TESTIMONY OF HOUSING PRESERVATION AND DEVELOPMENT TO THE NEW YORK CITY COUNCIL'S HOUSING AND BUILDINGS COMMITTEE – SEPTEMBER 17TH, 2008 – 10AM

Good Morning Chairman Dilan and Members of the Housing and Buildings Committee. I am Joseph Rosenberg, Deputy Commissioner of Intergovernmental Affairs at the Department of Housing Preservation and Development. Sitting next to me is Vito Mustaciuolo, Associate Commissioner of Code Enforcement.

There are two bills on the agenda that I will discuss today, both of which are very important to our agency and are initiatives which we strongly support.

Intro 823 amends the Administrative Code exempting multiple dwellings owned and operated by an Article V Redevelopment Company, from the J-51 Co-op and Condo eligibility limitation. The limitation provides that any multiple dwelling formed as an Article V Cooperative through the Private Housing Finance Law cannot receive J-51 tax incentive benefits unless the assessed valuation of such multiple dwelling does not exceed an average of $40,000 per dwelling unit. The only Article V building in the entire City that meets the criteria is Penn South, a large complex containing over 2,800 apartments, located between West 23 and West 28 Streets in Chelsea. This bill also requires owners to remain organized as a Mutual Redevelopment Company for at least an additional 15 years, therefore preserving the units as affordable housing.

This bill rectifies an archaic State Legislative reference that failed to recognize the importance of keeping Article V Mutual Redevelopment Companies affordable. In 1987, the State Legislature established a ban on permitting cooperatives from receiving J-51 benefits if their assessed value exceeded $30,000 per unit. In 1992, this cap was increased to $40,000. The purpose of the language was to prevent luxury cooperatives from using this incentive program. Due to the rise in assessed values in New York City in recent years, we find that the units at Penn South are now assessed at over $40,000 per unit. We believe that the current law harms this Development by not allowing them to utilize the J-51 program when making needed repairs or upgrading the buildings' aging systems. The State Legislature passed and the Governor recently signed Chapter 383 of the laws of 2008 to remedy this situation, and Intro 823 implements this new State provision.

This legislation is similar to Intro 204, which corrected the same issue with regard to Mitchell Lama co-ops and which you passed and the Mayor signed as Local Law Number 15 on April 17, 2007.

The J-51 Program has been primarily responsible for the rehabilitation and upgrading of New York City's housing stock since 1955. It applies to a variety of building improvements, including but not limited to the installation or replacement of heating systems, plumbing, wiring, elevators, windows and a range of other major capital improvements. We believe that this program is an important tool for encouraging owners to maintain and rehabilitate their property and at the same time enabling owners to maintain affordable rents to low and moderate income households.

Penn South is a 2,802 unit development, has become a naturally occurring retirement community (NORC) and is the only remaining Article V limited equity co-op. The residents of this Development are concerned with the continued maintenance and affordability of their buildings, not the resale of their units. It was first occupied in 1962. Passing the legislation would enable the shareholders to make necessary repairs with the assistance of the J-51 tax benefit program, thus preserving this unique and affordable housing resource.

The second bill, Intro 824 also amends the Administrative Code and proposes three changes. The first change addresses an issue where building owners who have sold their property continue to receive a Notice of Violation (NOV) on the property because the new owner has not yet registered the building in their own name. Currently HPD must send NOV's to the last validly registered owner. This bill will allow previous owners' to contact HPD to invalidate a building registration for the limited purpose of sending an NOV. The previous owner must show sufficient proof, such as an affidavit, a deed or a transfer of title, that they have legally transferred the property. HPD would then send all future NOV's to the "Managing Agent" or "Owner" at the building address. Many of you have received complaints from constituents over the years that have sold their properties' yet continue to receive violations. Intro 824 would rectify this ongoing problem.

The second provision provides a civil penalty of $2000 if a new property owner does not register their building within thirty days. Currently there is a $500 penalty for not registering your building.

The last amendment requires all non-owner occupied one and two-family dwellings to be registered. Presently, all non-owner occupied dwellings must be registered only if the owner lives outside of New York City. This provision requires owners that live within the City limits but rent their property, to register their buildings. It is important from a maintenance and safety standpoint that HPD has an owner contact so violations may be corrected quickly and an owner can be reached in case of an emergency.

