

NYS FAH

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TESTIMONY IN SUPPORT OF INTRO. 525 & 526

Good morning. My name is Curt Tucker and I am the Senior Legislative Analyst for the New York State Association for Affordable Housing (NYSFAH). Since 1998, NYSAFAH has represented the interests of the private sector in affordable housing and worked with government, non-profits and for-profit organizations throughout the affordable housing community. Our nearly 300 members are responsible for most of the affordable housing built with government subsidies in the city and state in recent years.

NYSAFAH strongly supports the proposed legislation extending the J-51 program for an additional four years. For over fifty years the program has been an important tool for developers undertaking major renovations of existing apartment buildings, as well as for landlords large and small who need to perform major capital improvements to keep their buildings operating safely and efficiently. Over the years the program has been expanded to address problems like lead paint abatement and energy conservation. It also serves as an incentive for owners to address other building problems, since to receive benefits they must abate most violations and pay off most outstanding charges with the Department of Finance. Further, and most critically for our members, it provides extra benefits for renovations that are undertaken as part of governmentally-assisted projects, making it a critical component in our efforts to provide and preserve affordable housing.

NYSAFAH also supports the proposed legislation extending for four years the tax exemption and abatement benefits provided by section 488-a of the real property tax law. This program, which is modeled after the J-51 program, encourages owners of SROs to replace heating, wiring, and plumbing systems that may be old, faulty, or inefficient, and to make more comprehensive rehabilitations as warranted.



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Testimony of Harold Shultz
Senior Fellow, Citizens Housing and Planning Council
Before the Committee on Housing and Buildings
In Support of the Extension of the J-51 Tax Abatement Program
September 24, 2007

Good morning. I would like to thank Chairman Dilan and the members of the committee for this opportunity to testify on behalf of extending the J-51 tax abatement program in New York City.

As we all know J-51 has been critical to the revitalization of affordable housing in New York City for decades. It is vitally important that it be continued as Intros 525 and 526 propose to do.

J-51 began as a way to encourage the upgrading of old law cold water flats to buildings with central heating and running hot water. Over the years it has retained its function as a program that improves buildings while protecting tenants.

J-51 does this in two ways. First it insulates owners from real estate tax increases based on improvements to property that are, for the most part, basic upgrades to improve living standards. Second it protects the tenants who live in the properties by requiring participation in rent stabilization. Thus J-51 encourages owners to make basic improvements in residential real estate and helps moderate the rent increases that might otherwise be imposed.

Given the current struggle to preserve affordable housing, this type of moderate rehab, which upgrades living standards but does not displace tenants, is a vitally important tool in New York City.

Currently about 13,961 properties are receiving J-51 tax abatements. J-51 should continue to be available to keep housing affordable in the future.

To the extent that modifications of J-51 are proposed I would urge the Council to consider that changes that would reduce participation in J-51 are not beneficial to the goal of preserving affordable housing.

Therefore I urge the Council to approve Intros 525 and 526 and to continue the J-51 tax abatement program.

**Testimony to the New York City Council Committee on Housing and Buildings
Renewal and Modifications to the J-51 Program
September 24, 2007**

**Pratt Center for Community Development
Urban Justice Center / Community Development Program**

The Pratt Center for Community Development and the Urban Justice Center's Community Development Program are grateful for this opportunity to provide joint testimony today on the renewal of the City of New York's J-51 Tax Abatement and Exemption Program.

In general, we support the extension of this program, which encourages investment in the preservation of multi-family housing in New York City, and especially of lower-cost and affordable housing. Although more recent data is not available (which might be relevant, given the escalation of real-estate values over the past 5 years), we are encouraged by the findings of the NYC Independent Budget Office in their 2003 review that "the distribution of units ... suggests that the majority of buildings receiving J-51 benefits have relatively low assessed values." The J-51 program, because of its assessed value caps, significant extended benefits for affordable housing, and other provisions, is not like the pre-reform 421-a tax exemption program that we worked together to reform last year. We therefore support its renewal.

However, there are several discrete changes that would go a long way to make J-51 a better, more justifiable, fairer, and more efficient program:

1. **The City should require that all rental units receiving J-51 benefits not only enter rent-stabilization but remain there** – preferably permanently (i.e. without an option to leave the system through vacancy destabilization).

