



THE COUNCIL
OF
THE CITY OF NEW YORK
250 BROADWAY
NEW YORK, N.Y. 10007

GALE A. BREWER
COUNCIL MEMBER, DISTRICT 6

TEL: (212) 873-0282
GBREWER@COUNCIL.NYC.GOV

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Testimony before the Rent Guidelines Board

Re: Proposed rent guidelines for 2023-2024 Lease Renewals

My name is Gale A. Brewer and I am the City Council Member for District 6, which encompasses most of the Upper West Side of Manhattan. Thank you to Chair Nestor Davidson and the members of the New York City Rent Guidelines Board (RGB) for the opportunity to testify.

The Rent Guidelines Board's best course of action is a rent freeze or rent reduction. After a year of rapid inflation, tenants are struggling to both afford housing and have access to food, childcare, utilities, and medical care. This is not a choice New Yorkers should have to make. The New York Eviction Moratorium expired last year, and there are 260,000 eviction filings pending in New York City courts as of March 2023. Increasing the burden on rent-stabilized tenants will also increase the burden on housing courts, further slowing due process for everyone.

In 2022, this Board voted for the largest rent hikes on one-year leases in almost a decade. Since then, our city's affordable housing crisis has only worsened. According to the Community Service Society (CSS), a higher proportion of tenants were threatened with eviction last year than in the past 11 years.

In 2021, the NYS Emergency Rental Assistance Program (ERAP) was launched to help New Yorkers meet their rent payments. The pandemic has subsided since then, but the financial hardships it inflicted are lasting. Tenants are increasingly relying on State aid to pay rent. Yet, the State has abandoned many of these tenants by rejecting their applications. When the ERAP portal closed in January 2023, it had provided financial assistance to only 56% of applicants. The City, too, is largely standing by as tenants fail to pay rent. In the first half of last year, the Human Resources Administration (HRA) rejected more than 22,000 requests for emergency rent relief, or two-thirds of all rental arrears requests.

New Yorkers' cost of living is rising rapidly. In April 2023, the Bureau of Labor Statistics (BLS) reported that food prices rose almost 7% over the past year in the New York Metropolitan area. Many rent-stabilized tenants are living paycheck-to-paycheck. According to the 2021 Housing

and Vacancy Survey, nearly half of rent-stabilized New Yorkers cannot afford a \$400 emergency expense. Rent hikes will cause this percentage to grow.

My office has received urgent calls, emails, and visits from residents experiencing housing insecurity who need financial support. To assist our residents, we host monthly housing clinics, offering free consultation with a housing attorney. In recent years, hundreds of residents have attended and received legal advice. However, in recent months, the legal services attorneys have not been able to take on all cases due to backlogs.

Housing insecurity is not limited to tenants who are on the verge of eviction. Too many tenants in both rent-stabilized and market-rate housing are able to pay rent, but experience harassment by brokers and landlords who seek to create vacancies. This allows landlords to warehouse apartments, keeping affordable housing off the market when the city already struggles with its affordable housing supply. If tenants are in good legal standing, they should not fear retaliation for refusing to move out.

But retaliation is pervasive.

One tenant recently wrote to me about the lack of hot water in their building and the need for various repairs and improvements. However, they were afraid to tell the landlord out of fear of eviction, despite the building being rent-stabilized. They write, "I have lived in NYC for over 30 years and do not have another place to go."

I want to close by acknowledging the challenges facing small-scale landlords. Many small-scale owners have yet to recoup all of their pandemic losses. Over the years, I have heard from owners of small- to mid-sized buildings who shared with me their struggles in trying to meet mortgage payments and building expenses while accommodating tenants who could not pay their rent. The Board found a 9.1% decrease in NOI, clearly underlining the adversity experienced by owners in the late stages of the pandemic. These small-scale owners need assistance. However, support for small-scale owners' hardships must come from sources other than RGB increases on tenants.

I want to add that tenants in SRO's and rooming houses should get 0% increases as they have for decades. There are very few of them left and their buildings are usually converted to hotels, market rents, and now asylum housing giving owners other revenue.

Thank you to the Board for your dedication and thoughtful consideration during this challenging time.

I testify in support of preserving West Park Presbyterian Church, located at 165 West 86 Street, New York, NY 10024. The building owner has not demonstrated a financial hardship as required by Section 25-309(2) of the New York City Landmarks Law, and the application must be denied.

