P U B L I C H E A R I N G

before

ASSEMBLY REVISION & AMENDMENT OF LAWS COMMITTEE

on

Assembly Bills No. 54, 151, 152, 160, 165, 212, 1071, 1072, 1535, 1536, 1557, 1610, 2122, and Senate Bill No. 429
(Landlord-Tenant legislation)

Held:
April 25, 1973
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Kenneth A. Black, Jr. (Chairman)
Assemblyman John N. Dennis
Assemblyman Michael M. Horn
Assemblyman Vincent O. Pellecchia

* * * *

I N D E X

ASSEMBLYMAN KENNETH A. BLACK, JR.: Good morning. My name is Kenneth A. Black, Jr., Assemblyman District 3A, Chairman of the Committee on Revision of Laws, and the purpose of this public hearing today is to discuss the various pieces of legislation residing within this Committee dealing with the landlord-tenant relationship.

Joining me at the head table will be Assemblyman Horn who is a member of this Committee.

I would like to call as the first speaker, to give testimony with regard to this legislation, the Honorable Mayor Arthur J. Holland, City of Trenton. Mayor Holland?

M A Y O R A R T H U R J. H O L L A N D: Mr. Chairman and Assemblyman Horn, the bills which this Committee is considering today concern the three-sided relationship among tenants, landlords and government. Specifically, they deal with such matters as tenant recourse when vital services are not being provided, guarantee of complete information of rights to tenants, availability of legal counsel, and guarantee of due notice of eviction. These issues are addressed in the midst of existing State law, continuing decisions by the courts, such as Marini Vs. Ireland, which one of the bills addresses, and the on-going operation of our English Common Law tradition as reflected in custom and statute.

Amid this legal and traditional setting, the housing market of the State is near collapse. A well documented "housing crisis" now exists in the State of New Jersey. Vacancies on both rental and sale units are well below levels which guarantee a sufficient degree of choice in the marketplace. Present levels of construction scarcely affect the existing need. Construction costs are soaring. Abandonment, particularly in the State's older cities, such as Trenton, where we have some 800 abandoned houses, has become an increasingly

critical problem.

As a result of the continuing housing crisis, new pressures are created within the existing framework of tenant-landlord relationships. Housing market conditions raised issues of little concern at the time of the creation of our existing laws and administrative procedures. For example, aggressive implementation of a code enforcement program carries the threat of increased abandonment and further reduction of available housing in our already severely strained urban housing market. Or, as a result of the lack of competition in the housing markets, landlords are not compelled to deliver services through the operation of the free market mechanism. Tenants have no place else to go. The old safeguard, competition, is destroyed in the wake of the State housing crisis.

Before we take a stand, as far as our local government is concerned, on rent control - which we may now, as a result of court decision, have again - we are doing a survey to determine all the effects. We are surveying among landlords as well as tenants to determine whether, if we were to institute rent control, it would lead to abandonment. So we want to be sure, as we assure fair treatment for tenants, that landlords will be given a reasonable opportunity for increased rents.

Today's public hearing was called to elicit statements on twelve bills before this Committee.

These twelve bills are only a fraction of the tenant-landlord legislation that has been introduced during this term of the Legislature, the others being in committees. In analyzing them I found that they represent an uncoordinated approach in addressing tenant-landlord relations. The sole common thread running through this legislation is that each is generally pro-tenant, which of course is an easy and popular

attitude to take. But as I indicated a moment ago, without taking into consideration the rights of the landlord, it could, in the long run, affect adversely the tenants that we are trying to protect.

No other overall strategy is evidenced in these bills. By addressing isolated elements in the system of relationships, disruption of the overall system is possible. Failure to successfully address the complex array of problems is practically guaranteed by this approach.

In light of these findings, I urge this Committee to prepare comprehensive legislation dealing with the growing problems in the relationship among tenants, landlords, and government which could be introduced when the new legislative session begins in January. We are at a point in time which requires an examination of the overall framework of relationships and the subsequent development of a package of legislation which redefines the entire context of this framework. In assessing the State housing crisis in 1970, the Landlord Tenant Relationship Study Commission called for a radical reassessment of priorities including "a restructuring of the State's 19th century approach to landlord-tenant relations."

In making their recommendations, some of which are incorporated in the bills before the Committee today, the Commission clearly stated that because of "the urgency of the abuses themselves" they were compelled to recommend the "following remedial legislation." "The difficult task of synthesis and coordination of complex issues precludes any sweeping changes at this time."

Gentlemen, some of the bills before this Committee today are designed to combat urgent abuses. More significantly, however, the time has come for a synthesis and coordination of the complex issues in-

inherent in tenant-landlord relations. Only in this way can the State hope to respond in a constructive manner to the imbalanced tenant-landlord relationship. A piecemeal approach, which the twelve bills before this Committee represent, is no longer sufficient to cope with the problem. It is my hope that the Committee will respond by creating the mechanism for the development of such a comprehensive approach.

I mentioned that this could be the responsibility of this Committee. I appreciate, of course, that the matter could be referred to another appropriate committee, or, ideally, I would think that the study commission, as it itself recommended, be reconstituted and be charged with this responsibility.

ASSEMBLYMAN BLACK: Thank you very much, Mayor Holland. I have one question but I will defer to Assemblyman Horn.

ASSEMBLYMAN HORN: Thank you very much, Mayor. I am very happy to see that you looked at this in the entire context, including the urgent housing crisis which I am sure you must feel in the City of Trenton as well as all over the State.

MAYOR HOLLAND: Hardly a day goes by that I don't get a call from somebody who is going to be evicted and we simply can't supply housing for them.

ASSEMBLYMAN HORN: I too am very much concerned about this housing crisis and I tend to agree that one of the factors that should be looked into in examination of these bills is the effect on the housing crisis, particularly the one that requires - A-1610, to be specific about the number - the very detailed security devices. It is hard to argue against security devices in general but when you look at the cost, which would ultimately have to be assumed by the tenants--

MAYOR HOLLAND: You don't mean security deposits?

ASSEMBLYMAN HORN: Security devices - the mirrors and the T.V. cameras and the locks, etc. - that

is sort of frightening.

MAYOR HOLLAND: It is A-1610.

ASSEMBLYMAN HORN: A-1610 was the number.

I do have a question. You suggested that by one means or another a comprehensive approach had to be used, either by reconstitution of a prior commission, or some sort of commission to study the overall problems, wouldn't that necessarily include a study of the incentives that might be required for the construction of additional housing?

MAYOR HOLLAND: I would think so, especially in view of the Federal moratorium. We were ready to move on several housing projects which were dependent on 235 or 236 financing, or section 312 of the Housing Act of '65. In fact, I have been urging, as a result of the Federal moratorium, that the State move in to meet this role, which the State pioneered in - in New Jersey at least - pending the lifting of the moratorium by the Federal Government or perhaps, in the future, as a companion helper in this regard.

ASSEMBLYMAN HORN: Thank you.

ASSEMBLYMAN BLACK: Thank you very much, Mayor Holland. I had only one additional comment and that was that I certainly agree with the approach you have taken to this package of bills.

I am wondering if, in your opinion, it would be beneficial to have representatives of our urban municipalities serve on a commission?

MAYOR HOLLAND: I would think it would be almost essential, really.

ASSEMBLYMAN BLACK: I agree with you, sir. Thank you very much.

MAYOR HOLLAND: Thank you.

ASSEMBLYMAN BLACK: Mr. Robert F. Ferguson, New Jersey Association of Realtor Boards?

Assemblyman Jack Dennis has now joined us at the head table.

A L B E R T R U B I N: My name is Albert Rubin. I am a licensed real estate broker with offices in Newark, New Jersey and for the purpose of Assemblyman Dennis, I am also a constituent of yours.

As President of the 10,000 member New Jersey Association of Realtor Boards I appreciate this opportunity to voice NJARB's positions on the Legislative bills under consideration.

Before I begin my testimony today on 13 of the bills dealing in one way or another with the relationship between property owner and tenant, I must voice the concern of the New Jersey Association of Realtor Boards with the growing anti-property owner attitude that has reared its ugly head here in New Jersey.