If units are removed from rent stabilization at any point, for any reason, J-51 benefits should be discontinued. While it has been the position of the City for some time that J-51 benefits require units to be under rent stabilization, this was recently put in jeopardy by a last-minute attempt of the Pataki Administration to change DHCR regulations which would have allowed landlords to deregulate units even with J-51. We are encouraged that the Spitzer Administration prevented this change. However, the City could strengthen its position by clarifying that if landlords are allowed to leave the rent stabilization system for any reason, J-51 benefits immediately cease.

Even when J-51 benefits expire, we believe that the rental units that have been subsidized by the City should be required to remain under rent stabilization. Just as with other HPD programs, the City can and should require that units remain under rent stabilization after the expiration of benefits. We believe that most City Council members share our belief that vacancy deregulation must be repealed – and that units which are currently subject to rent stabilization should remain so as long as the overall vacancy rate in the city remains below 5%. Landlords are able to operate their building profitably under this system, and it introduces a small measure of fairness and affordability in an ever-increasingly-unaffordable city. The City Council unfortunately cannot make this a reality for the entire system ... but it could make it a condition for J-51 benefits. You could require that owners of rental buildings applying for J-51 benefits agree to keep their buildings in rent stabilization, even beyond the period of benefits. If you want to blaze real ground, you could require that they agree not to remove units from the rent stabilization system via vacancy or other forms of destabilization.

At a bare minimum, the program should be changed so that tenants-in-occupancy at the end of the J-51 benefits continue to be covered by rent regulations through the end of their tenancy. Currently, landlords who include specified provisions in their leases are allowed to remove a unit from rent regulation at the end of the J-51 period, and thus move immediately to evict the tenant. We should not be providing tax breaks for landlords that allow them to profit from eviction immediately upon expiration of the benefit. Instead as is currently the case if landlords do not include the "magic words" in their lease, all units receiving J-51 – if they are allowed to leave rent regulations at all – should only be destabilized at the time of the first vacancy after J-51 benefits expire.

2. **J-51 benefits should not be available for owners who are converting rental units into cooperatives or condominiums** (except as part of an affordable housing preservation program with substantial government assistance). We simply should not grant any more public subsidies to owners who convert rent-stabilized rental units into market-rate cooperatives or condominiums. There is zero public benefit. Existing tenants lose as their units are converted, and the city as a whole loses as our stock of rent stabilized apartments is diminished. And the new buyers don't gain much in the form of lower sales prices, since the developer charges a higher price for units that will receive a J-51 benefit. If owners choose to convert their rental buildings into coops or condos, the new buyers should have to pay their fair share of real estate taxes. There should, of course, be an exception for any conversion from rental to coops or condos which is taking place as part of an affordable housing preservation strategy, with substantial government assistance, such as the conversion of a Mitchell-Lama rental into a limited equity cooperative.
3. **High-value cooperatives and condominiums should not be eligible for J-51 benefits:** We should not be providing tax abatements to multi-million dollar coops and condos. This is not an issue of affordability, since no tenants are harmed. However, we should not be asking the average New Yorker to pay slightly more in taxes, so that owners of the very expensive and condos can pay less to add to the value of their buildings. We do not propose to eliminate the benefit for coops and condos altogether, since many moderate-income buildings might otherwise have a hard time keeping their building well-maintained. But either through a cut-off for buildings where the average unit is valued at over \$650 per square foot (the level that was used in 421-a reforms), or through an exclusion zone, we should not offer benefits to high-end buildings whose owners can well-afford to make these repairs.

Administrative Coordination with DHCR

Finally, we urge the City to take this opportunity to develop a better system of administrative coordination with DHCR. We are aware that the NYC Comptroller has identified administrative weaknesses with the J-51 program, and that HPD believes that its administration of the program is strong. In either case, we are certain that the DHCR systems for major capital improvements (MCIs) and vacancy destabilization are very poor, after 12 years of contempt and neglect during the Pataki Administration. While the Spitzer Administration is taking good steps to improve, this is the perfect opportunity for HPD and DHCR to work together more closely. In many cases, landlords seeking J-51 from HPD will also be seeking MCIs from DHCR. The two agencies should work together, both to make it easier for owners, and to insure that no one is cheating the system. Similarly, the agencies should work together to make sure that no owner is allowed to destabilize a unit receiving J-51 because of administrative oversight.

