



**Joint Legislative Budget Hearing
February 4, 2019
Testimony of Michael McKee, Treasurer
Tenants Political Action Committee**

My name is Michael McKee, treasurer of the Tenants Political Action Committee. Tenants PAC works to elect pro-tenant candidates, and we have focused our efforts in recent years on the New York State Senate, for obvious reasons.

Thank you for the opportunity to testify about the state housing budget. I particularly want to thank the chairs of the two Housing Committees, Senator Brian Kavanagh and Assembly Member Steven Cymbrowitz, and Senate Finance chair Liz Krueger and Assembly Ways and Means chair Helene Weinstein.

(1) Rent reform legislation should not be dealt with in the budget process.

First, let me state our unequivocal opposition to the possible move by the governor to include substantive changes to state and local rent laws in the budget. All tenant organizations are opposed to this. In large part this is because we are all concerned, given his past performance, that Gov. Cuomo might try to water down tenant protections. On rent, Andrew Cuomo is guilty until proven innocent. But it is also because rent legislation is complicated and tricky: it is more important to get it right, rather than rush to get it done quickly.

It must be stated that if Gov. Cuomo had included rent law reforms in the budget in past years, including the last two sunset years 2011 and 2015, that could have been helpful, as it would have forced the state senate Republicans to vote for stronger rent and eviction protections. But he made no such move until this year, when the Democrats have a clear majority in both houses. Like many others, I am having trouble deciphering the weird budget language mandating some vague rent reform bill. I can only conclude that the governor wants to control the outcome, and to get credit for any positive changes rather than allow the legislature to claim the credit.

More weirdness abounds in an apparent threat to take \$16 million away from the state Office of Rent Administration if the legislature does not do the governor's bidding on rent, despite the confusing and seemingly contradictory mandate to you.

Let me be clear: The Office of Rent Administration needs more funding. But if it comes to a choice of more funding or stronger rent and eviction protections, we need stronger rent laws far more than we need more funding for the agency.

We are reconciled to a post-budget negotiation on rent. But we see no need to go down to the June 15 wire, when the rent and coop laws sunset. We hope to see action in April and May.

The exception concerns an emergency situation, involving loft tenants in New York City. For the past few years we have tried to pass a "Loft Law cleanup bill" to remove punitive restrictions that were inserted into the Loft Law in 2010 at the insistence of Mayor Mike Bloomberg. These restrictions have resulted in the eviction of hundreds of families from their loft units, and unless this bill passes soon, more will be evicted. Just last week we learned of a loft tenant who was evicted Tuesday and four families who were evicted on Friday. This bill cannot wait until May or June and we urge prompt passage. Every day counts.

(2) Division of Housing and Community Renewal, Office of Rent Administration

The Office of Rent Administration needs more staff plus funds for infrastructure upgrades. The executive budget seems to address this need with an additional 94 new full-time positions. Of course, if the administration does not fill all these lines, it will do little good; in the past, governors have played the game of talking about backfill lines as if they were all occupied by full-time employees. I hope the legislature can do some oversight about the speed with which the administration hires new staff.

In addition, the budget earmarks \$4.5 million for the Tenant Protection Unit.

It has always struck me as odd why an agency whose very job is to protect tenants needs a unit devoted to that task. Tenants have called for years for pro-active enforcement of the rent laws, rather than the complaint-driven system we now have, and the TPU is a potential positive step in that direction.

But I fear that this is more hype than results. For example, the famous 50,000 apartments that TPU “returned” to the rent stabilization system. Actually, all they did was send letters to the landlords to remind them that they had failed to register their apartments as they are required to do annually. (And you might ask how many landlords complied; I am given to understand that a substantial number have not.)

Did TPU send letters to the tenants in these apartments informing them that they might have been overcharged and explaining how they could find out what the legal rent should be and how they could recover any overcharge? Of course not: that would have encouraged tenants to file complaints.

