want NYC to become carbon neutral while encouraging the local economy, the commercial real estate laws must be corrected in the name of walking, biking, livable communities. We can start by capping rent increases for our beloved and beleaguered small businesses.

Sincerely,

Jennifer Prescott
Owner of green design GOODS
Upper West Side, NYC

Jenny Dubnau, Artist Studio Affordability Project

I am also a commercial tenant.

The Covid economy is wreaking havoc on storefronts, restaurants, manufacturers and working artists. But the commercial affordability crisis in New York City was already at unsustainable levels prior to the pandemic. Each month, many small businesses are issued eviction warrants, priced out, or their leases are simply not renewed. Commercial leases are completely unregulated, and rezonings, with their unaffordable luxury towers, are decimating communities by causing upward pressure on both commercial and residential rents. Even before the pandemic, empty storefronts lined our streets, and hotels and high-end tenants are replacing jobs-producing manufacturers and working artists in our industrial zones. Make no mistake: many of these commercial tenants are not “failed businesses:” they just can’t sustain the insane rents that landlords are demanding. Many of our neighborhoods are left without supermarkets, beloved restaurants, or hardware stores. Local businesses are going under at a rapid pace as gentrification spreads through all five boroughs. These local businesses are the lifeblood of our communities: they are a stepladder to the middle class for countless families, many of them immigrants and people of color, and provide vital jobs and services to neighborhood residents.

The landscape of commercial renters is also a crucial arena for cultural expression. Without a doubt, the community of working artists in NYC is at a tipping point, with virtually no affordable industrial neighborhoods left in the city. Many working artists, dance troupes, and musicians are losing their spaces, and some are leaving New York. But local businesses like restaurants, bodegas, dance schools and barbershops are cultural too! Small businesses help shape and express the cultural life of immigrant and Black communities—the streetscape is where New Yorkers really live, and we cannot allow our community cultures to be destroyed by landlord greed. The system is completely out of balance, and cries out for regulation. New York City’s neighborhoods are being hollowed out by hyper-gentrification, and the commercial rent crisis is a major factor.

A crucial solution to this crisis is legislation that addresses the unsustainable rise in commercial rents, and the Commercial Rent Regulation bill is what NYC needs, right now. I would love to see this terrific bill passed immediately, and strengthened in four ways: 1) by adding right-to-renew protections, so businesses can remain in place. 2) I advocate for the removal of any square footage limitations, for both manufacturing and storefront space: there are plenty of large spaces that need protection, like dance halls, supermarkets, and larger manufacturers. If the intent is to limit big box stores, that should be addressed with separate legislation. 3) Commercial tenants need long leases in order to sustain themselves: I would like to see 10-year leases mandated in the bill, if requested by the tenant. 4) Improve the balance on the commercial rent guidelines board so at least half of the 9 members are either commercial tenants, or community activists.

NYC had true commercial rent control from 1945-1963, and it survived numerous court challenges. We can do this—pass the Commercial Rent Regulation bill!

Testimony before City Council

September 17, 2021

Subject: intro 1796 and 2299

By: James Wacht, Owner "My Gym" and "Lee & Associates NYC"

City Council members, thank you for this opportunity to present testimony in opposition to intros 1796 and 2299

I am a retailer. I own two retail locations in Brooklyn operating under the tradename "My Gym". I also am a part of the Barber Surgeons Guild. We opened our first location in Soho 3 years ago. I also was a part owner of 5 bagel stores in Manhattan.

I'm also the principal owner of a real estate commercial brokerage company, Lee & Associates, that represents both tenants and property owners in the 5 boroughs.

I have many objections to these 2 proposed bills but rather than repeating what many of my colleagues today will say, I would like to focus on 2 points.

First, As a retailer myself looking to open new locations and as a real estate professional assisting other businesses doing the same, I rely on the natural turnover of space to find new locations for these businesses. This turnover gives us the opportunity to open new businesses that serve our communities, provide new jobs and invest significant capital in our city. The laws being proposed today would severely impact this process by artificially keeping rents low. This would put a substantial damper on the opening of new businesses in the city.

Secondly, as a longtime resident of the city, I'm concerned that both of these laws will significantly decrease property values, resulting in a significant loss of tax revenues for the city. property related taxes contribute over 35% of the revenues to the city's budget. Approximately 30% of every rent dollar that a property owner collects gets paid over to the city as real estate taxes. By keeping retail rents artificially low, which both of these laws would do, the city's tax base would be profoundly impacted. This is not something that the city can now afford. Before either of these laws can be put to a vote the city must perform a fiscal impact study of these proposals.

While I applaud the efforts of the City Council to address the needs of mom-and-pop businesses these 2 far-reaching laws will cause more harm than good. There are other less drastic alternatives for the city Council to consider

I have been a New York City for all of my 66 years. Like all of you, I love my city and, like all of you, I want to see my city work for all of its people, tenants and property owners alike

Thank you for listening.

Corey Johnson
Speaker
New York City Council

Dear Corey,

As a member of the Board of Directors of 12 Street Apartment Corp., a middle class coop located at 15 W. 12 St. and as a long term resident of your district, I ask that you oppose Intro 1796 as such legislation would mindlessly and unnecessarily impart severe harm to our coop and all other coops and condos in your district. As you may be aware, Intro 1796 would impose rent control measures on the lease of professional space even though there is a surfeit of such space in your district that lies empty as a result of the current economic circumstances. As a result, coops and condos that own such spaces have found it necessary to significantly reduce rent in order to retain existing tenants and to elicit interest on the part of prospective tenants. In fact, the wide availability of professional space in your district has always capped the rent asked by coops and condos for such spaces. Tenants and their brokers know that if a particular building will not accept a lower rent and/or does not undertake the capital improvements demanded by a prospective tenant, it is very likely that a building down the street would be happy to do so.