Hardship applications are appropriate only in the rare situation in which the landmark has sustained such massive damage that it simply cannot function for its intended use. Here, although in need of repairs, the church continues to function and serve the community. The applicant is seeking to demolish this last-of-its-kind church, not by reason of economic hardship, but rather as an economic opportunity.

The principal basis for the Presbytery's economic hardship application is that the cost of repairing the landmark is so high that the church, however it is used, could never generate a financial return. However, WJE, a nationally recognized engineering firm, and Slocum, a licensed cost estimator, have conducted independent assessments of the church and concluded that the costs of repair are a fraction of what has been represented by the applicant.

WJE, which conducted assessments of both the structural integrity of the church and the condition of its façade, confirmed that the building is in far better shape than has been represented by the applicant. WJE's estimate has been separately and independently corroborated by architect Paige Crowley. The church's insurance carrier has surveyed the church every year and repeatedly issued policies providing coverage – another independent confirmation that the building is structurally sound. By contrast, no independent third party has verified or otherwise corroborated the applicant's assessments.

There is no reason why WJE's opinions should be given less weight than those of the applicant's design team. Quite the contrary, the architect for The Center at West Park is the only design professional who has conducted an up-close visual inspection of the façade using a boom lift. To permit the applicant to have free rein without affording the Center's eminent design professionals to be heard is to deprive the Commissioners of critical information that they need to render a proper and just decision in accordance with Landmarks Law.

If the Commission is to determine that the church is in as poor of shape as the applicant has represented, the hardship should be deemed self-created. The Presbytery cannot obtain permission to demolish the church because it has not been maintained and repaired when it is the Presbytery that failed to maintain and repair it.

For your information, in September 2022, the applicant (or a representative acting on behalf of the applicant) interfered with WJE's boom-lift inspection by arranging for the Department of Transportation (DOT) to revoke the boom-lift operator's permit just as the engineer was about to begin the examination. I had to call DOT for the reinstatement of the permit, and the assessment confirmed that the façade was in much better condition than represented by the applicant.

During a separate site inspection on May 10, 2023, LPC staff facilitated a dialogue between the applicant's design team and three newly appointed Commissioners who were touring the church for the first time. The Center's architect and engineer were at first not permitted to speak. I intervened, asking for equal time for the Center's architect to make a presentation, and permission was granted so that the Commissioners could hear all results of the inspections.

The applicant also argues that the building has ceased to be adequate, suitable or appropriate for carrying out its intended purposes. As you are aware, the church is currently rented and sublet to an assortment of arts and religious organizations that fully utilize its facilities. The sanctuary of the church has been sublet to religious organizations that, for years, have conducted services and other religious rituals on a weekly basis. This is in addition to the readings, musical performances, classes, and other cultural activities that are conducted at the church, not only weekly, but often daily. To suggest that the church is neither adequate, suitable nor appropriate is a complete misapprehension of the law.

Hardship further requires that demolition of a structure commence immediately or promptly. This is not possible in the case of West Park Presbyterian Church for two reasons. First, because the church is owned by a religious corporation, any sale of the property must be approved by the court. The Center's attorneys have searched the docket and have not found any filing by the applicant to obtain judicial approval of the sale. Second, the Center is a tenant with a lease that runs through December 31, 2028. The lease requires the purchaser of the property to take the land subject to the Center's lease and right of occupancy. The Center has the right to remain onsite in the church for another five years. Therefore, the applicant cannot expect to demolish the church "immediately" or replace it with "reasonable promptness" as required by the statute.

On April 7, 2023, Mayor Eric Adams, joined by LPC Chair Sarah Carroll and former DOB Acting Commissioner Kazimir Vilenchik, announced the Vulnerable Historic Buildings Action Plan to "preserve the city's most vulnerable historic buildings." An accompanying LPC press release stated: "While the risk of demolition or deconstruction of landmark designated buildings is very low, LPC and DOB worked together to analyze threats to these buildings and reviewed their policies and protocols to strengthen protections."

Mayor Adams said at the time: "New York City is home to some of our nation's richest history and protecting our most fragile landmark buildings is a crucial way to ensure those stories continue to be told. I am proud of our administration's ability to drill down, locate the gaps in the preservation process, and create a plan to fix it. This action plan will undoubtedly help save the incredible historic buildings that decorate our city."

I commend and thank Mayor Adams, Chair Carroll, and former Acting Commissioner Vilenchik for their commitment to protect vulnerable landmarks—especially West Park Presbyterian Church. The applicant's hardship application must be denied.