The creation of the TPU in 2011 – a sop to legislators who were unhappy with the weak deal the governor negotiated on renewal of the rent laws – illustrated a fundamental disconnect built into the very system: ORA has always approached its task as finding some middle ground between landlords and tenants instead of vigorous enforcement of the rent laws with the primary purpose of tenant protection, and has actively adopted policies to discourage tenants from filing complaints. Of course, the agency must implement aspects of the laws that benefit landlords, such as applications for Major Capital Improvements, but ORA pumps out grants of MCI rent hikes while sitting for years on tenant complaints of rent overcharge.

ORA needs a change in culture more than it needs more funds. I imagine that some of you are as unhappy with this agency as we are, and are equally unhappy about the administration’s failure to change that culture.

Given the difficulty of changing agency culture, it is all the more important to achieve stronger rent and eviction protections, by closing numerous loopholes and expanding rent stabilization statewide, allowing villages, towns and cities anywhere in the 62 counties to opt into the Emergency Tenant Protection Act of 1974 if the vacancy rate is 5 percent or less. We are grateful that Senator Neil Breslin and Assembly Member Kevin Cahill plan to introduce a bill to remove the arbitrary geographic restrictions from state rent laws.

At the same time Senator Julia Salazar and Assembly Member Pamela Hunter have introduced legislation to prohibit evictions without good cause, which while not as strong as rent regulation will protect tenants in smaller and newer buildings not covered by the ETPA. New Jersey has had a good cause eviction statute on the books for more than forty years; it is time that New York match our neighbor.

Some of the loopholes that need closing are obvious and have generated much discussion. But let me suggest two more obscure changes that are necessary to restore our rent laws.

First, the rent registration system needs to be restored to its pre-1993 status, when the legislature and Gov. Mario Cuomo removed meaningful penalties for failure to register apartments or to file fraudulent registrations, converting the system overnight into a toothless, voluntary program.

Second, the amendment to the four-year rule in the debacle called the 1997 Rent Regulation “Reform” Act needs to be undone, as it has encouraged widespread rent overcharging and illegal deregulation.

Two more suggestions:

- (a) One way you can raise additional funds for ORA is to increase the annual fee that landlords are required to pay as part of the rent registration system, which has been fixed at \$10 per unit since enactment of the Omnibus Housing Act of 1983. This would provide additional funds for enforcement without affecting the state budget, as municipalities pay the fee and can collect it from landlords.
- (b) Please consider mandating that ORA re-open the Nassau County District Rent Office, which was closed in 2009 by the administration of Gov. David Paterson as a cost-savings measure in the face of a large budget deficit. In actuality this closing saved very little money: the state continued to pay the rent on the empty office for several years, and no staff were laid off but were simply transferred to the principal Office of Rent Administration at Gertz Plaza in Jamaica, Queens. So, the only actual savings is the rent. But this closing has created a tremendous hardship for tenants in Nassau County, who are now forced to drive to Gertz Plaza in Queens to seek advice, or if they do not have a car, take the Long Island Railroad to Jamaica and then walk several blocks to Gertz. For elderly tenants in particular this has been very difficult.

(3) New York City Housing Authority

The Cuomo administration is still sitting on the promised \$450 million desperately needed to upgrade New York City’s endangered public housing stock. This is simply unconscionable when NYCHA has \$32 billion in capital needs, and thousands of tenants are literally freezing because there is no money to replace obsolete heating systems.

The legislature must demand that these funds be spent on NYCHA's most critical needs at once.

And, need I add, given the refusal of the federal government to return to its historic position of supporting public housing in both operations and capital needs, it is incumbent on the State and the City to find ways to save this endangered housing stock before it is too late.

(4) Neighborhood and Rural Preservation Companies programs

Let me end with an appeal for an increase in funding to the NPC and RPC programs, which provide administrative funds to some 250 community-based organizations throughout the state engaged in a variety of preservation activities, including rehab and management of affordable housing, eviction prevention, tenant and homeowner counseling, and tenant organizing. This is a program that delivers a real bang for a buck, generating millions of dollars of economic activity and improving communities. We recognize that there are many competing needs in the state budget, and until we win a return to a genuinely progressive income tax system there will be serious limitations on what the state can do. But NPCs and RPCs need and deserve a raise.

Thank you again for the opportunity to testify today. We look forward to working with you throughout the session to strengthen and expand rent and eviction protections, improve enforcement of our rent laws, and protect our affordable housing stock.