Please understand that, in the case of coops and condos, the income generated by professional units does not accrue to the benefit of wealthy landlords. On the contrary, all such income goes to support the operations of the coop or condo in question, including, real property taxes and other significant costs incurred in connection with mandates imposed by the City as, for example, the steep costs of compliance with the Climate Mobilization legislation.

One of the more perverse and very likely unintended consequence of Intro 1796 would be the harm imparted to the many Seniors who own modest apartments in the rear or lower floors of coops and condos in your district and whose main source of income is a pension and/or social security. Deprived of the income generated by the professional units, but obligated to undertake expensive capital improvements and to pay for ever increasing real estate taxes, City mandates and labor costs, coops and condos would have no option but to increase the already high maintenance and common charges payable by owners. In the case of Seniors surviving on fixed income an increase in maintenance would rob them of the ability to eat out on occasion, perhaps catch a Broadway show or buy a toy for a grandchild. In my case, as a 75 years old retired City worker the spiraling costs of housing are pushing me out of the neighborhood I've lived in since 1984 and that I have worked hard to make it the great place it is today. I know that you, Corey, as well as the sponsors of Intro 1796 are dedicated tenant advocates. Why, I ask, am I put in a situation where my housing costs would inordinately increase while my counterparts and demographic mirror images who rent their homes are protected from such mishaps? This is not fair. Please don't allow coops and condos in your district and their residents to be harmed for no good reason. Please don't make it impossible for me to continue living in my home.
Reject Intro 1796

Jorge Garcia
<jgarcia14@nyc.rr.com>

As a New Yorker interested in starting a small business, I find unreliable rent on a space to be prohibitive and is the main point of concern I have for actually committing to that business. I'm interested to attend today's hearing to better understand what City Council can do to support small businesses. As a New Yorker who likes to patron local businesses, I am sad to see businesses close due to rent increases!

Laura Lupton

On commercial rent

In New York city, this is how currently commercial rents are working out: the landlord, who owns the building where the local is situated, and the business owner, who wants to rent the commercial space, sign a contract, (a lease) which has a certain length (5 years, 10 years for instance), which agrees on a certain monthly rent, a certain escalation (how much the rent will go up each year, typically about 4% per year) and other conditions such as whether the tenant will pay part of the real estate taxes, who is responsible for maintaining the sidewalk, and whether and how one or the other party can get out of the contract early (before the lease is up) in case, for instance, the business fails. When the lease is up, after typically 5 or 10 years (depending on the lease), the business owner, tenant, has no right. The contract is over. It is as if the previous relationship has never existed. If the landlord wants to double the rent, she can. Recently, because of speculation in real estate, gentrification, and consolidation in the ownership of properties (landlords tend to be bigger companies which want higher profitability than the traditional mom and pop landlords of the past), lots of landlord have chosen to do so, effectively putting out of business businesses which were otherwise profitable, earning an income to their owners and employees and increasing the quality of life of their customers in their neighborhood. Besides, the city lost these businesses' income taxes, payroll taxes, and sales taxes. It lost the income taxes of the employees too. Everyone agrees this is absurd, sad, inhumane, counterproductive, etc. And the only thing one needs to pass as a legislation is one that in some way, when the commercial lease is up, there are some limits to what the landlord can do to the tenant, and the commercial tenant has some rights to renew her lease.

Now I must qualify this with a thought about landlords. While they are typically better off than their tenants, they also need to make a living. Our city MUST also rethink the way it collects real estate taxes (maybe upon the sale of a building rather than the value of the building) so as to prevent real estate taxes going up 8% per year lately. How can a landlord make money if she collects rent going up 4% on commercial spaces and 2% on residential spaces and must pay real estate taxes going up 8%? Same with water and sewer (which have been going up much faster than inflation -- I believe 6% per year, and which landlord must provide to their residential tenants for free). And our city MUST revisit and rethink certain regulations which, while well meaning, end up costing building owners a lot of money in building maintenance, such as local law 11 for instance.

Thank you for your time and attention.

Laure Travers

Testimony in support of Intro 1796-2019, Regulation of Commercial Rent

To the NY City Council Small Business Committee:

I am submitting written testimony in support of Intro 1796-2019, Regulation of Commercial Rent.

I have owned a small (micro) business in the East Village for over 6 years, and I have never had a predictable rent pattern. I have always had to worry about the amount of my next rent increase, whether I will be able to renew, and thus the ultimate sustainability of my business and livelihood.

This law would prevent drastic rent increases, and the fear of such. It would provide predictable rents, and would even the playing field between small businesses like mine and bigger chains moving into the neighborhood. It would also reduce vacancies, which are an extra impediment to small businesses.

Passing commercial rent regulation is now more urgent than ever. We are one of the businesses who survived the crisis of the last 18 months (so many didn't), but we need commercial rents stabilized for our community to fully recover from COVID.

Please see the more detailed testimony below.

Sincerely,

Maegan Hayward
Owner, East Village Vintage Collective
545 East 12th Street, New York, NY 10009

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Intro 1796-2019, Regulation of Commercial Rent

Intro 2299-2021, Lease Agreements Concerning Storefront Premises

September 17, 2021

NYC Needs Commercial Rent Stabilization

The rising cost of rent impacts commercial tenants across New York City. The communities that tend to be hardest hit are communities of color and communities facing rapid gentrification.

Right now, there is no rent protection for commercial tenants outside their lease. No law prevents

a landlord from raising rent by 400%.^[i]

We need commercial rent stabilization in order to curtail vacancies, to protect low-income and immigrant New Yorkers and to preserve culture and community in our neighborhoods.

