



COURTROOM
1 MUNICIPAL PLAZA
BEACON, NY 12508
AND LIVE VIA ZOOM

Mayor Lee Kyriacou
Councilmember George Mansfield, At Large
Councilmember Paloma Wake, At Large
Councilmember Molly Rhodes, Ward 1
Councilmember Justice McCray, Ward 2
Councilmember Wren Longno, Ward 3
Councilmember Dan Aymar-Blair, Ward 4
City Administrator Chris White

**January 10, 2022
7:00 PM
City Council Agenda**

Roll Call

Workshop Agenda Items

1. [Notice of Meeting Location January 10, 2022](#)
2. [Proposed Agreement with Legal Services of the Hudson Valley for Tenant Advocacy Services](#) 20
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5. [Proposed Appointments of Fire Lieutenants](#) 10
6. [Proposed Appointment of Gregory Post to Senior Wastewater Treatment Plant Operator - Type A Plant](#) 5
7. [Proposed Appointment of Marissa Lomonaco to the Conservation Advisory Committee](#) 5
8. [Resolution Urging New York State to Allow City-Wide 25 MPH Speed Limit](#) 10
9. [Exercising Extension of 2021 Real Property Tax Exemption to 2022 City Assessment Roll](#) 5

City of Beacon City Council Agenda
01/10/2022

Title:

Notice of Meeting Location January 10, 2022

ATTACHMENTS

[Notice of Meeting Location January 10, 2022](#)



NOTICE OF PUBLIC MEETING LOCATION

PLEASE TAKE NOTICE that the City of Beacon City Council will be holding the City Council Workshop of January 10, 2022 in the Courtroom at 1 Municipal Plaza, Beacon, NY 12508. The meeting will simultaneously be streamed via Zoom. The public can attend in the Courtroom, or access the meeting via Zoom at

<https://us02web.zoom.us/j/86919893837?pwd=VmFpRVlFT1ZhSkcyRG1Obm1oYlI3QT09>

Webinar ID: 869 1989 3837 Passcode: 441729. To the extent internet access is not available, the public can attend and comment via telephone by dialing + 1 929 205 6099 and entering the Webinar ID: 869 1989 3837 Passcode: 441729.

PLEASE TAKE FURTHER NOTICE, that the City Council Workshop of January 10, 2022 at 7:00 pm can be accessed live at <https://www.youtube.com/channel/UCvPpigGwZDeR7WYmw-SuDxg>

City of Beacon City Council Agenda
01/10/2022

Title:

Proposed Agreement with Legal Services of the Hudson Valley for Tenant Advocacy Services

ATTACHMENTS

[Legal Services of the Hudson Valley - Draft Scope of Services](#)

LSHV's Beacon Housing Pilot Project
DRAFT Work Plan and Budget
January 18, 2022-January 17, 2023

In order to achieve LSHV's and City of Beacon's common goal of assisting Beacon tenants in maintaining preserving their permanent housing as the NYS Moratorium on Evictions is slated to be lifted on January 15, 2022, we are presenting this proposed project and its scope of services:

Dedicated staff to assist Beacon tenants at risk of losing their rental units due to nonpayment:

With a funded amount of \$25,000, LSHV can offer to dedicate .30 FTE paralegal and .03 FTE supervising attorney, both based out of our Poughkeepsie office, to offer a direct line of communication with Beacon residents faced with housing issues linked to nonpayment.

Project Tasks:

The paralegal will receive inquiries from Beacon residents by a method established by LSHV, and upon making contact with the tenant will provide the following services:

1. The assigned paralegal will conduct an intake assessment to determine eligibility for LSHV legal assistance.
2. If eligible, move forward with a legal assessment. If not eligible, without providing legal advice specific to the ineligible applicant's case, the paralegal will provide links to LSHV legal guide documents that provide legal information on rights and responsibilities of the tenant, and a description of the housing court processes currently in place.
3. For eligible households, the paralegal will conduct a holistic assessment of the household demographics, household members and relationships, income sources and potential income sources, living situation, housing legal issues concerning building type, payment issues and housing conditions.
4. Refer the case opened and completed assessment to a supervisor, who will assign, as allowed by capacity, the housing case to a staff attorney and any other legal issue uncovered by the assessment to staff attorney(s) in other practice areas.
5. Under the direction of the assigned housing attorney to make phone calls, write and send letters and emails to obtain more information on the case, on the evidence that is needed to be obtained. Work with the client on listing the documents required for any applications for financial assistance, following up with client on receiving those documents, working to complete applications for assistance and obtaining necessary signatures from the client, submitting the applications, following up on the status of the applications, recording the amount of assistance awarded in the case management system and relaying to the attorney and client. These applications may include those to internal

programs administered by LSHV or external programs, depending on funding availability.

6. Support the housing attorney assigned to the Beacon client with a variety of tasks, including making calls to the client to keep them updated on the status of the case or applications, or any other communications.
7. In addition to making assignments of eligible Beacon housing cases, the assigned supervisor will conduct periodic reviews with the paralegal on Beacon cases opened, applications in process by the paralegal, will review the number of ineligible applicants and the legal information being distributed to them and direct any changes needed on materials distributed, discuss the trends the paralegal is seeing generally in the intakes and assessment to allow for any changes in strategy.

Plan for access for tenants arriving at Beacon City Court:

[City of Beacon/LSHV] will contact Beacon City Court to request a banner in plain sight of incoming tenant parties at Beacon City court that announces the legal assistance contemplated by this project with a table that offers contact information [and legal information sheets on rights and responsibilities] for tenants to call for an eligibility determination for free legal assistance and/or legal information about rights, responsibilities and court processes when faced with a housing court proceeding. LSHV will determine a telephonic method for the Beacon applicant to reach the dedicated paralegal.

City of Beacon City Council Agenda
01/10/2022

Title:

Good Cause Eviction

ATTACHMENTS

Memorandum from City Attorney Regarding Good Cause Eviction

Status Chart of Good Cause Eviction Laws in New York State

Good Cause Eviction Comparison Chart

Summons and Compliant Filed in Matter of Deborah Pusatere et al v The City of Albany

Answer Filed by the City of Albany in Matter of Deborah Pusatere et al v The City of Albany

Memorandum from City Attorney Regarding Good Cause Eviction Decision Tree

Proposed Draft Local Law

MEMORANDUM

TO: Mayor Kyriacou and Members of the City Council
of the City of Beacon

FROM: Keane & Beane, P.C.

RE: Good Cause Eviction

DATE: January 7, 2021

In order to assist the City Council's discussion and review of the proposed Good Cause Eviction Local Law please find attached the following materials:

1. Status Chart of Good Cause Eviction Laws in New York State. Please be advised that the City of Hudson voted on and denied the proposed Good Cause Eviction Local Law on December 26, 2021. According to a new article "Council members cited displeasure about the current version of the bill, which does not include a provision allowing landlords to evict tenants if they are selling their property, as well as fears the city could be sued." Click this link to read the article: [Albany Times Union Article](#).
2. Good Cause Eviction Comparison Chart. This chart compares the provisions of good cause eviction laws introduced and adopted in New York State, Albany, New Paltz (Village), Kingston, Poughkeepsie (City), Newburgh (City) and Hudson. We do not represent this to be a comprehensive list, just a list of those we are aware of being considered.
3. Summons and Complaint filed in the *Matter of Deborah Pusatere et al v. The City of Albany*, Index No. 909653-21. The Complaint was filed on November 16, 2021. The Plaintiffs seek a declaration that the City of Albany's Good Cause Eviction Law is preempted by the N.Y. Emergency Tenant Protection Act, the N.Y. Local Emergency Housing Rent Control Act, 2 the N.Y. Emergency Housing Rent Control Law,³ Article 7 of the N.Y. Real Property Law, General Obligations Law § 5-703(2), and Article 7 of the N.Y. Real Property Actions and Proceedings Law. The Plaintiffs also seek a declaration that Albany's Law is unconstitutional, claiming it is in violation of the "takings" clauses of the United States Constitution and is an unlawful, ultra vires exercise of municipal police power that unduly interferes with the Plaintiffs' and other landlords' property rights under well-settled New York doctrine concerning the limits of municipal authority.

Albany filed its Answer, attached, to the Complaint this afternoon, but as it was just filed with the Court, we have not completed our review as of the issuance of this memo.

4. Decision Tree Memo. Based upon the City Council's discussion, this memorandum sets forth specific questions for City Council to review when considering drafting a good cause eviction law.
5. Proposed Draft Local Law to amend Chapter 173 to prohibit eviction without good cause. This local law modifies Chapter 173 in its entirety and includes the good cause eviction provisions provided by Councilmember Aymar-Blair in Article II of the proposed local law. All modifications made to the provisions originally provided by Councilmember Aymar-Blair are highlighted in blue.

Our office submitted a letter to the Attorney General's Office on October 4, 2021, to request an opinion regarding whether the adoption of a Good Cause Eviction Law by the City as a local law is preempted by State Law. We understand Ithaca and New Paltz also submitted a similar request. We have waited for an opinion for over three months. We do not expect the Attorney General's Office will ever render an opinion, especially now that there is litigation over Albany's ordinance.

Good Cause Eviction Laws

Municipality	Status	Litigation
Albany (Adopted)	- Adopted Law on July 19, 2021 - Last Amended August 16, 2021	- Summons and Complaint filed <i>Deborah Pusatere et al v. The City of Albany</i>, Index No. 909653-21 - Answer to be filed by January 7, 2022.
Hudson (Denied)	- First Version approved by Council vetoed by Mayor October 7, 2021. - Second Version of Law Denied December 26, 2021, no majority vote.	
Ithaca (Under Consideration)	- Introduced September 15, 2021 - At its November 10, 2021 meeting, the Planning and Economic Development Committee decided to hold off on voting on the draft law until the Attorney General renders an opinion. There was no request to counsel to submit a letter to the Attorney General requesting an opinion. - Discussed most recently at December 8, 2021 Planning and Economic Development Committee meeting	
Kingston (Under Consideration)	Pending with City Council December 2021, expected to be placed for a vote on February 2, 2022.	
Newburgh (Adopted)	Adopted Law October 25, 2021	
New Paltz (Under Consideration)	Introduced 2019, revised in 2020	

	Discussed most recently at November 10, 2021 Town Board Meeting. Mayor requested the Village attorney send letter to Attorney General Requesting an Opinion.	
New York State (Under Consideration)	- Proposed Bill 2021-22 A.5573/S.3082 in Committee - Hearing being held before Senate Committee on January 7th	
Poughkeepsie (Adopted)	City Council passed the Law on November 15, 2021 and was not approved by the Mayor on December 6, 2021, but under their Charter, is considered to have been enacted into law.	
Ulster County (Under Consideration)	Introduced, Public Hearing commenced on January 4, 2022 Considering Adoption, no vote yet.	

Good Cause Eviction Comparison Chart

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
Local Law	Local Law 6 of 2021, adopted October 25, 2021	Denied on December 21, 2021	Local Law 21-04. Adopted on November 15, 2021.	In review.	Local Law F-2021, adopted on July 19, 2021. (Proceeding Initiated to Challenge Law)	Under consideration.	Bill S3082/A5573
Basis and Purpose for Local Law	Housing Needs Assessment and the Newburgh Housing Report. The purpose of the law is to implement a policy recommendation of the City of Newburgh Housing Needs Assessment and Newburgh Housing Report intended to protect tenants from exorbitant and a predatory rent increases that could result in a significant increase in homelessness in the City.	The purpose of this local law is to protect tenants from exorbitant rent increases that could result in increased homelessness in the City.	Same as Hudson.	No purpose provided.	The proposed good cause eviction legislation codifies an existing practice in Albany City Court landlord-tenant proceedings wherein a landlord seeks a judicial warrant of eviction against their tenant. This legislation will prevent landlords from removing their tenants without first obtaining an order from an Albany City Court judge. Good cause eviction law flips the script. Under a good cause eviction statute, each tenant in the City of Albany will be entitled to a renewal lease and protection against an unconscionable rent hike, unless the landlord can substantiate a good cause for the tenant's eviction. The proposed legislation outlines common sense and practical grounds for eviction. A landlord must satisfy only one of the grounds for eviction before a judge	The proposed good cause eviction legislation codifies an existing practice in New Paltz Justice Court landlord-tenant proceedings wherein a landlord seeks a judicial warrant of eviction against their tenant. This legislation will prevent landlords from removing their tenants without first obtaining an order from a New Paltz Justice Court judge; each tenant in the Village of New Paltz will be entitled to a renewal lease and protection against an unconscionable rent hike, unless the landlord can substantiate a good cause for the tenant's eviction. The proposed legislation outlines common sense and practical grounds for eviction.	The purpose of this legislation is to prohibit the eviction of residential tenants or the non-renewal of residential leases without good cause.

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
					may grant the warrant of eviction against the tenant.		
Definition of Tenant	A tenant, sub-tenant, lessee, sub-lessee, assignee, manufactured home tenant as defined in paragraph one of subsection (A) of section two hundred thirty-three of the New York State Real Property Law, an occupant of a rooming house or hotel as defined in section seven hundred eleven of the New York State Real Property Actions and Proceedings Law, or any other person entitled to the possession, use or occupancy of any housing accommodation.	No definition section.	No definition section.	No definition section.	Same as Newburgh	The term “tenant” as used in this article shall mean a tenant, sub-tenant, lessee, sublessee, assignee, an occupant of a rooming house or hotel as defined in section seven hundred eleven of the Real Property Actions and Proceedings Law or any other person entitled to the possession, use or occupancy of any housing accommodation.	The term “tenant” as used in this article shall mean a tenant, sub-tenant, lessee, sublessee, assignee, manufactured home tenant in paragraph one of subdivision A of section two hundred thirty-three of this chapter, an occupant of a rooming house or hotel as defined in section seven hundred eleven of the Real Property Actions and Proceedings Law, or any other person entitled to the possession, use or occupancy of any housing accommodation.
Definition of Housing Accommodation	A residential premises, including a dwelling, dwelling unit, or rooming unit as defined in this Chapter, located in the City of Newburgh.	No definition section	No definition section	No definition section.	Any residential premises located in the City of Albany.	Any residential premises located in the Village of New Paltz.	Any residential premises, including a mobile home or land in a mobile home park.
Applicability	Applies to all housing accommodations except: 1. Owner-occupied premises with less than four units. 2. Premises where the possession, use or occupancy of which is solely incident to employment and such	No applicability section. Appears to apply to all landlords.	Same as Newburgh	No applicability section provided. Appears to apply to all landlords.	Same as Newburgh, except Albany exempts owner-occupied premises with four or less units.	This article shall apply to all housing accommodations except: 1. Owner-occupied premises with less than two units; 2. Premises where the possession, use or occupancy	Applies to all housing accommodations except: 1. Owner-occupied premises with less than four units. 2. Premises sublet pursuant to section two hundred twenty six-b of this chapter, or otherwise, whether the sub-lessor seeks in

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
	employment is being lawfully terminated. 3. Premises otherwise subject to regulation of rents or evictions pursuant to state or federal law to the extent that such state or federal law requires good cause for termination. 4. Premises sublet pursuant to section two hundred twenty six-b of the NYSRPL or otherwise, whether the sub-lessor seeks in good faith to recover possession of such housing accommodation for personal use and occupancy.					of which is solely incident to employment and such employment is being lawfully terminated (<i>Same as Newburgh</i>); and 3. Premises otherwise subject to regulation of rents or evictions pursuant to state or federal law to the extent that such state or federal law requires “good cause” for termination or non-renewal of such tenancies. (<i>Same as Newburgh</i>) Does not include #4 from Newburgh.	good faith to recover possession of such housing accommodation for personal use and occupancy. 3. Premises the possession, use or occupancy of which is solely incident to employment and such employment is being lawfully terminated. 4. Premises otherwise subject to regulation of rents or evictions pursuant to state or federal law to the extent that such state or federal law requires good cause for termination.
Collection of Rents Section	None	None	None	None	None	No landlord, building manager, owner, agent, or other person in charge -- referred to as “landlord” hereafter - - shall collect rents during any period of noncompliance with Article II of Chapter 129 Housing Standards which would otherwise be due and owing for the rental of premises unless and until the	None

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
						landlord shall have complied with the provisions herein. Nothing herein shall be construed to prevent a landlord, upon receipt of the rental property registration, from receiving the equitable value of the occupancy of the premises from the earliest date of occupancy, but in no event shall a landlord recover in excess of the agreed rent. Failure on the part of the tenant to pay the equitable value of the occupancy of the premises from the earliest date of occupancy until the landlord's receipt of the rental property registration may not be used as a basis for eviction.	
Eviction Section	None	None	None	None	None	No landlord, building manager, owner, agent, or other person in charge -- referred to as "landlord" hereafter - - shall file for an eviction during any period of noncompliance with Article II of Chapter 129 Housing Standards. A landlord of multiple rental	None

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
						properties or units in the Village of New Paltz shall not file for an eviction of residents at any one property during any period of noncompliance with Article II of Chapter 129 Housing Standards at any one of their rental properties. Failure on the part of the tenant to pay the equitable value of the occupancy of the premises during any period of landlord's noncompliance with Article II of Chapter 129 Housing Standards may not be used as a basis for eviction. Further, any landlord with open/unresolved cases concerning hazardous or immediately hazardous housing code violations or immediately hazardous or major construction code violations in any of their rental properties, shall not file for an eviction of tenants at any one of their properties.	

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Necessity for Good Cause Section	No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to renew any lease, or otherwise, remove any tenant from housing accommodation except for good cause as defined in [Number Here] of this article.	No section	No section	No section	Same as Newburgh	Same as Newburgh	No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to renew any lease, or otherwise, remove any tenant from housing accommodations covered by section two hundred twelve of this article except for good cause as defined in section two hundred fourteen of this article.
Grounds for Removal (General Statement)	No landlord shall remove a tenant from any housing accommodation, or attempt such removal or exclusion from possession, notwithstanding that the tenant has no written lease or that the lease or other rental agreement has expired or otherwise terminated, except upon order of a court of competent jurisdiction entered in an appropriate judicial action or proceeding in which the plaintiff or petition has established one of the grounds for good cause for removal or eviction set forth in the law.	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	No landlord shall remove a tenant from any housing accommodation, or attempt such removal or exclusion from possession, notwithstanding that the tenant has no written lease or that the lease or other rental agreement has expired or otherwise terminated, except upon order of a court of competent jurisdiction entered in an appropriate judicial action or proceeding in which the petitioner or plaintiff has established grounds for good cause removal or eviction.
Good Cause for failure to Pay Rent. Factors to determine unconscionable rent.	The Court may consider, among other factors, 1. the rate of the increase relative to the tenant's ability to afford said increase,	The Court may consider, among other factors, 1. improvements made to the subject unit or	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	The tenant has failed to pay rent due and owing, providing however that the rent due and owing, or any part thereof, did not result form a rent increase

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	2. improvements made to the subject unit or common areas serving said unit, 3. whether the increase was precipitated by the tenant engaging in the activity described at section 223-b (1(a)-(c) of the Real Property Actions and Proceedings Law, 4. significant market changes relevant to the subject unit, and 5. the condition of the unit or common areas serving the unit	common areas serving said unit, 2. whether the increase was precipitated by the tenant engaging in the activity described at section 223-b (1(a)-(c) of the Real Property Actions and Proceedings Law, 3. the condition of the unit or common areas serving the unit.					which is unreasonable or imposed for the purpose of circumventing the intent of this article. (No factors)
Unconscionable Rent	Any rent increase in any calendar year by a percentage exceeding five percent.	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Unreasonable if said rent has been increased in any calendar year by a percentage exceeding either three percent or one and one-half times the annual percentage change in the consumer price index for the region in which the housing accommodation is located; whichever is greater.
Good Cause for violating obligation of their tenancy	The tenant is violating a substantial obligation of their tenancy, other than the obligation to surrender possession, and has failed to cure such violation after written notice that the violation cease within ten	Same as Albany	“Legal obligation of their tenancy”	Same as Albany	“Reasonable Obligation of their tenancy”	Same as Newburgh	Same as Newburgh

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	days of receipt of such written notice, provided however, that the obligation of tenancy for which violation is claimed was not imposed for the purpose of circumventing the intent of this article.						
Good cause for committing or permitting nuisance.	The tenant is committing or permitting a nuisance in such housing accommodation, or is maliciously or by reason of negligence damaging the housing accommodation; or the tenant's conduct, including but not limited to, smoking inside the dwelling unit where smoking inside the dwelling unit has been prohibited by the landlord and such prohibition has been communicated to the tenant, failing to dispose of waste created by the tenant's pet(s) from the property on which the dwelling unit is located in accordance with relevant laws, and causing the accumulation of excessive rubbish and/ or garbage in the dwelling unit and common areas, is such as to interfere with the comfort of the landlord or other tenants or occupants of the same or adjacent buildings or structures.	Same as Albany	Same as Albany	Same as Albany	Same as Newburgh but includes the following examples: smoking inside the residential unit where smoking inside the residential unit has been prohibited by the landlord and such prohibition has been communicated to the tenant, failing to dispose of waste created by the tenant's pet(s) from the property on which the residential unit is located in accordance with relevant laws, <u>repeatedly engaging in activities that cause an unreasonable amount of noise or allowing others to do so without taking appropriate steps to mitigate such noise.</u> and causing the accumulation of excessive rubbish and/or garbage in the residential unit and common areas.	Same language as Newburgh but <u>does not</u> include specific reference to the following: smoking inside the dwelling unit where smoking inside the dwelling unit has been prohibited by the landlord and such prohibition has been communicated to the tenant, failing to dispose of waste created by the tenant's pet(s) from the property on which the dwelling unit is located in accordance with relevant laws, and causing the accumulation of excessive rubbish and/ or garbage in the dwelling unit and common areas, is such as to interfere with the comfort of the landlord or other tenants or occupants of the same or adjacent buildings or structures.	The tenant is committing or permitting a nuisance in such housing accommodation, or is maliciously or by reason of negligence damaging the housing accommodation; or the tenant's conduct is such as to interfere with the comfort of the landlord or other tenants or occupants of the same or adjacent buildings or structures.

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Good Cause for occupancy in violation of law.	Occupancy of the housing accommodation by the tenant is in violation of or causes a violation of law and the landlord is subject to civil or criminal penalties therefore; provided however that the [municipal] Building Department has issued an order requiring the tenant to vacate the housing accommodation. No tenant shall be removed from possession of a housing accommodation on such ground unless the court finds that the cure of the violation of law requires the removal of the tenant and that the landlord did not, through neglect or deliberate action or failure to act, create the condition necessitating the order to vacate. In instances where the landlord does not undertake to cure conditions of the housing accommodation causing such violation of the law, the tenant shall have the right to pay or secure payment in a manner satisfactory to the court, to cure such violation provided that any tenant expenditures shall be applied against rent to which the landlord is entitled. In instances where removal of a tenant is absolutely essential to their health and safety, the	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh

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	removal of the tenant shall be without prejudice to any leasehold interest or other right of occupancy the tenant may have and the tenant shall be entitled to resume possession at such time as the dangerous conditions have been removed. Nothing herein shall abrogate or otherwise limit the right of a tenant to bring an action for monetary damages against the landlord to compel compliance by the landlord with all applicable laws;						
Good Cause for use in violation of law.	The tenant is using or permitting the housing accommodation to be used for an illegal purpose.	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh
Good Cause for refusing access to make repairs.	The tenant has unreasonably refused the landlord access to the housing accommodation for the purpose of making necessary repairs or improvements required by law or for the purpose of showing the housing accommodation to a prospective purchaser, mortgagee, or other person having a legitimate interest therein.	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh
Good Cause because landlord needs to use property as principal dwelling unit.	The landlord seeks in good faith to recover possession of a housing accommodation located in a building containing fewer than twelve units	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh

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(Fewer than 12 units)	because of immediate and compelling necessity for their own personal use and occupancy as their principal residence, or the personal use and occupancy as principal residence of their partner, spouse, parent, child, stepchild, father-in-law or mother-in-law, when no other suitable housing accommodation in such building is available. This paragraph shall permit recovery of only one housing accommodation and shall not apply to a housing accommodation occupied by a tenant who is sixty-two years of age or older or who is a disabled person;						
Good Cause because landlord needs to use property as principal dwelling unit. (Fewer than 5 units)	The landlord seeks in good faith to recover possession of any or all housing accommodations located in a building with less than five units to personally occupy such housing accommodations as their principal residence;	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh	Same as Newburgh
Good Cause for sale of unit.	The owner-landlord has in good faith entered into a contract for the sale of the housing accommodation and such contract requires that the housing accommodation be transferred free and clear of any and all residential tenancy obligations as a	No	Same as Newburgh	No	Same as Newburgh	Same as Newburgh.	No

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
	condition of such sale where the owner-landlord has no shared financial or other interest with the potential buyer other than the sale of the housing accommodation in question and submitted sufficient proof to the court thereof;						
Good Cause for failure to enter into written lease.	Where the tenant has refused in bad faith to enter into a written lease which has been offered in good faith to the tenant by the landlord. Proceeding for eviction shall be commenced within 120 days of the proposed written lease first having been offered.	Same as Albany	Same as Albany	Same as Albany	Same as Newburgh, but includes the following additional language: provided, however, the landlord may commence the process for execution of a lease pursuant to this subdivision by submitting a new or revised lease to the tenant that would recommence the 120-day time period for a potential eviction action pursuant to this subdivision.	No	No
Lease requirements	Law includes specific lease requirements.	Law includes lease requirements same as Newburgh.	Law includes lease requirements same as Newburgh	Law includes specific lease requirements which are the same as Newburgh.	Law includes specific lease requirements which are the same as Newburgh.	No lease requirements specified.	No lease requirements specified.
Good Cause if owner-landlord has notified tenant in writing of intention not to renew.	No	No	No	No	No	Except where notice is issued pursuant this subsection for the purpose of circumventing the intent of this article, where the owner-	No

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
						landlord has notified the tenant in writing of the owner-landlord's intention not to renew a written lease not less than five months in advance of the non-renewal date and the tenant consents, provided that at the time of filing of an eviction proceeding the landlord has in good-faith entered into an enforceable lease agreement with a different party in an arms-length transaction for the premises occupied by the tenant. The non-renewal notice provided for in this section must include language advising the tenant of their right to renew their tenancy and thereby reject the non-renewal, that tenant's consent must be provided in writing and that the tenant may not be subjected to retaliation for such rejection. The tenant's consent may be withdrawn any time prior to the owner-landlord's entrance into new lease agreement for the subject premises.	

