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September 30, 2021

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Re: Support for A.350-C (AM Braunstein) / S.5105-C (Sen. Liu), which would delineate instances where no landlord-tenant relationships exist in cooperative apartments

Dear Governor Hochul,

On behalf of the New York City Bar Association, we write in support of A.350-C / S.5105-C and urge you to sign the legislation swiftly. The City Bar first supported this legislation in February 2020[1] and we write today to echo the arguments in support of enactment outlined in the enclosed letter from the Cooperative and Condominium Advisory Council, the Real Estate Board of New York and others.

Thank you for your consideration.

Respectfully,

Margery N. Weinstein /s/   *Rachel D. Jaffe* /s/   *Karol S. Robinson* /s/

Margery N. Weinstein, Chair
Cooperative & Condominium
Law Committee

Rachel D. Jaffe, Co-Chair
Housing & Urban
Development Committee

Karol S. Robinson, Co-Chair
Housing & Urban
Development Committee

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[1] *See* "Housing Stability and Tenant Protection Legislation: Co-Op and Condo Recommendations," Feb. 7, 2020, https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/housing-stability-and-tenant-protection-legislation-co-op-and-condo-recommendations.

About the Association
The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

Honorable Kathy Hochul
Governor of New York State
New York State Capitol Building
Albany, New York 12224

Re: A. 350-C (Braunstein) / S. 5105-C (Liu), An Act to Delineate Instances Where No Landlord-Tenant Relationships Exist In Cooperative Apartments

Dear Governor Hochul,

We are writing you to urge you to sign the above legislation, passed almost unanimously by the Senate and the Assembly, as soon as possible. Co-ops are probably the last bastion of affordable housing in New York and they worked tirelessly over two years to get this legislation passed.

The *Housing Stability and Tenant Protection Act* of 2019 (HSTPA) has had a profound negative impact on Coops, which were not the intended target of the Act. The egregious error in the original legislation is that it conflates "commercial landlords" with "co-op boards". Unlike commercial landlords, to whom this legislation was ostensibly directed, co-ops operate on a break-even basis and do not reap profits or gains from shareholder maintenance they collect. All the revenue collected by the owners/shareholders are used by the co-op for its operation and infrastructure needs.

We were cheered by the passage of the bill and have been eagerly awaiting its enactment. A number of provisions that were designed to protect tenants' rights in a normal landlord-tenant relationship are currently being misapplied to shareholders within a cooperative. Shareholders pay

maintenance fees and other charges to their co-op and are not commonly thought of as "rent", since they are in all respects owners and not renters, owning shares in the co-op itself. Without your signature on this technical corrections bill, HSTPA will continue to consider cooperatives to be landlords and subject them to a set of requirements that negatively impact the functioning of each cooperative as a whole. This bill makes it clear that cooperatives are NOT rental housing where there a true landlord/tenant relationship exists.

Cooperatives, being mutually owned and operated on a non-for-profit basis, provide affordable housing ownership for hundreds of thousands of New Yorkers. Under HSTPA and without the clarifying language offered by this bill, co-ops face new expenses and restrictions that will continue to negatively impact those whom the bill was meant to protect. For example, previously, cooperatives could admit more financially marginal applicants by asking for escrows, which the co-op relies on to protect itself if these new shareholders could not meet their monthly maintenance obligations. In a co-op, when one shareholder fails to pay their maintenance, the burden falls on all other shareholders to make up that revenue. Under HSTPA, escrow and any prepayment is limited to one month's rent. Without the co-ops ability to protect itself from new shareholders with marginal financials, these applicants are now being rejected

The bill similarly restores the ability of cooperatives to charge application fees, late fees, attorney fees, etc. so that these costs do not fall on the backs of families in the co-op. Without this technical adjustment, co-ops have begun to demonstrate a materially adverse impact on their ability to function efficiently and have adversely affected their operating budgets, reducing the quality of life for their residents.

The Bill is limited and only applies to cooperatives in their dealings with their shareholders; it does not limit any HSTPA protections to subtenants residing under conventional leases. We urge you to sign the Bill without delay.

Sincerely,

Association of Riverdale Cooperatives & Condominiums
Cooperatives and Condominiums Advisory Council of Westchester
Council of New York Cooperatives and Condominiums
Federation of New York Housing Cooperatives
New York Association of Realty Managers
President's Co-op & Condo Council
Queens County Bar Association
Real Estate Board of New York
Urban Homesteading Assistance Board

CC: Honorable Edward C. Braunstein, NYS Assembly District 26
Honorable John C. Liu, NYS Senate District 11