Between 2007 and 2017, the commercial vacancy rate doubled across New York City, with many neighborhoods experiencing almost 20% vacancy rates. At the same time, retail rents rose an average of 22% citywide, with some neighborhoods seeing more than 50% rent increases on average. The vacant spaces you see are most likely empty because the landlord is holding out for rent much higher than a small business can pay, and the amount they want is an astronomical increase from the last rent a tenant paid at the same location. Many small rental buildings have changed hands in the last two decades, moving from small landlords to larger portfolios. Small and nonprofit landlords often charge reasonable rent increases to keep existing tenants in their space. The larger owners can and do wait for higher paying tenants.^[ii]

48% of New York City's small businesses are run by immigrants, and roughly 26% of New Yorkers work at a small business. When small businesses vanish, so do jobs, community spaces, and affordable goods and services. In 2019, 77% of immigrant small business owners surveyed in different commercial corridors stated they were overburdened by their current commercial rent. 28% said they had to lay off workers to meet the rising rents.

If rising rents do not push out local businesses altogether, they make goods too expensive to be affordable to the communities they serve, including low-income communities that depend on affordable goods and services within walking distance. When storefront tenants are blindsided by huge increases that force them to lay off workers.^[iii]

Some commercial landlords have given temporary breaks on rent, but nothing prevents them from increasing rent again at any time, leaving small businesses unable to plan for recovery. The pandemic has not reset the market for commercial spaces,^[iv] but with commercial rent stabilization, we have an opportunity to completely re-align the power structure and give small businesses a chance in the post-COVID world.

Commercial Rent Stabilization Helps Small Businesses Find Space and Grow

Learning from Residential Rent Stabilization: Commercial rent stabilization will protect commercial tenants from displacement due to exorbitant rent hikes and unregulated fees. It will provide stability for small businesses and the people who depend on them. This system builds on generations of know-how: 2.5 million New Yorkers already have rent stabilization in their apartments.

One Lease / One Number: Commercial rent stabilization would also ensure that pass-alongs like taxes and utilities are included in the rent, so that businesses can clearly predict the total cost of renting a space over time and are not hit with surprising bills that put their business at risk.

Planning for the Future: Today, small businesses have no idea how much their current space will cost once their lease ends; many are operating in spaces where they are month-to-month because

renegotiating the rent after a lease expires comes with a huge risk of a rent hike. Many others have closed or moved because landlords demanded high rents when leases ended.[v] Setting guidelines on the rent ensures that small businesses can responsibly plan for the future, knowing how much they'll need to pay for use of the location their business needs to operate.

Level playing field: By ensuring that covered commercial spaces are regulated the same, regardless of who is renting them, ensures a level playing field for small businesses, rather than allowing chain businesses to out-bid them by agreeing to exorbitant rents.

Strengthening Intro 1796

Below is a summary of the improvements are crucial to improving Intro 1796:

Requiring that Mayoral appointments to the Guidelines Board be approved by the Council.

Adding small entertainment venues and places of assembly, and all commercial spaces where grocery stores are permitted, to covered spaces.

Setting initial rent for a space that is vacant when the bill becomes law at the amount of rent and pass-alongs paid by the last tenant of record.

Adding a robust appeal process through which both tenants and owners can file for an adjustment of the rent to bring rent into line with neighborhood norms.

Clarifying that the rent-setting agency will be a new agency, called the Commercial Rent Guidelines board, and another agency will be designated by the Mayor for enforcement (e.g. to oversee compliance with rent orders and handle overcharges and appeals);

Requiring landlords to register leases and all riders to the enforcement agency every year and requiring the agency to send copies of registration and a complete rent history to tenants every year.

Storefront Bill of Rights, Intro 2299

Unless rents are regulated, the below elements of the proposed Storefront Bill of Rights will not keep our cultural and community spaces from disappearing; however, when combined with Commercial Rent Stabilization and expanded to cover all the commercial spaces covered by Intro 1796 (not just retail stores that sell goods), the combination of Intro 2299 and Intro 1796 will form a robust framework for stabilizing New York City's smallest businesses, and we would support combining them in such a way:

Requiring a written lease for any tenancy longer than 1 year; though such a requirement needs to clarify that the lack of written lease will not be cause to terminate a tenancy and evict a tenant who wants to stay.

Requiring landlords to use a standard vacancy lease.

Requiring commercial landlords to provide tenants with the Certificate of Occupancy, a record of violations issued or construction done during the 10 years before they move in.

Requiring continuously updated contact information for the landlord.

Allowing commercial tenants reasonable time to cure lease violations.

Providing a process for lease renewal and an option to extend the lease for up to one year in the event renewal negotiations fail, coupled with the rent protections in Intro 1796.

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[i] See A. Randle, Is a 400% Rent Increase the Future of Coney Island? N.Y. Times (Jan. 15, 2020) <https://www.nytimes.com/2020/01/15/nyregion/coney-island-rent-hike.html>.

[ii] NYC Planning, ASSESSING STOREFRONT VACANCY IN NYC: 24 Neighborhood Case Studies

(Aug. 2019), <https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/assessing-storefront-vacancy-nyc.pdf> (“Some owners kept spaces vacant while seeking high rents;” “soaring rents contributed to higher vacancy”).

[iii] ANHD, The Forgotten Tenants: New York City’s Immigrant Small Business Owners (March 6, 2019), <https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners> (52% reported having to raise prices to make rent; 38% of businesses in Kingsbridge, Bronx reported having to fire workers in order to make rent).