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What can a tenant do?	A tenant required to surrender a housing accommodation by virtue of the operation of paragraph (7)(recover possession), (8)(recover possession), or (9)(sale of property) of subsection (A) of this section shall have a cause of action in any court of competent jurisdiction for damages, declaratory, and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use of the housing accommodation. In any action or proceeding brought pursuant to this provision a prevailing tenant shall be entitled to recovery of actual damages, and reasonable attorneys' fees.	No language	No language	No language	Same as Newburgh	Same as Newburgh.	A tenant required to surrender a housing accommodation by virtue of the operation of paragraph (G)(recover possession), (H)(recover possession) of subdivision one of this section shall have a cause of action in any court of competent jurisdiction for damages, declaratory, and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use of the housing accommodation. In any action or proceeding brought pursuant to this provision a prevailing tenant shall be entitled to recovery of actual damages, and reasonable attorneys' fees.
NYSRPAPL Section	Nothing in this section shall abrogate or limit the tenant's right, pursuant to section seven hundred fifty-one of the Real Property Actions and Proceedings Law, to permanently stay the issuance or execution of a warrant or eviction in a summary proceeding, whether characterized as a nonpayment, objectionable tenancy, or holdover	No language.	No language	No language	Same as Newburgh	Same as Newburgh	Same as Newburgh

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
	proceeding, the underlying basis of which is the nonpayment of rent, so long as the tenant complies with the procedural requirements of section seven hundred fifty-one of the Real Property Actions and Proceedings Law.						
Preservation of existing requirements of law	No language	No language	No language	No language	Same as New Paltz.	No action shall be maintainable and no judgment of possession shall be entered for housing accommodations pursuant to this article, unless the landlord has complied with any and all applicable laws governing such action or proceeding and has complied with any and all applicable laws governing notice to tenants including, without limitation, the manner and the time of service of such notice and the contents of such notice.	Same as New Paltz
Waiver of Rights Void	No language.	No language	No language	No language	No language	Any agreement by a tenant heretofore or hereinafter entered into in a written lease or other rental agreement waiving or modifying their rights as set forth in this article shall be void	Same as New Paltz

Topic	Newburgh	Hudson	Poughkeepsie	Kingston	Albany	New Paltz	NYS
						as contrary to public policy.	

STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

DEBORAH PUSATERE, ROSSWORKS LLC, JOHN
C. THOMAS, JR., GUS LAZIDES and GGJ
CORPORATION,

SUMMONS

Plaintiffs,

-against

Index No.:

THE CITY OF ALBANY, KATHY M. SHEEHAN in
her capacity as Mayor of the City of Albany, THE
COMMON COUNCIL OF THE CITY OF ALBANY,
and the ALBANY CITY COURT,

Defendants.

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue in Albany County is that the defendants maintain their principal offices there, and the legislative action complained of occurred there.

Dated: Troy, New York
November 16, 2021

Respectfully submitted,

E. STEWART JONES HACKER MURPHY, LLP

By:



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STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

DEBORAH PUSATERE, ROSSWORKS LLC, JOHN
C. THOMAS, JR., GUS LAZIDES and GGJ
CORPORATION,

Plaintiffs,

-against

VERIFIED COMPLAINT

Index No.:

THE CITY OF ALBANY, KATHY M. SHEEHAN in
her capacity as Mayor of the City of Albany, THE
COMMON COUNCIL OF THE CITY OF ALBANY,
and the ALBANY CITY COURT,

Defendants.

Plaintiffs Deborah Pusatere, Rossworks LLC, John C. Thomas, Jr., Gus Lazides and GGJ Corporation (collectively, the “Plaintiffs”), as and for a Complaint against the above-captioned defendants, allege as follows:

1. This is an action for a declaratory judgment and permanent injunctive relief. The plaintiffs seek a declaration that City of Albany Local Law F of 2021 (“Local Law F,” **Exhibit A** hereto) is preempted by the N.Y. Emergency Tenant Protection Act,¹ the N.Y. Local Emergency Housing Rent Control Act,² the N.Y. Emergency Housing Rent Control Law,³ Article 7 of the N.Y. Real Property Law, General Obligations Law §5-703(2), and Article 7 of the N.Y. Real Property Actions and Proceedings Law.

¹ N.Y. Unconsolidated Laws Title 23, Chapter 5.

² N.Y. Unconsolidated Laws Title 23, Chapter 4.

³ N.Y. Unconsolidated Laws Title 23, Chapter 3.

2. The Plaintiffs also seek a declaration that Local Law F is void and should be permanently enjoined for the separate and distinct reason that it is an unlawful, *ultra vires* exercise of municipal police power that unduly interferes with the Plaintiffs' and other landlords' property rights under well-settled New York doctrine concerning the limits of municipal authority.

3. The Plaintiffs also seek a declaration that Local Law F is void and should be permanently enjoined for the separate and distinct reasons that it is: unconstitutional in violation of the "takings" clauses of the Fifth Fourteenth Amendment of the United States Constitution (as incorporated by the Fourteenth Amendment) and Article I, §7 of the New York State Constitution; in violation of the contracts clause in Article I, §10 of the United States Constitution; and unconstitutionally vague in part in violation of the due process clauses of the Fourteenth Amendment of the United States Constitution and Article I, §6 of the New York State Constitution.

THE PARTIES

4. Plaintiff Deborah Pusatere is a natural person residing at 749 Tanner Road, Clifton Park, N.Y. Ms. Pusatere is the fee simple owner of premises located at multiple parcels on Clinton Avenue, in Albany, N.Y., having street address numbers of 392, 601, 609 and 611. Each of those premises are improved by buildings. Ms. Pusatere, as landlord, rents each of those premises to tenants pursuant to written leases, in exchange for rent, for fixed periods of time. Ms. Pusatere does not reside at any of said premises. Each of said premises are "housing accommodations" within the meaning of Local Law F §30-325(A), and Ms. Pusatere is a "landlord" within the meaning of Local Law F §30-325(B).

5. Plaintiff Rossworks LLC ("Rossworks") is a New York domestic limited liability company with a principal place of business at 749 Tanner Road, Clifton Park, N.Y. Rossworks is the fee simple owner of premises located at 95 Clinton Avenue and 355 Clinton Avenue, in Albany,

N.Y. 12206. Each of those premises are improved by buildings. Rossworks, as landlord, rents each of those premises to tenants pursuant to written leases, in exchange for rent, for fixed periods of time. Rossworks does not reside at any of said premises. Each of said premises are “housing accommodations” within the meaning of Local Law F §30-325(A), and Rossworks is a “landlord” within the meaning of Local Law F §30-325(B).

6. Plaintiff John C. Thomas, Jr. is a natural person residing at 107 Jefferson Road, Glenmont, N.Y. Mr. Thomas is the fee simple owner of premises located at 10 Albion Avenue, Albany, N.Y. 12209. Those premises are improved by a building. Mr. Thomas, as landlord, rents those premises to tenants pursuant to written leases, in exchange for rent, for fixed periods of time. Mr. Thomas does not reside at said premises. Said premises is a “housing accommodation” within the meaning of Local Law F §30-325(A), and Mr. Thomas is a “landlord” within the meaning of Local Law F §30-325(B).

7. Plaintiff Gus Lazides is a natural person residing at 268-93d Street, Brooklyn, N.Y. Mr. Lazides is the fee simple owner of premises located at 431 Clinton Avenue, Albany, N.Y. 12206. Those premises are improved by a building. Mr. Lazides, as landlord, rents those premises to tenants pursuant to written leases, in exchange for rent, for fixed periods of time. Mr. Lazides does not reside at said premises. Said premises is a “housing accommodation” within the meaning of Local Law F §30-325(A), and Mr. Lazides is a “landlord” within the meaning of Local Law F §30-325(B).

8. Plaintiff GGJ Corporation (“GGJ”) is a New York domestic business corporation with a principal place of business at 431 Clinton Avenue, Albany, N.Y. GGJ is the fee simple owner of premises located at 442 Clinton Avenue, Albany, N.Y. 12206. Those premises are improved by a building. GGJ, as landlord, rents those premises to tenants pursuant to written

leases, in exchange for rent, for fixed periods of time. GGJ does not reside at said premises. Said premises is a “housing accommodation” within the meaning of Local Law F §30-325(A), and GGJ is a “landlord” within the meaning of Local Law F §30-325(B).

9. Each and every one of the foregoing Plaintiffs owned their respective premises (identified above) both prior and subsequent to the adoption of Local Law F, and have tenancies in effect there that began before the adoption of Local Law F.

10. As landlords of housing accommodations in the City of Albany, each and every one of the foregoing Plaintiffs are directly impacted by Local Law F, and are injured by its preempted, unconstitutional and illegal restrictions discussed below. As more fully illustrated in the allegations below, the Plaintiffs are plainly impacted by Local Law F in a real and concrete way that is different from the public at large.

11. The defendant City of Albany (“Albany”) is a New York municipal corporation with a principal governmental office at 24 Eagle Street, Albany, N.Y. 12207.

12. The defendant Kathy M. Sheehan is the Mayor of the City of Albany, and signed Local Law F into law in her capacity as Mayor.

13. The defendant Common Council of the City of Albany is a “common council” of and for the City of Albany, organized and operating pursuant to the New York General City Law, and with the powers and duties specified therein. The Common Council’s principal location is 24 Eagle Street, Albany, New York. The Common Council adopted Local Law F by a legislative vote held on July 19, 2021.

14. The defendant Albany City Court is a city court organized and operating in accordance with the New York Uniform City Court Act, with a principal location at 24 Eagle

Street, Albany, New York. Local Law F appoints the Albany City Court with the duty of carrying out and applying the provisions of Local Law F.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

A. The Enactment of City of Albany Local Law F of 2021

15. On July 19, 2021, the Albany Common Council (Albany's legislative body) voted to adopt *Local Law F of 2021* (previously defined herein as "Local Law F.").

16. Thereafter, Albany Mayor Kathy Sheehan signed Local Law F into law on August 6, 2021.

17. A true and accurate copy of Local Law F is annexed hereto as **Exhibit A**.

18. Local Law F purports to add a new Article XIII to the Albany City Court Act, which is codified in Part I, Chapter 30 of the Code of the City of Albany. The sections in the new Article XIII are numbered §30-324 through §30-331. (See Exhibit A, pg. 1 – 6.)

19. The purported purpose of these provisions is to bar landlords in Albany from evicting tenants without "good cause." Section 30-377 provides:

Necessity for good cause.

No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to renew any lease, or otherwise, remove any tenant from any housing accommodation except for good cause as defined in [§30-328] of this article.

20. The definition of "good cause" in §30-328 substantially alters the substantive rights and obligations of landlords and tenants in Albany in ways discussed further below. These interferences are unlawful because they are preempted by a host of interlocking New York State laws regulating landlord-tenant relations, and limiting localities' roles in regulating rent and evictions. Local Law F also runs afoul of several provisions in the United States and New York State Constitutions.

B. New York State's Legislative and Regulatory Scheme.

21. Over the years, New York State has enacted a comprehensive legislative and regulatory scheme concerning landlord-tenant relations, rent and eviction control, and the role of localities in these areas. In relevant part, these authorities are found in the following spaces: (i) Title 23 of the Unconsolidated Laws of the State of New York; (ii) Article 7 of the N.Y. Real Property Law; (iii) Article 7 of the N.Y. Real Property Actions and Proceedings Law (“RPAPL”); and (iv) Article V of the General Obligations Law.

(i) Title 23 of the Unconsolidated Laws

22. Several important rent and eviction control laws are found in Title 23 of the Unconsolidated Laws, three portions of which are significant to this case:

- The Emergency Housing and Rent Control Law (Chapter 3, §§8581 - 8596), a true and accurate copy of which is annexed hereto as **Exhibit B**;
- The Local Emergency Rent Control Act (Chapter 4, §§8602 – 8615), a true and accurate copy of which is annexed hereto as **Exhibit C**; and
- The Emergency Tenant Protection Act (Chapter 5, §§8622 – 8634), a true and accurate copy of which is annexed hereto as **Exhibit D**.

23. Each of those laws authorize very particular—and exclusive—kinds of rental and eviction regulation by state and local authorities.

(a) The Emergency Housing and Rent Control Law (1946 - Present)

24. The *Emergency Housing and Rent Control Law* (Exhibit B), initially adopted in 1946 and amended from time to time since then, establishes one particular way in which “maximum rents” could be established in New York State.

25. Specifically, this law authorized a Temporary State Housing Rent Commission (“TSHRC”) to set “maximum rents” in certain housing accommodations that were previously rent-

controlled as of March 1, 1950, under a prior, World War II-era federal law and under certain World War II-era local laws in New York City and Buffalo. (See Exhibit B §§8583 and 8584.)

26. The Emergency Housing and Rent Control Law specified particular methodologies by which the TSHRC could set the maximum rents (*id.* §8584), and established a form of special proceeding in which a landlord could appeal his or her maximum rent to the TSHRC (*id.* §8588) and, if unsuccessful there, seek judicial review in Supreme Court pursuant to CPLR Article 78 (*id.* §8589).

27. The Emergency Housing and Rent Control Law also created certain tenant protections. For housing accommodations that are rent-controlled under this law, a landlord generally may not evict the tenant (even at the end of the lease term) so long as the tenant is paying the maximum rent. (*Id.* §8585[1].) There are certain other instances in which the landlord may evict a rent-paying tenant, such as if the tenant is creating a nuisance, damaging the home, or the tenancy is illegal, or the tenant unreasonably refuses to enter into a written lease, etc. (*Id.*) The landlord, however, could apply to the TSHRC for leave to evict a tenant for other reasons not specified in the legislation. (*Id.* §8585[2].)

28. This legislative scheme, conspicuously and by design, entrusted rent and eviction controls to *the State*. In fact, §8594 of the Emergency Housing Rent Control Law *expressly preempts* localities from regulating in this area:

...[U]nless otherwise provided herein, no municipality shall have the power to adopt local laws with respect to the registration or control of rents or evictions or otherwise to the subject matter of this act.

(*Id.* §8594[4][emphasis added].)

29. Moreover, the Declaration and Findings of the Emergency Housing and Rent Control Law specifically states that this law was a targeted measure intended to assist particular

covered rent-control tenancies, while generally preserving a “state policy” of “normal free market bargaining between landlord and tenant” for those tenancies outside the coverage of this law:

[T]he transition from regulation to a ***normal market of free bargaining between landlord and tenant, while still the objective of state policy***, must be administered with due regard for [housing emergencies]; that in order to prevent uncertainty, hardship and declaration, ***the provisions of this act*** are declared to be necessary and designed to protect the public health, safety and general welfare.

(Exhibit B §8581[1][emphasis added].)

30. By virtue of the foregoing, the Emergency Housing and Rent Control Law preempted localities from interfering with free-market bargaining between landlord and tenant, unless and until the State authorized it through subsequent State legislation. The law reflects an overarching state policy of free market bargaining between landlord and tenants and, by its express preemption language in §8594, prohibits local interference with the landlord-tenant relationship except as the *State* may from time to time allow in other enactments.⁴ As discussed immediately below, the State has passed some additional enactments, *none* of which authorize what Albany purports to do in Local Law F.

(b) The Local Emergency Housing Rent Control Act (1962-Present)

31. The State did build on the Emergency Housing and Rent Control Law with new legislation in the *Local Emergency Housing Rent Control Act* (Exhibit C), initially adopted in 1962 and amended from time to time since then.

⁴ Upon information and belief, New York’s rent-regulated housing inventory once covered by the Emergency Housing and Rent Control Law (Exhibit B) was largely, subsequently subsumed by the rent control and rent stabilization laws passed in subsequent decades, annexed hereto as Exhibits C and D (and discussed further below). But, importantly, the Legislature has never repealed the Emergency Housing and Rent Control Law (Exhibit B) or its express preemption clause in §8594.

32. In the Local Emergency Housing Rent Control Act, the State granted New York City—and only New York City—the power to adopt local laws concerning rent and eviction control. More particularly, the Act provides that in cities “having a population of one million or more,” the “regulation and control of residential rents and evictions” shall “be a matter for local determination.” (Exhibit C §8603; *see also* §§8605 and 8606.) To date, New York City is the only city in the State with a population of one million persons or more.

33. Generally speaking, the Local Housing Rent Control Act permits New York City to “adopt and amend local laws or ordinances in respect of the regulation and control of residential rents” and “the regulation of evictions.” (Exhibit C §8605.)

34. By granting cities with a population of one million or more (*i.e.*, New York City), the power to regulate rent and eviction control locally, the State impliedly *withheld* that power from all municipalities with populations below one million, including the City of Albany.

35. The Local Emergency Housing Rent Control Act’s legislative findings express the continued state policy of “free bargaining between landlord and tenant,” and note that provisions of the Act are a targeted attempt to balance that objective against local concerns:

[T]he transition to a normal market of free bargaining between landlord and tenant, while still the objective of state policy, must be administered with due regard for [a housing emergency]; and that the policy herein expressed should now be administered locally within cities having a population of one million or more by an agency of the city itself.

(Exhibit C §8602.)

36. In the Local Emergency Housing Rent Control Act, the State did *not* authorize localities with a population below one million to disturb the state policy of free bargaining between landlord and tenant. The Local Housing Rent Control Act reflects continued Legislative judgment

that the interests of localities with populations of less than one million do not warrant disruption of this State policy of free market bargaining through local regulation.

(c) The Emergency Tenant Protection Act (1974 – Present, with substantial amendments in 2019).

37. In 1974 the State adopted the Emergency Tenant Protection Act (Exhibit D) which it has amended from time to time, most substantially in 2019.

38. The Emergency Tenant Protection Act authorizes—in a very particular way—another type of rent and eviction regulation in localities, colloquially known as “rent stabilization.”

39. Broadly speaking, the type of regulation that is often called “rent stabilization,” entails the formation of a special commission at the local level to set rent and eviction restrictions, from which landlords and tenants may seek variances. The commission is made up of appointed individuals, some of whom represent tenant interests, some of whom represent landlord interests, and some of whom have expertise in the economics of real estate.

40. Before 2019, the Emergency Tenant Protection Act only allowed cities with a population of one million or more (*i.e.*, New York City) to adopt rent stabilization programs.

41. However, the 2019 amendments to the Emergency Tenant Protection Act opened rent stabilization options to all municipalities in New York subject to certain important prerequisites and limitations described below. It is clear from the text of the law that the establishment of a rent stabilization scheme under the Emergency Tenant Protection Act is the only way that cities with a population of one million or less (such as Albany) are authorized to regulate rental rates, evictions or the prolonging of tenancies. This is a core reason why Albany Local Law F is preempted—it eschews the Emergency Tenant Protection Act for a different approach entirely that the State has never authorized.

42. First, under the Emergency Tenant Protection Act, a city with a population below one million (such as Albany) may only invoke local regulation if the city declares the “existence of a public emergency requiring the regulation of residential rents [].” (Exhibit D §8623[a].) Moreover, the city can only declare such an emergency if there is a scarcity of residential rental units available, specifically a vacancy rate of 5% or less:

A declaration of emergency may be made as to any class of housing accommodation if the vacancy rate for the housing accommodations in such class within such municipality is not in excess of five percent [].

(*Id.*) Moreover, the city must declare that the emergency is over once the vacancy rate exceeds 5%. (*Id.* §8623[b].)

43. Second, if the city does declare an emergency, the city government itself does not get to regulate rents, evictions or the prolonging of tenancies—instead, the *county* in which the city is located must create a nine-member “rent guidelines board” to establish rent guidelines, and enforcement of the rent and eviction restrictions is handled by the New York State Department of Housing and Community Renewal. (Exhibit D §8624[a].)

44. The county legislature nominates the nine members of the rent guidelines board, and the NYS Department of Housing and Community Renewal approves and appoints them. (*Id.*) The law also specifies that the nine rent guidelines board members must be made up of the following:

- Two members who are representative of tenants;
- Two members who are representative of property owners; and
- Five “public members,” who must have at least five years experience in either finance, economics or housing.

(*Id.*)

45. This nine-member board, as a body, is empowered to “establish annual guidelines for rent adjustments.” (Exhibit D §8624[b].) In doing so, the board must take a variety of factors into consideration, such as the economic condition of the residential real estate industry in the affected area, real estate taxes, prevalent operating maintenance costs, insurance costs and fees, financing costs, overall housing supply and vacancy rates, and data from cost of living indices. (*Id.*) The board may promulgate different rental guidelines for different “zones or jurisdictions” of the county, based on these criteria. (*Id.*)

46. When the board establishes its annual rent guidelines, it must issue findings and publish the “maximum rate or rates of rent adjustment [].” (*Id.*) This gives landlords and tenants alike prospective notice of the limits on rental increases (which, as discussed below, is markedly different from the unlawful approach adopted by Albany, which leaves the landlord uncertain of whether his/or her most recent rental increase was allowed until he or she sues for eviction and a judge decides).

47. Generally, a landlord may not charge rent in excess of the maximum rent established by the rent guidelines board (Exhibit D §8626[a]), although there are exceptions for cases in which there has been a substantial modification to the dwelling space of the building, substantial rehabilitation of the building, or certain major capital improvements in the building (*id.* §8626[d]).

48. A landlord may apply to the NYS Division of Housing and Community Renewal for a variance from the maximum rent based on individual circumstances. (Exhibit D §8629[a].) Similarly, a tenant may apply to the NYS Division of Housing and Community Renewal for a downward adjustment of the maximum rent for his or her unit based on individual circumstances. (*Id.* §8629[b].)

49. The Act authorizes the NYS Division of Housing and Community Renewal to promulgate regulations concerning its oversight of county rent guidelines boards and its handling of variance applications from landlords and tenants. (Exhibit D §8630.) The Division has, in fact, developed extensive regulations for this purpose. (See 9 NYCRR Subtitle S, Chapter VIII.)

50. The Emergency Tenant Protection Act, like the prior enactments discussed above, reiterates the “normal market of free bargaining between landlord and tenant” as an objective of state policy, and proffers that the Act’s rules are a targeted, authorized departure from that objective:

[T]he transition from regulation to a normal market of free bargaining between landlord and tenant, while the ultimate objective of state policy, must take place with due regard for [a declared housing emergency]; and that the policy herein expressed shall be subject to determination of the existence of a public emergency requiring the regulation of residential rates within any city, town or village by the local legislative of such city, town or village.

(Exhibit D §8622 [emphasis added].)

51. The Emergency Tenant Protection Act did not authorize cities to regulate rent in the absence of an emergency declaration, nor did it authorize cities to regulate rent in any way other than the process set forth in the Act—namely, oversight by a nine-member rent guidelines board and the NYS Division of Housing and Community Renewal.

