

TAKEROOT JUSTICE

TESTIMONY TO THE SMALL BUSINESS COMMITTEE OF THE NEW YORK CITY COUNCIL

Oversight: Combatting Commercial Vacancies Int. 383: Improving the Storefront Registry Int. 197: Legacy Business Registry and Preservation Fund

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My name is Paula Z. Segal. I am Senior Staff Attorney in TakeRoot Justice's Equitable Neighborhoods practice. Thank you very much for holding this important oversight hearing and the opportunity to testify today.

TakeRoot works with grassroots groups, neighborhood organizations and community coalitions to help make sure that people of color, immigrants, and other low-income residents who have built our city are not pushed out in the name of "progress." Over the last four years, as part of the NYC Department of Small Business Services (SBS) Commercial Lease Assistance Program, we have provided direct representation to hundreds of small minority-owned businesses on commercial lease matters, including new leases, renewals, amendments, and disputes over past-due rents.

TakeRoot is a member of United for Small Business NYC (USBnyc), a coalition of organizations and community groups in NYC fighting to protect small businesses and non-residential tenants from the threat of displacement.¹ USBnyc aims to create strong, lasting protections for our city's vibrant and integral small businesses.

¹ USBnyc members are Asian American Federation, Association for Neighborhood & Housing Development (ANHD), Bridge Street Development Corporation, Brooklyn Legal Services Corporation A, Chhaya CDC, Cooper Square Committee, League of Independent Theater of New York (LITNY), Legal Aid Society, NYC Artist Coalition, NYC Network of Worker Cooperatives, Street Vendor Project, TakeRoot Justice, Volunteers of Legal Service (VOLS), Women's Housing and Economic Development Corporation (WHEDCo) and Alliance of Resident Theatres/New York (A.R.T./New York).



Our clients—repair shop owners, barbers, restaurateurs serving culturally appropriate food to their immigrant communities—are regularly hit with 50-100% rent increases at the end of their lease terms, foreclosing the possibility of renewal and effectively functioning as evictions. Their landlords fantasize that they will make way for higher-paying commercial tenants but, often instead, result in years-long commercial vacancies in anticipation of the higher-paying tenants that do not arrive.

The City Council can help our clients and tenants like them avoid displacement-through-speculation by regulating commercial rents. The strategies that Council is focused on at today's hearing do not reach this crucial aspect of curbing vacancy and protecting NYC neighborhoods. I now will turn my attention to two of the bills that are before us.

Int. 383: Improving the Storefront Registry

The launch of the Storefront registry in 2019 was an enormous win for USBnyc and our elected allies. In the absence of data about rents and vacancies, it is difficult to have shared agreement on the reality of the retail market of the City: are businesses thriving? Are they closing? Are rents reduced because of the pandemic? Or are landlords in reality hiking rents with the intention of capturing relief moneys that various levels of government made available to their tenants who could not operate in the early months of the pandemic? With each release of data, our commercial rental landscape comes more clearly into focus.

We commend Council Member Gale Brewer and her staff for their leadership on the Registry now and in advocating for its establishment in her prior role as Manhattan Borough President. Today, they have listened to advocates with feedback on the registry's function in its first two years. The fixes this bill will make to timing of registration requirements are key to making sure that the data the registry is designed to make available is accurate and consistent, and to clarify the requirements for disclosing the data to the public, researchers and policymakers with information that is crucial to being able to interpret and act on it. Information about whether each registered space is vacant, leased or occupied by its owner is key to a clear picture.

Int. 197: Legacy Business Registry and Preservation Fund

While the motivation behind the Legacy Business Registry and Preservation Fund is certainly both understandable and noble considering the conditions my colleagues and I have been seeing in our neighborhoods, this framework will only help the tiniest sliver of the businesses that are actually impacted by rapacious landlord behavior. As an initial matter, the requirement that a business must have been in operation for 20 years will not be met by most of my clients who are serving New York's many changing communities.

Worse, the proposed framework presents an incentive for rent gauging in its very structure: landlords would be eligible for direct grants of up to \$225,000 in public money if they can prove to the SBS Commissioner that "there is a significant risk of displacement" of their tenant legacy business. Of course, a landlord hiking rent *themselves* is what creates that risk in the first place; rent hikes are synonymous with displacement and, in the absence of regulation

like Commercial Rent Stabilization, entirely in landlords' control. This aspect of the proposed Preservation Fund will act as an incentive for landlords to create the risk of displacement as a means of accessing taxpayer dollars.

Other details of the proposed framework are similarly disquieting. First, to qualify for public money as a reward for keeping a legacy business in place despite a (self-created) "risk of displacement," landlords will only need to sign a 10-year lease with the business; that is a typical commercial lease and not a concession.

The framework is based on the premise of winners and losers: instead of encouraging enterprise and innovation across our many communities by entrepreneurs new and old, only those businesses that are both nominated by an elected official and selected by the SBS Commissioner would be able to access protections. This filtering process will leave out nearly all the businesses we have served over our years of direct representation, all of whom have been deserving of protections that allow them to build a base in a local community and remain an anchor in that community for as long as the business model is viable.

Nominations are to be done by elected officials only, without participation of the public. This suggests both a lack of transparency and another way in which access to the "legacy business" designation will necessarily be limited to a rarified set of businesses that have existing connections to individuals working in government and media visibility.

After nomination by an elected official, the SBS Commissioner will have the authority to determine whether to grant status to the business. Giving this authority to SBS will have predictable outcomes based on their track record with other similar programs, like Commercial Lease Assistance: not-for-profit organizations, which include arts, culture and education institutions that are typically renters of commercial real estate and at risk of rent gauging, are not likely to qualify for the program as SBS excludes them from their definition of a "business" for the purposes of existing programs, particularly Commercial Lease Assistance.

Finally, the criteria the framework presents as a prerequisite for designation by the SBS Commissioner after a nomination lack rigor. The Commissioner must find that the business must have "significantly contributed to the history, identity or character of the community or neighborhood in which the business is located;" this is an entirely subjective standard. The Commissioner will also need to find that the business "intends to maintain traditions," suggesting that the goal of the program will be a kind of Disneyfication of New York City through it accepted "traditions," instead of an encouragement to innovate and grow.

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Thank you so much for accepting our feedback today. It is TakeRoot's hope that the next time this committee hold a hearing, Commercial Rent Stabilization, Intro 93, will be on the agenda.