



9/21/21

Via: Online Testimony Submission Portal

Committee on Small Business
New York City Council
250 Broadway
New York, NY 10007

Chair Gjonaj and Members of the Committee on Small Business:

My name is Imran Hossain and I am a Staff Attorney in the Microenterprise Project at Volunteers of Legal Service, or VOLS, one of the three non-profit legal service providers partnering with SBS under the Commercial Lease Assistance (CLA) Program. In that role, I provide counsel to scores of marginalized commercial tenants in our city facing innumerable systemic obstacles to small business ownership. Chief among these existential barriers for our clients, before and during the pandemic, is the injustice and uneven playing field caused by unchecked, unregulated, runaway rents based upon pure speculation that in turn harm small business owners, employees, and residents in their communities through rampant vacancies, evictions, and bankruptcies.

As fellow New Yorkers, I think we can all agree that our small businesses are what make this city special. These small businesses, almost half of which are immigrant owned, provide us with a diversity of experiences that embody the cultural fabric of the city. Unfortunately, these businesses are facing an existential crisis in the form of hiking commercial rent. The unreasonable rising costs of rent tend to disproportionately impact immigrants and our communities of color, who face the perpetually elevated threats of residential displacement.

Exorbitant commercial rents have been a consistent problem for small businesses for over a decade. One study has shown that in the ten years between 2007 to 2017, retail rents increased by an average of 22%, with some neighborhoods seeing more than 50% increases in commercial rent.¹ As a result, many neighborhoods faced 20% vacancy rates for commercial spaces.²

Often, our city's most vulnerable population bear the brunt of an unregulated system. About three quarters of the immigrant small business owners feel overburdened by commercial

¹ <https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/assessing-storefront-vacancy-nyc.pdf>

² Id.

rent.³ Consequently, about one third of these business owners were forced to layoff workers in response to the increases in commercial rent.⁴

While vacancies and laid off workers are the obvious harmful effects of uncontrolled commercial rent, there are many more subtle but equally insidious consequences. Often, in response to rising rent, local businesses are forced to raise prices, making their goods and services too expensive for the communities they serve and who depend on local, affordable, and culturally relevant businesses.

Over the past year, I have worked extensively in the New York City small business tenant community and unfortunately, seeing the harrowing numbers regarding vacancies is not surprising in the least. I have seen this vicious cycle play out countless times. A tenant cannot pay an increase in commercial rent due to unforeseen circumstances, which the COVID-19 pandemic has made painfully obvious. In my experience, these tenants are unable to afford an attorney to assist in negotiating their leases, which leaves them powerless in the face of crisis. A landlord spends time, energy, and money in an eviction proceeding and if the landlord is successful in the proceeding, what are we left with? A small business owner without a space to do business, a community that loses an institution that once provided it affordable goods and services, and a vacant storefront.

One of my clients, an iconic bookseller in Manhattan, offering popular books for a low price, stands to lose its business after operating in the community for decades. Another client, a dry-cleaning business located in Midtown, cannot afford to pay its high rent given the fact that offices have been closed for over a year. If small, independently owned restaurants, coffeshops, stores, and other businesses are forced to close due to increasing commercial rent, what will we be left with? A mundane city of chain stores and big-box businesses, barren of the culture that makes New York so special.

Commercial Rent Stabilization offers a unique opportunity to give small businesses a chance to thrive in the competitive New York City business environment while acknowledging landlords' interests in deriving market-based value from their commercial real estate holdings. Instead of landlords setting arbitrarily high commercial rent prices, Commercial Rent Stabilization allows for all invested parties to collaborate in setting a fair price for rent under thoughtful, transparent, and equitable guidelines. This fair rent will enable small businesses and landlords alike to make future plans by knowing in advance that their rents can only be increased by a certain amount. These measures will ensure small businesses are less prone to mass displacement and that we maintain the integrity of our neighborhoods without rampant vacancies. To optimize the effect of Intro 1796, we believe the bill needs some improvements; including:

- We believe that mayoral appointments to the Guidelines Board need to be approved by the Council.

³ <https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners>

⁴ *Id.*



- Adding small entertainment venues and places of assembly, and all commercial spaces where grocery stores are permitted, to covered spaces.
- Setting initial rent for a space that is vacant when the bill becomes law at the amount of rent and pass-alongs paid by the last tenant of record.
- Adding a robust appeal process through which both tenants and landlords can file for an adjustment of the regulated rent to bring rent into line with neighborhood norms.
- Clarifying that the rent-setting agency will be a new agency, called the Commercial Rent Guidelines Board, and another agency will be designated by the Mayor for enforcement.
- Requiring landlords to register leases and all riders to the enforcement agency every year and requiring the agency to send copies of registration and a complete rent history to tenants every year.

While the city has made efforts, such as enacting the eviction moratorium, to help small businesses during the pandemic, these measures simply kick the can down the road. Generally, small businesses still carry the liability for the rent they could not afford to pay while they were not allowed to operate. Council has raised concerns regarding the constitutionality or general legality of commercial rent stabilization; however, these concerns are unfounded. There is precedent in upholding past efforts to enact similar legislation for residential and commercial leases. Ultimately, Intro 1796 gives small businesses the opportunity to survive in the ultra-competitive New York City market.

Sincerely,

Imran Hossain, Esq.