(ii) Article 7 of the Real Property Law

52. Much of New York’s regulatory scheme concerning landlord and tenant relations is also found in Article 7 of the N.Y. Real Property Law. Although the rules in Article 7 are extensive, certain of them merit particular attention here for their conflicts with Local Law F.

53. Among other things, Real Property Law §226-c provides that when a landlord intends to offer to renew a tenancy with a rent increase of 5% or more, or if the landlord “does not intend to renew the tenancy,” the landlord must give the tenant timely written notice of this

decision. If the landlord gives the required notice, he/she may increase the rent as stated, or not renew the tenancy at its conclusion.

54. Among other things, Real Property Law §228 provides that a landlord may terminate a “tenancy at will” (one entered into without a specific duration) or a “tenancy at sufferance” (one created by a tenant’s hold over after the expiration of a lease term) by giving “written notice of not less than thirty days.” The section further provides that “At the expiration of thirty days after the service of such notice, the landlord may re-enter, maintain an action to recover possession, or proceed, in the manner prescribed by law, to remove the tenant, without further or other notice to quit.”

55. Among other things, Real Property Law §232-c provides that when a tenant whose term is longer than one month holds over after the expiration of such term, “the landlord may proceed, in any manner permitted by law, to remove the tenant.”

(iii) General Obligations Law §5-703

56. General Obligations Law §5-703(1) provides that “An estate or interest in real property, other than a lease for a term not exceeding one year, or any trust or power, over or concerning real property, or in any manner relating thereto, cannot be created, granted, assigned, surrendered or declared, unless by act or operation of law, or by a deed or conveyance in writing, subscribed by the person creating, granting, assigning, surrendering or declaring the same, or by his lawful agent, thereunto authorized by writing.”

57. General Obligations Law §5-703(2) provides that “A contract for the leasing for a longer period than one year, or for the sale, of any real property, or an interest therein, is void unless the contract or some note or memorandum thereof, expressing the consideration, is in

writing, subscribed by the party to be charged, or by his lawful agent thereunto authorized by writing.”

(iv) Article 7 of the Real Property Actions and Proceedings Law (RPAPL).

58. Article 7 of the Real Property Actions and Proceedings Law sets forth a number of a landlord’s remedies for recovering possession of real property. It also explicitly provides that certain occurrences are “grounds” for evicting a tenant as a matter of law, such as when:

- a. “The tenant continues in possession of any portion of the premises after the expiration of his term without the permission of the landlord...” (RPAPL §711[1]);
or
- b. “The tenant has defaulted in the payment of rent, pursuant to the agreement under which the premises are held, and a written demand of the rent has been made with at least fourteen days’ notice...” (RPAPL §711[2]); or
- c. “The tenant, in a city, defaults in the payment,” of taxes or assessments that he/she has agreed to pay, “for sixty days after the same shall be payable” (RPAPL §711[4]); or
- d. “The tenant, under a lease term of three years or less, has during the term” been adjudicated bankrupt. (RPAPL §711[4].)

C. Albany Local Law F’s Invasion of Preempted Space and Other Constitutional Infringements.

59. The City of Albany has not declared a housing emergency under the Emergency Tenant Protection Act (Exhibit D).

60. The City of Albany has not completed a vacancy study to determine whether the residential rental vacancy rate within the city is 5% or less, as required to declare a housing emergency under the Emergency Tenant Protection Act (Exhibit D).

61. No municipality within the County of Albany has declared a housing emergency under the Emergency Tenant Protection Act (Exhibit D).

62. Consequently, the County of Albany has not established a rent guidelines board under the Emergency Tenant Protection Act (Exhibit D).

63. Through adopting Local Law F (Exhibit A), Albany has attempted to circumvent the regulatory scheme prescribed in the Emergency Tenant Protection Act, and regulate rent, evictions and the conditions and durations of tenancies in a way that is not authorized by that Act, and which otherwise conflicts with the overall State regulatory scheme described above.

(i) Purported Right of Ongoing, Perpetual Tenancy at the Tenant's Election

64. As noted, Local Law F purports to prohibit a landlord from evicting a tenant “except for good cause” (as defined in that law).

65. Local Law F’s definition of “good cause” appears in §30-328. Importantly, the “good cause” definition excludes one of the most common reasons for evicting a tenant: the expiration of the lease term. The preamble language of that section prohibits evictions absent “good cause” “notwithstanding that the tenant has no written lease or that the lease or other rental agreement has expired or otherwise terminated [].”

66. Moreover, the list of “good cause[s]” that appear below the preamble in subdivisions (A)(1) through (A)(10) do not include expiration or termination of a lease or tenancy as allowable reasons for an eviction.

67. Furthermore, §30-328(A)(2) expressly excludes at tenant’s refusal to surrender the premises as “good cause” for eviction. More particularly, it defines one good cause for eviction as follows: “The tenant is violating a reasonable obligation of their tenancy, *other than the*

obligation to surrender possession” (emphasis added). Inversely, the tenant’s breach of its obligation to surrender possession is, according to Local Law F, not good cause for eviction.

68. There are many reasons why a landlord might not want to renew an expiring lease with a tenant (or might want to ask a month-to-month tenant to vacate). For example: another person might be willing to pay higher rent than the current tenant; the landlord might prefer to rent the space to a friend; the tenant may be taking poor care of the property; perhaps the landlord and tenant simply do not get along; or, maybe the landlord would rather convert the building into a commercial use. Even though the landlord is the owner of the property and would traditionally have the right to decline the continuation of a tenancy (for any of these reasons or innumerable others), Local Law F purports to strip the landlord of that right, and grant the *tenant* a presumptive right to extend the tenancy perpetually (unless some other “good cause” for eviction happens to arise).

69. One type of “good cause” for eviction that Local Law F does include, in §30-328(A)(10), is the tenant’s refusal “in bad faith to enter into a written lease” when the landlord offers one “in good faith.” In other words, if the landlord proposes a new written lease to a tenant who’s lease is expiring, or to a month-to-month tenant who had no prior lease in the first place, only the tenant’s “bad faith” refusal to sign it is “good cause” for eviction. That section is of no help to landlords for at least two reasons.

70. First, it requires the landlord to *offer* the tenant a new lease even if the landlord does not want to. Here again, a landlord might want to end an expiring or month-to-month tenancy for any number of reasons (*i.e.*, a preference to rent to an acquaintance or someone willing to pay higher rent, or converting to a commercial use, *etc.*), but under Local Law F, the landlord cannot

do that—he or she must offer a lease (continued tenancy) and can only evict if the tenant refuses to sign it in “bad faith.”

71. Second, §30-328(A)(10)(c) further restricts the landlord’s traditional rights, as property owner, by specifying that the new lease the landlord offers cannot “substantially alter the terms of any existing lease.” That is, not only does Local Law F purportedly compel the landlord offer a new lease to a tenant (despite, perhaps, preferring not to), it “substantially” locks the landlord into the terms of the *existing* lease it negotiated with the tenant, thereby substantially reducing the landlord’s right to negotiate the terms of the continued tenancy. A landlord desiring to pivot to a “no pets” or “no smoking” lease, for example, may be denied the ability to do so.

72. These restrictions on the Plaintiffs’ ability to decline renewal of a tenancy, or to end a month-to-month tenancy on due notice, are expressly preempted by §8594(4) of the Emergency Housing Rent Control Act (Exhibit B), which provides that “no municipality shall have the power to adopt local laws with respect to the registration or control of rents or evictions [].”

73. These restrictions on the Plaintiffs’ ability to decline renewal of a tenancy, or to end a month-to-month tenancy on due notice, are also preempted by the whole of the State laws described above (*i.e.*, “field preemption”). The Emergency Housing and Rent Control Law (Exhibit B), the Local Emergency Rent Control Act (Exhibit C) and the Emergency Tenant Protection Act (Exhibit D) collectively espouse a State policy of “a normal market of free bargaining between landlord and tenant,” which may only be restrained by localities in the manner authorized in those laws. Local Law F’s approach—a right of perpetual tenancy as a matter of local law in terms not specified in the State laws—is not authorized by those State laws.

74. These restrictions on the Plaintiffs' ability to decline renewal of a tenancy, or to end a month-to-month tenancy on due notice, also conflict with, and are thus preempted by, various other State laws. For example:

- a. They conflict with General Obligations Law §5-703, which provide that an interest in real property exceeding one year cannot be created unless expressly granted by a landlord in writing. Local Law F purports to expand the tenant's leasehold interest in perpetuity (unless the tenant happens to commit some other "good cause" offense such as creating a nuisance) despite the landlord's lack of consent.
- b. They conflict with Real Property Law §226-c, which specifically allows a landlord who "does not intend to renew a tenancy" to elect non-renewal by giving the tenant timely written notice.
- c. They conflict with Real Property Law §228, which expressly grants landlords a right to terminate tenancies at will (without a written lease) or at sufferance (after expiration of a lease) by giving 30 days notice.
- d. They conflict with RPAPL §711(1), which expressly grants the landlord a remedy of eviction against a "tenant [who] continues in possession of any portion of the premises after the expiration of his term without the permission of the landlord..." (RPAPL §711[1])

75. The foregoing illegal and preempted restrictions on the Plaintiffs' ability to decline renewal of a tenancy, or to end a month-to-month tenancy unlawfully, restrict and impair the Plaintiffs' property rights.

76. These provisions purporting are also void and as being ultra vires and in excess of the City's police power as more fully set forth below.

77. These provisions purporting to circumscribe a landlord's right to decline renewal of a tenancy (or terminate a month-to-month tenancy) are also unconstitutional and void as both physical and regulatory takings without just compensation in violation of the Fifth and Fourteenth Amendments of the United States Constitution and Article I, §7 of the New York State Constitution, as further set forth below.

78. These provisions purporting to circumscribe a landlord's right to decline renewal of a tenancy (or terminate a month-to-month tenancy) are also unconstitutional and void for their impairment of contractual rights and obligations in violation of Article I, §10 of the United States Constitution, as set forth below.

(ii) Purported Regulation of Rents and Rent Increases

79. Local Law F also purports to regulate a landlord's ability to increase rent from one tenancy cycle to the next.

80. Specifically, Local Law F §30-328 recognizes a tenant's failure to pay rent is "good cause" for eviction, *but only if*:

the rent due and owing, or any part thereof, **did not result from a rent increase or pattern of rent increases** which, regardless of the tenant's prior consent, if any, **is unconscionable or imposed for the purpose of circumventing the intent of this article**. In determining whether all or part of the rent due and owing is the result of an unconscionable rent increase or pattern of rent increases, the Court may consider, among other factors, i) the rate of the increase relative to the tenant's ability to afford said increase, ii) improvements made to the subject unit or common areas serving said unit, iii) whether the increase was precipitated by the tenant engaging in the activity described at section 223-b(1(a)-(c) of the Real Property Actions and Proceedings Law, iv) significant market changes relevant to the subject unit, and v) the condition of the unit or common areas serving the unit, and it shall be a **rebuttable presumption** that the rent for a dwelling not protected by rent regulation is unconscionable or imposed for the purpose of circumventing the intent of this article if said rent has increased in any calendar year by a percentage exceeding **five percent**.

(Exhibit A, §30-328[A][1][emphasis added]; see also §30-328[e][5].)

81. This purports to regulate the Plaintiffs' (and all landlords') ability to increase rent. It "presumptively" bars a rent increase of more than 5% (requiring the landlord to rebut that presumption in court), and also vaguely prohibits rent increases made "for the purpose of circumventing the intent of this article" (whatever that is supposed to mean).

82. This restriction on rent increases is expressly preempted by §8594(4) of the Emergency Housing Rent Control Act (Exhibit B), which provides that "no municipality shall have the power to adopt local laws with respect to the registration or control of rents or evictions []."

83. This restriction on rent increases is also preempted by the whole of the State laws described above (*i.e.*, "field preemption"). The Emergency Housing and Rent Control Law (Exhibit B), the Local Emergency Rent Control Law (Exhibit C) and the Emergency Tenant Protection Act (Exhibit D) collectively espouse a State policy of "a normal market of free bargaining between landlord and tenant," which may only be restrained by localities in the manner authorized in those laws.

84. The Emergency Tenant Protection Act is (Exhibit D) specifies what is clearly intended to be the exclusive form of rent regulation available to localities with fewer than 1 million occupants. That Act allows a city to declare an "emergency," but only if there is a vacancy rate of 5% or less in the city. And even when that occurs, the Act requires that the rent guidelines be promulgated by a balanced, nine-member, *County*-administered "rent guidelines board," made up of two tenant representatives, two property owner representatives, and five public members with "at least five years experience in either finance, economics or housing" (all of which is subject to review by a State agency, the NYS Division of Housing and Community Renewal). The

pervasiveness and specificity of this scheme implies that cities cannot make an end run around these procedures and adopt local laws that unilaterally presume that a rent increase of more than 5% is unlawful, or which allow one person (a city court judge) to decide on the appropriateness of rent increases on a case by case basis, instead of leaving them to a 9-member commission of experts prospectively.

85. This is yet another antithetical feature of Local Law F. Obviously one of the intended benefits of the Tenant Emergency Protection Act's endorsement of the 9-member "rent guidelines committee" is to give landlords and tenants advance notice of what is allowable rent, so that they can make their leases accordingly or prospectively seek variances from the NYS Division of Housing and Community Renewal. Local Law F thwarts this "advance notice" benefit by, instead, inefficiently leaving the legality of a rent increase unknowable until the issue comes before the judge in an eviction case.

86. Local Law F's restrictions on rent increases also expressly conflicts with other State laws and is preempted for that additional reason. For example, it conflicts with:

- a. Real Property Law §226-c, which specifically allows a landlord to offer a tenancy renewal with "a rent increase of 5% or more" if the landlord gives the tenant adequate written notice of the increase. Local Law F's presumption that a rent increase of more than 5% is unlawful is directly at odds with this statute; and
- b. RPAPL §711(2), which expressly grants the landlord a right to eviction if "The tenant has defaulted in the payment of rent, *pursuant to the agreement* under which the premises are held" (emphasis added).

87. The foregoing illegal and preempted restrictions on the Plaintiffs' ability to adjust rent unlawfully restrict and impair the Plaintiffs' property rights.

88. These provisions on restrictions on the Plaintiffs' ability to adjust rent are also void and as being ultra vires and in excess of the City's police power as more fully set forth below.

89. These restrictions on the Plaintiffs' ability to adjust rent are also unconstitutional and void as both physical and regulatory takings without just compensation in violation of the Fifth and Fourteenth Amendments of the United States Constitution and Article I, §7 of the New York State Constitution, as further set forth below.

90. These restrictions on the Plaintiffs' ability to adjust rent are also unconstitutional and void for their impairment of contractual rights and obligations in violation of Article I, §10 of the United States Constitution, as set forth below.

(iii) Prohibition Against Substantially Altering a Lease and/or Limiting of Lease Terms to Nuisance Conditions.

91. Another offensive feature of Local Law F is §30-328(A)(10)(c)(ii) thereof, which purports to prohibit a landlord from "substantially alter[ing]" the terms of a lease when negotiating a renewal.

92. Specifically, as noted, pursuant to §30-328(A)(10), a tenant's "bad faith" refusal to enter into a written lease offered by the landlord is classified as "good cause" for eviction, but subject to several limitations including that the landlord's proposed lease purportedly cannot "substantially alter the terms of any existing lease." (See Exhibit A §§30-328[A][10][c][ii].)

93. The net effect of this provision is that when a tenant's lease term is expiring, the landlord is deprived of, or unreasonably limited in, his or her right as property owner to negotiate for changes to the lease terms.

94. Relatedly, Local Law F, §30-328(A)(10)(c)(1) provides that eviction of a tenant for failure to sign a lease offered by the landlord is not good cause for eviction if the lease "mandate[s]

or proscribes activities not rationally related to the regulation of activities which could create a nuisance at the property or cause discomfort to tenants or occupants....”

95. There is more to residential leases than establishing the rental rate and the lease duration (which have been separately addressed above), and to avoiding nuisances. From lease term to lease term, a landlord may have a desire or need to bargain for other common terms, such as terms requiring the tenant to maintain certain thresholds of renter’s insurance, terms restricting the tenant’s right to make alterations or improvements to the property, terms concerning the tenant’s responsibility for utilities, terms allocating the responsibility of maintenance and repair between the landlord and tenant, terms concerning the allowance or disallowance of pets, and terms concerning the allowance or disallowance of smoking, among other things. From one lease term to the next the landlord may learn from experience that it is wise to add any of these types of terms to a renewal lease, or to bargain for changes in these types of terms in a renewal lease (such as changing the amount of renter’s insurance expected, or distinguishing between types of allowed or disallowed pets, for example).

96. Section 30-328(A)(10)(c)(ii)’s putative prohibition against “substantially altering” a lease, and §30-328(A)(10)(c)(i)’s prohibition against lease terms unrelated to controlling nuisances, would bar or drastically limit a landlord’s ability to bargain for common and customary terms such as those recited in the preceding paragraph. This prohibition locks the landlord into “substantially” the form of lease that it made with the tenant during the tenancy that happened to be in place when Local Law F became effective.

97. These purported prohibitions are expressly preempted by §8594(4) of the Emergency Housing Rent Control Act (Exhibit B), which provides that “no municipality shall

have the power to adopt local laws with respect to the registration or control of rents or evictions
[].”

98. These purported prohibitions are also preempted by the whole of the State laws described above (*i.e.*, “field preemption”). The Emergency Housing and Rent Control Law (Exhibit B), the Local Emergency Rent Control Law (Exhibit C) and the Emergency Tenant Protection Act (Exhibit D) collectively espouse a State policy of “a normal market of free bargaining between landlord and tenant,” which may only be restrained by localities in the manner authorized in those laws. Local Law F’s approach—including its prohibition against substantially altering existing leases—is not authorized by those State laws.

99. These purported prohibitions are also in conflict with, and is thus preempted by General Obligations Law §5-703, which provide that an interest in real property exceeding one year cannot be created unless expressly granted by a landlord in writing. Local Law F’s prohibition against substantially altering the terms of an “any existing lease” extends the terms of the existing lease, in substantial part, indefinitely beyond one year without the landlord’s consent.

100. These purported prohibitions are also void and as being ultra vires and in excess of the City’s police power as more fully set forth below.

101. These purported prohibitions are also unconstitutional and void for their impairment of contractual rights and obligations in violation of Article I, §10 of the United States Constitution, as set forth below.

102. These purported prohibitions also constitute both a physical and a regulatory taking without just compensation in violation of the Fifth and Fourteenth Amendments of the United States Constitution and Article I, §7 of the New York State Constitution.

AS AND FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment and Injunction – Express Preemption)

103. The Plaintiffs re-state, re-allege and incorporate by reference each of the allegations set forth in all of the preceding paragraphs of this Complaint, as though fully set forth in this paragraph.

104. The entirety of Local Law F is expressly preempted by §8594 of the Emergency Housing Rent Control Law (Exhibit B), which provides: “[U]nless otherwise provided herein, no municipality shall have the power to adopt local laws with respect to the registration or *control of rents or evictions* or otherwise to the subject matter of this act” (emphasis added).

105. On its face, Local Law F is a local law that purports to “control rents or evictions.” The very premise of the law is to redefine the circumstances in which the Plaintiffs (and all affected landlords) may evict tenants, requiring a showing of so-called “good cause.”

106. The definition of “good cause” purports to exclude one of the most fundamental circumstances in which the Plaintiffs (and all affected landlords) would otherwise have the right to pursue an eviction: the expiration of a lease term, or the termination of a month-to-month tenancy. That, by itself, purports to be a major “control” of evictions.

107. Local Law F’s backdoor restriction on rent modification in §30-328(A)(1) and (A)(10)(e)(5) is a local law that purports to “control” rents. It concretely presumes that any rent increase above 5% is unlawful and unenforceable, and it also vaguely provides that rent increases that are “unconscionable” or “imposed for the purpose of circumventing the intent” of the local law is unlawful and unenforceable.

108. The provisions of Local Law F §30-328(A)(10)(c)(i) and (ii), purporting to disallow eviction for a landlord who has proposed “substantial” alterations to a renewal lease or terms that

are “not rationally related to the regulation of activities that would create a nuisance” are a regulation of evictions.

109. The remainder of Local Law F §§30-327 and §30-328, purporting to specify particular conditions in which the Plaintiffs (and all affected landlords) may or may not evict tenants, likewise purport to “control” evictions.

110. Accordingly, the entirety of Local Law F is expressly preempted by §8594 of the Emergency Housing Rent Control Law (Exhibit B), and is void for that reason alone.

111. There is a real and concrete controversy between the parties as to the issues set forth herein.

112. The Plaintiffs have no adequate remedy at law.

113. The Plaintiffs are entitled to, and seek: (i) a declaratory judgment decreeing that Local Law F is unconstitutional and void as preempted by New York State law; and (ii) a permanent injunction, enjoining the Defendants from enforcing Local Law F.

AS AND FOR A SECOND CAUSE OF ACTION
(Declaratory Judgment and Injunction – Field Preemption)

114. The Plaintiffs re-state, re-allege and incorporate by reference each of the allegations set forth in all of the preceding paragraphs of this Complaint, as though fully set forth in this paragraph.

115. The Emergency Housing and Rent Control Law (Exhibit B), the Local Emergency Housing Rent Control Act (Exhibit C) and the Emergency Tenant Protection Act (Exhibit D), and portions of the Real Property Law, RPAPL and General Obligations Law, together constitute a pervasive, in-depth legislative scheme of State law, which preempt the field in the area of rent control, rent regulation, and the respective rights and obligations of landlords and tenants with respect to the leased premises.

116. In the Emergency Housing and Rent Control Law, the Local Emergency Housing Rent Control Act, and the Emergency Tenant Protection Act, the Legislature expressed that “normal market of free bargaining between landlord and tenant” is an “objective of state policy.” (Exhibit B §8581, Exhibit C §8602, Exhibit D §8622.) In all three of those laws, the State interposed carefully measured rules to provide some relief to eligible tenants, while still preserving the objective of free market bargaining.

117. In the Emergency Housing and Rent Control Law (Exhibit B) the State authorized some limited rent control (and, therefore, indefinite tenancy) in cities with a population of 1 million or more, and withheld those enactments from all other parts of the State. In the Local Emergency Housing Rent Control Act (Exhibit C), the State expanded rent control (and indefinite tenancy) in cities with a population of 1 million or more, and again withheld those enactments from the rest of the State. In the Emergency Tenant Protection Act (Exhibit D), in 1974, the State authorized rent stabilization schemes in cities with a population of 1 million or more, and again withheld that enactment from the rest of the State until the amendments in 2019, when the State extended rent stabilization (and only rent stabilization) to other localities that “opt in” to it.

118. The Emergency Tenant Protection Act (Exhibit D) itself is very specific about when and how the cities with less than 1 million persons may enter the fray of interfering with rents and tenancies. A city is authorized to act if it declares a housing emergency that the vacancy rate is 5% or lower. (Id. §8623.) By implication, it is not authorized to act in the absence of such an emergency.

119. The City of Albany has not declared a housing emergency, nor has it completed a vacancy study resulting in a finding of vacancy of 5% or lower.

120. Even when a city does declare an emergency, the Emergency Tenant Protection Act (Exhibit D) withholds the power to regulate rent and tenancies from the cities themselves. The Act directs that the *County* in which the city is located establish a nine-member “rent guidelines board” to set rent guidelines annually, subject to review and appeal by the NYS Division of Housing and Community Renewal. (Id. §8624, §8629.)

121. Plainly the Legislature adopted this scheme—entrusting the critical rent regulation roles to counties and a state agency—to ensure consistency of regulation across localities. The Legislature did not approve, and has never approved, an open wilderness in which cities or towns may regulate rents or rewrite the property rights of landlords and tenants.

122. Local Law F intrudes on the field preempted by the State in numerous ways, including, without limitation:

- a. Regulating the conditions of lease-making, evictions and rental adjustments without having made a declaration of emergency or any findings that the relevant vacancy rate was less than 5%.
- b. Regulating the conditions of lease-making, evictions and rental adjustments by local law fiat, rather than instigating the creation of a nine-member rent guidelines committee.
- c. Purporting to nullify rental increases that violate Local Law F including, (presumptively) rent increases of more than 5% or (vaguely) increases that are “unconscionable” or inconsistent with “the purposes” of Local Law F.
- d. By granting the power to decide what are or are not legal rental rates to an individual city court judge on a case-by-case basis, rather than a balanced, appointed committee to determine rent guidelines annually and prospectively.