With these very modest changes, the J-51 program can remain a valuable tool for preserving multi-family housing in New York City. Thank you very much for this opportunity to testify.

TESTIMONY OF THE DEPARTMENT OF HOUSING PRESERVATION &
DEVELOPMENT TO THE COUNCIL'S HOUSING & BUILDINGS COMMITTEE –
MONDAY, SEPTEMBER 24TH, 2007 – 10AM

GOOD MORNING, CHAIRMAN DILAN AND MEMBERS OF THE HOUSING AND BUILDINGS COMMITTEE. I AM BARBARA FLYNN, CHIEF OF STAFF OF INTERGOVERNMENTAL AFFAIRS AT THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT (HPD), AND SITTING NEXT TO ME IS MIRIAM COLON, ASSISTANT COMMISSIONER OF HOUSING INCENTIVES. WE ARE PLEASED TO BE HERE TODAY TO TALK ABOUT EXTENDING HPD'S 488a AND J-51 PROGRAMS FOR AN ADDITIONAL FOUR YEARS AND TO ANSWER YOUR QUESTIONS.

THE TWO BILLS THAT ARE BEFORE US TODAY, INTRO 525 AND 526, BOTH EXTEND TAX BENEFIT PROGRAMS FOR BUILDING RENOVATIONS FROM DECEMBER 31, 2007 TO DECEMBER 31, 2011. INTRO 525 ALLOWS OWNERS OF CLASS B OR SINGLE ROOM OCCUPANCY (SRO) DWELLINGS TO RECEIVE A TAX EXEMPTION AND ABATEMENT FOR IMPROVEMENTS MADE TO THEIR BUILDINGS. THIS BILL AMENDS SECTION 488a OF THE STATE'S REAL PROPERTY TAX LAW AND SECTION 11-244 OF THE ADMINISTRATIVE CODE AND ENSURES THAT LOW-INCOME HOUSING IS TREATED SIMILARLY TO CLASS A MULTIPLE DWELLINGS. INTRO 526 EXTENDS FOR FOUR YEARS, THE J-51 PROGRAM FOR CLASS A MULTIPLE DWELLINGS AND FOR BUILDINGS THAT CONVERT FROM NON-RESIDENTIAL TO RESIDENTIAL

USE. BOTH BILLS CONTINUE TO ENCOURAGE OWNERS TO RENOVATE AND UPGRADE THEIR PROPERTIES IN EXCHANGE FOR A TAX BENEFIT.

WHILE THE CITY EXPANDS ITS HOUSING STOCK TO ACCOMMODATE OUR GROWING POPULATION, WE MUST ALSO ENSURE THAT OUR HOUSING STOCK IS MAINTAINED AND PRESERVED. AS MANY OF YOU KNOW, THE MAYOR'S NEW HOUSING MARKETPLACE PLAN WILL CREATE AND PRESERVE 165,000 UNITS OR ENOUGH AFFORDABLE HOUSING FOR 500,000 NEW YORKERS BY 2013.

PRESERVING AFFORDABLE HOUSING AND CREATING INCENTIVES TO ENSURE THAT THE HOUSING WE CREATE REMAINS PROTECTED FOR YEARS TO COME IS A CRITICAL ELEMENT OF THE MAYOR'S HOUSING PLAN. BECAUSE OF HPD'S TAX BENEFIT PROGRAMS, THOUSANDS OF PROPERTIES HAVE BEEN CREATED, REHABILITATED AND THE NEIGHBORHOODS WHERE THEY ARE LOCATED HAVE BEEN REVITALIZED.