[iv] Oscar Abello, Can NYC’s Storefront Registry Help Level the Playing Field for Embattled Commercial Tenants? (July 20, 2021), <https://nextcity.org/daily/entry/can-nyc-storefront-registry-level-the-playing-field-for-commercial-tenants> (“[Real estate broker] Francisco Gonzalez says during the pandemic he saw some vacant commercial spaces being offered at prices he hadn’t seen since the 1990s. But they were only offering leases at those prices for one or two years at most, anticipating they could re-raise rents to whatever they want once the pandemic is completely over. And now, even after some commercial tenants completely folded during the pandemic, Gonzalez says commercial landlords are already back to asking for prices that are close to pre-pandemic levels.”); see also M. Egkolfopoulou & C. Ballentine, New York Renters Face 70% Increases as Pandemic Discounts Expire, Bloomberg News (Sept. 15, 2021), <https://www.bloomberg.com/news/articles/2021-09-15/new-york-city-rents-landlords-jack-up-prices-70-in-lease-renewals-post-covid>.

[v] Abello, above, quoting Gonzalez: “They’re under contract [to rent their space] for so many years but once that contract expires, the rents go up and the business closes. That’s the real deal when it comes to that.”

From: Boss Studio

To: WHOM CONCERN

High cost of commercial rent impact on the manufacturing business

In a business, there is some fix cost, such as overhead and rent. Rent is the big chunk of the overhead. Every country is pushing for customer spending and build up the economy. Without the base, local workers, to boost the economy, how could we push up the gpd. On the other hand, if the rent is too high, small business cannot survive, business close, workers get laid off, they drive the economy to go backward. Further, that drive the gap between the poor and the rich bigger, it will affect countries stabilize as well. Everything has to get their balance. If the housing rental can be stabilized and having subsidized housing, why we cannot apply the same theory to manufacturing. If the government rethink to support the manufacturing, export less know how and maintain the competitive advantage in the US, the US

bargaining power will be much bigger than today. The chips business will not be in the hand of Tsm or Samsung. The chip maker machine will not on the hand of Australia and Japan.

We move the manufacturing out of US in the 70..it makes us to face all the consequence now and our economy is down hill in a sense of under develop since we do not update for 20 years just like airport and subway system.

Therefore, here, I urge he government has to support the manufacturing to survive in this tough competitive environment and have a affordable ground for us to continue to contribute to the local economy.

Monique Wong

testimony to support Intro 1796

My name is Natasha Amott and I am a small business owner. I am testifying in support of Intro 1796 because I believe there has been a long developing commercial affordability problem in NYC and we cannot rely on a pandemic to cure it.

I founded Whisk in 2008 and for 10.5 years I ran this highly successful kitchenware brick and mortar and online retail business in the heart of Williamsburg. I had a great relationship with my small landlord who lived above the store. But between 2010 and through until now, Williamsburg has become more a home for multinational and private equity backed retail stores than independents like Whisk. What used to be a phenomenon isolated to fancy 5th Ave or Soho has been slowly moving to other Manhattan neighborhoods and the outer boroughs and the problem is that these kinds of businesses - the Levi's, the Space NK Apothecaries, the G Star Raws - have the finances to pay far more than they will earn through that one location. They accept high rents as an advertisement cost.

But then there are businesses like Whisk where I was paying \$18,500/month in the last year of my lease. I could do that. I offered to pay \$20,000/month in the renewal. But my landlord insisted on a 44% increase for just a 5 year renewal with annual escalations of 3% to stay. That may have been "market rate" but it was damn near unaffordable and would have required pushing my staff's wages down to minimum wage - that's your sisters, your kids, your neighbors' salaries - and increasing prices for customers - that's all of us.

Instead of accessing affordable cookware, local residents can now go to 231 Bedford Avenue and pay upward of \$75 for half hour oxygen pod sessions. That is what replaced Whisk.

Let's fast forward to this very moment. At 203 Bedford Avenue - two blocks from where Whisk used to be - is a vacant 1700 sf space for rent. It's a perfect sized space for a Whisk. The landlord is asking \$300 sf - or \$43,500/month. He said he would start a conversation closer to \$200 sf but that's still over \$29,000/month. There is no scenario in which that location's expected revenues will make that space affordable.

And so when data show rents coming down, I urge everyone listening here to ask - are down rents the same as **affordable** rents OR, are they mostly affordable to those with deep pockets who may not live in NYC? Because somehow we have got to take away the competitive edge that the latter type companies have. And Intro 1796 is proposing to do just that.

City Council members, New Yorkers don't want to hear about constitutionality; they don't care about authority to enact legislation; they want a strong economy in their neighborhood where they can access affordable and needed goods. But without commercial rent stabilization we are losing that.

Thank you,

Natasha Amott

--

Natasha Amott | natasha@whisknyc.com | whisknyc.com

Downtown Brooklyn | 197 Atlantic Avenue (by Court St) | t.718.852.2665

Hello,

My name is Nicolas Heller better known as [New York Nico](#). I had to leave the hearing at 1pm and was unable to testify but I would like to just say a couple things:

Small businesses are the backbone of NYC. Without them, we would be like any other city. It is so important that we do everything we can to keep them here for as long as we can. I can't imagine living here without them.

We need legislative intervention!

Thank you.

Best,

Nicolas Heller
HELLERfilms.com
@NewYorkNico

To: City Council and Chair Gjonaj
From: Rachel Z and Omar Hakim

Sept 17,2021

Regarding Commercial Rent Stabilization

Dear Committee,

We Agree with the concept of rent commercial stabilization.
The greed of many commercial Landlords ruined Soho's art community entirely.

We now find most neighborhoods in danger of completely losing their identity. Coffee shops, Galleries, Everyone in an artistic pursuit in NYC is in serious danger of being expelled after building a neighborhood business for 10-15-20 years.

In 2019-21, as a smaller landlord, we have struggled to find a balance in keeping our commercial tenant in business while they were forced to shut down due to the pandemic. After giving them 18 months of 1/2 rent we now have to collect full rent as per their lease. We have no more to give or we will be unable to pay the extra loans we were forced to take out to survive.