Unfortunately, not all property owners are models of virtue. However, we feel it is blatantly unfair to use the exception as an excuse to over-regulate the vast majority, anymore than it would be responsible on our part to cite the destructive tenant as representative of all tenants.

We respectfully request that the Legislature act responsibly in finding some reasonable middle-ground in dealing with the real problems of property-owner-tenant relationship before those in the private sector are further discouraged from providing the necessary multi-family dwelling units our society so desperately needs. No one will invest in this area if they are going to be unfairly criticized and over-regulated for the sake of political expediency.

Now, to the business at hand.

Assembly bill #54: NJARB supports this measure as a means of spelling out in the statute the intent and scope of the New Jersey Supreme Court's decision in Marini vs. Ireland. Presently, there is a great misunderstanding of "vital facilities" under "Marini." A-54 answers this and other problems in a fair and equitable manner.

Assembly 152 and 2122 - NJARB opposes this bill in its present form because it discriminates against the property owner in that the bill provides for the tenant to be reimbursed for reasonable attorney's fees if he is successful. Surely in the interest of fair play and equality, if the tenant is to be allowed attorney's fees if he obtains a judgment then it stands to reason that the property owner should receive like compensation if he is successful in defending himself against the tenant's claim. Frankly, under the provisions of the Small Claims Court most claims for return of security deposit can be pursued by the tenant without requirement of legal counsel.

However, if A-152 is to be enacted it should be amended to offer the property owner the same protection as the tenant.

Assembly Bill 160 - NJARB opposes this bill on the grounds that the Marini vs Ireland and Chapter 168 PL 1966 provides sufficient safeguards to the tenants from any irresponsible act of a property owner in not maintaining a property in a safe and sanitary manner.

Additional layers of laws on top of existing laws are only confusing to all concerned.

What is needed is enforcement of statutes now on the books, not new and duplication.

Assembly Bill 165 - NJARB opposes this bill on the ground that the added provision to P.L. 196C, C168, "it shall be unlawful for any person to demand or receive more than one rent increase during any 12 month period" is counter productive to the original intent and scope of Chapter 168, P.L. 1966.

The statute in question was originally suggested to the then Governor Richard T. Hughes as a means to improve and conserve existing housing inventory while at the same time not punish property owners who maintained their property. The 1966 bill was anti-slumlord.

The amendment suggested by A-165 would remove from the Trustee appointed by the court under the provision of the act the flexibility he may need to increase rents to cover increased costs, which arise as a result of the repairing the facility to meet minimum housing codes.

A-165 does not improve the present statute; rather it could, under certain circumstances, defeat the intent of the law...mainly the improvement of housing conditions.

Assembly Bill 212 - NJARB is opposed to this bill on the grounds that legislation is not necessary. The problems this bill seeks to correct can be approached in a more orderly fashion under Chapter 168, P.L. 1966.

Additional legislation dealing with the problem of

real property maintenance will only tend to add confusion to the existing body of laws.

Chapter 168, P.L. 1966 plus the Court Decision in Marini vs. Ireland (and the present Assembly Bill 54) are more than adequate to meet the problems A-212 seeks to correct.

Assembly Bills 1071 & 1072 - NJARB opposes these bills on the grounds that it imposes an additional burden on the property owner unnecessarily adding to the cost of operation while providing a source of information of dubious value to the tenant.

We feel confident if a tenant expresses concern with the portion of his annual rent that is apportioned to taxes, the property owner will be pleased to supply the information. However, to mandate this requirement is unfair when the end result is questionable.

Assembly Bill 1535 - NJARB supports this bill as another effective tool to be used against property owners, who for one reason or another, will not maintain their property in conformity with housing code requirements.

Most mortgage documents have a clause which would allow the mortgage holder to step in and force the owner to maintain the property or face legal action.

NJARB has attempted to call to the attention of mortgage lenders the problems that continued code violation creates.

When we have been successful in alerting the mortgage holder positive action will be taken.

A-1535 advocates a more realistic approach to this problem and is welcomed by all concerned.

Assembly Bill 1536 - NJARB opposes this bill on the grounds that the present statute regarding the execution of court-ordered evictions is fair and equitable to all concerned.

Under existing law, tenants are given ten days notice that they are to appear in court to answer notice of eviction. If the court issues the order to vacate they are given three days to comply.

A majority of such cases are for the non-payment of rent and the question in court is "do you have the rent payment or a legitimate reason for not paying...other than lack of funds?"

This in fact means that it takes almost two weeks to evict a person for non-payment of rent. This is sufficient time to eliminate any possible hardships that might be created.

Personally speaking, I know as a fact that no Judge will issue an order evicting a family during most major holiday periods.

As a matter of fact, going one step further in my statement, it is normal - for instance during Thanksgiving week - for a judge not to issue an eviction. During that period of a week before Christmas and all during the Christmas period a judge will never issue an eviction. They never issue an eviction if the date comes on a Satruday or Sunday. I can tell you from my own experience that most tenants know more about the eviction laws than most landlords.

Assembly Bill 1557 - NJARB opposes extension of Chapter 265, P.L. 1967 to cover commercial and industrial security deposits on the grounds that such coverage is unnecessary.

The present practice in the commercial and industrial rental field is by agreement, the property owner will use the security deposit to make the necessary alterations to tailor the property to meet the specific needs of the tenant.

Should A-1557 be enacted into law, the Legislature will, in fact, be legislating higher cost to those who seek to rent commercial or industrial space.

The property owner would be precluded from utilizing the security deposit for the alterations, thus requiring higher base rent or forcing the potential tenant to make the necessary alterations.

The Legislature wisely accepted NJARB's advice in 1967 and exempted all but the residential rentals and we know of nothing in the interim period that would require a change in the present law.

Assembly 1557 would also place New Jersey at a distinct disadvantage in attracting new commercial or industrial ratables to our State.

More problems will be created by enactment of A-1557 than will be corrected. Please oppose A-1557.

Assembly Bill 1610 - NJARB opposes this bill on the grounds that the sponsor's statement that "incidents of robbery, assault, mugging and rape have increased menacingly.....and have become particularly common in apartment buildings."

Based upon our experience, we respectfully request that this Committee urge the sponsor to produce the statistics that would prove the statement attached to the bill.

NJARB will agree with the sponsor that incident of violent crime has increased alarmingly in the Public Housing Projects in many of our urban areas; however, this bill doesn't zero in on these problem properties, rather, speaks in vague generalities.

Public Housing Projects, where there is a problem, would not be subject to the provisions of this bill because of prior contractual agreements between the Housing Authority and the Federal Government.

Even if these projects were covered, the tenants could not afford the cost of the security needed to provide the degree of protection necessary.

Assembly Bill 1610 starts out with an incorrect premise and then further clouds the issue by making all

the provisions of the act optional. Optional to the point where even if the municipality finds a need, the tenants could vote not to approve the security devises. Thus, exemplifying the building from compliance.

Once tenants become aware of the tremendous cost to implement many of these questionable devices, they may not be too enthused about same.

Assembly Bill 1610 could also mandate rent increases if the municipality decided the devices are necessary.... all this at a time property owners are being harrassed because of rent increases for necessary cost increases.

If the philosophy contained in A-1610 is correct, and again I point out NJARB feels it is not, where then will the Legislature stop in mandating security devices on all segments of New Jersey population???

A-1610 or any bill that attempts to meet the result and not the cause of a problem is short sighted and results in bad legislation.

The Legislature has at its command the tools to provide greater protection to the public from those in society who take the route of crime and violence. Namely, mandatory sentences for crime of violence, increased financial support to police agencies, improved court procedures and new programs directed at social problems that spawn crime.

A-1610 is not the answer.

Senate Bill 429 - NJARB must reluctantly oppose this bill on the grounds that the bill in its present form would create more problems than it would solve.

If, in fact, it is desirous to have a compendium of the statutes dealing with the lessee's rights, privileges, etc., why should it be the property owners obligation to secure same at a cost that is not spelled out in the legislation.

The Senate Committee Fiscal note indicates the property owner would have to purchase same from a printer designated by the State.

We feel the State should be responsible for supplying the digest to property owners.