Thank you for placing these two important bills on your Committee agenda for a hearing. We urge your support on both of them.

NEW YORK STATE ASSEMBLY

RICHARD N. GOTTFRIED
75TH ASSEMBLY DISTRICT

CHAIR
COMMITTEE ON HEALTH

822 LEGISLATIVE OFFICE BUILDING, ALBANY, NY 12248
TEL: 518-455-4941 FAX: 518-455-5939

242 WEST 27TH STREET, NEW YORK, NY 10001
TEL: 212-807-7900 FAX: 212-243-2035

E-MAIL: GOTTFRR@ASSEMBLY.STATE.NY.US

COMMITTEES:
RULES
HEALTH
HIGHER EDUCATION
MAJORITY STEERING

CHAIR
MANHATTAN DELEGATION

Support for City Council Int. No. 823

Assembly Member Richard N. Gottfried
Testimony before the New York City Council Committee on Housing and Buildings
Wednesday, September 17, 2008

My name is Richard N. Gottfried. I represent the 75th Assembly District in Manhattan, which includes the Penn South Houses. I regret that I am unable to attend this hearing in person. I thank Committee Chair Erik Martin Dilan for holding this hearing today.

As the sponsor of the State legislation to amend Real Property Tax Law § 489, to enable the limited equity Penn South Houses development to continue to be eligible for the program, commonly known in New York City as the J-51 program, I strongly support Intro. No. 823, which would implement the change in the state authorizing legislation.

Under the J-51 program, if the owner of an apartment building makes capital improvements that would ordinarily increase the assessed property value of the building, the building does not have to pay property tax on that increased value. For Penn South Houses, J-51 is important for enabling the development to make needed improvements without having to raise the rent to pay for higher taxes.

State and City law try to target J-51 benefits to affordable housing, so they do not subsidize high-priced housing. J-51 benefits are only available if the assessed value of each apartment is less than $40,000. Earlier this year, Penn South's assessed value went above that limit, mainly because of rising property values in the Chelsea neighborhood in which Penn South is located. But because of Penn South's strong "limited equity" policy – repeatedly renewed by the residents – it is truly affordable housing, despite its higher assessed value.

To maintain the development's affordability and eligibility for J-51 benefits, I urge the City Council to pass this legislation, which would exempt a redevelopment company co-op from the limit, as long as it preserves its limited equity rules. Penn South is the only development in the city that will be affected by the bill.

As the Assembly Member representing Chelsea, I know that Penn South is an extraordinary gem in the New York housing world that must be protected. Mayor Bloomberg recognized this and strongly supports the bill as well.

I thank you for the invitation to testify today.

RENT STABILIZATION ASSOCIATION • 123 William Street • New York, NY 10038

COMMITTEE ON HOUSING AND BUILDINGS
Legislation Relating to Multiple Dwelling Registrations
September 17, 2008

Good morning. My name is Frank Ricci and I am here on behalf of the members of the Rent Stabilization Association to testify in relation to the proposed legislation affecting multiple dwelling registrations.

The law requires MDRs to be submitted by the owners and agents of multiple dwellings in the City so that responsible parties can be readily identified. MDRs contain important identification and contact information relating to the ownership and management of multiple dwellings, such as names, addresses and phone numbers of legally responsible parties. Apparently, some owners do not file new MDRs after they have purchased properties and, as a result, only the names of the former owner and agent remain on the records of HPD. Also, on occasion, the information relating to managing agents is not updated when the agent, but not the owner, changes. Unless other databases from other agencies are relied upon, communications from HPD, including the issuance of violations, may be sent to parties that are no longer responsible for the property. This is an undesirable result for all concerned.

The bill contains various provisions to address this issue. First, it allows a former owner to submit an application to invalidate the former owner's last valid registration, with proof that ownership has changed. Second, where a prior registration is invalidated, the bill would allow HPD to serve violations or other notices either by personal delivery or by mail to the address of such building. Last, the bill would impose a civil penalty of two thousand dollars for the failure to file an MDR.