I think that 1-4 family buildings cannot sustain nor should be subjected to any Commercial Rent regulation as we ourselves are Artists who are trying to survive. This regulation would make it impossible to pay taxes, maintain the buildings, and does not match the mission of the building when we took out our loan. This regulation will decrease the value of our free market mixed use multi family investment.

Owners who buy large multi family buildings are wealthier corporations who can afford to be less greedy. Small landlords are struggling this year. We simply cannot take on the mission midstream in our mortgages of dealing with the city regulating the commercial leases in small buildings. Our residential and commercial units MUST remain unregulated IN ORDER FOR US to survive. Reasonable rent increases are necessary-greed is not!

Thank You,

Rachel Nicolazzo and Omar Hakim

From: Rachel Nicolazzo <badbunnyr@gmail.com>

Sent: Wednesday, September 15, 2021 11:59 AM

To: Gjonaj, Mark

Cc: Johnson, Reginald; Adams, Elizabeth

Subject: [EXTERNAL] FYI Re: Regarding Commercial Rent Stabilization-this law should Exclude 1, 2, 3&4 Family Buildings

Dear Chair Gjonaj and Olympia-

How are you?

I lived through this problem...our artist spaces have been devastated by the 400% rando increases and WE build the neighborhoods and then once they are "nice" aka safe and gentrified- we get kicked out.

This is exactly why I had to beg borrow and steal to buy a building and why I am a fair landlord. But to have a commercial restriction on a 2-3-4 multifamily devaatates our real estate value and our potential income. It gives us zero leverage with the tenant(if they are evil) nor with the city as they raise taxes randomly in neighborhood like Williamsburg ,Brooklyn.

The solution is:

Please please please consider leaving 2-3-4 family buildings out of this equation.

We are not in the business of affordable housing. Because I am financially raped by the music business on a daily basis. We need a free market building to be able to save our asses when other laws are passed randomly like raising our taxes x5... or when performance fees go down to \$50...LOL-like...this year!!

This law no matter how liberal-is inadvertently throwing us to the wolves. The big corps call us EVERYDAY trying to squeeze us out and offer us a cheap buyout. Now they will have even more leverage as our value and refi power will dissipate.

Due to streaming and other corporate rape of our music business-this is all we have left- and still I remain fair...

Luv and respect you MUCHO!nnn
Let's talk!!

Rachel

Sent from my Bad Bunny Phone

Peace and fortune 2u,

Rachel Z Hakim

Technologist, Keyboardist, Pianist, Futurist

Ozmosys Band #EyestotheFuture

<https://ozmosysband.com/>

Ozmosis Media Group

The Trio of OZ

RachelZ.com

@RachelZmusic Twitter, Facebook, Instagram

@OzmosysBand Twitter, Facebook, Instagram

<https://music.apple.com/us/album/room-of-ones-own-feat-rachel-z/406205560>

<https://music.apple.com/us/album/eyes-to-the-future-vol-1-ep/1486090905>

My name is Peter Sullivan. I grew up in and near New York City in the 80s and 90s. I have seen this city change and become increasingly corporate and homogenous with time. The character is rapidly being drained from the city. There have been decades of small, fine tuned reforms, but the trajectory moves in the same direction. Bold, sweeping, decisive action is called for at this point.

I moved into my current neighborhood of Briarwood, Queens in 2009. There were 24 hour diners, bars and bodegas that have all disappeared. It is still a great neighborhood for families, but it is losing its appeal as a place for single adults like myself, who really chose to keep NYC as a home for the 24 hour convenience. This neighborhood now has a bedtime and around the rest of the city, I see the same thing. We are going from the city that never sleeps to the city that has turkey dinner, then takes an Ambien and gets ten hours of sleep.

It's funny how certain council people talk about the fear of passing costs onto business owners. That's EXACTLY what Intro 1796 is designed to prevent. Let's be clear. This legislation does not target small time mom and pop landlords. This bill targets big, greedy real estate giants, who own well more than half of commercial real estate in the city. These are not benevolent actors who are simply making real estate available out of the goodness of their hearts, asking that their tenants assume the costs of taxes. It is disingenuous to suggest that these rent increases are calculated in proportion to increasing taxes. Property taxes HAVE NOT generally been increasing, so this idea that gouging rent is intended to keep pace with taxes is pure propaganda.

When the cost of doing business is getting to be too much for small business owners and entrepreneurs, you have to look at who is becoming disproportionately wealthy from the arrangement, because that is the money vacuum causing the problem. The money is not evaporating into thin air; more and more of it is going to the big commercial landlords. Why should government intervene? For the same reason anti-trust, anti-monopoly and reasonable regulations on Wall Street and big corporations exist. When we simply allow laissez-faire capitalism to take hold, capitalism destroys itself. Competition disappears. Homogeny dominates. If something is not done to disrupt this trend, only big corporate box stores will be able to afford rents in this city. We might not be there just yet, but between the disappearance of in-person jobs in favor of simply working from home (which has dawned on many administrative heads of business as more cost effective than renting office space), between that, and the homogenization of commerce in NYC, where NYC is starting to resemble a strip mall in any other part of America with a typical block consisting of a Starbucks, Bank of America, Chipotle and a CVS, New York City is going to increasingly become no longer worth the cost of living.

If NY becomes nothing more than one big corporate strip mall devoid of character, then denizens might as well pay a lot less to go elsewhere to live by a strip mall. People of means WILL start leaving. Many already are! The tax base will shrink. Someone has to eat a loss to make this situation more equitable. Targeting the deepest, most avaricious pockets is EXACTLY what is called for here.

Another thought on taxes: we sorely need tax revenue at this time, as we are seeing damaging austerity across the board. Gutting sources of tax revenue is also something we cannot afford if we would like to keep teachers in classrooms, cops on the beat, fire houses and social services intact. That's another topic though. Commercial landlords who are concerned about rising taxes should look to residential landlords who rent out rent stabilized units. They have the ability to apply for tax relief to offset any losses by renting at a decreased rate. There is no reason to believe commercial landlords would not be able to qualify for the same or similar credits and deductions.