THE J-51 PROGRAM HAS BEEN IN EXISTENCE SINCE 1955 AND WAS INITIALLY ENACTED TO ENCOURAGE LANDLORDS TO UPGRADE THEIR COLD WATER FLATS BY INSTALLING HEAT AND HOT WATER SYSTEMS. IT HAS EVOLVED INTO A MODERNIZATION TOOL FOR RESIDENTIAL RENOVATIONS AND NOW THE CONVERSION OF COMMERCIAL BUILDINGS INTO RESIDENTIAL UNITS. HPD ISSUED APPROXIMATELY 4100 J-51

CERTIFICATES BETWEEN JANUARY 2004 AND AUGUST 2007, COVERING OVER 296,000 UNITS. THAT NUMBER INCLUDES 6 CERTIFICATES FOR 51 SRO UNITS.

IN ORDER FOR AN OWNER TO BE ELIGIBLE TO RECEIVE J-51 BENEFITS, THEY MUST SHOW THAT THEIR PROPERTY IS FREE OF SERIOUS HOUSING MAINTENANCE CODE VIOLATIONS AND THEIR PROPERTY TAXES AND WATER AND SEWER CHARGES HAVE BEEN PAID OR ARE SUBJECT TO A DEPARTMENT OF FINANCE PAYMENT PLAN.

J-51 BENEFITS APPLY TO A VARIETY OF IMPROVEMENTS SUCH AS THE INSTALLATION OR REPLACEMENT OF HEATING SYSTEMS, PLUMBING, WIRING, ELEVATORS, WINDOWS AND A RANGE OF OTHER MAJOR CAPITAL IMPROVEMENTS. THE PROGRAM ALSO GRANTS TAX BENEFITS TO OWNERS OF NON-RESIDENTIAL BUILDINGS WHO CONVERT THEIR BUILDINGS TO RESIDENTIAL USE. CURRENTLY, THE PROPERTY MUST BE COMPLETED PRIOR TO DECEMBER 31ST, 2007 IN ORDER TO BE ELIGIBLE TO RECEIVE J-51 BENEFITS. INTRO 526 EXTENDS THE COMPLETION DATE FOR J-51 TO DECEMBER 31ST, 2011. THE J-51 PROGRAM PROVIDES FOR EITHER A 14 OR 34 YEAR TAX EXEMPTION ON THE INCREASED VALUATION RESULTING FROM THE ALTERATIONS WHICH MUST BE CERTIFIED BY HPD, AND AN ABATEMENT OF PROPERTY TAXES ON CONSTRUCTION COSTS AS ALSO CERTIFIED BY HPD.

UNDER THE SECTION 488a PROGRAM, OR INTRO 525, SRO OWNERS RECEIVE TAX ABATMENT AND EXEMPTIONS FOR IMPROVING AND REHABILITATING THEIR PROPERTIES. RECOGNIZING THAT THESE BUILDINGS ARE OCCUPIED BY LOW INCOME PEOPLE, THE PROGRAM PROHIBITS RENT INCREASES BASED ON THE COST OF IMPROVEMENTS, UNLESS THE IMPROVEMENTS ARE FUNDED BY A GOVERNMENTAL LOAN, IN WHICH CASE, RENTS ARE REGULATED BY HPD AND RENTAL ASSISTANCE IS PROVIDED AS AVAILABLE. THIS PROGRAM ENABLES OWNERS TO UPGRADE SRO HOUSING WITHOUT DISPLACING THEIR LOW INCOME TENANTS. INTRO 525 REQUIRES THAT OWNERS COMMENCE WORK BEFORE DECEMBER 31ST, 2011.

GOVERNOR PATAKI SIGNED CHAPTERS 244 AND 609 OF THE LAWS OF 2006 WHICH EXTENDED THE PROGRAM FOR BOTH CLASS A MULTIPLE DWELLINGS AND CLASS B OR SRO UNITS FOR FOUR YEARS AND WHICH ALSO AUTHORIZED THE LOCAL LEGISLATIVE BODY TO EXTEND THE DEADLINE TO DECEMBER 31, 2011.

THE ADMINISTRATION URGES YOU TO PASS THESE TWO VERY IMPORTANT PRESERVATION MEASURES SPONSORED BY CHAIRMAN DILAN.

THANK YOU, AND WE ARE NOW READY TO ANSWER YOUR QUESTIONS.