Secondly, there is nothing in the bill which would require the Department of Community Affairs from updating the digest on a yearly basis.

Another factor which would tend to negate the effect of the digest is the bill does not provide for inclusion of important case law in the digest.

Should S-429 be enacted into law and the supply of the digests be exhausted and the property owner could not secure a new supply, he could not enter into a lease with his tenant. If he did, he could be adjudged a disorderly person.

I realize this sounds far-fetched - but is it? Read the bill and determine for yourself.

A more realistic approach to the problems of insuring that all lessees are aware of their rights, etc. is to have a digest posted in a central location where it would be available for inspection by all interested tenants.

We believe you would accomplish the same purpose at a much reduced cost and harassment of the property owner.

If you have had the experience owners have had in securing information from State Government, you will recognize the realities of our plight.

Please do not enact S-429 in its present form.

In closing I would like to point out that the New Jersey Association of Realtor Boards stands ready willing and able to assist your Committee in any way possible. Thank you.

ASSEMBLYMAN BLACK: Thank you very much, Mr. Rubin. Are there any questions? Assemblyman Horn?

(no questions)

Assemblyman Dennis?

ASSEMBLYMAN DENNIS: Yes. In the beginning of the statement you said something about anti-property owners. Would you care to elaborate a little bit more on that?

MR. RUBIN: Well, you can take this package of bills - which we received quite a while ago - and many here are, as I said, a detriment to the property owners. The publicity that so many of these bills, that are being thrown into the hopper, are receiving is driving the small investor, which is the backbone of the industry, away from us.

You know, you have many people who are in the category of maybe having anywhere from $10 thousand to

$15 or $30 thousand to invest in a small building of, say, 6 to 12 or 15 units, where they take an apartment and live there themselves and make a few dollars. Between that and social security they maintain a small income and also have something to keep them busy and make it worthwhile to get up every morning, as you can appreciate.

These are the people that are being driven away from the market. These older people don't want to be bothered with forms and reading.

I feel it myself. Basically I am a broker and I have dealt with many of these small people through the years. Even when we go into the next step of small syndicates, where today you have eight or ten people who get together with $10 or $15 thousand to invest, when they hear and read about all that is going on they are being panicked out of the market. Without these people in the market, where are you going to get the wherewithal to produce the housing and keep the housing available that we know is needed?

We are well aware that we want to have more building going on in the State and this is where the builders come in. But you are not going to get the investors if they are going to be involved with so many headaches, and this is what they say. I spoke to someone only the other day and he said, "who needs the headaches?" That is exactly the answer we get.

I reiterate what I said earlier. We are always available and willing, as an Association, to sit down with this body and go over any of these bills and try and work it out to make it palatable and try to achieve what many of them do. But just to keep throwing out bills-- Some of these bills, I recall, are repetitious of what was brought before this body two, four, six and eight years ago and nothing happened for the very reason we stated today, they were ridiculous and to keep coming back, I think, is a lot of work for you

people and a lot of work for us.

ASSEMBLYMAN BLACK: Thank you very much, Mr. Rubin, we appreciate you coming.

MR. RUBIN: Thank you for the opportunity to be here.

ASSEMBLYMAN BLACK: Mr. Leonard Sendelsky, New Jersey Builders Association?

L E O N A R D S E N D E L S K Y: Good morning, gentlemen. My name is Leonard Sendelsky and I am the President of the New Jersey Builders Association. The Association is made up of nearly 1,700 builders and associate firms - material suppliers, subcontractors, lending institutions, utilities and others who earn their livelihood through the building industry.

In addition, an affiliated body of our Association our Apartment House Council concerns itself specifically with the issues of multi-family housing.

My purpose today is to comment, briefly, on each of the measures under consideration with regard to their advisability in light of the current shortage of available housing in our State.

First of all, A-54 - this measure would permit a tenant to make "vital repairs" in light of his landlord's failure to do so, and to deduct the costs of the repair from his rent.

Actually, this is a codification of the 1970 Supreme Court decision, Marini vs. Ireland in which the court ruled that such action is permissible.

Our Association definitely supports this bill for two main reasons: 1. We believe that it would have its effect only upon the landlord who is negligent and not the owner who is conscious of his responsibility for the upkeep and maintenance of his property. 2. The codification of existing court decisions along with the proper enforcement of existing statutes would certainly provide

sufficient protection for tenants. In fact, proper enforcement of existing laws would make most of the bills under discussion today unnecessary.

Unfortunately, inadequate policing results in layer upon layer of new legislation, which more often than not goes as unused as its predecessors.

A - 151

A-151 simply provides that when the ownership of a multi-family unit is transferred, responsibility to provide for the return of security deposits plus the tenant's portion of the interest earned thereon shall fall to the new owner.

We have absolutely no objection to such a measure, give it our full support, and believe that it is a logical extension of the 1971 Security Deposit Interest Bill, which our Association supported along with several other Tenant-protection measures at that time.

A-152 and A-2122

First of all, most actions by a tenant against a landlord for the return of rental security --- because of the relatively small amount in question --- are presented in small claims court. As you know, a tenant may represent himself in such cases and, unlike the landlord, need not retain an attorney.

Hence the measure would immediately appear to be by-and-large superfluous.

However, our Association would be amenable to supporting such a bill if an amendment providing for the recovery of reasonable attorney's fees by the landlord were to be added.

It seems only just that should the tenant's claim not be upheld, that the landlord be granted recovery of his attorney's fee. If the premise of A-152 is valid for one, it is equally valid for the other. But we could not support the measures in their present state.

A-212 and A-160

Since a close reading of these two measures will reveal that they are identical in every respect other than title, I have consolidated them under one heading and will present my comments accordingly.

In 1971, our Association supported a measure (which became Chapter 224, P.L. 1971) by Senator Schiaffo commonly referred to as the "Tenant Receivership Bill." The law, in existence since 1971, permits a public officer or a tenant(s) to institute a proceeding to have rents deposited into court for the purpose of remedying conditions in substandard dwellings.

In fact, A-212 and A-160 are almost word-for-word transcriptions of Senator Schiaffo's bill, now Chapter 42 of Title 2A of the New Jersey Statutes.

There seems to be no logical reason for the consideration of these two measures. Their avowed aims are embraced by the existing statute and the aims will be achieved only through proper enforcement of the present law, not by the introduction of repetitious legislation under a different title.

As a result, it would be impossible for us to support such duplicate legislation.

A - 165

This measure is nothing more than a not-too-subtly disguised form of "back-door" rent control. By adding a phrase which prohibits

any person from demanding or receiving more than one increase during a 12-month period, the author has written a rent control ordinance.

However, he has neglected to include any standards or regulations for the ordinance and the result would be chaotic.

In light of the recent Supreme Court decision upholding the right of municipalities to enact rent control ordinances under their police powers, and with all of the legislature's attention directed toward A-2185, consideration of an unstructured measure like this seems purposeless.

If we are to have rent control, tightly-drawn standards and regulations are a must. Our Association has drafted a revised and amended version of A-2185, which we believe would provide a sound framework for rent control, or rent levelling. We believe our amended version would be in the best interest of both tenants and landlords and would be pleased to provide you with a copy of this draft, should you so desire.

However, we must oppose A-165 and recommend that the Committee disregard it as totally impractical.

I'd like to comment at this time about a few of the things that we have amended in 2185. First of all, in 2185 the person seeking capital improvement, in order to get a pass-through of that capital improvement, would have to go to district court. We feel that pass-through of capital improvements, without going to court, should be allowed and we elaborate on that in our amended version. Any capital improvements that have been ordered by the municipality, or by the courts, should be allowed as a pass-through without going to any rent levelling commission, etc. We feel that any other capital improvements that may be necessary could be achieved by going to the rent levelling commission in that local municipality and explaining it to them and

getting it in that way. We also believe that there should be a vacancy decontrol provision in such a statute. The reason behind that is that it is our feeling that under a rent control bill, or legislation, the one-family homeowners will be subsidizing the tenant and we don't think the legislature intended to do this. We think it would be unfair to one-family homeowners. The price of a multi-family dwelling will never change, meaning that the appraised value will never change, whereby if the homes were able to float in the free market the price of the homes would go up substantially - where the apartment stays the same - thereby limiting the return on investment because if you can't get additional rents you can't increase your return investment, which means that the appraised value of that particular apartment stays the same. Meanwhile one-family homes are going up in accordance with the market. So we feel that vacancy decontrol - if you intend to introduce any legislation such as this or even take a look at 2185, as we amended it - should be incorporated.