- e. By denying landlords the inherent property right of declining to renew an expiring tenancy, or terminating a month-to-month tenancy—rights which are endowed to property owners by the various provisions of the Real Property Law, RPAPL and General Obligations Law discussed above (and from the common-law before that).
 - f. By denying landlords the right to “substantially alter” existing leases, and/or denying them the right to bargain for lease conditions beyond those aimed at controlling tenant nuisances.
123. Local Law F falls well out of the bounds drawn by the State in the foregoing laws, and is void.
124. There is a real and concrete controversy between the parties as to the issues set forth herein.
125. The Plaintiffs have no adequate remedy at law.
126. The Plaintiffs are entitled to, and seek: (i) a declaratory judgment decreeing that Local Law F is unconstitutional and void as preempted by New York State law; and (ii) a permanent injunction, enjoining the Defendants from enforcing Local Law F.

AS AND FOR A THIRD CAUSE OF ACTION
(Declaratory Judgment and Injunction – Conflict Preemption)

127. The Plaintiffs re-state, re-allege and incorporate by reference each of the allegations set forth in all of the preceding paragraphs of this Complaint, as though fully set forth in this paragraph.
128. Local Law F §30-328(A)—and in particular its restrictions on the Plaintiffs’ (and all affected landlords’) right to decline renewal of a tenancy or to terminate a month-to-month tenancy—conflict with and are preempted by General Obligations Law §5-703. These provisions

of Local Law F essentially purport to grant the tenant a perpetual leasehold interest in the property without the landlord's written consent, in contravention of General Obligations Law §5-703.

129. Local Law F §30-328(A)—and in particular its restrictions on the Plaintiffs' (and all affected landlords') right to decline renewal of a tenancy or to terminate a month-to-month tenancy—conflict with and are preempted by Real Property Law §226-c. Real Property Law §226-c expressly allows a landlord who “does not intend to renew the tenancy” to effectuate a non-renewal by giving written notice to the tenant.

130. Local Law F §30-328(A)—and in particular its restrictions on the Plaintiffs' (and all affected landlords) right to decline renewal of a tenancy or to terminate a month-to-month tenancy—conflict with and are preempted by Real Property Law §228. Real Property Law §228 expressly grants landlords the right to terminate tenancies at will or by sufferance.

131. Local Law F §30-328(A)—and in particular its restrictions on the Plaintiffs' (and all affected landlords) right to decline renewal of a tenancy or to terminate a month-to-month tenancy—conflict with and are preempted by RPAPL §711(1). RPAPL §711(1) expressly grants the landlord a remedy of eviction against a “tenant [who] continues in possession of any portion of the premises after the expiration of his term without the permission of the landlord...”

132. Local Law F §30-328(A)—and in particular its restrictions on the Plaintiffs' (and all affected landlords) right to decline renewal of a tenancy or to terminate a month-to-month tenancy—conflict with and are preempted by Real Property Law §232-c. Real Property Law §232-c expressly provides that when a tenant whose term is longer than one month holds over after the expiration of such term, “the landlord may proceed, in any manner permitted by law, to remove the tenant.”

133. Local Law F §30-328(A)(1) and (A)(10)(e)(v)—and in particular their restrictions on the Plaintiffs’ (and all affected landlords’) right to increase rent from one tenancy period to the next (including the presumption of illegality for rent increases above 5%)—conflict with and are preempted by Real Property Law §226-c. Real Property Law §226-c expressly allows a landlord to offer a tenancy renewal with a rent increase of 5% or more, upon adequate written notice to the tenant.

134. Local Law F §30-328(A)(1) and (A)(10)(e)(v)—and in particular their restrictions on the Plaintiffs’ (and all affected landlords’) right to increase rent from one tenancy period to the next (including the presumption of illegality for rent increases above 5%) conflicts with, and is preempted by, RPAPL §711(2), which expressly grants the landlord a right to eviction if “The tenant has defaulted in the payment of rent, *pursuant to the agreement* under which the premises are held” (emphasis added).

135. Local Law F §30-328’s purported prohibition against “substantially altering” the terms of “any existing lease,” and §30-328(A)(10)(c)(i)’s prohibition against lease terms unrelated to controlling nuisances, is in conflict with, and is thus preempted by General Obligations Law §5-703(1), which provide that an interest in real property exceeding one year cannot be created unless expressly granted by a landlord in writing. Local Law F’s prohibition against substantially altering the terms of an “any existing lease” extends the terms of the existing lease, in substantial part, indefinitely beyond one year without the landlord’s consent.

136. There is a real and concrete controversy between the parties as to the issues set forth herein.

137. The Plaintiffs have no adequate remedy at law.

138. The Plaintiffs are entitled to, and seek: (i) a declaratory judgment decreeing that Local Law F is unconstitutional and void as preempted by New York State law; and (ii) a permanent injunction, enjoining the Defendants from enforcing Local Law F.

AS AND FOR A FOURTH CAUSE OF ACTION
(Declaratory Judgment and Injunction – Ultra Vires/Exceeds
Municipal Police Power)

139. The Plaintiffs re-state, re-allege and incorporate by reference each of the allegations set forth in all of the preceding paragraphs of this Complaint, as though fully set forth in this paragraph.

140. A municipality enjoys only limited police power to interfere with a property owner's beneficial ownership of his or her property.

141. Local Law F interferes with the Plaintiffs' beneficial ownership and enjoyment of their property, by: (i) depriving them of the right to decline to renew a tenancy if they so choose, or to terminate a month-to-month tenancy if they so choose; and (ii) limiting their ability to increase rent and/or negotiate lease extensions; and (iii) by preventing them from substantially altering existing leases at renewal and/or from including lease terms that are unrelated to nuisance control.

142. Albany's adoption of Local Law F exceeds the city's lawful police powers because Albany did not act in response to a "dire necessity," nor does Local Law F reasonably alleviate or prevent a "crisis condition."

143. There is a real and concrete controversy between the parties as to the issues set forth herein.

144. The Plaintiffs have no adequate remedy at law.

145. The Plaintiffs are entitled to, and seek: (i) a declaratory judgment decreeing that Local Law F is unlawful and void under the foregoing principles of municipal authority; and (ii) a permanent injunction, enjoining the Defendants from enforcing Local Law F.

AS AND FOR A FIFTH CAUSE OF ACTION
(Declaratory Judgment and Injunction – Unconstitutional Taking)

146. The Plaintiffs re-state, re-allege and incorporate by reference each of the allegations set forth in all of the preceding paragraphs of this Complaint, as though fully set forth in this paragraph.

147. As noted above Local Law F's definition of "good cause" for eviction excludes the expiration of a lease term, by itself, as a ground for eviction. Local Law F, therefore, purports to deprive the Plaintiffs (and all affected landlords) of their right, to decline renewal of a tenancy or terminate a month-to-month tenancy at will. This subjects the Plaintiffs (and all affected landlords) to indefinite tenancies, and perhaps perpetual tenancies, notwithstanding the Plaintiffs' preferences.

148. New York courts have recognized that the most important of the various rights that an owner of property holds is the right of possession, which includes the right to exclude others from occupying or using the space. The right to exclude entails, among other things, the landlord's freedom to refuse any occupancy at all by other persons, and the right to refuse continued occupancy by a particular person or persons for any non-discriminatory reason, and the right to refuse new or continued occupancy for the landlord's desire to make other use of the property (such as converting from a residential use to a commercial use).

149. The right of property ownership also entails freedom to contract the terms on which the landlord will let premises to a tenant.

150. Local Law F effectuates an unconstitutional “physical taking” of the Plaintiffs’ property without just compensation, in violation of the Fifth Amendments of the United States Constitution (extended to regulate state and local lawmaking through the Fourteenth Amendment) and Article I, §7 of the New York State Constitution.

151. Compelling a landlord to continue a tenancy with a particular tenant against his/her will results in continued occupancy and physical possession by the tenant, and violates the landlord’s right to exclude. Local Law F is government action that compels the Plaintiffs (and other affected landlords) to endure a perpetual and/or permanent physical occupation of their property.

152. In the alternative, Local Law F’s interference with the Plaintiffs’ (and all affected landlords’) right to exclude constitutes a “regulatory taking” without just compensation, in violation of the Fifth and Fourteenth Amendments of the United States Constitution and Article I, §7 of the New York State Constitution.

153. Among other circumstances, a regulatory taking occurs when the regulation of private property does not substantially advance a legitimate governmental interest.

154. Local Law F does not substantially advance a legitimate governmental interest. Albany has not completed a vacancy study or achieved any other findings to the effect that there is any housing emergency within the City warranting these interferences with a landlord’s right to exclude. As noted, New York State aspires to “a normal market of free bargaining between landlord and tenant,” and has carefully crafted *state* laws that seek to achieve a balance between the rights of landlord and tenant. A local government like the City of Albany has no legitimate interest in subjectively re-aligning these rights, or compromising the landlord’s right to exclude by granting tenants the right to perpetual tenancies at will.

155. Local Law F unreasonably interferes in the Plaintiffs' rights (and all affected landlords' rights) by denying them the freedom to non-renew tenancies at will, by denying them the freedom to terminate tenancies at-will when they would otherwise be allowed to but for Local Law F, by denying them the freedom to choose a different tenant at the expiration of a lease term for non-discriminatory reasons, by denying them the right to substantially alter the terms of any existing lease when negotiating a renewal (and/or limiting landlords to lease conditions aimed only at controlling tenant nuisances), and by denying them the freedom to alter the use of their property from residential leasing to any other use (such as commercial uses) that are not included in Local Law F's definition of "good cause" to evict. All of these impairments are caused by Local Law F's failure to include the expiration of a lease tenancy (or the absence of a lease for a definite term) as "good causes" for eviction.

156. Local Law F also constitutes a regulatory taking in its limitation (without legislative authority) on a landlord's ability to increase rent in a renewal or new tenancy to the limits specified in Local Law F §30-328(A)(1).

157. Even if Local Law F were aimed at addressing a legitimate government interest (which it is not), for these same reasons the law unfairly forces landlords (including the Plaintiffs) to bear more than just a share of obligations which should rightfully be those of society at large.

158. There is a real and concrete controversy between the parties as to the issues set forth herein.

159. The Plaintiffs have no adequate remedy at law.

160. The Plaintiffs are entitled to, and seek: (i) a declaratory judgment decreeing that Local Law F is unconstitutional and void pursuant to the Fifth and Fourteenth Amendments of the

United States Constitution and/or Article I, §7 of the New York State Constitution; and (ii) a permanent injunction, enjoining the Defendants from enforcing Local Law F.

AS AND FOR A SIXTH CAUSE OF ACTION
(Declaratory Judgment and Injunction – Unconstitutional
Impairment Of Contracts)

161. The Plaintiffs re-state, re-allege and incorporate by reference each of the allegations set forth in all of the preceding paragraphs of this Complaint, as though fully set forth in this paragraph.

162. Article I, §10 of the United States Constitution prohibits state and local governments from enacting laws impairing of the obligation of contracts.

163. Each of the Plaintiffs have contracts (leases) with their tenants in the City of Albany for terms of definite duration, which obligate the tenant to surrender the premises at the end of the term, and entitle the landlord to recover possession at the end of the term. Each of the Plaintiffs had such contracts with their tenants prior to the adoption of Local Law F.

164. Local Law F imposes a substantial impairment on the Plaintiffs' contractual relationships with their tenants. Local Law F's exclusion of *tenancy expiration* as a "good cause" for eviction has the practical effect of nullifying the tenant's contractual obligation to vacate, and the landlord's contractual right to recover possession.

165. There is a real and concrete controversy between the parties as to the issues set forth herein.

166. The Plaintiffs have no adequate remedy at law.

167. The Plaintiffs are entitled to, and seek: (i) a declaratory judgment decreeing that Local Law F is unconstitutional and void pursuant to Article I, §10 of the United States

Constitution; and (ii) a permanent injunction, enjoining the Defendants from enforcing Local Law F.

AS AND FOR A SIXTH CAUSE OF ACTION
(Declaratory Judgment and Injunction – Due Process Vagueness)

168. The Plaintiffs re-state, re-allege and incorporate by reference each of the allegations set forth in all of the preceding paragraphs of this Complaint, as though fully set forth in this paragraph.

169. The Due Process Clauses of the United States and NYS Constitutions preclude legislation that is vague in such a manner that individuals of ordinary intelligence are forced to guess at its meaning. All legislation must at least: (i) give a person of ordinary intelligence a reasonable opportunity to know what the law requires or prohibits; and (ii) provide explicit standards for those who apply it, to guard against the risk of discriminatory or inconsistent application.

170. Local Law F, §30-328(A)(1) is vague in its use of the phrase “imposed for the purpose of circumventing the intent of this article.” Specifically, that section provides that a tenant’s non-payment of rent is not “good cause” for eviction if, among other things, it results from a rent increase that was “imposed for the purpose of circumventing the intent of this article.” That is vague and standardless, leaving the Plaintiffs to guess at what it means when negotiating rent, and leaving City Court judges to guess at what it means in eviction proceedings. It is susceptible to arbitrary application.

171. Local Law F, §30-328(A)(10)(d) is likewise vague in its use of the phrase “imposed for the purpose of circumventing the intent of this article.” Specifically, that section provides that a tenant’s refusal to enter into a lease offered by the landlord is not good cause for eviction if the “the proposed written lease [is] offered for the purposes of circumventing this article.” That is

vague and standardless, leaving the Plaintiffs to guess at what it means when negotiating rent, and leaving City Court judges to guess at what it means in eviction proceedings. It is susceptible to arbitrary application.

172. There is a real and concrete controversy between the parties as to the issues set forth herein.

173. The Plaintiffs have no adequate remedy at law.

174. The Plaintiffs are entitled to, and seek: (i) a declaratory judgment decreeing that the foregoing sections of Local Law F are unconstitutional and void pursuant to Article I, §10 of the United States Constitution; and (ii) a permanent injunction, enjoining the Defendants from enforcing Local Law

WHEREFORE, the Plaintiffs demand judgment declaring Local Law F null and void in its entirety and enjoining the Defendants and their agencies, departments and officers from enforcing and applying its terms, in addition to costs and attorneys' fees to the extent awardable at law, together with such other relief in favor of the Plaintiffs as the Court may deem just and proper.

Dated: Troy, New York
November 16, 2021

Respectfully submitted,

E. STEWART JONES HACKER MURPHY, LLP

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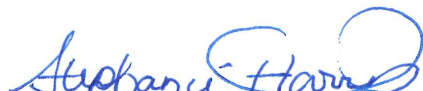
ATTORNEY VERIFICATION

STATE OF NEW YORK)
)s.s.:
 COUNTY OF ALBANY)

Benjamin F. Neidl, an attorney duly admitted to practice law in the State of New York, affirms under penalty of perjury, the following: That deponent is the attorney for Plaintiffs Deborah Pusatere, Rossworks LLC, John C. Thomas, Jr., Gus Lazides and GGJ Corporation; that deponent has read the foregoing Complaint and knows the contents thereof; that the same is true to the deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters believes them to be true; and the reason this verification is made by the deponent is that the defendant is not located within the County where the deponent-attorney maintains his office. The basis for the deponent's knowledge and belief as to the matters alleged in the foregoing Complaint are his discussions with the Plaintiffs and review of documents provided from same, as well as the deponent's review and firsthand knowledge of the local and state laws that are the subject of the Complaint.


 Benjamin F. Neidl

Sworn to before me this
 16th day of November, 2021


 Notary Public

STEPHANIE HARRIS
 Notary Public, State of New York
 Qualified in Schenectady County
 No.: 01LO6083461
 Commission Expires on 11/12/22

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

DEBORAH PUSATERE, ROSSWORKS LLC, JOHN
C. THOMAS, JR., GUS LAZIDES and GGJ
CORPORATION,

ANSWER

Index No.: 909653-21

Plaintiffs,

-against-

THE CITY OF ALBANY, KATHY M. SHEEHAN in
her capacity as Mayor of the City of Albany, THE
COMMON COUNCIL OF THE CITY OF ALBANY,
and the ALBANY CITY COURT,

Defendants.

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:
CITY OF ALBANY)

The Defendant CITY OF ALBANY, KATHY M. SHEEHAN, and THE COMMON
COUNCIL OF THE CITY OF ALBANY, above named, appearing by Robert Magee, Esq and
Laura Gulfo, Esq on behalf of Marisa Franchini, Esq, Corporation Counsel for the City of Albany,
answer the Complaint as follows:

COUNTER-STATEMENT OF FACTS

1. The negative impacts of eviction and the threat of no-cause eviction permeate every aspect of public and private life in the City of Albany.
2. Evicted households, particularly their children, are indelibly marked by the experience of eviction and tend to lead lives that are shorter, less healthy, less stable, and less safe.
3. These personal impacts are felt city-wide in neighborhoods and communities that, as a result of eviction and particularly no-cause eviction, are systematically destabilized by the involuntary removal of people and families that make them up.

4. Eviction underlies and/or contributes to every social ill grappled with by the City of Albany and makes life in the City demonstrably worse.
5. Faced with this reality, the City of Albany Common Council passed and the City of Albany Mayor Kathy Sheehan signed into law Local Law F, which amended certain City of Albany Court procedures as they relate to summary eviction proceedings.
6. Specifically, Local Law F, now Albany City Code §30-327, requires that a party seeking an eviction warrant in a summary eviction proceeding in Albany City Court plead and prove “good cause” for the eviction warrant.
7. Local Law F is an exercise of municipal authority squarely within the City of Albany’s Municipal Home Rule §10 power to pass laws for “the government, protection, order, conduct, safety, health and well-being of persons or property” and does not conflict with and is not superseded by any state law.
8. Local Law F is a product of an extensive public outreach effort undertaken by City of Albany officials concerning how best to address the massive human cost of eviction and the ongoing housing crisis in the City of Albany and cities across New York State are chiefly responsible for managing.
9. The “good cause” requirement of Local Law F seeks to reduce evictions in the City of Albany and to encourage the resolution of landlord-tenant disputes without resort to eviction and its myriad negative consequences.

Evictions Represent an Ongoing Public Health Crisis Which Directly Threatens Sixty Percent of City of Albany Residents

10. The impact of an eviction, an increasingly normal life event for tenant households, is devastating.

11. Eviction often proves to be a turning point in the lives of low-income working families which triggers a cascade of negative personal health, economic, and social consequences.
12. Evicted individuals are 11% to 15% more likely to experience a loss of employment and medical insurance as compared to individuals who have not been evicted.¹
13. This loss of employment is directly attributable to the eviction itself, which requires time-consuming court appearances and housing searches, which require the head of household to miss work, thereby reducing their income or resulting in the loss of employment entirely.
14. Households where the head of household has recently lost their job are also more likely to be evicted, thereby exacerbating the negative impacts of job loss and placing the household at greater risk of homelessness and making it harder to secure new employment or housing in the future.²
15. Hastily secured new housing is likely to be further from the evicted household's source of income, resulting in increased transportation costs or difficulty complying with a work schedule, and is often more expensive or in a less safe neighborhood in which the household lacks social ties.
16. Evictions impose additional debilitating costs on the evicted household in the form of application fees for new apartments, storage fees, move-in costs such as new security deposits and advance rent payments, loss of personal property, and hotel costs.
17. Evicted households are more likely to need sustained public assistance, however, in the immediate event eviction often results in a disruption of public assistance as household

¹ Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, Social Problems, Jan 11, 2016 available at <https://scholar.harvard.edu/mdesmond/publications/housing-and-employment-insecurity-among-working-poor> [last accessed Jan 6, 2022].

² Matthew Desmond & Carl Gershenson, *Who Gets Evicted? Assessing Individual, Neighborhood, and Network Factors*, Social Science Research, Aug 31, 2016 available at <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.ssr.2016.pdf> [last accessed Jan 6, 2022].

heads, preoccupied with the need to obtain shelter, miss appointments or fail to respond to correspondence from the Department of Social Services.³

18. Children victimized by eviction are typically forced to transfer schools; a traumatic destruction of stable educational and peer relationships that has been shown to have a lasting negative impact on childhood development.⁴

19. Mothers who have been evicted experience higher rates of material hardship, depression, and worse health outcomes for themselves for two years following an eviction compared to similarly situated mothers who have not been evicted.⁵

20. A child born to a parent who has recently been evicted is more likely to die in infancy, have an unhealthily low birth weight, be borne prematurely, and be hospitalized during their childhood than their stably housed counterparts.⁶

21. Negative health outcomes trail children for at least two years following an eviction.⁷

22. Studies show that the social stigma accompanying eviction leads to lifelong negative mental health consequences among adolescents.⁸

³ Anna Kahlmeter, Olof Bäckman, & Lars Brännström, *Housing Evictions and Economic Hardship. A Prospective Study*, European Sociological Review, February 2018 available at <https://academic.oup.com/esr/article/34/1/106/4781369?login=true> [last accessed Jan 6, 2022].

⁴ Russell W. Rumberger, *Student Mobility: Causes, Consequences, and Solutions*, Nat'l Education Policy Center, June 2015 available at <https://nepc.colorado.edu/publication/student-mobility> [last accessed Jan 6, 2022].

⁵ Matthew Desmond & Rachel Tolbert Kimbro, *Eviction's Fallout: Housing, Hardship and Health*, Social Forces, Feb. 24, 2015 available at https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf [last accessed Jan 6, 2022]

⁶ Gracie Himmelstein & Matthew Desmond, *Eviction And Health: A Vicious Cycle Exacerbated By a Pandemic*, Health Affairs, April 1, 2021 available at <https://www.healthaffairs.org/doi/10.1377/hpb20210315.747908/full/> [last accessed Jan 6, 2022].

⁷ *Id.*

⁸ Morgan Hoke & Courtney E. Boen, *The Health Impacts of Eviction: Evidence from the National Longitudinal Study of Adolescent Mental Health*, University of Pennsylvania Population Center Working Papers, February 26, 2021 available at https://www.urban.org/sites/default/files/publication/103501/the-future-of-headship-and-homeownership_0.pdf [last accessed Jan 6, 2022].

23. Housing instability has also been linked to increased risk to children of abuse and hospitalization for abuse as well as malnutrition and increased cortisol (thereby subjecting them to increased risk of heart disease, diabetes, and a host of other chronic diseases).⁹
24. All adult populations, once evicted, experience higher-all cause mortality, increased instances of emergency room visits, higher rates of addiction and relapse, depression, and suicide.¹⁰
25. Housing instability has been found to contribute to elevated blood pressure and unhealthy weight gain, greater presence of chronic medical conditions, and cardiovascular-related mortality among all populations.¹¹
26. Eviction facilitates domestic violence by forcing households escaping domestic violence to move back in with an abusive partner or remain with an abusive partner for fear of eviction and homelessness.¹²
27. This effect of eviction is particularly pronounced at a time of escalating rates of domestic violence occasioned by the covid-19 pandemic.¹³
28. The negative effects of eviction are felt most acutely by historically disadvantaged and disenfranchised communities and serve to reinforce historical injustices directly attributable to past policies of enforced racial bias.

⁹ *Id.*

¹⁰ *Id.* See also Hoke & Boen, *The Health Impacts of Eviction*; William Damon, Ryan McNeil, M-J Milloy, et al, *Residential Eviction Predicts Initiation of or Relapse into Crystal Methamphetamine Use Among People Who Inject Drugs: A Prospective Cohort Study*, Journal of Public Health, March 2019 available at <https://pubmed.ncbi.nlm.nih.gov/29425315/> [last accessed Jan 6, 2022].

¹¹ Hoke & Boen, *The Health Impacts of Eviction*.

¹² Sara K. Pratt, *Memorandum: Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA)*, US Department of Housing and Urban Development, Feb. 9, 2011 available at <https://www.hud.gov/sites/documents/FHEODOMESTICVIOLGUIDENG.PDF> [last accessed Jan 6, 2022].

¹³ Brad Boserup, Mark McKenney, Adel Elkbuli, *Alarming Trends in US Domestic Violence During the COVID-19 Pandemic*, American Journal of Emergency Medicine, Apr 28, 2020 available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7195322/> [last accessed Jan 6, 2022].