We believe that while this legislation is well-intentioned, it is somewhat misguided by imposing civil penalties when other, presumably more effective, remedies are available. For example, existing law requires proof of a valid MDR as part of any proceeding brought by the owner in Housing Court; for the vast majority of owners that is enough of an inducement. We propose that instead of civil penalties, the Council should explore whether proof of filing of an MDR should be required as part of the deed recording process at Finance and whether this could be accomplished administratively. This would appear to be a more effective tool than imposing yet another civil penalty. We do support the provisions of the legislation which would allow former owners to invalidate their MDRs but suggest that HPD consider whether this could be adopted administratively.

We look forward to working with the Committee and HPD in an effort to produce a more effective piece of legislation and administrative improvements in this area. Thank you.

MUTUAL REDEVELOPMENT HOUSES, INC.

a residential community cooperatively owned and operated

321 EIGHTH AVENUE / NEW YORK, NY 10001 / 212-675-3200 / FAX 212-727-8289

General Manager, BRENDAN KEANY
www.pennsouth.coop

President
MORRIS BENJAMIN

First Vice President
IRMA P. LOBEL

Second Vice President
MARC BODDEWYN

Third Vice President
LINDA LOWENSTEIN

Treasurer
WALTER MANKOFF

Secretary
JACK RASKIN

Chairman Emeritus
DAVID SMITH

President Emeritus
ROBERT L. SILVERSTEIN

Before the:
City Council Housing and Buildings Committee
September 17, 2008

STATEMENT OF
MUTUAL REDEVELOPMENT HOUSES INC.
IN SUPPORT OF INTRO. 823

My name is Morris Benjamin. I am the President of Mutual Redevelopment Houses, Inc. (commonly known as Penn South) and I am here today with my colleagues to urge you to approve Intro. 823. It will correct an inequity that currently prevents our housing development from receipt of J-51 tax benefits. I want to express our thanks to the Mayor and the staff at HPD for securing the needed State legislation and to Speaker Quinn and Chairman Dilan for sponsoring the measure here at the City Council.

Penn South is a 2,820 apartment limited equity co-op in the Chelsea section of Manhattan. It was organized in 1962 under NY's Redevelopment Companies Law. At all times since its founding, it has been under contract to the City to provide affordable housing to low and moderate income families. Penn South is home to a large number of senior citizens and others on fixed income.

In exchange for real estate tax benefits, our residents are subject to income limits and occupancy standards as well as supervision by HPD. Resale prices are controlled by State law and are limited to the amount of equity invested, assessments and a proportionate share of mortgage amortization. The current maximum resale price is $11,600 per room, a tiny fraction of the price that would obtain on the open market. The current, non-revocable agreement with the City remains in effect for fourteen more years, until 2022.

J-51 tax benefits have helped make several major infrastructure projects more

-over-

affordable to our residents. Among them were window replacement, façade work, power plant expansion and modernization of our elevators. You can imagine our dismay to suddenly learn that because of our location in one of the hottest real estate areas of the City, our assessed value had so sharply increased that we exceeded the $40,000 per unit limit for J-51 benefits designed to exclude luxury co-ops.

Future J-51 benefits are important to us to help offset the high cost of future infrastructure improvements. Our buildings are approaching the 50-year mark and are in constant need of work to maintain them in sound physical condition. We are very proud of our record in providing New Yorkers with quality, affordable living quarters and hope to continue to do so for many years to come.

As I am sure you know, changes in J-51 legislation require parallel changes in both State and City law. The $40,000 limit is imposed by Section 421 of the State's Real Property Tax Law and then duplicated in the City's J-51 Law (Section 11-243 of the Administrative Code). An exception restoring J-51 benefits under specified conditions has previously been provided for Mitchell-Lama housing but not for Redevelopment Companies. The necessary State enabling legislation covering Penn South – the only remaining Redevelopment Company -- was signed into law earlier this year by Governor Paterson. All that remains to restore our benefit rights is passage of Intro 823.

On behalf of the residents of Penn South I thank the Committee for listening to us and trust you will correct the existing inequity. We will be glad to answer any questions you may have.