Of course, we feel that new apartments should have no control on them. If you want to bring about a larger vacancy rate the only way you can do it is by increasing the supply and if you increase the supply you will find out how fast the rent gougers, or the so-called landlords that don't take the responsibility that they should take in the community, will bring their rents down to where they should be and bring them in line with what the people can afford. In a high market, short supply, such as we have now, we have problems with some landlords that we can't control. We feel that it is incumbent upon the legislature to pass some statewide ground rules to work by instead of letting 567 minicipalities set up their own ground rules

A-1071 and A-1072

Both of these measures are characterized by a fundamentally sound concept, but an impractical notification approach.

Individual notification to each tenant means additional time and paperwork, Additional work means more man hours and, therefore a greater operating expense for the owner. As an owner's cost of doing business increases, so too must the rent of each of his tenants.

In this instance, a great deal of extra paperwork could be avoided --- and a probable rent increase averted --- if the owner were to be permitted to post such information at the rental office, where it could be readily accessible to all tenants.

If the measures were amended to permit the posting of such information rather than mandating its distribution, we would be amenable to supporting the bills. If not, we must oppose them as unnecessary contributors to artificially higher rents.

A-1535

For some time now our Association has held the belief that the mortgagee should assume a greater interest in those properties for which he holds the mortgage. We believe that the lender does have a responsibility, if not to the tenant, then to the stockholders as a protection of their investment.

And, of course, we believe that many of the careless and negligent landlords would be more conscious of their responsibility to properly maintain their property if some pressure was brought to bear upon them by the mortgage holder.

In any event, it is an undeniably sound procedure to notify the mortgagee of any building code violations in properties which he holds and we will give our full support to the measure.

A-1536

Actually eviction proceedings are anything but a shock or a surprise to the tenant who knows full well that he has failed to pay rent due. In addition, the inescapable court delays and backlogs provide ample opportunity for the tenant to adjust to the distasteful situation. For example

Even if the landlord moves for possession of the apartment on the same day the rent is due, he can expect a court date no sooner than two weeks. If the tenant appears in court and promises the judge that he will pay the rent, he is generally granted another 10-day grace period. If he doesn't appear in court, a default judgment in favor of the landlord is normally issued.

In either case, an additional three to five days will pass before the constable is able to serve an eviction notice, and another 24 hours before the eviction order takes effect.

This measure would drag out this process even further --- a process which permits a tenant to live in the unit for at least one month without paying any rent.

We oppose it strenuously on the basis that it does nothing more than permit additional abuses by tenants who are preoccupied with an expansion of the scope of their "rights" and are totally oblivious to their responsibilities.

The relationship between a commercial/industrial tenant and a residential tenant, to their respective landlords is a considerably different one and legislation such as this would only further complicate the landlord-tenant relationship.

Repairs are far different than those demanded in residential properties and leases on commercial/industrial space are generally much longer than residential leases. Further, when an industrial or commercial tenant leaves the premises the resultant clean-up and repair is far greater than in the average residential property. Consider also that security deposits are "a cost of doing business" for a commercial or industrial tenant and we begin to see just how considerable the difference is in these two rental situations. We are concerned also that this will increase the burden of those institutions who perform the paperwork necessary to keep track of these accounts. All in all we suggest opposition to this legislation.

I would also like you gentlemen to take into consideration that there are many special purpose buildings that we builders build for tenants. This special purpose could be a banking facility or an ice cream stand, on a lease-back deal. I don't know what we would do with it if we had to convert it from an ice cream stand, or a bank building, to any other type of facility. When you are talking about an apartment complex or an apartment unit, it is very readily rented to another tenant, if it is maintained properly.

You take, for instance, if we build a commercial building for a candy manufacturer, with all kinds of mechanicals in that particular building - or that structure - and then we had to rent it as a warehouse, all the mechanicals would have to go down the

drain. That would involve quite a heavy investment as far as the builder is concerned. So, I wish you would take that into consideration too.

A - 1610

This measure would give municipalities the right to require landlords to provide elaborate safety, or security, facilities when the municipality deems it necessary.

Tenant security, or safety, is a desirable and necessary commodity, but it does not come cheaply. Items such as bells or buzzer signals, intercoms, remote control locks, strategically-placed mirrors and front-door alarm systems all require extensive electrical and electronic workmanship.

Such work is costly but feasible in new apartments. It is absolutely prohibitive in cost and structurally impossible in the case of older, plaster-walled buildings.

Do we make our buildings so safe that no one can afford to live in them?

How many "durable" mirrors will have to be replaced each month?

And, finally, who really pays for these safety devices? They amount to nothing less than mandated capital improvements.

What are the priorities of this Legislature? They seem to be slightly confused.

For months on end the cry for rent control and lower rents was heard loud and clear. Now, in the same breath, we have a virtual mandate for a rent increase.

Will the municipality step forward and explain the reason for the rent increase to the tenant or will the landlord again be cited for "rent gouging?"

Not only are priorities mixed, but the work of past legislatures seems now to be for naught. In

In 1968, the New Jersey Legislature passed the Hotel and Multiple Dwelling Health and Safety Act, the provisions of which were to supersede municipal rules and regulations for construction and maintenance.

Are we going to systematically emasculate that law through piecemeal legislation or will we allow it to serve the purpose for which it was drafted?

We must oppose this measure as another in the rash of bills that ostensibly seek to provide aid, but do nothing more than cause rent increases.

S-429

Once again the concept of this legislation is excellent and laudatory, but the mechanism leaves something to be desired. Since the digest of statutory provisions is prepared by the Department of Community Affairs, that Department should take the responsibility of distributing them to the tenants.

Or perhaps the digest could be mailed to the landlord and made available for pickup by the tenant at the rental office.

However, if the landlord must deliver and obtain receipts for such delivery from each tenant, it would entail the same manpower and paperwork costs which I mentioned in my comments on A-1071 and A-1072.

With this slight amendment, we believe that this measure is a meritorious one and we would be able to support it. After all, responsibilities are as important as rights.

In closing, I would like to remind everyone in this room that not one of the pieces of legislation under discussion today will ever produce a single new housing unit in the State of New Jersey.

If anything, they will deplete the existing supply of housing and will discourage new construction. Many of them are object lessons in hyper-regulation and overkill - disguised as tenant protection.

What have we done today? What is the total effect of these measures on our housing problems? It's like firing a cannon at a mouse and taking aim on an elephant with a pea-shooter.

It's about time that this Legislature moved to produce more new housing and to help preserve and rehabilitate the existing housing stock. And the measures which will accomplish just that have already been introduced and are awaiting your consideration - if you so choose.

The two measures that I refer to are: A-1419 which is a statewide mandatory construction code which would result in a savings to home buyers and tenants. It would not only save home buyers and tenants money, it would also be very helpful to local municipalities. I can't see for the life of me why, in a State like New Jersey, 567 municipalities need 567 different rules and regulations in which to build under, with the same wind loads and snow loads and virtually almost the same soil capacities under which this particular bill would set forth certain standards. I believe that a piece of legislation like this will be helpful to communities because under the Federal regulation municipalities have to up-date their building code system on a periodic basis in order to get HUD aid. Most communities need HUD aid in one form or another. We feel that if it is done by a professional organization, such as the organizations mentioned in this particular bill, it will

be very helpful to communities.

I could comment further on 1419 because I feel very strongly about this but that is not what we are here today to discuss.