29. In this way, eviction perpetuates cycles of poverty which condemn members of these communities to increased health and safety risks and decreased opportunity for economic stability or freedom.
30. In 2021, of the nearly 700 evictions filed in Albany City Court notwithstanding several State and Federal eviction moratoriums, just over 64% of eviction proceedings heard in Albany City Court involved properties located in majority-minority neighborhoods.
31. Studies demonstrate that, nationally, evictions disproportionately impact already disadvantaged city-residents such as Black and Hispanic women and low-income families with children and exacerbate trends of endemic racial discrimination and inequality.¹⁴
32. Indeed, the more children a tenant household has, the greater likelihood it will be evicted.¹⁵
33. Data also shows that households with “downward ties”, such as family members or friends who have experienced “poverty shocks” such as teenage pregnancy, incarceration, or eviction, increases the likelihood that the household will be evicted, further reinforcing historic cycles of poverty which plague the City of Albany.¹⁶
34. Nationally, evicted individuals on probation are at an increased risk of recidivism and evicted individuals are, in general, 10% more likely not the stably housed to be incarcerated following an eviction.¹⁷
35. Having an eviction on a household’s record jeopardizes it from receiving many forms of public housing assistance and often disqualifies it from such assistance outright.

¹⁴ Himmelstein & Desmond, *Eviction And Health*.

¹⁵ Desmond & Gershenson, *Who Gets Evicted?*

¹⁶ *Id.*

¹⁷ Leah A. Jacobs & Aaron Gottlieb, *The Effect of Housing Circumstances on Recidivism: Evidence From a Sample of People on Probation in San Francisco*, Criminal Justice and Behavior, Aug. 2, 2020 available at <https://journals.sagepub.com/doi/10.1177/0093854820942285> [last accessed Jan 6, 2022].

36. For instance, an eviction may be used to reject an application for a Section 8 housing voucher or an application of a Section 8 voucher holder for housing.¹⁸

37. The threat of no-cause eviction discourages tenants from advocating for their right to safe housing and, in this way, contributes to higher instances of lead poisoning, asthma, and asbestos exposure among evicted households.¹⁹

The City of Albany is Responsible for Managing and Mitigating the Myriad Negative Impacts of Eviction

38. The personal crises which are directly caused by eviction strain public safety and emergency housing resources in the immediate event of eviction and metastasize into broader social crises that linger and are renewed indefinitely.

39. In this way, the eviction trauma experienced directly by the 8.4% of City of Albany residents, and one in six rental households, who are the subject of an eviction petition in a typical year is felt city-wide by residents to whom the evicted are friends, family members, coworkers, and neighbors.

40. In 2019, 4,120 petitions for an eviction warrant were filed in Albany City Court.

41. These evictions directly impacted an estimated 8,400 tenants in a City of 99,225.

42. The lifting of covid-19 pandemic-related eviction moratoriums will result in an unprecedented wave of evictions that will greatly exacerbate the eviction crisis which has been building in the City of Albany and elsewhere for several years.

43. Surveys of landlords who own property in the City of Albany have confirmed that 60% of landlords intend to file at least one eviction petition in Albany City Court as soon as the

¹⁸ Department of Housing & Urban Development, *Housing Choice Voucher Program Guidebook: Eligibility Determination and Denial of Assistance*, November 2019 available at https://www.hud.gov/sites/dfiles/PIH/documents/HCV_Guidebook_Eligibility_Determination_and_Denial_of_Assistance.pdf [last accessed Jan 6, 2022].

¹⁹ Hoke & Boen, *The Health Impacts of Eviction*.

state-wide covid-19 related eviction moratorium expires, which is set to occur on January 15, 2022.

44. The post-moratorium wave of eviction petitions will greatly expand what is already a substantial backlog of existing petitions for eviction which have been stayed pending the lifting of the moratorium.

45. Covid-19 related employment layoffs have decreased tenants' ability to pay rent and/or resulted in missed rent payments which tenant households have been unable to pay down even where they have been able to resume employment.

46. In many cases during the pandemic, tenant households incurred significant costs and expenses in defending themselves from illegal eviction attempts, such as utility shut-offs and illegal lockouts or covid-19 related medical expenses or lost wages.

47. Between 2016 and 2021, only 2.47% of households subjected to a petition for eviction in Albany City Court were represented by an attorney, as compared to 89% of petitioners seeking eviction.

48. This substantial power imbalance in petitioners' favor taxes Albany City Court with a substantial number of *pro se* litigants, over 15,600 between 2016 and 2021, who require significant guidance from the court personnel as they navigate what is a personally traumatic legal fight.

49. The post-moratorium eviction wave will also exacerbate the spread of covid-19 as it has been confirmed that the lifting of eviction moratoriums in other states has contributed to an increase in both the spread and death toll of covid-19 there.²⁰

²⁰ Kathryn M. Leifheit, Sabriya L Linton, & Julia Raifman, et al, *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality*, American Journal of Epidemiology, Aug. 22, 2021 available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576 [last accessed Jan 6, 2022].

50. This accelerated covid-19 spread is caused by an eviction's tendency to compel evicted households to move in with often older and more vulnerable relatives or to simply crowd into too-small homes of more stably housed households.²¹
51. The tendency of evicted households to "double-up" with friends or relatives often increases these friends and relatives' risk of eviction or loss of public assistance.
52. The instability caused by eviction contributes to increased neighborhood crime.²²
53. The threat of a no-cause eviction discourages City of Albany residents from reporting building code violations, thereby putting both themselves and the public at risk of building-related disasters such as fire or structural collapse.
54. City schools are forced by evictions to undertake significant administrative efforts to ensure students forced to switch schools do not miss critical lessons or educational opportunities.
55. This is particularly true where the evicted student requires an individualized educational plan due to a developmental disability.
56. Of evictions filed in Albany City Court in 2021, 45.6% of subject buildings had been cited for code violations since 2021 as compared to only 15.9% of all residential rental properties during the same period.
57. Of eviction petitions filed in Albany City Court in 2021, 43.7% involved residential dwelling units which did not have a valid residential occupancy permit as required by Albany City Code §231-131.

²¹ *Id.*

²² Daniel C Semenza, Richard Stansfield, & Jessica M. Grosholz, et al, *Eviction and Crime: A Neighborhood Analysis in Philadelphia, Crime and Delinquency*, August 3, 2021 available at <https://journals.sagepub.com/doi/abs/10.1177/00111287211035989> [last accessed Jan 6, 2022].

58. Of evictions filed in Albany City Court in 2021, landlords with active eviction proceedings were nearly five times more likely than landlords without active eviction proceedings to have been involved in designated “landlord-tenant incidents” requiring intervention by the City of Albany Police Department.
59. The City of Albany Police Department’s involvement in landlord-tenant disputes has increased 11% since the beginning of the covid-19 pandemic, a trend that will accelerate as evictions recommence in earnest upon expiration of the state moratorium.
60. Compounding the problems above, the City of Albany must contend with the reality that the number of renters in the City of Albany, where 60% of households are renters as compared to 36% nationally, is going to rise as a proportion of the total population for the foreseeable future.²³
61. Market trends confirm a future in which a greater share of the population remains in rental housing, and therefore at risk of eviction, for their entire lives.²⁴
62. According to the Zillow Home Value Index, the cost of the average home in the City of Albany rose 14.8% percent in 2021 to \$250,648.²⁵
63. This figure is simply unaffordable for most city residents given the median City of Albany household income of \$45,825 and the fact that 22.9% of the City of Albany’s population lives beneath the poverty level.²⁶

²³ Drew Silver, *As National Eviction Ban Expires, a Look at Who Rents and Who Owns in the U.S.*, Pew Research Center, Aug 2, 2021 available at <https://www.pewresearch.org/fact-tank/2021/08/02/as-national-eviction-ban-expires-a-look-at-who-rents-and-who-owns-in-the-u-s/> [last accessed Jan 6, 2022].

²⁴ Laurie Goodman, Jun Zhu, *Urban Institute Research Report: The Future of Headship and Homeownership*, UrbanInstitute, Jan 21, 2021, available at <https://www.urban.org/research/publication/future-headship-and-homeownership> [last accessed Jan 5, 2022].

²⁵ Zillow.com, <https://www.zillow.com/albany-ny/home-values/> [last accessed Jan 6, 2022].

²⁶ United States Census Bureau, QuickFacts Albany city, New York, <https://www.census.gov/quickfacts/albanycitynewyork> [last accessed Jan 6, 2022].

64. Nationally, rents have increased more than 13% since 2001 while wages have only increased 0.5%, a dynamic that makes it increasingly difficult for renter households to save the money needed to purchase a home, especially when coupled with increasing food, healthcare, and transportation costs.²⁷
65. This dynamic is acutely felt by low-income households, 50% of which nationally are rent-burdened (defined by the Department of Housing and Urban Development as spending more than 30% of income on rent), and spend more than 50% of their income on rent and other housing costs.²⁸
66. Twenty-five percent of low-income families, the majority of which receive no governmental housing assistance, spend more than 70% of their household income on housing costs.²⁹
67. Eviction, an ever-present threat faced by tenant households, significantly damages the evicted household's credit, further decreasing the household's ability to obtain stability by purchasing a home.³⁰
68. Evictions themselves have also been on the rise nationally, increasing from 518,873 in 2000 to 898,479 in 2016.³¹

²⁷ Alicia Mazzara, *Census: Income-Rent Gap Grew in 2018*, Center on Budget and Policy Priorities Blog, Sept. 27, 2019, <https://www.cbpp.org/blog/census-income-rent-gap-grew-in-2018> [last accessed Jan 6, 2022].

²⁸ US Gov't Accountability Office, *Rental Housing: As More Households Rent, the Poorest Face Affordability and Housing Quality Challenges*, May 2020; Matthew Desmond, *Unaffordable America: Poverty, Housing, and Eviction*, Fast Focus: Institute for Research on Poverty, March 2015 available at <https://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf> [last accessed Jan 6, 2022].

²⁹ Frederick Eggers & Foua Moumen, *Investigating Very High Rent Burdens Among Renters in the American Housing Survey*, U.S. Department of Housing and Urban Development, Washington, D.C., August 2010 available at https://www.huduser.gov/portal/publications/ahsrep/investing_veryhigh.html [last accessed Jan 6, 2022].

³⁰ John Eric Humphries, Nicholas Mader, Daniel Tannenbaum, & Winnie van Dijk, *Does Eviction Cause Poverty? Quasi-Experimental Evidence from Cook County, IL*, Cowles Foundation for Research in Economics, July 2019 available at <https://cowles.yale.edu/sites/default/files/files/pub/d21/d2186.pdf> [last accessed Jan 6, 2022].

³¹ Matthew Desmond, Ashley Gromis, & Lavar Edmonds, et al., *Eviction Lab National Database: Version 1.0*, Princeton: Princeton University, available at <https://evictionlab.org/national-estimates/> [last accessed Jan 6, 2022].

69. These economic trends will decrease the ability of City of Albany residents to pass on generational wealth to their children, further undermining the ability of City of Albany residents to afford their own homes for decades to come.

70. As these trends continue and accelerate, it is imperative that New York State's cities retain the ability to regulate eviction as eviction quickly becomes an increasingly normal life event for city residents.³²

Local Law F Was the Result of a Comprehensive Outreach Effort to Landlords, Tenants, and Community Leaders About How the City of Albany Could Address the Eviction Crisis

71. The decision to pursue passage of Local Law F came after City of Albany officials undertook an extensive outreach effort among landlord and tenant stakeholders in the City of Albany throughout 2019.

72. This outreach effort consisted of several public workshops with landlord and tenant groups where city officials received feedback from residents, tenants, and landlords about how the City of Albany government could improve life in their neighborhoods.

73. It also included dozens of individual conversations with community members and leaders in which City of Albany officials sought out to ensure they received a diversity of perspectives and opinions on how best to combat issues like blight, poverty, and crime and improve the quality of life for City residents.

74. A common theme that emerged from this outreach effort was that tenants were hesitant to contact City of Albany code enforcement for fear of being evicted in retaliation.

75. Many tenants that City of Albany officials spoke to were aware of existing retaliatory eviction protections, but were unaware of how to assert them in court or had not been protected by those protections from retaliatory eviction in the past.

³² Himmelstein & Matthew Desmond, *Eviction And Health*.

76. Tenants also expressed that because they were always at risk of being evicted they were discouraged from establishing roots in a given neighborhood and that as a result residents of neighborhoods where eviction was common were not able to cohere into robust communities that could care for each other, discourage crime, and self-advocate to improve their quality of life.
77. This discouragement most profoundly affects neighborhoods with high eviction rates, such as the City of Albany's minority-majority South End, Arbor Hill, and West Hill neighborhoods, where strong community organization is most needed.
78. Landlords similarly expressed frustration with the pace and conduct of eviction proceedings in Albany City Court due in large part to the difficulties unrepresented tenants had in navigating the expedited summary eviction process.
79. Landlords also expressed frustration with the behavior and conduct of many of their tenants and their inability to police it effectively.
80. Albany City Court officials expressed difficulty in processing the thousands of eviction petitions that were filed in Albany City Court on an annual basis.
81. The City of Albany, its powers to intervene more meaningfully in the eviction crisis circumscribed by the economy and the law and faced with the impending post-moratorium escalation of the eviction crisis, passed Local Law F.
82. Local Law F is a minor adjustment of the burden of proof in the context of summary eviction proceedings in Albany City Court by requiring that a party seeking an eviction warrant in a summary eviction proceeding plead "good cause" for the warrant.
83. Good cause for an eviction per Local Law F, now incorporated as Albany City Code §30-327, includes i) non-payment of rent, ii) violation of a lease obligation, iii) a tenant-created

nuisance, iv) occupancy which subjects the landlord to criminal or civil penalties (ie. in violation of a municipal condemnation order), v) illegal occupancy, vi) unreasonable refusal of access to the landlord, vii) the petitioner's desire to use the property for personal or family use, viii) the petitioner seeks to sell the building, ix) the tenant's refusal to enter into a written lease.

Local Law F is Rationally Related to the Mitigation of the Eviction Crisis

84. Local Law F addresses the eviction crisis and the input from the public that city officials received during the 2019 outreach effort.
85. By requiring a showing of "good cause", Local Law F provides a greater degree of stability to tenants who abide their lease obligations, pay their rent, and are good neighbors.
86. This opportunity for stability incentivizes adherence to lease obligations by tenant households and encourages tenant households to put down roots in their neighborhoods and communities in ways that will improve quality of life and reduce crime, including blight.
87. This stability also improves the ability of tenant households to plan and prepare for the future by, among other things, saving for their own home.
88. The "good cause" requirement also prevents petitioners from disguising a retaliatory eviction as a simple holdover and provides greater protection to tenants who assert their right to safe housing by asking their landlord to make necessary repairs or contacting code enforcement concerning potential code violations in their building.
89. The "good cause" requirement, by explicitly allowing eviction for bad conduct, preserves landlords' ability to use eviction and the threat of eviction to enforce the lease and general social obligations.

90. However, by requiring that “good cause” for eviction be shown in a summary eviction proceeding, Local Law F encourages landlords to resolve disputes with their tenants without resorting to the dramatic and socially caustic remedy of summary eviction.
91. The “good cause” requirement of Local Law F, by requiring better-developed pleadings and discouraging eviction overall, will improve Albany City Court’s ability to process its eviction caseload as petitions for eviction will more clearly identify the issues in dispute.
92. This will improve Albany City Court’s ability to develop precedent and dispose of cases fairly and quickly.
93. This better identification of the issues in dispute required by the “good cause” requirement will also help tenants to better prepare themselves for court, which will also serve to expedite eviction proceedings.
94. By requiring a petitioner to demonstrate good cause before pursuing an eviction warrant in Albany City Court, Local Law F ensures that tenants who have complied with their lease obligations and have paid their rent can maintain stable housing.
95. By increasing the landlord’s burden of proof in a summary eviction proceeding in Albany City Court, Local Law F will reduce the number of evictions in the City of Albany and thereby reduce the countless negative impacts of eviction discussed above.
96. It also protects tenants who are being evicted for impermissible reasons, such as race, having asserted their rights under the lease, or having children, by requiring landlords to articulate a permissible ground for pursuing eviction.
97. These measures are designed to calm the rate of evictions the Albany City Court and the City of Albany are expected to face in the coming months and encourage informal resolution of landlord-tenant disputes which avoids eviction and its worst consequences.

98. Though Local Law F will not be able to address the myriad ways in which eviction undermines public health and safety, it is a reasonably measured and targeted step towards addressing the eviction crisis that is entirely within the City of Albany's authority to take.

Local Law F is a Valid Exercise of the City of Albany's Municipal Home Rule Authority

99. Local Law F is a permissible exercise of the City of Albany's authority per Municipal Home Rule §10(11) to pass laws for "the government, protection, order, conduct, safety, health and well-being of persons or property."

100. A local law may be invalid through the application of state law where a state law specifically conflicts with the local law or where the state legislature has intended to "occupy the field" in the regulation of a particular matter.

101. "For a local law to be invalid pursuant to the conflict preemption doctrine, the State must specifically permit the conduct the local law prohibits or provide some other indication that deviation from state law is prohibited." *People v Torres*, 2021 NYLEXIS 2172, *13, [Oct 12, 2021] [quotation omitted].

102. There is simply no component of Local Law F that conflicts with state law or intrudes on a field occupied by state regulation.

103. In order for a local law to be deemed invalid by occupation of the field, state regulation must evince some intent to exercise exclusive regulatory authority over a given matter. *People v Diack*, 24 NY3d 674, 682 [2015].

104. The State has not occupied the field with respect to the regulation of residential tenancy. *See, e.g. Zorn v Howe*, 276 AD2d 51 [3d Dep't 2000]; *People v Christensen*, 77 AD3d 174 [2d Dep't 2010].

105. Otherwise, Local Law F is not in conflict with any state law.

Local Law F Does Not Conflict with Title 23 of the Unconsolidated Laws

106. The Plaintiffs allege that the Emergency Housing and Rent Control Law, Local Emergency Rent Control Act, and Emergency Tenant Protection Act preempt the City of Albany's authority to regulate residential rental rates. [Complaint ¶¶22-51].
107. This allegation of preemption is easily dispensed with because Local Law F does not seek to regulate residential rental rates.
108. In setting out that non-payment of rent is a good cause for eviction, Local Law F includes language that non-payment of a rental increase "imposed for the purpose of circumventing the intent of" Local Law F is not a permissible ground for eviction.
109. Local Law F creates a rebuttable presumption that a rental increase was made for the purpose of circumventing Local Law F where the increase in rent is more than 5%.
110. Local Law F does not deem any rental amount or increase illegal and it does not in any way restrict a landlord's right to recover rent, or indeed enforce any lease term, in any proceeding outside of a summary eviction proceeding in Albany City Court.
111. Local Law F merely empowers the Albany City Court to find a lack of good cause notwithstanding the non-payment of rent where the non-payment was occasioned by an increase in rent for the purpose of circumventing Local Law F.
112. The Petitioner's assertion that requiring a rationale for a rent increase of above 5% correlates to rent regulation is unfounded. Local Law F simply requires that if a landlord has increased the rent and is trying to evict their tenant they must rebut that it is not unconscionable by providing a rationale for the rent increase in court documents.

Local Law F Is Not in Conflict with Any Provision of Article 7 of the Real Property Law

113. The Plaintiffs allege that Local Law F conflicts with several of the notice provisions of Article 7 of the Real Property Law. [Complaint ¶¶52-55].
114. Real Property Law §226-C, requires that landlords provide notice to their tenants of a rent increase depending on the length of tenancy to provide notice of the increase regardless of the justification for the increase.
115. Local Law F is silent with respect to the notice required in order to impose a rental increase.
116. Real Property Law §228 imposes notice requirements on landlords seeking to terminate “a tenancy at will or by sufferance” and provides for repossession of the premises in an “action to recover possession, or proceed, *in the manner prescribed by law*, to remove the tenant, without further or other notice to quit.” (emphasis supplied).
117. Real Property Law §228 certainly cannot be said to provide a right to an eviction warrant in a special proceeding in Albany City Court.
118. Real Property Law §228 explicitly contemplates the reality that eviction proceedings will be subject to regulation like Local Law F.
119. Additionally, Local Law F is silent on the manner in which such a lease may be terminated and notice requirements related to lease terminations.
120. Real Property Law §232-c, in allowing a landlord to “proceed, in any manner permitted by law, to remove the tenant”, like Real Property Law §228, again contemplates regulation of eviction proceedings on a local level where the “manner permitted by law” may be determined.

Local Law F Does not Conflict with General Obligations Law §5-703

121. Plaintiffs allege that Local Law F is preempted by General Obligations Law §5-703, New York State's statute of frauds, which requires that the conveyance of an interest in real property be in writing.

122. Local Law F is not preempted by General Obligations Law §5-703 because Local Law F does not seek to regulate the conveyance of property interests, it merely regulates the circumstances in which the City of Albany Court issues eviction warrants in summary eviction proceedings.

Local Law F Does not Conflict with the Real Property Actions and Proceedings Law

123. The Plaintiffs argue that Local Law F conflicts with various provisions of the Real Property Actions and Proceedings Law, which establishes the procedure for summary eviction proceedings. [Complaint ¶58].

124. Article 7 of the Real Property Actions and Proceedings Law provides that “[a] special proceeding to recover real property may be maintained in a . . . court of civil jurisdiction in a city” RPAPL §701(1).

125. Local Law F does not regulate when a landlord may bring a special proceeding under Real Property Actions and Proceedings Law §711 such that none of the prerequisites for filing enumerated therein preempt Local Law F.

126. Even if it did, while Real Property Actions and Proceedings Law §711(1) states that an eviction proceeding may be maintained “upon the expiration of [a tenant household's] term”, it is silent as to what constitutes a residential lease term or how such a term may be terminated.

127. This is confirmed elsewhere in the Real Property Actions and Proceedings Law, specifically section 741, which requires without specification that the petitioner seeking an eviction “state the facts upon which the special proceeding is based”. RPAPL §741(4).

Local Law F Does Not Create a Perpetual Tenancy

128. Local Law F applies to summary eviction proceedings in Albany City Court and provides ample grounds upon which a landlord may obtain an eviction.

129. Local Law F does not foreclose a landlord’s ability to pursue an eviction warrant in any court other than the Albany City Court or outside the context of a summary eviction proceeding.

130. For the same reasons, among others, Local Law F does not run afoul of the New York State or United States Constitution.

131. The Plaintiffs’ allegation that the slight adjustment of the burden of proof in a summary eviction proceeding in City of Albany Court represented by Local Law F intrudes on their legal, economic, and constitutional right and prerogatives does not withstand scrutiny.

ANSWER

132. Acknowledges the Plaintiffs’ characterization of the action and Plaintiffs’ request for relief as set out at paragraphs 1, 2, 3, and 119.

133. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 4, 5, 6, 7, 8, 9, 10, 163, and 164.

134. Admits the allegations contained at paragraphs 11, 12, 13, 14, 15, 16, 17, 18, and 19.

135. Defendant neither admits nor denies the allegations contained at paragraphs 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71,

72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 115, 116, 117, 118, 120, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 162, 165, 166, 167, 169, 170, 171, 172, 173, and 174 insofar as they raise questions of law for the Court to decide.

136. Defendant City of Albany responds to the incorporation of foregoing allegations at paragraphs 103, 114, 127, 139, 146, 161, and 168 in same manner as they are responded to above.

137. Any allegation set forth in the Complaint which is not explicitly responded to herein or for which inconsistent responses have been provided herein is denied.

First Affirmative Defense

138. The Plaintiffs lack standing to bring this action.

Second Affirmative Defense

139. If any portion of Local Law F is found to have been preempted by state law, Defendants may be enjoined from enforcing that portion of Local Law F without being enjoined from enforcing the entirety of Local Law F.

Third Affirmative Defense

140. The present action is premature.

Fourth Affirmative Defense

141. The declaratory judgment sought by the Plaintiffs will serve no useful purpose to the parties.

Fifth Affirmative Defense

142. The Court should decline to hear the Plaintiffs' action as the Plaintiffs' have other adequate, more appropriate, remedies available.

Sixth Affirmative Defense

143. The Plaintiffs' have failed to identify a justiciable controversy.

Seventh Affirmative Defense

144. The controversy relied on by the Plaintiffs is moot and/or may become moot during the pendency of this action.

Eighth Affirmative Defense

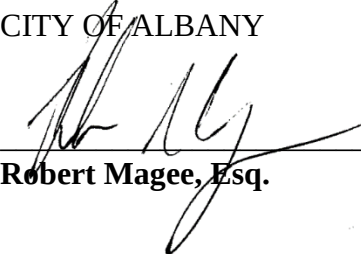
145. The controversy presented by the Plaintiffs is not ripe for adjudication and has been brought prematurely.

WHEREFORE, the Defendant City of Albany, Kathy M. Sheehan, and the Common Council of the City of Albany respectfully prays for judgment dismissing the Complaint herein, together with the costs, disbursements and attorney's fees incurred in the defense of this action, and for such other and further relief to the Court deems just and proper.