Commercial rent control worked really well between the 40s and 60s. It was revoked for the same reason regulations of all kinds usually get revoked. Prosperity became more widespread and people lost perspective. They took prosperity for granted, and forgot what got them there in the first place. Greed took hold. Someone mentioned commercial rent stabilization benefitting unsavory businesses like strip clubs and smoke shops. Well, ironically, getting rid of commercial rent stabilization drove businesses out of Times Square, leaving the unregulated real estate to the budding porn industry to come in and take over. Unsavory business opportunities come with rent regulation and with rent deregulation as well, so that's not really a valid argument against controls.

There is no reason to believe that regulating commercial rents would impoverish landlords or lead to more empty storefronts, as landlords wait for bids from big corporations. These are the problems we are witnessing NOW. The former location of BB King's has sat empty because the landlord has refused to drop their asking price even a cent. It is the most prime of locations. Desirable for any big corporation, right on 42nd Street between 7th and 8th. It has been vacant for years. What makes anyone think that these big businesses are not going to play hardball and demand super low rates that will then remain stabilized as well and decline renting a location if not given a low rent? Landlords will not keep stores empty. They will learn quickly, unlike the owner of the property that was BB King's, that it just does not play out that way.

I would urge everyone to take a good look at the campaign contributors for those on this council and in our state government who are most outspoken against asking major commercial landlords to take a loss. The logic being employed here

is that we will help the little guy avoid costs by passing on the costs to the little guy. Someone will take a loss. If it's not the biggest profiteers, then it will continue to be commercial tenants and by extension, the rest of us.

Good Morning/Afternoon Council Men and Women,

My name is Laura Ponomarev and my family owns a 100,000 square foot office building in midtown Manhattan. The building was built by my great-grandmother and great great aunt in 1921. I am now the 4th generation managing this building for my family. This is the only property we own and we take a great amount of pride in our small family business and the fact that after 4 generations, we have a woman back at the helm.

I am here today to speak to you about the proposed legislation Int 1796-2019 and Int 2299-2021.

As long term owners, it is not in our interest to inflate rates and cause vacancies. The first thing I learned from my Father when entering this business was “always be able to walk on the same side of the sidewalk as your Tenants.” We have done that time and time again by renewing our Tenants and partnering with them. Often, we negotiate these Leases with the Tenants Licensed Broker or Salesperson. An industry that would disappear should the city set the rates and terms.

For small Landlords like ourselves, our only source of income comes from rent. We use that income to pay for our union employees salaries, benefits and wages and for the small businesses and small contractors that service our building. We also use it for technological and infrastructure upgrades so that our 100 year old building helps reduce the impact we are having on our planet.

In 1961, the last vestiges of World War 2 commercial rent control were phased out from our building. We could barely keep abreast of deferred maintenance under rent control. For example, we had to repair the compromised steel on the facade at a cost of over \$800,000. That was the cost in the 1960's, imagine it now! In today's market, we have Local Laws that mandate compliance, some annually. On top of that, we are now estimating the cost of complying with Local Law 97 which requires upgrading our heating system and cooling systems which we just did 7 years ago. If this law is passed, it will limit our ability to comply and pay for upgrades that the city government puts out.

Over the last 18 months, small business, retailers and Tenants have suffered. Through our relationships, we managed to give relief in terms of deferrals and/or abatements to 80% of our Tenancy. We, along with every other Landlord in this city, did this while paying 100% of expenses. Carve outs for PPP loans limited our industries ability to receive help, but we still partnered with our Tenants. We have current and future vacancies and new Tenants expect Landlords to pay to construct new building installations. Rent control will severely restrict our ability to improve our buildings to meet the demands of government regulations and tenants demand for new office installations

This law would also prevent us from using increases to harbor against inflation, save for capital upgrades and unforeseen repairs. It would also devalue our building, which in turn would reduce the taxes we pay to the city. Property Taxes make up 46.3% of the citys tax revenue or

\$60.4 billion dollars. A reduction in value across the market of even 1% for each property would reduce the city's tax revenue by \$604 million dollars. This would be in addition to lost revenue associated with the Commercial Rent Tax. A tax all Tenants have, regardless of size, if they pay more than \$250,000 in rent annually.

While I am only one of many stories you hear today, I want to emphasize that there are a lot more small buildings, with small owners in this city than there are large ones. This law would be detrimental to a small business such as mine.

Thank you for your time.

Shabd Simon-Alexander
555 Lafayette Ave #3, Brooklyn NY 11205
917-945-5758 | shabd.simonalexander@gmail.com

Wednesday, September 15, 2021

Testimony in support of Commercial Rent Stabilization

My first job after college, I worked as a seamstress for an amazing wedding dress designer who'd had her shop on the LES for decades and had so much wisdom and amazing stories to share. I felt so lucky to be able to learn from her but also to have such a deep connection to the NYC that I loved so much as a child and wanted to live in as an adult. After decades in the same space, working nonstop and living hand to mouth but loving it, her landlord decided to raise her rent from \$2,500 to \$25,000 a month, leaving her without a business. (That is not a typo.) As a working class artist without a 401k, she had no way to retire - but more importantly at 65 she still felt inspired to work and didn't want to retire. But no one can make a living paying \$25,000 a month, and so she had to close her business leaving her with few avenues to sustain her life in NYC after that.

Sadly this story isn't unique. I've known too many community spaces and neighbors and friends who've lost their businesses, livelihoods, life's work; communities that lost our spaces and neighborhood souls; because NYC has no regulation to protect commercial renters like we have for residential renters.