I would also like to discuss A-1422, which is the Community Planning Law. This will streamline and update zoning and land-use procedures and would not infringe on "home rule." I wish that some of the people that cry about home rule would take the opportunity to read this piece of legislation. It is my opinion that this is the best piece of legislation that has ever been introduced since I have been coming down to the legislature in the past 16 years. In 1953 they introduced Title 40 and since that time they have been taking pop-shots at Title 40. This is a bill that has been gone over by many organizations, not only the Builders Association, League of Municipalities, the attorneys, Bar Association, etc., More man hours have been put into this piece of legislation than any piece of legislation I know and I am proud to have a little part in this piece of legislation even though I think that this gives the local municipalities more power than they ever had under Title 40. It wouldn't be good for a bad builder but a good builder at least has a set of ground rules on which to work and it gives the community the additional power to put the bad builder where he belongs - out of that community. Thank you very much.

ASSEMBLYMAN BLACK: Thank you very much, sir. Are there any questions?

ASSEMBLYMAN HORN: No questions.

ASSEMBLYMAN DENNIS: I have one question. What, in your opinion, is the trend towards new development, as far as housing goes? Do you feel there is just going to be individual homes and condominiums or cooperatives or do you feel there will still be housing

developments, such as garden apartments, etc.?

MR. SENDELSKY: Well, in my personal opinion I feel that the need for housing is great. In the communities that it is needed the most, one family home ownership is out of the reach of the people and we cannot serve this market. I think that in order for a person who earns between $8 and $12 thousand, or $8 and $15 thousand, to own a living unit, it is getting to the point where the only means that we have to provide that type of facility for him would be a town-house concept.

I feel that it is good for every community, including my own, which is Woodbridge Township -- My feeling is, and my belief is that a young couple starting out, with a family, would like to have a piece of the action, so to speak, and move into a town-house where they have home ownership and they have the least amount of maintenance because most of these people are junior executives and don't have the time to devote to their property to maintain it. But if the grounds in common are taken over by a homeowners association, it is well maintained property and it can be done cooperatively so that the junior executive who doesn't have the time to devote to maintaining the exterior of his property will have it done cooperatively through a homeowners association.

I feel that the elderly citizen living in a community cannot afford to live in a one-family house in that community because of the fact that his real estate taxes, even though he might have lived in that house for 40 years, are more than his interest and amortization and taxes combined were when he originally bought the facility. Now this senior citizen has paid off this house and his taxes are more than his interest and amortization and taxes were when he originally bought it. We now tell this fellow that - this senior citizen -

he can no longer afford to live in that house, he has to move into a ghetto of senior citizens and most of our senior citizens would like to remain where they have been for, say, 30 or 40 years. I think that it is incumbent upon us, the legislature and everyone involved, to try and see what we can do to provide living quarters for these people in that community.

I think that there has to be a revamping of the tax structure - the real estate tax structure - through a State broad-based tax of some sort which would eliminate the educational tax burden on the local real estate owner. I am talking in terms of a State income tax. That is the only fair way of taxing people, by basing it on their income, because at a time when your senior citizen's income is at its lowest, it seems to me that their real estate taxes are at an all time high. This way, when their earning capacity is the greatest they will pay, based on their income, and when their income is down, their tax would be down and they could still live in that particular community.

So, I see a movement here where, if we build town-houses, the young couples will go into the town-houses and some of the senior citizens will also go into the town-houses because there will be less maintenance for them. I then see the young couples, as soon as they develop a family, moving into the houses that were formerly owned by the senior citizen and the senior citizen moving into the town-house because he doesn't want the maintenance. So you are providing a movement of people within the community. But if you don't provide a facility for the young couple to live in in the meantime, in that community, they would have to move into communities way outside of the community that they would like to live in.

For instance, in a town such as mine - Woodbridge Township - I think the average new house in that com-

munity is between $50 and $80 thousand and then we holler and scream that our teachers want increased salaries and our firemen want increased salaries and our sanitary collection people want increased salaries and all our municipal services continue to go up. I think these people have a right to ask for increased salaries if we don't provide housing for them. We can't say, "look fellow, it is nice for you to work in the community but live in Oshkosh." I think that we have a responsibility to provide housing for people in all walks of life, not only the "fat cats", such as myself, living in a colonial house on a one or two acre piece of property with an expensive house on it. I was one of those guys earning between $8 and $12 thousand and I think we have a responsibility to take care of those people and provide housing for them, and decent housing.

I am going to do everything in my power that I can to try to talk to people - reasonable people - to make the changes necessary to provide that housing.

ASSEMBLYMAN DENNIS: What I am getting at is, do you feel there is still housing construction going on for these people in the $8 to $12 thousand category? Do you feel by the recent legislation and the things proposed today-- You mentioned earlier the anti-property owner type of feeling that seems to be generated in the Legislature. Do you feel this is going to dry up any capital going into housing?

MR. SENDELSKY: None of these bills, as I said in my testimony before, would help provide additional housing, or increase the supply of housing.

I think that rent control would be unnecessary if we were working under different ground rules. The Builders Association has the tools and the means to provide the additional housing and increase the supply, if we had the proper zoning regulations and the proper building codes to work with. If you give us the tools

we can do the job.

To give you a little example, suppose we had a water shortage in the State and we said we would not build any more reservoirs, or not dig any more wells, or not increase the supply of water - we will call a moratorium on this - and in the meantime people are dying of thirst, you wouldn't say, "well let's pass more legislation to be more restrictive insofar as water supply is concerned." I think the people would get very emotional over this because without water we couldn't live very long in the community, and without housing they couldn't live very well either. I think that any legislation that you pass such as this is going to increase the slums in the cities that need to be cleaned up and revitalized most desperately.

ASSEMBLYMAN DENNIS: Thank you very much.

ASSEMBLYMAN BLACK: Assemblyman Baer?

A S S E M B L Y M A N B Y R O N M. B A E R: Thank you. I do not have a prepared statement but I would like to address the Committee regarding several of these bills, particularly bills that I have sponsored and have been referred to the Committee.

1535 I believe will be a very valuable tool in helping to maintain buildings in this State - multiple dwelling buildings - by providing that notice of violation goes to the mortgage holder. We activate a whole new means of bringing pressure to bear on landlords who are not properly keeping up their property when we use this tool. The mortgage holder has an interest in that property. If it is being run-down they are being financially threatened. Most of the provisions of the mortgages permit repossession if property is not maintained, if it is not properly kept.

This tool would enable the mortgage holders to know what is going on and where, particularly when violations are serious, or numerous; they would be informed and able to do something about it. It does

not incur any obligation on the mortgage holders.

I think it would also serve to alert mortgage companies to those landlords whose reputations are particularly bad - outrageously bad - in the maintenance of their property, so that this factor could be considered were they to apply for additional financing for other buildings or related purposes.

All this will serve to apply constructive pressure, without harassment, on the landlord.

I might add that on a local level an ordinance, providing these features, has been adopted in at least one town I know of in the State and it has been working successfully - that is the town of Englewood.

A-1436 provides, I think, an important additional element of fairness that is required and protection, particularly as relates to families with minors. It doesn't specify anything about minors but what I am referring to is this: many times, in eviction proceedings, a family is evicted with virtually no notice and possessions are put on the street by the Constable and the children are traumatized, vandals steal much of the property, or wreck it, and before the family has any opportunity to cope with the situation a tragic situation has occurred.

Now this occurs particularly in summary proceedings and in proceedings when the tenant may not have been in court. There may be various explanations for the lack of the appearance in court. In some cases we still have problems with processes being served and, as you know, I have introduced other legislation, which has cleared this Committee, attempting to deal with that problem. That, however, has not been enacted.

Even where the failure of the tenant to appear in court has been as a result of a fault of the tenant, the tenant may still be unaware of the fact that there has been an eviction order issued. So, in

any case, when the constable comes the family has virtually no real opportunity to cope with the situation. I think in lieu of the fact that three days is very short notice, and this would at least provide that amount - three days is short in contrast with the probable number of days that have already passed since the proceedings were initiated - we do provide important protection by providing these three additional days.

I would like to read to you, regarding this legislation, matter from two letters that I will submit to the Committee for its records. One the Committee has already received and I don't know whether or not it has been made a part of this hearing. This is from the Bergen County Legal Services Assurance Corporation and the portion of the letter dealing with this bill says, "Assembly bill 1536, Fair Eviction Notice Act, guarantees that a tenant will receive notice at least three days prior to his eviction, thereby avoiding confrontations between constables and those tenants who are unaware that they are to be evicted until the arrival of the constable.