DATED: January 7, 2022
Albany, New York

Yours, etc.
MARISA FRANCHINI
CORPORATION COUNSEL
CITY OF ALBANY

By:


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MEMORANDUM

TO: Mayor Kyriacou and Members of the City Council
of the City of Beacon

FROM: Keane & Beane, P.C.

RE: Good Cause Eviction Local Law

DATE: January 5, 2021

The City Council is considering adopting a Good Cause Eviction Local Law to protect tenants from eviction by requiring good cause be shown before a property owner can evict a tenant. The purpose of the local law is to protect tenants from exorbitant rent increases that could result in increased homelessness in the City. A copy the draft Local Law is attached hereto.

This memorandum outlines specific questions for the City Council to review when considering drafting a good cause eviction law.

1. What housing accommodations shall be subject to the law (How should the law define housing accommodation)? Does the City want to exempt owner-occupied premises with four or less units? Or Owner-occupied premises with less than two units? The City must decide the threshold number of units that would trigger the application of the provisions of the law.
 - a. For example, the law shall apply to all housing accommodations except:
 - i. Owner-occupied premises with less than four units.
 - ii. Premises where the possession, use or occupancy of which is solely incident to employment and such employment is being lawfully terminated.
 - iii. Premises otherwise subject to regulation of rents or evictions pursuant to state or federal law to the extent that such state or federal law requires good cause for termination.
 - iv. Premises sublet pursuant to section two hundred twenty-six-b of the NYSRPL or otherwise, whether the sub-lessor seeks in

good faith to recover possession of such housing accommodation for personal use and occupancy.

(The proposed draft local law includes i., ii., and iii. above (See Section 173-14)).

2. What factors should be included in the law to determine whether all or part of the rent due or owing is the result of an unconscionable rent increase or pattern of rent increases?
 - a. Legislation introduced in other municipalities generally includes the following factors:
 - i. the rate of the increase relative to the tenant's ability to afford said increase,
 - ii. improvements made to the subject unit or common areas serving said unit,
 - iii. whether the increase was precipitated by the tenant engaging in the activity described at section 223-b (1(a)-(c) of the Real Property Actions and Proceedings Law,
 - iv. significant market changes relevant to the subject unit, and
 - v. the condition of the unit or common areas serving the unit

(The proposed draft local law includes i.-v. above (See Section 173-16.A(1)).

3. If the City decides to determine whether an unconscionable rent increase exists based on "significant market changes relevant to the subject unit, how does the City want to define "significant market changes" in the proposed local law?

(The proposed draft local law defines significant market change as an increase in the value of the subject unit by more than %X within the previous year term. The exact percentage is not defined in the draft proposed local law (See Section 173-16.A(1)).

4. What is the unconscionable rent increase for a calendar year?

(The unconscionable rent in the proposed draft local law is five percent (See Section 173-16.A(1)).

5. How does the City want to address back rent? If a landlord does not raise rent for several years, can the landlord raise it by more than the unconscionable amount in one calendar year to catch up with the market? In such instance, how much can a landlord raise the rent?

(The proposed draft local law states where rent is not raised for at least two years, an increase of rent between five and seven percent shall be exempted and shall not qualify as a rebuttable presumption of an unconscionable rent increase).

6. Can good cause be established by a landlord if a tenant is committing or permitting a nuisance in such housing accommodation?

(The proposed draft local law provides in Section 173-16.A(2) that good cause exists if the tenant is violating a substantial obligation of their tenancy, other than the obligation to surrender possession, and has failed to cure such violation after written notice that the violation cease within ten (10) days of receipt of such written notice, provided however, that the obligation of tenancy for which violation is claimed was not imposed for the purpose of circumventing the intent of this article.)

- a. Are there specific examples of such conduct the City would like to specifically reference in the proposed local law (i.e. smoking inside the residential unit where smoking inside the residential unit has been prohibited by the landlord and such prohibition has been communicated to the tenant, failing to dispose of waste created by the tenant's pet(s) from the property on which the residential unit is located in accordance with relevant laws, repeatedly engaging in activities that cause an unreasonable amount of noise or allowing others to do so without taking appropriate steps to mitigate such noise, and causing the accumulation of excessive rubbish and/or garbage in the residential unit and common areas.) ?

(The proposed draft local law does not include examples).

7. Can good cause be established by a landlord if the owner-landlord has in good-faith entered into a contract for the sale of the housing accommodation?

(Not included in the proposed draft local law).

8. Can good cause be established if the tenant has refused to enter into a written lease? Does the City want to include lease requirements in the proposed local law (such requirements are currently included in the proposed law)?

(Included in the proposed draft local law as Section 173-16.A(9)).

9. Can good cause be established if the landlord has notified the tenant in writing of their intention not to renew the lease by providing advance notice (for example six months advance notice)?

(Not included in the proposed draft local law).

10. In reviewing the proposed local law, are there other categories that may establish good cause for eviction that the City would like to add to the proposed local law? Are there any categories that the City would like to remove from the proposed local law?

11. Does the City want to include language that it shall be a rebuttable presumption that the eviction is not for good cause if there is a history of landlord intimidation and illegal conduct of the tenant?

(See Section 173-18 in the proposed local law.)

12. Does the City want to include a sunset provision on the local law to state that this local law shall expire and shall be of no further force and effect on and after January 1, 2024? At such time, the City Council can evaluate the effectiveness of the law and assess the need for the provisions set forth therein.

Dated January 7, 2022

LOCAL LAW NO. ____ OF 2022

CITY COUNCIL
CITY OF BEACON

PROPOSED LOCAL LAW TO AMEND
CHAPTER 173 OF THE
CODE OF THE CITY OF BEACON

A LOCAL LAW to amend
Chapter 173 of the Code of the
City of Beacon concerning
rental properties to prohibit
eviction without good cause.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Purpose :

Tenants require additional protections to prevent displacement. The purpose of this local law is to protect tenants from eviction by requiring good cause be shown before a property owner can evict a tenant and to enforce the rental property registration requirement by prohibiting collection of rent during periods of noncompliance.

~~SUMMARY:~~

~~A local law amending to prohibit the collection of rents during any period of noncompliance with [section of local law requiring registration and housing standards] and prohibiting evictions from occurring during any period of noncompliance with [section of local law requiring registration and housing standards] and further prohibiting evictions from occurring during any period of noncompliance with or unresolved cases concerning any local and state Housing Laws; and further adding a new article [local law requiring registration and housing standards] of [LOCALITY] prohibiting evictions without good cause.~~

~~COLLECTION OF RENTS:~~

~~No landlord, building manager, owner, agent, or other person in charge—referred to as “landlord” hereafter—shall collect rents during any period of noncompliance with [section of local law requiring registration and housing standards] which would otherwise be due and owing for the rental of premises unless and until the landlord shall have complied with the provisions herein. Nothing herein shall be construed to prevent a landlord, upon receipt of~~

~~the rental property registration, from receiving the equitable value of the occupancy of the premises from the earliest date of occupancy, but in no event shall a landlord recover in excess of the agreed rent. Failure on the part of the tenant to pay the equitable value of the occupancy of the premises from the earliest date of occupancy until the landlord's receipt of the rental property registration may not be used as a basis for eviction.~~

~~Evictions~~

~~Further, no landlord, building manager, owner, agent, or other person in charge—referred to as “landlord” hereafter—shall file for an eviction during any period of noncompliance with [section of local law requiring registration and housing standards]. A landlord of multiple rental properties or units in the [Locality] shall not file for an eviction of residents at any one property during any period of noncompliance with [section of local law requiring registration and housing standards] at any one of their rental properties. Failure on the part of the tenant to pay the equitable value of the occupancy of the premises during any period of landlord's noncompliance with [section of local law requiring registration and housing standards] may not be used as a basis for eviction.~~

~~Further, any landlord with open/unresolved cases concerning hazardous or immediately hazardous housing code violations or immediately hazardous or major construction code violations in any of their rental properties, shall not file for an eviction of tenants at any one of their properties.~~

~~Effective Date This article shall take effect upon final passage, public hearing, and filing with the Secretary of State and shall apply to actions and proceedings commenced on or after such effective date.~~

Section 2. Chapter 173 of the Code of the City of Beacon entitled “Rental Properties Registration” is hereby repealed in its entirety.

Section 3. Chapter 173 of the Code of the City of Beacon entitled “Rental Properties” is hereby created as follows:

Chapter 173. Rental Properties

Article I. Definitions

§ 173-1 Definitions.

A. As used in this chapter, these terms shall have the following meanings:

ACTION or PROCEEDING

Any action or proceeding which may be instituted in the City Court of the City of Beacon, or any other court of competent jurisdiction, to enforce this chapter.

BUILDING

Any improved real property, residential, commercial (nonresidential) or mixed use (commercial-residential), located within the City of Beacon, that is non-owner-occupied.

DISABLED PERSON

A person who has any condition which substantially limits one or more of such person's major life activities, and which are expected to be either permanent or to last for more than six months; or a person who is regarded to have such an impairment.

HOUSING ACCOMODATION

Any residential premises of ____ or more legal dwelling units offered for rent within the City of Beacon.

LANDLORD

Any owner, lessor, sublessor, assignor, or other person receiving or entitled to receive rent for the occupancy of any housing accommodation or an agent of any of the foregoing.

OWNER

Any individual or individuals, partnership or corporation or other organization, whether for-profit or otherwise, in whose name title to a building stands, including a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation in control of the property. "Owner" shall include the spouse, sister, brother, parent, grandparent or child of the title holder.

PROCESS

Any notice, summons or other process issued under any provision of the Code of the City of Beacon or any law or regulation of the State of New York.

RENT

Any consideration, including any bonus, benefit or gratuity demanded or received for or in connection with the possession, use or occupancy of housing accommodations or the execution or transfer of a lease for such housing accommodations.

RENTAL PROPERTY

Any property which is rented, intended for rental, leased, let or hired out to be occupied for residential, commercial (nonresidential) or mixed use (commercial - residential) and which is non-owner-occupied.

TENANT

A tenant, sub-tenant, lessee, sublessee, assignee, an occupant of a rooming house or hotel as defined in section seven hundred eleven of the Real Property Actions and Proceedings Law or any other person entitled to the possession, use or occupancy of any housing accommodation.

- B. Owner-occupied property. For any non-owner-occupied property to be considered owner-occupied, at least one of the owners shall have his or her principal residence at the non-owner-occupied property and reside therein. Upon request of the City of Beacon, any owner who claims to occupy the non-owner-occupied property shall provide an affidavit providing sufficient information to support his or her claim that the premises are owner-occupied.

Article II. Non-Owner-Occupied Registration Requirements

§ 173-2 Intent.

The City of Beacon finds that there are numerous City residential and commercial properties owned by persons who do not occupy said property. It is important for the effective enforcement of applicable fire and housing codes and to better protect the health and safety of those located in and near non-owner-occupied residential and commercial properties that a current list of such owners be maintained by the City through a registration filing process.

§ 173--3 Registration of property required.

- A. The owner of non-owner-occupied property shall register the property with the Building Department of the City of Beacon within 60 days of the effective date of this article, on a form provided by the Building Department of the City of Beacon. This form shall be

known as the "Landlord Registration Statement," which shall be signed by the owner under oath.

- B. It shall be a violation of this article for an owner to offer any building for rent, or to rent any building, or to allow any building to be occupied other than by an owner without having registered pursuant to this article.

§ 173-4 Landlord registration statement; managing agent designation.

- A. Every owner of a non-owner-occupied property, as above defined,^[1] shall file with the Building Department of the City of Beacon, within 60 days of the effective date of this article, a landlord registration statement, on forms to be provided by the Building Department of the City of Beacon, containing the following:

- (1) A description of the premises by street number or block and lot number, including tax identification number.
- (2) The owner's name, residential address and mailing address, business telephone number, home telephone number, cell telephone number, fax number and e-mail address, and if such owner is a corporation or other organization, the name and address of such entity and the name and residential and business address, together with the business telephone number, cell phone number, fax number and e-mail address, of the president and of the treasurer of such corporation or organization.
- (3) Designation of managing agent.

- (a) In the event an owner does not reside within a fifteen-mile radius of the City of Beacon, the owner shall provide the following information to the Building Department of the City of Beacon, with respect to the managing agent:

[1] The name, the residence, business and e-mail addresses and the business and residential telephone and fax numbers of a natural person, 18 years of age or over, who shall reside within a fifteen-mile radius and who shall be designated by such owner as the managing agent responsible for and in control of the maintenance and operation of such non-owner-occupied property and who shall be designated as the person upon whom process may be served on behalf of the owner.

- (b) The managing agent or owner shall keep a current record of all tenants, and their names and addresses, who are renting, leasing or living in the premises. There shall be endorsed upon such designation statement a written consent to such designation signed by the managing agent. An owner who is a natural person and who meets the requirements of this

subsection as to the location of the residence or place of transacting business of a managing agent may designate himself or herself as such managing agent.

- (c) Nothing contained in this section shall be construed as preventing a corporation which is an owner of real property from designating as its managing agent any officer of such corporation who meets the requirements of this subsection as to location of the residence or the place of transacting business of the managing agent.
 - (d) Any designation of managing agent made pursuant to this section shall remain in full force and effect until changed or terminated as hereinafter provided.
 - (e) The owner is required to keep this designation information current, and when there is a change in ownership or managing agent, the owner shall be required to update such information by amending the landlord registration statement and designation accordingly within 15 days from the date of any such change.
- B. Upon submission of the completed landlord registration statement, the Statement shall be reviewed by the Building Department of the City of Beacon within three business days of submission. Should the Building Department of the City of Beacon determine that the statement is incomplete, defective or untrue, the statement shall be rejected and returned to the filer, and the owner shall be deemed not in compliance with this article.
- C. The owner of the rental property shall notify the Building Department of the City of Beacon, in writing, whenever the information provided in the landlord registration statement is no longer accurate or complete.
- D. A copy of the landlord registration statement shall be annexed to any non-owner-occupied agreement with a tenant, and the filing and approval of such statement shall be required for the owner to rent any non-owner-occupied unit in the non-owner-occupied property.
- E. If, after filing the landlord registration statement pursuant to this article, the owner of such non-owner-occupied property shall have transferred or granted to another his/her right, title or interest therein, such owner shall file with the Building Department of the City of Beacon, within 15 days after such grant or transfer, a written statement, under oath, which shall contain the name and residence, business address, business and home telephone number, cell telephone number, fax number, and e-mail of the grantee, transferee or other successor to the owner or, if such grantee, transferee or successor is a corporation or other organization, the name and address of such entity, including the name of its president and its treasurer, and their addresses, business and residence telephone numbers and cell numbers, as well as, their e-mail addresses and fax numbers.

If the owner is unable to secure the foregoing information from the grantee, transferee or purchaser, then the owner shall immediately so notify the Building Department of the City of Beacon, in writing, of such inability.

- F. If, after the filing of any landlord registration statement with the Building Department of the City of Beacon pursuant to this article, any change, other than a designation of a different managing agent or different ownership, occurs in any name, residence or any business address set forth in such statement, the owner, within 15 days after such change, shall notify the Building Department of the City of Beacon, in writing, under oath, setting forth the particulars of such change so as to supply the information necessary to correct the last filed landlord registration statement.
- G. An owner may terminate such managing agent designation by filing with the Building Department of the City of Beacon a written statement, under oath, designating a new managing agent made in conformity with the provisions of this article.
- H. Any landlord registration statement or designation of managing agent required to be filed with the Building Department of the City of Beacon shall be signed by such owner or, if such owner is a corporation or other organization, by the president or treasurer thereof, under oath.
- I. Any landlord registration statement or designation of managing agent shall be deemed prima facie proof of the truth of the statement or designation in any action or proceeding instituted by the City of Beacon or other agency against an owner or managing agent of a rental property in the City of Beacon.

§ 173-5 Public access to records.

Any person, upon request, may inspect and copy a landlord registration statement or designation of managing agent form on file with the City's Building Department pursuant to the Freedom of Information Law.

§ 173-6 Non-owner-occupied permit required.

- A. Non-owner occupied permit. No non-owner-occupied property as defined herein, shall be occupied by any tenant without a valid non-owner-occupied permit issued by the Building Department.
- B. The Building Department of the City of Beacon shall issue such permit after approval of a valid landlord registration statement, which shall be approved or denied within three business days of its submission. Such non-owner-occupied permit shall be valid until such time as the owner or any new owner is required to file a new landlord registration statement.

§ 173-7 Revocation or suspension of permit.

Any permit issued pursuant to this article may be revoked or suspended by the Building Department of the City of Beacon for cause, after notice to the owner and after an opportunity for the owner to be heard by the Building Department, upon a finding by the Building Department that any requirement of this article has been violated.

§ 173-8 Permit fees.

Each applicant for a non-owner-occupied permit for a non-owner-occupied property, pursuant to this article requiring the filing of a landlord registration statement, shall be charged a non-owner-occupied permit fee, established by resolution of the City Council, payable to the City of Beacon, once every three years.

§ 173-9 Effect on other laws.

Nothing in this article shall be deemed to preempt the laws of the State of New York for the rental of residential or commercial property or the application of other City of Beacon laws and ordinances and the Code to the premises, including inspection of the premises.

§ 173-10 Prohibition on collection of rent and eviction.

The owner of a non-owner-occupied property shall be prohibited from collecting rent or evicting a tenant during any period of noncompliance with this article. The owner of a non-owner-occupied property shall also be prohibited from collected rent for any unit that is not in compliance with the certificate of occupancy or any provision of the applicable provisions of the Uniform Code or City Code. Nothing herein shall prevent a landlord, upon receipt of the rental property registration, from receiving the equitable value of the occupancy of the premises from the earliest date of occupancy, but in no event shall a landlord recover in excess of the agreed rent. Failure on the part of the tenant to pay the equitable value of the occupancy of the premises from the earliest date of occupancy until the landlord's receipt of the rental property registration may not be used as a basis for eviction.

§ 173-11 Enforcement.

The City of Beacon shall enforce compliance with this article by seeking civil penalties, instituting a criminal proceeding, or both.

- A. Criminal proceeding. A summons or appearance ticket for any violation of this article may be served on the owner, or in the event that an owner designates a managing agent pursuant to § 173-4A(3), of this article, process may be served on the managing agent of the non-owner-occupied property with equal force and effect as if served on the owner.

§ 173-12 Service of notice of violation.

Notice of noncompliance with this article shall be made:

- A. By delivering to, and leaving a copy of a notice of violation of this article with, any person or persons violating the provisions of this article.
- B. By sending, by registered or certified mail, a notice of violation to the owner or managing agent at the address on file in the landlord registration statement.
- C. By sending, if no such address is on file, a notice of violation to the most current address in the City Assessor's Office, by registered or certified mail, to the owner and managing agent.
- D. If such person or persons cannot be served by any of the aforesaid methods, then such notice or order may be served by posting the same in a conspicuous place upon the non-owner-occupied property where such violation is alleged to exist, or upon the rental property to which such notice may refer, which shall be the equivalent of personal service of said notice upon all parties, including the owner and/or managing agent of the non-owner-occupied property.
- E. By any other method or service authorized pursuant to the New York Civil Practice Law and Rules.

§ 173-13 Penalties for offenses.

Violations of this article constitute an offense within the meaning of the Penal Law of the State of New York, punishable as provided by law. In addition, a violation of any provision of this article shall be subject to the following penalties under this article:

- A. For the first offense by an owner or managing agent of up to five non-owner-occupied units: a fine of \$200;
- B. For the first offense by an owner or managing agent of between six and 10 non-owner-occupied units: a fine of \$500;
- C. For the first offense by an owner or managing agent of more than ten non-owner-occupied units: a fine of \$750; and
- D. For each subsequent offense in each foregoing unit category of ownership or management: a fine of \$400, \$1,000, and \$1,500, respectively.

Article III Prohibition of Eviction Without Good Cause Law

§ 173-14 Applicability.

This article shall apply to all housing accommodations except:

- A. Owner-occupied premises with less than ~~two~~ **four dwelling** units;
- B. Premises where the possession, use or occupancy of which is solely incidental to employment and such employment is being lawfully terminated; and
- C. Premises otherwise subject to regulation of rents or evictions pursuant to state or federal law to the extent that such state or federal law requires “good cause” for termination or non-renewal of such tenancies.

§ 173-15 Necessity for good cause.

No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to renew any lease, or otherwise, remove any tenant from housing accommodation except for good cause as defined in section 17 of this article.

§ 173-16 Grounds for removal of tenants.

- A. No landlord shall remove a tenant from any housing accommodation, or attempt such removal or exclusion from possession, notwithstanding that the tenant has no written lease or that the lease or other rental agreement has expired or otherwise terminated, except upon order of a court of competent jurisdiction entered in an appropriate judicial action or proceeding in which the petitioner or plaintiff has established one of the following grounds as good cause for removal or eviction:
 - (1) The tenant has failed to pay rent due and owing, provided, however, that the rent due and owing, or any part thereof, did not result from a rent increase or pattern of rent increases which, regardless of the tenant's prior consent, if any, is unconscionable or imposed for the purpose of circumventing the intent of this article. In determining whether all or part of the rent due and owing is the result of an unconscionable rent increase or pattern of rent increases, the Court may consider, among other factors, i) the rate of the increase relative to the tenant's ability to afford said increase, ii) improvements made to the subject unit or common areas serving said unit, iii) whether the increase was precipitated by the tenant engaging in the activity described at section 223-b (1(a)-(c) of the Real Property Actions and Proceedings Law, iv) ~~significant market changes relevant to~~

the an increase in the value of the subject unit by more than X% within the previous year term, and v) the condition of the unit or common areas serving the unit, and it shall be a rebuttable presumption that the rent for a dwelling not protected by rent regulation is unconscionable or imposed for the purpose of circumventing the intent of this article if said rent has been increased in any calendar year by a percentage exceeding five percent, an increase of rent between five (5) and seven (7) percent of the third consecutive lease term shall be exempted and shall not qualify as a rebuttable presumption of an unconscionable rent increase,

- (2) The tenant is violating a substantial obligation of their tenancy, other than the obligation to surrender possession, and has failed to cure such violation after written notice that the violation cease within ten (10) days of receipt of such written notice, provided however, that the obligation of tenancy for which violation is claimed was not imposed for the purpose of circumventing the intent of this article;
- (3) The tenant is committing or permitting a nuisance in such housing accommodation, or is maliciously or by reason of negligence damaging the housing accommodation; or the tenant's conduct is such as to interfere with the comfort of the other tenants or occupants of the same rental property;
- (4) Occupancy of the housing accommodation by the tenant is in violation of or causes a violation of law and the landlord is subject to civil or criminal penalties therefore; provided however that the City of Beacon Building Inspector has issued an order requiring the tenant to vacate the housing accommodation. No tenant shall be removed from possession of a housing accommodation on such ground unless the court finds that the cure of the violation of law requires the removal of the tenant and that the landlord did not, through neglect or deliberate action or failure to act, create the condition necessitating the order to vacate. In instances where the landlord does not undertake to cure conditions of the housing accommodation causing such violation of the law, the tenant shall have the right to pay or secure payment in a manner satisfactory to the court, to cure such violation provided that any tenant expenditures shall be applied against rent to which the landlord is entitled. In instances where removal of a tenant is absolutely essential to their health and safety, the removal of the tenant shall be without prejudice to any leasehold interest or other right of occupancy the tenant may have and the tenant shall be entitled to resume possession at such time as the dangerous conditions have been removed. Nothing herein shall abrogate or

otherwise limit the right of a tenant to bring an action for monetary damages against the landlord to compel compliance by the landlord with all applicable laws;

- (5) The tenant is using or permitting the housing accommodation to be used for an illegal purpose;
- (6) The tenant has unreasonably refused the landlord access to the housing accommodation for the purpose of making necessary repairs or improvements required by law or for the purpose of showing the housing accommodation to a prospective purchaser, mortgagee, or other person having a legitimate interest therein;
- (7) The landlord seeks in good faith to recover possession of a housing accommodation located in a building containing fewer than twelve units because of immediate and compelling necessity for their own personal use and occupancy as their principal residence, or the personal use and occupancy as a principal residence of their immediate family member including but not limited to a partner, spouse, parent, child, stepchild, father-in-law, ~~or~~ mother-in-law, grandparent etc. when no other suitable housing accommodation in such building is available. This paragraph shall permit recovery of only one housing accommodation and shall not apply to a housing accommodation occupied by a tenant who is sixty-two years of age or older or who is a disabled person;
- (8) The landlord seeks in good faith to recover possession of any or all housing accommodations located in a building with less than five (5) units to personally occupy such housing accommodations as their principal residence;
- (9) Where the tenant has refused in bad faith to enter into a written lease which has been offered in good faith to the tenant by the landlord, subject to the following.
 - (a) The proposed written lease must have been offered to the tenant in writing on at least two occasions at least two weeks apart, which such written offer to include,
 - [1] an original and one copy of the proposed written lease, executed by the landlord or their designee;
 - [2] notice of the landlord's intention to pursue eviction within 120 days pursuant to this article if the tenant rejects the proposed written lease and/or does not enter into said lease within forty-five days of the initial offer;

- [3] clear instructions to the tenant concerning the manner in which the tenant is to communicate to the landlord acceptance or rejection of the written lease; and
 - [4] Notice of any proposed increase equal to or greater than 3.5% shall be provided in compliance with [NY Real Property Law Section 226-C](#).
- (b) The proposed written lease shall not supersede an existing, active lease to which the landlord and the tenant are parties;
- (c) The terms of the proposed written lease may not:
 - [1] be unreasonable and/or mandate or proscribe activities not rationally related to the regulation of activities which would create a nuisance at the property or cause discomfort to the tenants or occupants of the same or adjacent buildings or structures as described at section A(3) above; or
 - [2] substantially alter the terms any of any existing lease;
- (d) The proposed written lease shall not be offered for the purposes of circumventing this article;
- (e) The tenant shall be entitled to dismissal of any eviction petition brought for the tenant's refusal to enter into a lease according to these terms if:
 - [1] the tenant consents to enter into the proposed written lease presented in the first offer pursuant to subsection 10(a) at any time prior to the execution of the warrant of eviction regardless of landlord's willingness to accept said consent at the time it is communicated; and/or
 - [2] prior to the commencement of the eviction proceeding the tenant attempted in good faith to negotiate the terms of the proposed written lease and that the landlord refused in bad faith to engage in such negotiation; and/or
 - [3] the tenant's failure to enter into the proposed written lease was due to a good faith failure to comprehend the terms of the proposed written lease;
 - [4] the tenant is a victim of domestic violence as defined by NY Social Service Law §459-A and is unable to safely enter into the proposed written lease due to good faith concerns for the tenant's personal safety; and/or

[5] the proposed written lease includes an increase in rent or increase in the tenant's responsibility for recurring payments associated with the tenancy which is unreasonable or imposed for the purposes of circumventing the intent of this article per subsection (A)(4), above.