Commercial rent stabilization has been something people have been talking about for years but seemed impossible, but COVID laid bare how fragile everything is and there's finally momentum. The public supports this. Not just commercial renters either. If we don't protect what makes NYC great, we'll lose the ability to attract visitors, which affects the entire economy. Business owners who own their buildings support this because if their neighborhoods are full of vacant storefronts it ruins their business and their community as well. Customers and neighbors and regular folk need our communities intact.

One last story, why it's important to have spaces in our neighborhoods that are rooted in the community where we can form bonds over time. When my mom was 4, my grandma Minnie wanted to give her her first haircut. My mom didn't want to get her hair cut so she ran away and hid in the local corner store, down the block from their house in Whitestone, Queens. The shopkeeper knew her, and knew my grandma, and called Minnie to let her know her daughter was safe. This can't happen when our neighborhood spaces are constantly being replaced by new businesses who are willing to pay more; and this can't happen with empty storefronts.

Please use this moment to do what NYC should have done decades ago and protect our commercial renters so NYC can continue to thrive.



In community,
Shabd Simon-Alexander

I am writing today in support of Commercial Rent Stabilization. Nine years ago, I started a fashion line in NYC. I had very little money and support around me and very little knowledge about starting a business. I ran my business out of my apartment in Brooklyn, often competing for space with my young child. If I had the opportunity to afford space outside of my home, it would have been a game changer for my business. I often had to have models visit my home for fittings, which wasn't professional. When MTV did a piece on me, they came to my apartment and rearranged my furniture to make it look like I had a full studio. I was also spending lots of money hiring transportation to take me from the garment district to my apartment with loads of fabric, materials, etc because it was too far for me to carry on my own. If I had been able to afford space in the garment district, my business would have gone much further and it would have afforded me the space to dedicate to creating.

Thank you,

Tabitha St. Bernard-Jacobs
Founder,
Tabii Just Clothing

**TESTIMONY IN SUPPORT OF COMMERCIAL RENT STABILIZATION
WITH RECOMMENDATIONS TO UPDATE THE LEGISLATION**

9/17/21

Vanessa Thill, vsthill@gmail.com (624 Myrtle Ave #1 Brooklyn NY 11205)

When a working-class neighborhood is targeted for speculative development, commercial tenants have little protection against the inevitable onslaught of rent increases and harassment by landlords and developers who are looking to cash in. This lack of protection allows for the rapid dismantling of working-class neighborhoods' social infrastructure. An entire safety net and cultural community can be liquidated at the drop of a hat. Small businesses are more than just storefronts. They are often part of networks of community organizations, social services, cooperative spaces, and cultural venues. Small businesses can also provide an alternative means of subsistence for people who face limited opportunities and discrimination in the labor market due to immigration status, or other factors.

Over the last 13 years, I have experienced the disastrous impacts of the lack of protections first hand. As an artist, I rent commercial studio space as part of my livelihood. Rampant speculation has made it such that I have only been able to afford basement studio spaces over the last 9 years. As we saw with Hurricane Ida, the total unregulation of real estate is so extreme that it literally displaces people underground, forcing people such as myself to sacrifice health and well-being in order to afford rent.

We had Commercial Rent Control in NYC from 1945-1963 until the real estate lobby killed it. I urge you to support Intro 1796, but I urge you to go further than what has been proposed, knowing that landlords and developers will take advantage of any loophole you leave open. Below are my recommendations.

Recommendations:

- *Rent Guidelines Board appointee requirements:*
 - The chair must have 5 years of expertise in community development or community organizing, in addition to finance and economics.
 - The members representing commercial tenants should not represent chain businesses.

- The public members should not be commercial landlords.
- Mayoral appointment and removal of board members should be subject to city council approval.
- *Combat inflation before rates are locked-in*
 - The initial rent for an occupied space should be the rent on the day the law is passed, not the day it becomes effective (otherwise landlords will raise rents in the interim).
 - Since the initial rent for a vacant space is essentially at the discretion of the landlord, there should be a robust appeal process in place.
 - Tenants and owners should have 60 days after the notice of initial registration to file for an adjustment of the rent, with an opportunity for the other party to respond.
- *City government must specify and oversee administration and enforcement agency*
 - Require landlords to register lease and all riders to the enforcement agency (failure to do so results in penalties). Treat missing registration as amended registration resulting in a rent freeze.
 - The rent on the lease, the rent actually paid, and the rent in the registration should match or the registration should not be accepted for filing.
 - The enforcement agency should send a complete rent history to the tenant every year. The rent history should include, if applicable, any overcharges, rent adjustments won through appeals or court cases, the effective date of any new and collectible rents, and any tax benefits or financing programs that apply to the building.
 - Establish a standard vacancy lease format to be used by all landlords when applicable
 - In case of an overcharge, the registration statements that include overcharges should be invalidated and the landlord must correct all fraudulent registrations. The lookback period for bringing overcharge complaints should be as long as possible, and overcharges should be met with fines and civil penalties.
 - Rents should be frozen after any year where a registration is missing, false, or incomplete. The freeze should be lifted only when all missing registrations are filed and all false registrations are corrected.
- *Add Right to Renew & long lease options to the bill*

Testimony of Laura Wolf-Powers on
Int 1796-2019, Regulation of Commercial Rent

September 17, 2021

New York City Council Committee on Small Business (Virtual Hearing)

I am here today to testify in support of **Int 1796-2019**, a bill that would address the crisis of attrition facing small, locally owned retail, commercial and industrial businesses in New York City by establishing a long-overdue system of commercial rent registration and regulation. I am an Associate Professor of Urban Policy and Planning at Hunter College, part of the City University of New York. I have been teaching and studying community & economic development at the graduate level for two decades, and I acted as an informal consultant on Comptroller Scott Stringer's 2019 study of retail vacancy in the city. The views I am expressing here are my own and not those of my employer.