"The act also provides notification to these tenants of their right to request a hardship stay from the court. Low income tenants, particularly, are unaware of the fact that in summary proceedings, for possession after termination of their lease, they have a right to request time to find a new place. In many instances the families of these tenants are broken up because they cannot find lodgings after an eviction." (See p. 47)

This second letter is from the New Jersey Tenants Organization. They state, "many low income people are seriously affected because of eviction proceedings at such short notices that people themselves are traumatized. Assembly bill 1536 would eliminate this." (See p. 49)

I would also like to submit for this hearing record a modified version of this bill - some basically

minor changes in language similar to that which I submitted to the Committee at its sessions previously and which I would like to have made a part of the record of this hearing. I think there are some technical changes here, improvements for instance, with reference to the right of a tenant to apply for a stay of his condition by the word "any" - any right - since in some cases there may not be a right. But the bill would provide that the tenant be informed where they have any such right. It also provides for a basis of compensation for the constable since the constable would now have to make two trips, one to serve the initial notice and the second to actually evict, and the law does not provide any basis for the additional compensation without this amendment. (See p. 45)

I might add that there is obviously no right for a stay in cases of non-payment of rent.

1577 provides that non-residential tenants also enjoy some of the protection that residential tenants presently have, regarding security deposits. I have been contacted by many merchants and store owners in my area who have acquainted me with the fact that they are obligated to pay very substantial security deposits without receiving any interest whatsoever and without having the protection of an escrow account that normally protects residential tenants.

Although one might question why there is need to extend this protection to commercial tenants, in fact in many ways the protection is needed here to a greater degree. A small store owner may be paying a rent far in excess of that of a typical apartment dweller and the term of the lease may be far longer and the security deposit may be as much as six months rent. As a result of this, many thousands of dollars, for even a small store of very limited square feet, could be tied up for years without any interst. This is un-

fair and allegations that to correct this, and provide that interest be paid, and that the same protection, insofar as how this money can be applied, will increase rents is really without foundation. Technically speaking, rents may increase but the cost to the tenant will not because the tenant is now paying the loss on income from that very substantial amount of money that is not bearing any interest.

So the difference between the one procedure or the other is really very slight and to suggest, as has been suggested in material presented to the Committee today, that changing this provision will discourage commercial ratables is absurd in terms of the magnitude of the amounts involved and the factors taken into account in making decisions for builders.

One correction, I believe I may have referred to this as 1577; it is 1557.

1610 - I think is a very important measure which provides protection to tenants who are in areas, or buildings, where there are dangers associated with crime, particularly, although the bill does not limit its applicability to crime-based safety measures or anti-crime safety measures; that is certainly where its most important application would be.

Such legislation has been enacted in other jurisdictions outside of New Jersey and has been successful. Claims that it is unworkable are disproven by this. But more specifically, we have no means in this State, according to -- Let me put it this way, the State has taken no steps in terms of standards for existing dwellings, to protect residents against criminal dangers, when modifications of the building would provide such protections. Things such as mirrors in elevators, or in other areas where they would forewarn someone of the presence of an intruder, or stranger; things such as remote control locks and intercoms and buzzers,

all have been proven to be considerably effective in protecting dwellings. They aren't foolproof but they greatly reduce the incidence of some types of crime.

Since there is such a variation of situations from municipality to municipality in this State, from our most urban areas to our most rural areas, and since there are variations of types of buildings and areas even within a municipality, the bill is drawn flexibly so that these provisions would be invoked at local option only in those situations where required. But by enacting such legislation, I think we enable municipalities - alert municipalities - to use such means. The bill's provisions insure that there will not be rent gouging on the basis of the improvements that need to be added and that only legitimate increases could be caused. The provision that enables the vetoing of such measures in a building, where the majority of tenants oppose it, insures that such requirements will not be necessarily mandated in any building where it is not needed and where it becomes a burdensome expense to the tenants.

Reference to this legislation, as mandating security devices on all segments of the New Jersey population are completely inaccurate, insofar as the provisions of this bill are concerned. I would like to correct that statement which was made before the Committee today. I also consider it very inconsistent to, at the same time, be attacking the bill for its provisions of having optional features and attacking it for having a veto for tenants and for causing tenants unnecessary rent increases.

That concludes my comments on the legislation I have introduced.

I would like to speak on behalf of Senate 429, which I think is a very desirable piece of legislation. I think the provisions of a statement that summarized and clarifies the law is necessary. There

is a great amount of misunderstanding among tenants as to what the actual provisions of the law are, and, in fact, many leases contain within them provisions which misrepresent what the legal rights of tenants and responsibilities of landlords may be. I am referring to the very common practice of including in leases clauses which are unenforceable and which the courts have repeatedly stricken down as unenforceable, but which landlords persist in including in the lease for the sole purpose of attempting to deceive the tenant into thinking that he has, by that document, waived rights which are unwaivable, or agreed to the landlords not assuming responsibilities which are inevitably his and it seems to me as long as we have practices such as this, legislation such as Senate 429 is very desirable.

I would also like to support Assembly 165 which limits rent increases to one in any twelve month period. I think there is a very clear difference between the issue of rent control or rent levelling, per se, and the frequency of increases. Even in communities where rent levelling may never apply, this act is valuable because it protects a tenant from being caught in a situation where he is forced to pay more rent than he can afford by surprise rent increases. If a tenant rents a dwelling at a particular rent and goes to the considerable expense and inconvience of moving, he should not be exploited and be taken advantage of by rent increases in the very near future, rent increases which he might very well have not been willing to pay if he had known that the increase was coming.

I consider this legislation as a form of disclosure legislation and I think that the tenant is entitled to have the secure knowledge that if he is renting for a period of time that that rental will be as represented, then he can make his own choices.

I would also like to speak in support of 2122, which provides for attorney's fees in addition to the return of double the amount of money. It seems to me that the tenant should not be obligated to pay the attorney's fee when the landlord has been found to have acted improperly. I do not want to take more time going into this in detail. You may have some questions. I would like to express my profound regret that we are hearing these rent and these tenant and landlord bills at a time in which the Committee can do very little towards making possible the passage of any legislation which it finds to be worthy.

Some of these bills have been introduced a long time ago. Many of mine were introduced in 1972. Some of the bills of some of the sponsors were pre-filed in 1972. I think it is unfortunate that the Committee could not have held these at a time in which, were the Committee to release them, they could have been acted upon by the Legislature in a situation that would give them a real opportunity for passage.

I know that when I met with the Committee before the budget recess, there was an expectation expressed to me that hearings would be held. I urged that they be held during that budget recess, or as soon as possible and it is now months since that time and, as we all know the Speaker has issued a memorandum (See p.43) that bills will not be accepted from the Committees anymore and we have one session left before an indefinite recess and the number of sessions that are likely to occur in the tail-end of the year are such as to make passage very improbable.

I would hope that such procedures could be avoided in the future and the Committee, if it is going to hear legislation which has been before it for a long time, could hear it at an earlier date so that the

determination on the legislation would not be pre-judged by virture of the circumstances themselves, even though the members of the Committee may not have individually pre-judged any of these bills, and I am not suggesting that they have as individuals. Thank you.

ASSEMBLYMAN BLACK: Thank you very much, Assemblyman. Does anyone have any questions?

ASSEMBLYMAN HORN: Just a couple.

Assemblyman, with respect to Assembly 165, you refer to it as a bill of disclosure so that the tenant would make choices. Isn't the inability to make choices really not a result of disclosure, because clearly any increases would be somehow authorized by the lease, but because of lack of adequate supply of housing - in multiple family housing - in general, so that a tenant would have the choice of going to an apartment complex that did provide for escalation and maybe one that did not provide for escalation?

ASSEMBLYMAN BAER: That is correct and I think that is an important aspect of this. Given the housing shortage that we have now, the tenant having moved in and then subsequently finding out about the increase may not have sufficient time, may not have a real opportunity to make a choice by virture of that factor also. I think that strengthens the argument for the adoption of such legislation.