(f) That any proceeding for eviction pursuant to this subsection shall have been commenced within 120 days of the proposed written lease first having been offered to the tenant.

B. A tenant required to surrender a housing accommodation by virtue of the operation of paragraph (7), (8), or (9) of subsection (A) of this section shall have a cause of action in any court of competent jurisdiction for damages, declaratory, and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use of the housing accommodation. In any action or proceeding brought pursuant to this provision a prevailing tenant shall be entitled to recovery of actual damages, and reasonable attorneys' fees.

C. Nothing in this section shall abrogate or limit the tenant's right, pursuant to section ~~seven hundred fifty one~~ 751 of the NY Real Property Actions and Proceedings Law, to permanently stay the issuance or execution of a warrant or eviction in a summary proceeding, whether characterized as a nonpayment, objectionable tenancy, or holdover proceeding, the underlying basis of which is the nonpayment of rent, so long as the tenant complies with the procedural requirements of section ~~seven hundred fifty one~~ 751 of the NY Real Property Actions and Proceedings Law.

§ 173-17 Intimidation and ~~Illegal Conduct~~.

A. It shall be a rebuttable presumption that the eviction is not for good cause if there is a history of landlord intimidation of the tenant.

B. For the purpose of this Section, intimidation shall be ~~defined~~ deemed established by the ~~Tenant's establishment through written proof~~, such as a police report or testimony as the use of aggressive methods by the landlord in an attempt to pressure or harass a tenant, ~~including, It can be,~~ but is not limited to the following actions:

(1) Illegal Entry: Entering the premises occupied by a tenant without advance notice, tenant approval, or without prior warning, shall be considered intimidation. Emergencies are an exception to this rule;

- (2) Discontinuing Essential Services and Utilities: Discontinuing heat, hot water, sewage, and electricity violates the warranty of habitability, allowing the tenant to have the right to basic necessities, and shall be considered intimidation;
- (3) Refusing to Make Repairs or Perform Maintenance: A landlord may attempt to make living conditions at the property uncomfortable by refusing to make necessary repairs or perform maintenance furnaces, stoves, cooling system, roof, etc. Landlords may fail or delay to correct hazardous conditions including mold, lead paint, or dust and debris. It shall be considered intimidation to not address these issues;
- (4) Unreasonable Rent Increases: Unreasonably increasing rent, without proper notice, as described on Section B (3)(1) of this Local Law, shall be considered intimidation;
- (5) Changing the Locks: A landlord may change the locks on common area doors or on the actual entry doors to the tenant's unit to get the tenant to move out. It shall be considered intimidation from the landlord if these actions are taken.
- (6) Buyout: A landlord may try to have the tenant accept a sum of money in exchange for the tenant to move out of the premises. However, repeated attempts to buy out the tenant after the tenant's refusal shall be considered intimidation.
- (7) Verbal and/or Physical Threats: A landlord may attempt to intimidate a tenant over the phone, in person or in writing through texts, emails, or written letters. Additionally, a landlord may try to intimidate a tenant by physically blocking an exit from a room, shouting at the tenant, threatening to disclose the tenants status as an undocumented immigrant, or even putting their hands on the tenant. Verbal or physical threats shall be considered intimidation.
- (8) The tenant should document any alleged incident of intimidation or illegal conduct that occurs including the date, time, and nature of the intimidation or illegal conduct. The tenant should keep any evidence of the harassment and/or illegal conduct, including a voicemail, text message, email, letter, photo, or video that captures the incident. The adjudicator may also rely on the credible testimony of the tenant if evidence is not available.

§ 173-18 Preservation of existing requirements of law.

No action shall be maintainable and no judgment of possession shall be entered for housing accommodations pursuant to this article, unless the landlord has complied with any and all applicable laws governing such action or proceeding and has complied with any and all applicable laws governing notice to tenants including, without limitation, the manner and the time of service of such notice and the contents of such notice.

§ 173-19 Waiver of rights void.

Any agreement by a tenant heretofore or hereinafter entered into in a written lease or other rental agreement waiving or modifying their rights as set forth in this article shall be void as contrary to public policy.

§ 173-20 Expiration of Article

This article shall expire t and shall be of no further force and effect on and after January 1, 2024. At such time, the City Council can evaluate the effectiveness of the law and access the need for the provisions set forth therein.

Section 4. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein the Code of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 6. Severability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if

such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 7. Effective Date

This local law shall take effect immediately filing with the Office of the Secretary of State.

DRAFT

City of Beacon City Council Agenda
01/10/2022

Title:

City Council 2022 Agenda

ATTACHMENTS

[Mayor Kyriacou 2022 Agenda](#)

[City Council 2022 Agenda](#)

[City Administrator 2022 Agenda](#)

Mayor's Agenda 2022-23 – Draft for Discussion

1. **Zoning / Planning Efforts:** *(incl. housing-related)*
 - *Housing-Related Rezoning:* (see Mayor's full proposal list) ongoing
 - *Short-Term Rentals:* Limit apartment conversions; put violators on notice 1H22
 - *5G:* Simplify cell tower zoning to get broadband competition. 1H22
 - *HDLO/Viewshed Additions:* Other historic properties and viewsheds 2022
 - *Recreation/Community Survey* 1H22
 - *Camp Beacon:* Take control of planning 2022
 - *University Settlement:* Consider master planning 2023

2. **Housing:** *(also see Zoning above)*
 - *Parking Lot Repurposing:* Select city parking lot; develop concept/RFP 2022
 - *Tenant Education/Assistance:* Develop initial program Jan 22
 - *Housing Study:* Continue to participate in county-wide effort 1H22

3. **Main Street Access Implementation:** *(also see Housing above)*
 - *Signage/Spaces:* Complete stop signs, signage, striping, other short-term 1H22
 - *Green Space:* Select one Main St park area to develop; draft plan 2022
 - *Funding/Grants:* Assess need for parking fees/fund for projects 2022
 - *Other:* Review full recommendations to establish schedule/priorities 1H22
 - *Reapply for DRI:* Downtown Revitalization Initiative \$10 mil grant 2022

4. **Focused Development/Capital Projects:** *(also see City Administrator Agenda)*
 - *Central Fire Station:* Incl. architectural design; BVAC assessment; 2022
 - *Tompkins Hose Lot:* Develop use plan 2022
 - *Water/Sewer:* Complete sewer; bid dam/well projects Ongoing
 - *Tioronda Bridge:* Engineering; Fjord trail connection; 555 access 2022
 - *Real Estate Transactions:* (Exec Session) 2022
 - *Greenway/Trail Expansion:* Incl. east creek, link to Fjord/Highlands
 - *Mase & Memorial Buildings / Community Center:* Plan 2023
Review survey results; partner with BCSD for some facilities; develop plan

5. **Other**
 - **Police Advisory Committee:** Review/implement committee recs 2022
 - **Sustainable (Green Beacon) Initiative:** Continue agenda (see City Admin) ongoing
 - **e-Beacon Initiative:** Continue improving electronic access/info/services ongoing
 - **Sales Tax:** Negotiate with cities/county 1H22

APPENDIX

Mayor's Housing Policy Proposals Lee Kyriacou, Mayor City of Beacon, 2 August 2021

What Beacon's Already Done

The City of Beacon has long been a leader in progressive zoning and housing inclusion. Here are key examples:

- The percent of subsidized low- and moderate-income units in Beacon is among the highest in Dutchess County.
- Beacon permitted accessory apartments in single-family neighborhoods 25+ years ago, long before the concept became popular for creating affordable units.
- Beacon's short-term rental ("AirBnB") law prevents housing from being turned into exclusive short-term rentals, which elsewhere has reduced rental stock and raised rents.
- Approved and constructed projects over the last 10 years have included more than 20% affordable, workforce and senior housing.
- In the last two years, a surplus city-owned lot was used to create 72 affordable units.
- Beacon's inclusionary zoning requires one workforce unit for every ten units (10%) in new developments.
- Multifamily housing is permitted in all commercial districts.
- Artist live/work housing is permitted and encouraged in almost all zones.
- Beacon's zoning on Main Street, the train station, and along Fishkill Creek include required commercial space, to encourage job creation and a live-work community.
- Main Street fourth floors require a public benefit, such as affordable housing.

What's Being Proposed for Discussion

Across the country, as cities have regained popularity, housing has increased in price while zoning has often made it difficult to build additional housing. To provide more affordable housing in popular urban areas, local public policy must encourage increased development targeting affordability – while also supporting public amenities and quality of life. The Mayor proposes that the Council begin policy development for the following priorities.

- 1. Rezone to focus on smart growth that can increase affordability.**
 - a. Allow smaller lot sizes for new homes and increased clustering.
 - b. Allow two-family homes in single-family districts.
 - c. Consider multi-family homes in more zoning districts.
 - d. Make multi-family a permitted use in the RD districts.
 - e. Increase development potential near public transportation.

- f. Encourage walkable, traditional neighborhood development.
- 2. Encourage accessory dwelling units (ADUs) – for renter and owner affordability.**
 - a. Make ADU approval as-of-right across City.
 - b. Revise minimum and maximum square footage.
 - c. Eliminate or reduce set-back and parking requirements.
- 3. Reduce or eliminate required parking standards.**
 - a. Update Beacon’s outdated parking standards, which were created in 1974.
 - b. Strategically reduce parking standards in Main Street and transit-friendly districts.
 - c. Decrease or waive parking requirements for designated affordable units.
 - d. Manage public parking as a public resource, with fees into a parking fund.
- 4. Streamline the approval process for buildings with affordable units.**
 - a. Make step-backed four-story buildings in the Central Main Street district permitted uses when they meet higher affordable unit standard.
 - b. Provide incentives in Central Main Street, Linkage District, Fishkill Creek, and Waterfront Development districts for affordable housing.
- 5. Target city-owned lots and underutilized lands for affordable housing development.**
 - a. Require significant percentage (e.g., 50%) of affordable housing on these lots.
 - b. Develop a form-based code that reduces approval time and costs.
 - c. Prepare a Generic Environmental Impact Statement (GEIS) to speed review.
 - d. Package multiple City parking lots into one RFP for development.
- 6. Provide flexibility to allow building of smaller (i.e., more affordable) units.**
 - a. Revise zoning to allow for square footage of residential space, not unit number (permitting additional smaller units vs. fixed number).
 - b. Provide incentives for creating smaller, more affordable units.
- 7. Further restrict short-term rentals (STRs) – which reduce available rental housing stock.**
 - a. Review STR law to make sure that permanent housing is not crowded out by STRs.
- 8. Revise local requirements for the State Environmental Quality Review (SEQR).**
 - a. Classify development incentives for affordable housing as Type II Actions.
- 9. Advocate for changes in state and federal housing policies.**
 - a. State legislation to allow ADUs by right across State.
 - b. Additional New York State bonding for affordable housing construction.
 - c. Statewide tenant protection legislation and/or additional legal services funding for tenant protection.
 - d. Additional federal government funding of Section 8 housing program.

For Further Consideration As the Schedule Permits

- **Further Increasing the City's inclusionary zoning percentage of affordable units.**
 - Beacon already has a high inclusionary percentage, and an incremental increase will not generate a large number of affordable units.
 - There is no evidence that affordable rent for a unit can recoup the current cost of construction for that unit.
 - There are significant potential unintended consequences.
- **Adopting Emergency Tenant Protection Act in Beacon.**
 - The eligible number of units in Beacon is quite small – only a couple percent.
 - The implementation effort and expense is substantial for a small number of units.
 - The Act does not target those in need with lower incomes, and could afford a financial benefit for those who do not need one.
 - There are other significant potential unintended consequences.

Beacon City Council 2022 Proposed Agenda

2021 Council Platform

- Build a New Beacon Community Center: Fund a gathering place with programs and resources for ages 1 to 100
- Provide Municipal Internet: Bring affordable, high-quality broadband to Beacon
- Improve Safety and Services: Expand social services and make streets safe for walkers, bikers and children with a focus on racial and economic justice
- Secure Housing Justice: Increase affordable housing for all incomes and protect tenants' rights
- Lead the Hudson Valley in Environmental Stewardship: Protect and invest in our natural resources, parks, and trails and take action on our climate goals
- Take Care of our City: Balance development, parking, and traffic while improving our city infrastructure
- Prioritize Civic Engagement: Commit to transparency and increased civic participation

2022 Detailed Agenda

January-February 2022

Protect tenants' rights

- Good Cause Eviction
- Legal information/support for tenants and landlords (including on court's housing day)
- "For Renter" informational website for tenants
- ERAP communications

Civic Participation

- Announcement: Public forums to solicit priorities and proposals from the public
 - Agenda to include presentations as well as opportunities for feedback
 - Themes of 2022 meetings
 - 1st (late March): Community Safety & Police Reform
 - 2nd (late June): Budget and Capital Plan
 - 3rd (late September): Climate Goals + Infrastructure
 - 4th (early December): TBD
- Update communication strategy and public relations (how do we ensure all Beaconites get important messages?)
 - Meeting language accessibility (ASL, Spanish)

Recreation Study priorities

- Must go out to organizations supporting community, seniors, students, families

- [Council preference: Community center on Verplanck and Matteawan with connections to bus routes and to include community kitchen]

Other Old Business

- Accessory Dwelling Units: Jan 18 public hearing

March - April 2022

Civic Participation

- Plan for Participatory Budgeting funds
- Plan to involve young people

Creating new affordable housing

- Increased carve-out for affordable housing in new development
- Other ideas

May - June 2022

Fishkill Creek

- Green infrastructure requirements, updates to stormwater management
- Wetlands protections
- Review of zoning in FCD
- Dam removal
- Other environmental protections for waterways and adjacent streams

Municipal broadband goals and study

July - August 2022

Social services

- Clear communication to public and access about social services available to them
- Partnerships with county and schools
- Inventory of social services and existing gaps (ex. animal control)
 - Identify areas where we can expand services without duplicating

Public safety and Police reform

- Recommendations from police advisory committee due when?

September - October 2022

Traffic

- Capital plan and sidewalks
 - Safe paths to schools, safety issues
- Review of progress on Main Street Access Committee recommendations
- Radar controls

Land Acknowledgement

- Consultant to review how Beacon can honor indigenous stewardship of land

November - December 2022

Climate goals and detailed plan of how we meet them

Other new ideas

- HR procedures for a more anti-racist workforce
- Public transportation review
- Rewilding public land and pollinator pathways

Other ongoing business - timing TBD

- Unified fire house
- South Avenue Bridge
- Greenway Trail Committee
 - Bike trails past Beacon
 - East side of Fishkill Creek
- Locations for viewsheds and historic properties (off Main St)
- Update on municipal composting
- Supporting State and County legislation
 - New York Health Act
 - Public Power
 - Housing
 - Redistricting
 - Public Transportation
- Status of and strategy for Camp Beacon proposal (executive session)



CITY OF BEACON New York

Christopher White
City Administrator

OFFICE OF CITY ADMINISTRATOR

845-838-5000

MEMO

TO: Mayor Lee Kyriacou and Members of City Council
FROM: Christopher White, City Administrator
DATE: January 7, 2022
RE: Overview of Administration Priority Projects and Initiatives for 2022

In preparation for the City Council discussion regarding the 2022 Agenda, I respectfully submit the following priorities for my office for the coming year:

Budgeting and Financial Matters:

- Submit five-year capital program to Council by May 31, 2022
- Adopt capital program by July 31, 2022
- Present 2023 operating budget by October 3, 2022
- Adopt 2023 operating budget by December 31, 2022
- Negotiate and approve new Sales Tax Agreement with Dutchess County (Spring)
- Rebid garbage and recycling collection and disposal by late 2022
- Review sewer and water agreements with New York State

Capital Projects:

- Repave and Restripe of Main Street (Spring)
- Assess Main Street Signals at Main Street and Teller Avenue
- Rehabilitate of Primary Settling Tanks at Wastewater Treatment Plant (Spring)
- Rehabilitate Mount Beacon and Pocket Dams (Spring)
- Replace Municipal Center Roof (Spring)
- Replace Municipal Center Chiller (Spring)
- Upgrade Hanna Lane Sewer Infrastructure (Spring/ Summer)
- Install Computerized Maintenance Management System (CMMS) at Wastewater Treatment Plant
- Complete Engineering Design of West Main Pump Station (Spring/ Summer)
- Complete Design and Construction of South Avenue Sidewalk Replacement (Summer)
- Complete Architectural Final Design for Tompkins Hose Fire Station Expansion/ Rehabilitation (Summer/Fall)
- Replace/ Construct Sidewalks and Repaving of Fishkill and Teller Avenues (Summer/ Fall?)
- Implement Washington Avenue Wingwall Replacement (TBD)
- Reconstruct South Avenue Park Retaining Wall (Summer/ Fall?)
- Finalize Engineering Design for Melzingah Dam Rehabilitation (ongoing)

- Re-evaluate Engineering Design for Tioronda Bridge Reconstruction (Summer/Fall?)
- Replace Water Meters (TBD; need to evaluate further)
- Start Scoping/ Engineering Design for replacement of dewatering system at WWTP

Planning/ Zoning/ Main Street:

- Continue implementation of Main Street Access Committee recommendations (including signage, parking, and parking lot redevelopment)
- Review and identify critical viewsheds for protection
- Evaluate possible additions to the Historic District and Landmark Overlay (HDLO) zone
- Consider rezoning alternatives for affordable housing creation
- Identify City-owned properties to leverage for housing/ in-fill development
- Improve Short-term Rental Law/ set up enforcement with Dutchess County
- Evaluate options for redevelopment of Camp Beacon property
- Examine fee schedule for Small Cell Local Law/ Consider Revisions

Recreation/ Environmental Initiatives:

- Conduct Recreation Needs Assessment (starting February or March 2022)
- Develop potential study for Settlement Camp Park improvements
- Install two additional electric vehicle charging stations
- Evaluate solar PV system on Highway Garage
- Institute energy efficiency assessment for City-owned facilities (TBD)
- Implement and assess compost pilot programs (with CAC)
- Work with Dutchess County to optimize Beacon Loop Bus Routes
- Review and report on Green Fleet implementation progress
- Continue discussions with Dutchess County and Metro-North Railroad about Beacon-Hopewell Junction Rail Trail

Human Resources/ Personnel:

- Complete update of Collective Bargaining Agreement (CBA) with CSEA
- Hire new Director of Human Resources
- Update drug policy in CBA with CSEA
- Review and update all employee policies/ create employee handbook
- Implement new employee payroll tracking system
- Evaluate alternative health and dental benefits with three unions
- Address crossing guard shortage
- Revamp and improve employee trainings

Miscellaneous:

- Continue Police Reform Committee/ Report out to Council by Summer
- Work with Dutchess County Planning on Census undercount (Fishkill Correctional)
- Convene redistricting committee to reapportion wards/ districts
- Negotiate potential property transfers: TBD/ Executive Session

City of Beacon City Council Agenda
01/10/2022

Title:

Proposed Appointments of Fire Lieutenants

ATTACHMENTS

[Memorandum from Fire Chief Regarding Proposed Appointments of Lieutenants](#)



FIRE DEPARTMENT

13 South Avenue
Beacon, New York 12508

MEMO

To: City Administrator Chris White
From: Chief Gary Van Voorhis
Date: January 5, 2022
Subject: **Request Promotion of three Fire Lieutenants**

Per the 2022 CBA the City of Beacon Fire Department will maintain one Fire Lieutenant on each shift. The BFD has 4 shifts. Eric Schmidt and Mike Merritt were hired as Lieutenants in 2021. Mike Merritt is retiring in January. I am requesting to fill the three vacant positions. The three requested are BFD members off the Dutchess County Civil Service list. Each candidate met the Lieutenant's requirements, passed the Dutchess County written test, and were given an interview. The City Administrator and Fire Chief administered the interviews on December 17, 2021.

I recommend the following three Firefighters to be promoted to Fire Lieutenants. Attached are their resumes.

Mark Romanelli,

Mark started his firefighter career in 1989 as the first junior BFD volunteer firefighter at the age of 16. Mark held the volunteer ranks of Lieutenant and Captain before being hired as a Career firefighter in 2004. Mark has earned many NYS certifications. Mark has received many community and department awards and achievements. Mark is a very dedicated and loyal employee.

Christopher Donovan,

Christopher started his career in 2007 as a volunteer firefighter with the Montgomery Fire Department. Christopher held the volunteer rank of Lieutenant. Christopher was a City of Newburgh career firefighter and transferred to the BFD in 2015. Christopher was a 911 dispatcher fielding and dispatching all emergency incidents. Christopher has many NYS certifications.

Robert Simmonds, Jr.,

Robert started his career in 2011 as a junior BFD volunteer firefighter at the age 16. Robert held the volunteer ranks of 1st and 2nd Lieutenant. Robert a native of Beacon graduating from Beacon High School. Robert has purchased a house in the City of Beacon. Robert has many NYS certifications and continues to attend ongoing classes.

All three of these candidates meet the requirements of a Fire Lieutenant. These Lieutenants will direct the BFD to be a safer, smarter, educated, well trained, and a better supervised department.



MARK ROMANELLI
FIREFIGHTER

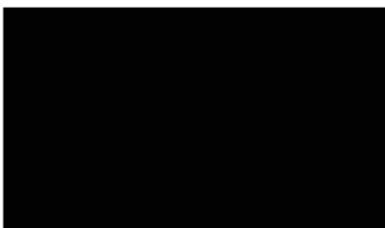
OBJECTIVE

Position as Career Fire Lieutenant to utilize my training and skills to make a significant contribution to the success of the City of Beacon Fire Department.

SKILLS & ABILITIES

- *NYS Emergency Medical Technician
- *NYS Level 2 Fire Investigator
- *NYS Code Enforcement Official
- *Confined Space Operations Certified
- *Trench Rescue Operations Certified
- *NYS Commercial Drivers License with Hazardous Materials and Tanker endorsements
- *Strong background in commercial vehicles and heavy equipment.

CONTACT



EXPERIENCE

CITY OF BEACON FIRE DEPARTMENT

Beacon, New York.

Volunteer Firefighter 4/1989 until 3/2004

First Junior Firefighter in history of Dept. Served as 3rd 2nd and 1st Lieutenant reaching the rank of Captain in charge of operations of Fire Station #2

Career Firefighter 3/2004 until Present

Currently employed as a Firefighter/EMT based with the departments ladder truck.