Recently, I had the chance to re-watch the 2012 documentary *My Brooklyn*, which chronicles the city-sponsored transformation of downtown Brooklyn's commercial and retail landscape during the administration of Michael Bloomberg. I have seen this film many times before and I regularly show it to students; every single time, it delivers a gut punch, making me sad and angry in equal parts. The film tells the story of a community of entrepreneurs in the Fulton Mall area who bore the consequences of decisions by policymakers and legislators to put the interests of property owners over the stability of a thriving retail district, to put the interests of property owners over the economic well-being of small business proprietors who were predominantly immigrants and people of color, to put the interests of property owners over the interests of the low and middle income consumers who came from all over the borough because they loved and appreciated the culture of the place and its concentration of products they wanted to buy at prices they could afford. Downtown Brooklyn is now dominated by generic chain retail - and riddled with vacancies. Dozens of locally owned businesses have been displaced by high rent. Many of the small businesses that remain are struggling and uncertain about the future. This scenario is repeated on community retail corridors all across the city. Looking back on the City Council's

decision to approve a fateful rezoning for downtown Brooklyn in 2005, now-former City Councilman Charles Barron told the filmmaker bluntly, “we should have said no.”

The bill under consideration here is a chance to say “yes” to a new system of regulation that can stabilize the city’s small businesses and small business districts at this crucial moment, the same way residential rent regulation stabilizes households and neighborhoods. The small businesses that have survived the COVID crisis of the last 18 months desperately need relief from untenable rent costs – rents that far exceed what is necessary to maintain their properties and deliver a reasonable return on investment to the property owner. Furthermore, community members should not have to worry that landlords will evict the local businesses they love and depend upon and leave their space vacant for months and years as they warehouse real estate in anticipation of chain store tenants.

A fair and just recovery from COVID in New York City depends on stability for our neighborhood businesses. Please pass Intro 1796 now.

Charlotta Janssen, owner of Chez Oskar in Bed Stuy and member of the Bed Stuy Restaurant Association. Restaurant tenants' number one problem are landlords. Every Realtor boasts about us neighborhood restaurants when they sell real estate. Look up any site and you will find mine. Those same realtors are fighting this desperately needed bill and I would like for none of these realtors here to speak on our behalf.

1998 I opened Chez Oskar in Fort Greene. Crime was high and we were glad if we even had 10 customers. We had put everything into this business. With our neighbors we became Fort Greene's restaurant row and felt a great sense of community, helping each other with napkins, tablecloths, soda gas and more. Slowly all those pioneers that made Fort Greene vibrant and multicultural have disappeared. None of the original businesses are still there - each (including me) had a painful eviction.

My team is my family. Oskar's chef, Octavio Simanacas, is with me since 1999, my GM Angelique Calmet Strakker since 2002. In 2012 I realized my landlord was ripping me off on taxes and water bills. When confronted he said: "that's it, I'll never give you another lease" & when my lease was up he evicted.

In Fort Greene I had nothing to show for 18 years of really good business, no equity at all. My landlord sold my kitchen for scrap, collected key money and had a tenant paying more than double what I did.

Most landlords do this, they destroy community for money, make running small bizzes, family restaurants & dining out unaffordable.

We restaurants invest hundreds of thousands of dollars to open and when our leases are up we can't take it with us, nor do we have any way to continue in the communities we helped build. Every realtor loves to boast of the diverse restaurants that make communities vibrant & those are the first to evict us.

In Bed Stuy I am the only surviving business on my block because I now own. Many dreams are shattered, now giant debts, while landlords have mortgages on pause and wait for the next sucker to charge key money & double rent, oh and add on roadside, for which we, not they, fought.

Businesses, that invest into a place as much as restaurants do, from sweat equity to solid infrastructure, need rent stabilization like in France. There a commercial lease is a lease for life, much like once a taxi medallion.

Let's clarify gentrification: there are communifiers and commodifiers:

Communifiers invest themselves and do their best to give services that improve life in their communities.

Commodifiers calculate how little they have to give and how much they can pull out of their community: keep empty storefronts, overcharge and bring in chain stores. The less they give the more they will be rewarded.

We need laws that differentiate between the two. small businesses that work hard, invest themselves into communities should not be thrown out to benefit commodifiers/landlords, shattering small business dream.

Commercial Rent Stabilization works. That is why Paris isn't a ghost town, but NYC is. Let's make Paris in New York!

<https://bmhavocats.com/en/2021/04/19/doing-business-in-france-what-you-need-to-know-about-commercial-lease-agreements-under-french-law-2/>

Chez Oskar Fort Green last party



Chez Oskar Fort Green goodbye letter

LE FUNKY FRENCH BISTRO DE BROOKLYN

IS MOVING TO MALCOLM X BOULEVARD



DEAR COMMUNITY,

We have loved serving you since July 14 1998 - Almost 18 years.
We have watched this neighborhood "communify" and now "commodify".

As you know we are getting the boot. We have thoroughly enjoyed our time here and being part of this ever in flux community: learning hospitality every day from you. We also have observed how the "commodifiers" have taken over (for whom we all are just numbers sadly). We wish all the "communifiers" out there the best of luck at fighting the good fight and hanging in there - it is worth it!

Let us celebrate our remaining days here till **Monday the 27th** at 211 Dekalb Avenue & come **Monday July 4th** please visit us at 310 Malcolm X Boulevard in Bed Stuy (just 3 blocks north of the A/C Utica stop) where we will carry on.

On a personal note it has very much informed my work as a painter too and I cannot thank you enough. We will celebrate the lessons in community we learned here every day with you until the time comes.

All the Best,

Charlotta Janssen (Not Just Moving - IMPROVING!)



An empty Chez Oskar after 18 successful years