ASSEMBLYMAN HORN: Do you see any methods that this Legislature could use to increase the supply of multiple family housing so we could again work toward these common goals?

ASSEMBLYMAN BAER: Well, I believe that the Legislature should attempt to minimize restrictions affecting new construction. I believe that applies to rent levelling and to those other features that may create a burden and discourage the investment of capital, where such legislation is not absolutely required - for

the protection or safety of citizens or things of that sort.

I would like to see the State play a role of some sort in attempting to make sites available for housing, particularly in our low and moderate income areas. Sites either are not zoned so that they can be used, or if they are zoned so that they can be used for this purpose, the commercial demand for them causes the price to be in excess of what any of the various forms of moderate or middle or low income housing can afford to pay, unless there happens to be an urban renewal program or something involved that can take a tremendous write-down of the cost of the land. So I would like to see the State study that problem and come up with a practical means of acquiring some sites so that land can be made available in this way.

This is getting far afield but one thing that has always seemed to me to be a way in which the State is short-changed, landwise, is when the State puts in new highways. As a result of those new highways and new interchanges, tremendous increase in land value accrues - land which not only has economic value but practical value for many uses. That increase is as a result of the State's investment and not as a result of the investment of the people holding the land, necessarily. I would welcome the State studying the problem from this aspect and seeing to what degree the State might acquire, along with its rights-of-way, additional land that would be useful for State facilities, or semi-public facilities, or private facilities that the State finds meet critical needs and the State would, as a result, not only facilitate these needs but might also come out on top of it financially and save some money. (see page 43)

ASSEMBLYMAN HORN: Thank you.

ASSEMBLYMAN BLACK: Assemblyman Dennis?

ASSEMBLYMAN DENNIS: No questions.

ASSEMBLYMAN BLACK: I regret, Assemblyman Baer, that we did not schedule the hearings on these particular bills earlier. However, I do take some affront at the statement rendered with regard to the time lapse.

This Committee is one of the very few that met during recess and I am certain that all of these bills, as you are well aware knowing the legislative process as you do, have not been requested to be considered by the sponsors. We took them together at this time to bring together for public hearing the whole package that we have in our Committee of Landlord-Tenant Relationships. Apparently many injustices exist in this State and we cannot attempt to cure them all over night.

I regret, very sincerely, that we did not manage to implement the results of the Study Commission which were printed, I believe, in 1970. Hopefully, we will be able to address ourselves to this - or at least the Legislature will - in the coming year.

If there are no further comments the public hearing is adjourned.

(Hearing Concluded)

General Assembly
of New Jersey
Trenton

Speaker
Thomas H. Kean
Assemblyman, District 11E (Essex)
123 Shrewsbury Drive
Livingston, N.J. 07039
201-992-2845

April 12, 1973

Submitted by Assemblyman Baer

Memorandum to: All Members of the General Assembly

From: Thomas H. Kean, Speaker

The latest status report from the Division of Law Revision and Legislative Services shows that a total of 246 bills and resolutions are currently ready for passage in the Assembly. 86 of these were reported out of committee on Monday.

The leadership on both sides of the aisle has agreed that the Legislature should recess upon passage of the Appropriations Bill. Thus, it would be futile for standing committees to continue to meet and process even more bills in addition to the 246 which we have before us.

On the two remaining scheduled sessions this month, April 16 and April 30, we will adhere to the session day schedule rather than the committee day schedule, and bills should not be released from committee unless authorized by the Speaker.

General Assembly
of New Jersey
Trenton

Speaker
Thomas H. Kean
Assemblyman, District of [illegible]
123 Shrewsbury Drive
Livingston, N.J. 07039
201 [illegible]

March 12, 1973

Memorandum to: All Members of General Assembly

From: Thomas H. Kean, Speaker

The General Assembly will meet tentatively on the following days in March and April:

March 19	April 2
March 22	April 5
March 26	April 9
March 29	April 12
	April 16
	April 26
	April 30

THK:ef

PROPOSED ASSEMBLY COMMITTEE SUBSTITUTE FOR A-1536

AN ACT regarding the execution of court-ordered evictions and supplementing chapter 42 of Title 2A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known and may be cited as "The Fair Eviction Notice Act".

2. In any proceeding for the summary dispossession of a tenant, except a proceeding pursuant to N.J.S.A. 2A:18-53b in which the tenant is present in court, warrant for possession issued by a court of appropriate jurisdiction:

(a) shall include a notice to the tenant of any right to apply to the court for a stay of execution of the warrant; and

(b) shall be executed not earlier than the third day following the day of personal service upon the tenant by the appropriate court officer. In calculating the number of days hereby required, Saturday, Sunday and court holidays shall be excluded; and

(c) shall be executed during the hours of 8:00 A.M. to 6:00 P.M., unless the court, for good cause shown, otherwise provides in its judgment for possession.

3. R.S. 22A:2-38 (P.L. 1953, c. 22) is amended to read as follows:

22A:2-38. Fees of constables or sergeants-at-arms

From the fees mentioned in section 22A:2-37 of this Title, the clerk of the county district court shall pay to constables or sergeants-at-arms the following fees:

Serving summons or notice on 1 defendant, $0.60.

Serving summons on every additional defendant, $0.30.

Warrant to arrest, capias, or commitment, for each defendant served, $0.75.

Serving writ and summons in replevin, taking bond and any inventory, against 1 defendant, $2.50. Against each additional defendant, $0.30.

Serving writ in replevin when issued subsequent to service of summons, $1.50.

Every execution, or any order in the nature of an execution on a judgment or execution against the body, for each defendant, $0.75.

Writ of attachment and making inventory, $1.85.

Warrant for possession, $2.00.

For every mile of travel in serving any summons or capias

against the body, execution, subpœna, notice or order, the distance to be computed by counting the number of miles in and out, by the most direct route from the place where process is issued, $0.10.

In addition to the foregoing, the following fees for constables and sergeants-at-arms shall be taxed in the costs and collected on execution, writ of attachment or order in the nature of an execution on any final judgment, or on a valid and subsisting levy of an execution or attachment which may be the effective cause in producing payment or settlement of a judgment or attachment.

For advertising property under execution or any order, $0.35.

For selling property under execution or any order, $0.50.

On every dollar of the first $500.00 collected on execution, writ of attachment or any order, $0.10, and on every dollar of any amount in excess thereof, $0.02.

4. This act shall take effect 60 days after its enactment.

STATEMENT

Eviction from one's residence on short notice can be a most traumatic experience for any person, particularly young children. This act seeks to avoid such trauma by requiring due notice of an imminent eviction and restricting the time of actual eviction to prevent undue hardship and to guarantee that a person's right to apply for a stay of eviction will not be impaired by court being out of session.

BERGEN COUNTY LEGAL SERVICES ASSURANCE CORPORATION

RICHARD S. SEMEL
Administrator

[redacted]

LONNY HIRSCH
ALAN MARLOWE

VINCENT McCARTHY, [redacted]

HACKENSACK OFFICE
53 MAIN STREET, HACKENSACK, N. J. 07601
Tel. (201) [redacted] 487-2166
116

April 24, 1973

Assembly Committee
on Revision and Amendment of Laws

Dear Sirs:

I have worked for two and one-half years for Bergen County Legal Services in Hackensack, New Jersey. A large part of our caseload is concerned with landlord-tenant problems. Two such problems are: one, the unavailability of safe and secure dwellings for low income tenants; and two, the lack of knowledge on the part of low income tenants as to their rights in the event of an eviction and sometimes lack of notice of the eviction itself.

The Assembly Bill 1610 (Tenants Safety Act) if passed, will substantially secure the dwellings of low income tenants both as to the quality of the structures themselves and as to the protection the tenant is afforded from crime by enabling each municipality to require the safety features enumerated in the act.

Assembly Bill 1536 (Fair Eviction Notice Act) guarantees that a tenant will receive notice at least three days prior to his eviction thereby avoiding confrontations between constables and those tenants who are unaware that they are to be evicted until the arrival of the constable. The act also provides notification to these tenants of their right to request a hardship stay from the court. Low income tenants, particularly, are unaware of the fact that in a summary proceeding for possession after termination of their lease, they have a right to request time to find a new place. In many instances the families of these tenants are broken up because they cannot find lodgings after an eviction.