DUTCHESS COUNTY FIRE INVESTIGATION DIVISION

Poughkeepsie, New York.

Volunteer member of the County Fire Investigation Team
6/2008 until 9/2015

Served as a Fire Investigator tasked with determining the cause and origin of fires in Dutchess County through methodical examination and collection of fire scene evidence as well as witness interviews.

New York State Department of Corrections

Fishkill Correctional Facility, New York 6/1996 until 3/2004

Employed as a NYS Corrections Officer. Held multiple roles within the department. Last assigned position was managing soon to be released inmates assigned to the departments "Work Release Program" become acclimated with being released into society.

EDUCATION

BEACON HIGH SCHOOL

1989 GRADUATE

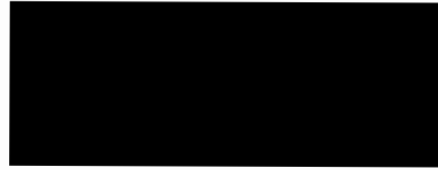
ORANGE COUNTY COMMUNITY COLLEGE

CRIMINAL JUSTICE MAJOR

ACHIEVEMENTS AND AWARDS

- * Served on two apparatus purchase committees, 93' 18'
- * (3) St. Lukes Hospitals Awards for saving a human life, 92' 05' and 06'
- * Heroism Award from City of Beacon Fire Department, 92'
- * Medal of Honor Award from City of Beacon Fire Department, 12'
- * Outstanding Firematic Service Award from Tompkins Hose Co., 13'
- * City of Beacon "Volunteer Of The Year Award", 92'
- * "Civilian Of The Year Award" City of Beacon Police Department, 06'
- * "Highest Academic Achievement Award" NYS Corrections Academy
- * Recognition of service awards:
 - New York State Senate 92'
 - Dutchess County Legislator 92' 12'
 - City of Beacon Council 92' 05' 06' and 12'

Christopher Donovan



PROFILE

I have 14 years of experience in the fire service with 7 of those years being a Professional Firefighter. My personal strengths are responsibility, dedication, professionalism, courtesy, patience and quick thinking in high paced environments.

EXPERIENCE

Firefighter, City of Beacon Fire Department, Beacon, NY - April 2015 - Present

My responsibilities include responding to numerous types of emergencies and staying up to date on current training practices. I have assisted with the training and mentoring of newly hired Firefighters.

Firefighter, City of Newburgh Fire Department, Newburgh, NY - April 2014 – April 2015

My responsibilities included responding to numerous types of emergencies and staying up to date on current training practices.

Fire Academy Class 14-01 Valedictorian

Public Safety Dispatcher, Orange County 911, Goshen, NY - May 2011 - August 2018

My responsibilities included dispatching numerous Fire, EMS, and Police agencies throughout the county. I also answered non-emergency phone calls.

2013 Excellence in Dispatch Award, 2014 Excellence in Dispatch Award

Volunteer Firefighter, Montgomery Fire Department, Montgomery, NY - July 2007- August 2018

Lieutenant - January 2012 - December 2016

My responsibilities included responding to Fire and Emergency Medical Service calls, as well as supervising department training events and equipment maintenance. I was able to get the department to be one of the few Swift Water Rescue teams in the area.

2009 Firefighter of the Year Award, 2012 Officer of the Year Award.

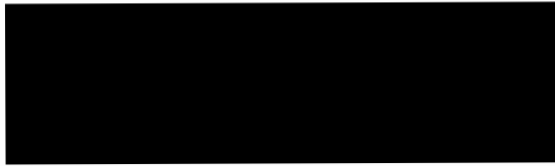
CERTIFICATIONS

New York State Fire Officer I

National Fire Service Instructor I

National Fire Service Instructor II

Robert J. Simmonds Jr.



Experience:

April, 2017 – Present

Firefighter/Emergency Medical Technician (EMT), City of Beacon Fire Department

Duties: Perform all firefighting related duties and activities such as suppression, search and rescue, etc. Respond to medical emergencies as an EMT and provide patient care and assist with patient packaging for transport. Safely operate all fire department apparatus and equipment. Assist with fire prevention and code enforcement.

August, 2016 – April, 2017

Firefighter / Security, IBM Poughkeepsie Emergency Control

Duties: Respond to all emergency and security related incidents on site. Complete monthly building fire inspections, including fire alarm and suppression systems. Uphold a safe and secure working environment for all employees.

August, 2014 – September, 2016

Bartender, Roundhouse at Beacon Falls

Duties: Provide satisfactory customer service to all patrons. Maintain a sterile and healthy work environment. Inventory and organize all beverage and bar products.

August, 2012 – August, 2014

Dairy Stock / Store Maintenance, Key Food Marketplace

Duties: Provide efficient and courteous customer service while also sustaining a clean and safe work setting. Stock and maintain the dairy section of the store. Provide routine maintenance on the building and store equipment.

Education & Related Experience:

A.A.S. Fire Protection Technology, 31 Credits Completed, Mohawk Valley Community College

A.A.S. Fire Protection Technology, 26 Credits Completed, Dutchess Community College

High School Diploma, Beacon High School, Beacon, NY

Volunteer Firefighter – City of Beacon FD, 2011 to 2017 (Offices of 1st Lt & 2nd Lt)

Robert J. Simmonds Jr.



New York State & National Certifications

- Emergency Medical Technician (#413379)
- National and New York State Fire Instructor I (01-11-0162)
- National and New York State Firefighter I & II
- New York State Building Safety Inspector (Exp.)
- Hazardous Materials Technician (01-09-0039)
- Rescue Technician - Basic (01-04-0032)
- Basic Structural Collapse Operations (01-04-0055)
- Medium Level Structural Collapse Concepts (01-04-0040)
- Medium Level Structural Collapse: Tools (01-04-0057)
- Accident Victim Extrication Training (01-04-0001)
- Emergency Vehicle Operations Course (EVOC)
- Fire Behavior and Arson Awareness
- New York State Firefighter Assist & Search Team (01-05-0018)
- New York State Firefighter Survival
- New York State Firefighter Advanced Search
- New York State Pump Operator (01-05-0037)
- New York State Truck Company & Aerial Operations (01-05-0046)
- FEMA Incident Command Systems - 100, 200, 700, & 800

City of Beacon City Council Agenda
01/10/2022

Title:

Proposed Appointment of Gregory Post to Senior Wastewater Treatment Plant Operator -
Type A Plant

ATTACHMENTS

[Memorandum from the Chief Wastewater Treatment Plant Operator Regarding Proposed Appointment](#)



CITY OF BEACON New York

David Tavernier
Chief Operator

WASTEWATER DEPARTMENT

845-831-7130

TO: Mayor Kyriacou and the City Council

FROM: Chief Wastewater Operator David Tavernier

**RE: Proposed Promotion of Wastewater Treatment Operator Gregory Post,
to Senior Wastewater Treatment Operator**

DATE: January 6, 2022

The City of Beacon Wastewater Treatment Department would like to promote Gregory Post to the position of Senior Wastewater Treatment Operator. Mr. Post has worked for the City since September 2014. During his more than 7 years with the City of Beacon Wastewater Treatment Department, he has shown to be a consummate professional in this field. He is hard-working, thorough, and has a passion for his work.

Mr. Post earned a baccalaureate degree in Human Nutrition from the University of Delaware, associates degrees in both Hospitality Management and Dietetic Technology from Middlesex County College in Edison, New Jersey, and has completed his Wastewater Certification coursework at Ulster Community College in Stone Ridge, New York. He also holds a NYSDEC Grade 4A wastewater operator treatment license, which is the highest-level license, matching the classification of the WWTP for the City of Beacon.

Mr. Post is tasked with maintaining the wastewater treatment process within NYSDEC/SPDES compliance, a critical component of the City's ability to function. He has been successful through his exercise of skill, diligence, and application of industry best standards. Mr. Post has the utmost department-wide respect, as the operator taking the lead at the Beacon WWTP, and has really been the acting senior wastewater operator.

I respectfully request that the Council promote Operator Gregory Post to the position of Senior Wastewater Treatment Operator, based on his qualifications, experience, and outstanding track record at the Beacon WWTP. I will be happy to answer any questions you may have.

Sincerely,

David Tavernier

David Tavernier
Chief Operator

City of Beacon City Council Agenda
01/10/2022

Title:

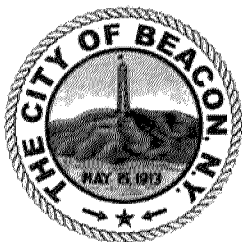
Proposed Appointment of Marissa Lomonaco to the Conservation Advisory Committee

ATTACHMENTS

[Marissa Lomonaco Committee Application](#)

[Marissa Lomonaco Resume](#)

Committee Application



Submit Forms:
One Municipal Plaza, Suite One
Beacon, NY 12508

Phone: (845) 838-5010
FAX: (845) 838-5012
Email: cityofbeacon@cityofbeacon.org

Name

Marisa Lomonaco

Address

Phone Number

Alternate Phone

Email Address

Committee You are
Interested In

- ☐ Board of Assessment Review
☐ Board of Ethics
☒ Conservation Advisory Committee
☐ Emergency Management Committee
☐ Human Relations Commission
☐ Planning Board
☐ Recreation Committee
☐ Traffic Safety Committee
☐ Zoning Board of Appeals
☐ Any of the above
☐ Other

Available number of
Hours per week (for
Committee work)

5

Occupation

Owner at Hudson Valley Brewery /Artist

Employer

Hudson Valley Brewery

Work Address

7 East Main Street

Work Phone

Education

- ☐ Some High School
☐ High School Diploma
☐ Some College
☐ Associates Degree
☒ Bachelor's Degree
☐ Master's Degree
☐ Doctorate Degree

Interest & Skills

Design, Art, Conservation, Outdoor activities, landscaping

**Areas of Expertise
(business & civic)**

Marketing, design, management

Reference

Reference Name

George Mansfield

Address

[REDACTED]

Phone

[REDACTED]

Email Address

[REDACTED]

Relationship

acquaintance

Please include your resume along with this application.

I agree that by submitting this application, I am electronically signing the application. I solemnly declare that the information I have provided is true.

Applicant Signature: Marisa Lomonaco

Date: 9/20/21

MARISA LOMONACO



OBJECTIVE

My objective is to help our city become more sustainable and to assist the CAC as a member of the business community of Beacon.

SKILLS

Digital marketing, website development, design, organization and project management

WORK EXPERIENCE

Operating Officer | Hudson Valley Brewery | 2017 - present
Responsible for overseeing marketing, human resources, administration, special projects and programs.

Marketing Director | Niche Modern | 2013 - 2016
Led a team of four employees in digital marketing, website development, email marketing strategies, content development, social media and design.

Project Manager | Tallix Fine Art Foundry | 2006 - 2016
Management of architectural and sculptural projects from conception through installation.

EDUCATION

BFA | 2006 | Ithaca College

City of Beacon City Council Agenda
01/10/2022

Title:

Resolution Urging New York State to Allow City-Wide 25 MPH Speed Limit

ATTACHMENTS

[New York State 25 MPH Bill Sponsor Memorandum](#)

[New York State Senate - 25 MPH Proposed Bill](#)

S2021 (ACTIVE) - SPONSOR MEMO

BILL NUMBER: S2021

SPONSOR: MAY

TITLE OF BILL:

An act to amend the vehicle and traffic law, in relation to authorizing cities, villages and towns to reduce the speed limit to twenty-five miles per hour

PURPOSE:

To afford cities, villages and towns the option to set its maximum speed limit at 25mph

SUMMARY OF PROVISIONS:

Section one amends section 1643 of the vehicle and traffic law to allow the legislative body of any city or village to establish a maximum speed limit of 25mph.

Section two amends section 1662-a of the vehicle and traffic law to allow a town board to establish a maximum speed limit of 25mph.

Section three amends subdivision two of section 1622 of the vehicle and traffic law to provide that no speed limits along all such highways lying within an area or areas as designated by a description of the boundaries of such area or areas submitted by the county superintendent of highways of a county and the town board of the town or towns affected shall be established at less than 25mph.

Section four provides the effective date.

** The amendments to this bill update the text to include section 3 outlined above. **

JUSTIFICATION:

Research shows that faster driving speeds correlate to more serious injuries and fatalities for pedestrians in the event of an accident. The faster a vehicle is traveling, the less time its driver will have to see a pedestrian in the road and stop and the less time a pedestrian will have to react. According to the AAA Foundation for Traffic Safety, a pedestrian struck by a vehicle going 25mph has a 25 percent risk of sustaining a serious or fatal injury, a 50 percent risk at 33mph and a 75 percent risk at 41mph.

A 2018 study released by the Insurance Institute for Highway Safety found that lowering the speed limit by 5 mph on city streets improves safety outcomes for motorists, pedestrians, and bicyclists by reducing the incidence of speeding. The study focused on Boston, which in 2017 lowered its default speed limit on city streets from 30mph to 25mph.

Researchers found that after the city lowered its speed limit, the estimated odds of a vehicle exceeding 35mph fell by 29.3 percent. Also, the odds of a vehicle exceeding 30mph fell by 8.5 percent and by 2.9 percent of exceeding 25mph. These reduced speeds will help to curb the city's incidence of serious injuries and fatalities in pedestrian involved accidents.

In 2014, New York City lowered its speed limit from 30mph to 25mph, as part of a program known as "Vision Zero," aimed at ending all traffic related deaths and serious injuries in the city by 2024. To date, the three years following implementation of the program have been studied and the number of traffic related fatalities declined for these three consecutive years and went down 23 percent overall. This bill would afford cities, towns and villages in the state the option to set its maximum speed limit at 25mph. Under current law, the default maximum speed limit throughout a city, town or village may not be set lower than 30mph. Research proves that the public's safety benefits when speed limits are lowered and municipalities should be granted the authority to take this proactive step to help decrease fatalities and the severity of injuries that can result from speed related accidents. Reducing speed limits is an efficient, simple solution to protect the public and prevent tragedies.

STATE OF NEW YORK

2021

2021-2022 Regular Sessions

IN SENATE

January 16, 2021

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to authorizing cities, villages and towns to reduce the speed limit to twenty-five miles per hour

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1643 of the vehicle and traffic law, as amended by
2 chapter 412 of the laws 2012, is amended to read as follows:

3 § 1643. Speed limits on highways in cities and villages. The legisla-
4 tive body of any city or village with respect to highways (which term
5 for the purposes of this section shall include private roads open to
6 public motor vehicle traffic) in such city or village, other than state
7 highways maintained by the state on which the department of transpor-
8 tation shall have established higher or lower speed limits than the statu-
9 tory fifty-five miles per hour speed limit as provided in section
10 sixteen hundred twenty of this title, or on which the department of
11 transportation shall have designated that such city or village shall not
12 establish any maximum speed limit as provided in section sixteen hundred
13 twenty-four of this title, subject to the limitations imposed by section
14 sixteen hundred eighty-four of this title may by local law, ordinance,
15 order, rule or regulation establish maximum speed limits at which vehi-
16 cles may proceed within such city or village, within designated areas of
17 such city or village or on or along designated highways within such city
18 or village higher or lower than the fifty-five miles per hour maximum
19 statutory limit. No such speed limit applicable throughout such city or
20 village or within designated areas of such city or village shall be
21 established at less than thirty miles per hour; except that (i) the
22 legislative body of any city or village may by local law, ordinance,
23 order, rule or regulation establish a maximum speed limit of twenty-five
24 miles per hour applicable throughout such city or village, and (ii) in

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD02142-01-1

1 the city of Long Beach, in the county of Nassau, speed limits may be
2 established at not less than fifteen miles per hour on any portion of
3 the following highways in such city: Cleveland avenue, Harding avenue,
4 Mitchell avenue, Belmont avenue, Atlantic avenue, Coolidge avenue,
5 Wilson avenue and Taft avenue. No such speed limit applicable on or
6 along designated highways within such city or village shall be estab-
7 lished at less than twenty-five miles per hour, except that school speed
8 limits may be established at not less than fifteen miles per hour, for a
9 distance not to exceed one thousand three hundred twenty feet, on a
10 highway passing a school building, entrance or exit of a school abutting
11 on the highway and except that within the cities of Buffalo and Roches-
12 ter speed limits may be established at not less than fifteen miles per
13 hour for any portion of a highway within a city park.

14 § 2. Section 1662-a of the vehicle and traffic law, as amended by
15 chapter 405 of the laws of 2012, is amended to read as follows:

16 § 1662-a. Speed limits in certain towns. The town board of any subur-
17 ban town governed pursuant to article three-A of the town law and the
18 town board of any other town having a population exceeding fifty thou-
19 sand, with respect to highways (which term for the purposes of this
20 section shall include private roads open to public motor vehicle traf-
21 fic) in such towns outside any village, other than state highways main-
22 tained by the state on which the department of transportation shall have
23 established higher or lower speed limits than the statutory fifty-five
24 miles per hour speed limit as provided in section sixteen hundred twenty
25 of this title, or on which the department of transportation shall have
26 designated that such towns shall not establish any maximum speed limit
27 as provided in section sixteen hundred twenty-four of this title,
28 subject to the limitations imposed by section sixteen hundred eighty-
29 four of this title may by local law, ordinance, order, rule or regu-
30 lation establish maximum speed limits at which vehicles may proceed
31 within such towns, within designated areas of such towns or on or along
32 designated highways within such towns lower than the fifty-five miles
33 per hour maximum statutory limit. No such speed limit applicable
34 throughout such towns or within designated areas of such towns shall be
35 established at less than thirty miles per hour, except that (i) a town
36 board may by local law, ordinance, order, rule or regulation establish a
37 maximum speed limit of twenty-five miles per hour applicable throughout
38 such town and (ii) in the town of Hempstead speed limits may be estab-
39 lished at not less than fifteen miles per hour on any portion of a high-
40 way in the community known as Point Lookout and on all or any portion of
41 the following highways in the community known as Lido Beach: Ocean
42 Boulevard, Allevard Street, Bath Street, Buxton Street, Cheltenham
43 Street, Pinehurst Street, Harrogate Street, Matlock Street, Nantwick
44 Street, Biarritz Street, Royat Street, Luchon Street, Woodhail Street,
45 Leamington Street, Saratoga Street, Kensington Street, and Prescott
46 Street; provided, however, that no such speed limit in such town may be
47 established unless a majority of the residents of each such community
48 file a petition with the town board of such town requesting such speed
49 limit. No such speed limit applicable on or along designated highways
50 within such towns shall be established at less than twenty-five miles
51 per hour, except that school speed limits may be established at not less
52 than fifteen miles per hour, for a distance not to exceed one thousand
53 three hundred twenty feet, on a highway passing a school building,
54 entrance or exit of a school abutting on the highway, and except further
55 that in the town of Hempstead speed limits may be established at not
56 less than fifteen miles per hour on any portion of a highway in the

1 communities known as Point Lookout and Lido Beach; provided, however,
2 that no such speed limit in such town may be established unless a major-
3 ity of the residents of each such community file a petition with the
4 town board of such town requesting such speed limit.

5 § 3. Subdivision 2 of section 1622 of the vehicle and traffic law, as
6 amended by chapter 83 of the laws of 1969, is amended to read as
7 follows:

8 2. Establish maximum speed limits at which vehicles may proceed on or
9 along all such highways lying within an area or areas as designated by a
10 description of the boundaries of such area or areas submitted by the
11 county superintendent of highways of a county and the town board of the
12 town or towns affected lower than fifty-five miles per hour statutory
13 maximum speed limit. No such limit shall be established at less than
14 [~~thirty~~] twenty-five miles per hour.

15 § 4. This act shall take effect immediately.

City of Beacon City Council Agenda
01/10/2022

Title:

Exercising Extension of 2021 Real Property Tax Exemption to 2022 City Assessment Roll

ATTACHMENTS

[Extension of RPTL Tax Exemptions Memorandum](#)

[Proposed Extension of RPTL Tax Exemptions Resolution](#)

MEMORANDUM

TO: Christopher White, City Administrator
City of Beacon

FROM: Judson K. Siebert 

RE: Extension of RPTL Tax Exemptions
(Disabled Persons and Persons Over Age 65)

DATE: January 4, 2022

On December 26, 2021, Governor Hochul issued Executive Order 11.1. This Executive Order, in part, authorizes the governing body of an assessing unit to adopt a resolution to allow the local assessor to “carry over” two (2) types of real property tax exemptions on 2022 assessment rolls to those property owners who obtained these exemptions on 2021 assessment rolls, thereby dispensing with the requirement that renewal applications be timely submitted.

Executive Order 11.1 addresses two (2) types of exemptions only - those afforded to disabled persons with limited income and owners 65 years of age and older. This renewal authority has been extended out of concern that eligible property owners may not file renewal applications on or the exemption application deadline (in the City of Beacon before the City’s March 1, 2022 taxable status date) on account of COVID disruption.

City Assessor Kathy Martin recommends exercising the authority granted in Executive Order 11.1 to ease exemption administration and protect those owners (disabled and senior citizens) whose renewal efforts may be disrupted under current COVID conditions. Renewal applications have been timely mailed, but the City Council may, by Resolution, allow the 2021 exemptions to “carry over” to the 2022 City Assessment Roll even if these applications are not timely returned to the City Assessor. The City Council may allow the City Assessor, in her discretion, to require applications when it appears that a 2021 exemption holder changed his or her primary residence, added another owner to the deed, transferred the property to a new owner, or died (events that would terminate these exemptions).



A proposed Resolution, exercising this authority, has been prepared for the City Council's consideration. A copy accompanies this Memorandum. Please let me know if there are any questions.

cc: Kathy Martin, City Assessor
Nicholas M. Ward-Willis, Esq.

CITY OF BEACON

CITY COUNCIL

EXERCISING EXTENSION OF 2021 REAL PROPERTY TAX EXEMPTIONS
TO 2022 CITY ASSESSMENT ROLL
(REAL PROPERTY TAX LAW §459-c and REAL PROPERTY TAX LAW §467)
PURSUANT TO EXECUTIVE ORDER 11.1

Resolution No. ____ of 2022

WHEREAS, on December 26, 2021, Governor Kathy Hochul signed Executive Order 11.1 which extended the terms, conditions and suspensions contained in Executive Order 11 until January 25, 2022;

WHEREAS, Executive Order 11.1 temporarily suspends Subdivisions 7, 7-a and 8 of § 459-c of the New York State Real Property Tax Law (Exemption for Persons with Disabilities and Limited Incomes), and Subdivisions 5, 5-a, 5-b, 5-c and 6 of § 467 of New York State Real Property Tax Law (Exemption for Persons Sixty-Five Years of Age or Over), to the extent necessary to permit the governing body of an assessing unit to adopt a resolution directing the Tax Assessor to grant exemptions pursuant to §§ 459-c and Section 467 of the New York State Real Property Tax Law on the 2022 assessment roll to all property owners who received such exemption on the 2021 assessment roll, thereby dispensing with the need for renewal applications from such persons; and

WHEREAS, Executive Order 11.1 further provides that such governing body may adopt a local law or resolution which includes procedures by which the Tax Assessor may require a renewal application to be filed when he or she has reason to believe that an owner who qualified for either type of exemption on the 2021 assessment roll may have since changed his or her primary residence, added another owner to the deed, transferred the property to a new owner, or died; and

WHEREAS, it is the intention of the City Council of the City of Beacon to adopt such a resolution implementing these terms pursuant to Executive Order 11.1;

NOW, THEREFORE, BE IT RESOLVED that the City Council, as the governing body of the City of Beacon, authorizes the City Assessor to grant exemptions pursuant to §§ 459-c and 467 of the New York State Real Property Tax Law on the 2022 City of Beacon assessment roll to all property owners who received such exemptions on the 2021 assessment roll even if an application for such an exemption has not been received on or before March 1, 2022 (the City of Beacon taxable status date); and

BE IT FURTHER RESOLVED that the City Council of the City of Beacon authorizes the City Assessor to require, in her reasonable discretion, that a renewal application be filed by any person(s) who received exemption(s) under §§467 and/or 459-c of the Real Property Tax Law on the City of Beacon 2021 assessment roll who may have since changed his or her primary residence, added another owner to the deed, transferred the property to a new owner, or died; and

BE IT FURTHER RESOLVED that such renewal application, when deemed required in the reasonable discretion of the City Assessor, shall be filed in person, by mail or by electronic mail (PDF); and

BE IT FURTHER RESOLVED that any such renewal application deemed necessary by the City Assessor shall be filed with the City Assessor on or before the taxable status date of March 1, 2022; and

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.