



## Legislation Text

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**File #:** Res 1612-2008, **Version:** \*

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### Preconsidered Res. No. 1612

Resolution endorsing the Speaker's decision to file, on behalf of the Council, an amicus brief in support of the Plaintiffs in the litigation captioned *Casado v. Markus*, Index No. 402267/08, for the purpose of supporting the Plaintiffs' petition to annul and vacate 2008 Apartment and Loft Law # 40.

By The Speaker (Council Member Quinn) and Council Members Garodnick, James, Lappin, Sanders Jr., Gonzalez, Koppell and Recchia Jr.

Whereas, The New York City Rent Guidelines Board (RGB) is "a local body with a mandate in both state and local law to investigate conditions within the residential real estate industry and to establish fair rent adjustments for rent stabilized units"; and

Whereas, Section 4(b) of the N.Y. Emergency Tenant Protection Act (ETPA) authorizes local Rent Guidelines Boards to promulgate rates of rent adjustment for various classes of accommodation; and

Whereas, Section 3 of the ETPA makes clear that it is the local legislative body, not the local Rent Guidelines Board, that must establish the "classes of accommodation" subject to the local rent regulation; and

Whereas, In adopting the Rent Stabilization Law, the Council did not establish a class of accommodation based on the longevity of residency by a tenant; and

Whereas, On June 19, 2008, the RGB adopted a final order, "2008 Apartment and Loft Law #40," (Order #40) which provides for rent renewal increases of 4.5 and 8.5 percent for one- and two-year renewal increases, respectively; and

Whereas, Order # 40 further provided for a supplemental increase applicable to tenants who have resided in their apartments for more than six years and whose rents are less than \$1,000 per month of no less than \$45 or \$85 for one- and two-year renewal increases, respectively; and

Whereas, In so doing, the RGB created a class of accommodation based upon longevity of residence

and instituted a “poor tax” by imposing a substantially greater percentage increase on tenants who pay lower rents; and

Whereas, The RGB had no authority to establish this “poor tax” because the Council, and not the RGB, has the power to create classes of accommodations; and

Whereas, Individual tenants and organizations representing tenants filed a lawsuit against the RGB, captioned *Casado v. Markus*, Index No. 402267/08, seeking to annul and vacate Order # 40; and

Whereas, A central issue raised by the plaintiffs is that the RGB, through Order # 40, has attempted to usurp the role of the Council; now, therefore, be it

Resolved, That the Council of the city of New York endorses the Speaker’s decision to file, on behalf of the Council, an amicus brief in support of the Plaintiffs in the litigation captioned *Casado v. Markus*, Index No. 402267/08, for the purpose of supporting the Plaintiffs’ petition to annul and vacate 2008 Apartment and Loft Law # 40.

LGA  
LS#6321  
09.19.08