In conclusion I feel that these two bills are indispensable to tenants in securing their right to a safe and sanitary dwelling and to free them from arbitary upheavels.

Very truly yours,

Vincent McCarthy

Vincent Mc Carthy

VMC/mb

New Jersey Tenants Organization

P. O. BOX 1142, FORT LEE, NEW JERSEY 07024 (201) 947-9226

STATE OF N.J.
LEGISLATIVE
SERVICES

'73 APR 18 AM 9 33

April 17, 1973

Miss Patricia Donath, Aide
Revision and Amendment of Laws Committee
State of New Jersey
Legislative Services Agency
State House
Trenton, New Jersey 08625

Dear Miss Donath:

Please extend my thanks to Assemblyman Black and yourself for giving me an opportunity to comment on A-1610 sponsored by Assemblymen Baer.

We think this legislation is sound particularly since it is an enabling act and one which would not be crammed down the throats of all municipalities. In our major urban centers this responsibility now will fall on the cities who enforce the law rather than continue to say "there is nothing we can do about safety". I find nothing prohibitive or outlandish about the improvements which would have to be made. It appears to me to be eminently fair to also provide an increase in rent for the landlord for making these improvements. Since the bill is both fair to tenants and landlords we recommend it for prompt consideration.

Assemblyman Baer has also furnished me a number of other bills relating to tenants that is currently before your committee. I specifically refer to Assembly bill #1535, 1536 and 1537. I urge that the committee release these bills with these committee amendments. Many low income people are seriously affected because of eviction proceedings at such short notices that people themselves are traumatized. Assembly bill #1536 would eliminate this. Assembly bill #1535 is an excellent idea since what it will do is to advise a mortgage holder that the person they are loaning money to may be letting the property run down. Finally, bill #1537 again relates to poor people who would be protected by this bill. We have witnessed thousands of cases where papers were not properly serviced to the tenant and the tenant ended up being evicted and never knowing why.

New Jersey Tenants Organization
P. O. BOX 1142, FORT LEE, NEW JERSEY 07024 (201) 947-9226

I urge your prompt release of these bills and thank you for your consideration. If there are any further questions you may have, please feel free to contact me.

Very truly yours,

NEW JERSEY TENANTS ORGANIZATION

Martin Aranow

Martin Aranow,
President

MA:lv
cc: Honorable Byron M. Baer
420 Lantana Avenue
Englewood, N. J. 07631

STATEMENT TO THE COUNTY & MUNICIPAL GOVERNMENT COMMITTEE OF THE GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY ON THE OCCASION OF A PUBLIC HEARING ON LANDLORD & TENANT BILLS S429, A54, 151, 152, 160, 165, 212, 1071, 1072, 1535, 1536, 1557, 1610 and 2122, BY RUSSELL J. EDMUNDS, PRESIDENT OF THE TROY HILLS VILLAGE TENANTS ASSOCIATION, PARSIPPANY, N.J.

Initially, I should like to point out several facts concerning the area in which the tenants I represent reside. The first garden apartments in Parsippany-Troy Hills Township were erected in 1963, and construction continued until 1968, by which time some 7,000 units had been built. These units are divided among twenty-seven separate complexes, although several of these represent multiple ownership. The current population of Parsippany-Troy Hills is about 62,000, of which about 25%, or 15,000, are tenants. The vacancy rate for apartments is, according to the Morris County Fair Housing Council, less than one per cent countywide. It is estimated to be about 0.5% in Parsippany-Troy Hills.

Rentals range from $185 to $225 for one-bedroom apartments, from $235 to $270 for two bedrooms, and from $330 to $360 for the 18 three-bedroom apartments. One-bedroom apartments comprise almost 80% of the total number in the township. These rates represent increases over the past six years of 80 to 100 %, Federal Rent Guidelines notwithstanding. In the most severe period of this upward spiral, two tenants associations were spawned, the Troy Hills Village Tenants Association, of which I am currently the President, and the Knoll Gardens Tenants Association. Both of these groups have been very active since their birth in 1970, and have both opened their membership to all Parsippany tenants.

Proceeding to deal with the matters directly at hand, I should like to present to the Committee, on behalf of the two above-mentioned tenants associations, the results of our combined legislative review committee's studies of the bills before this hearing, including the committee's recommendations for their amendment as necessary. I shall address them in nearly sequential order, with the only exception

being made for two bills which are for all intents and purposes, essentially identical:

S 429 - This bill is a good one in principle, but it raises two important questions; 1) How is this bill to be enforced after it is enacted ?, and 2) How is the tenant to be made aware that this law exists ?. If the landlord does not comply with this law, the tenant will have no way of knowing it. It then becomes a closed circle of events. This problem must be resolved in order for this bill to have any material effect.

A 54 - This bill has taken the basis of the Marini decision for the purpose of legislating it, which, in and of itself, is laudable, however the major failing of the Marini decision is that it does not specify any definition for "vital services". As it stands now, this bill does not either, and its passage would cause innumerable court cases to determine legislative intent. We propose the inclusion of such descriptive language as is found in A160 & A212 to fully define "vital services" and "vital facilities".

A 151 - We support this bill as it stands, and have no substantive comments.

A 152 - This bill is absolutely mandatory, as perhaps the primary cause of tenant abuse is the simple fact that most tenants cannot or are not willing to afford an attorney to fight their landlord. We would hope that the coverage included in this bill could be extended to cover all tenant actions against landlords in the areas of Security Deposits, Summary Evictions, and Failure to Provide Services or Facilities.

A 165 - This bill is excellent in principle, although we feel that the provisions of section 3e are too generous. We advocate the substitution of 15% and 10% for the figures of 20% and 15% respectively in that section.

A 160

& - A 212 In essence, these two bills are the same piece of legislation. The only substantive difference is in Section 7a in each, and, although the wording is different, the fault is the same. For such serious deficiencies as are set forth in these bills, the provisions for the amount of time which they must exist to be actionable is ludicrous. Any of these problems which has existed for 24 hours after the landlord or his representative has been notified of them and have not been remedied should be made actionable under these bills.

Secondly, these bills fail to prescribe attorney's fees for the tenant-complainants, a fact which reduces their possible effectiveness greatly. The comments addressed to A 152 apply here as well. These bills should definitely include provisions for awarding of attorney's fees to the tenant-complainants, otherwise they will hardly be likely to take advantage of the protections of these bills.

A 1071 - & - A 1072 - These bills are very good, and increasingly important in view of the recent Supreme Court decisions on municipal rent levelling and school financing. Property taxes are an important facet of tenancy these days, and means should be established to set forth the tenants' share of such taxes inasmuch as he is paying them anyway, although indirectly through the landlord. We support these bills as they stand.

A 1535 - In many instances, landlords who would otherwise not comply with the laws in the areas of services and upkeep without a judicial directive may be forced to comply through this bill. Our association, in fact, resorted to just this sort of method over two years ago and on our own, in order to force our landlord to repair certain unsafe and hazardous conditions. We do suggest, however, the amendment of this bill to include notice to

holder of the liability insurance on the premesis, which action we also took two years ago. The holder of the insurance has proven to be a likewise very interested party to the proceedings.

A 1536 - This is a step in the right direction, and, in view of the current housing crisis in the state, is still too short a time for a tenant to find new quarters. Frequently judges in Morris County at least, are granting far longer periods for relocation of evicted tenants.

A 1537 - We support this bill in its entirety as per the second official copy reprint.

A 1557 - This bill does not apply to residential properties, and we therefore have no opinion.

A 1610 - We support this bill in principle, as tenant safety features should be mandated, especially in high-crime or urban areas, however, we fear that the costs of these features may not be small, and that this will represent still another means for the landlord to "pass it on" to the tenants, and where an "expense" is "passed on" to the tenants, it is generally inflated as well. We request much stronger protection in this area.

In summary, we feel that, on the whole, these bills are good, and that they are indeed necessary to protect the health, safety, general welfare, and constitutional rights of the tenants of the State of New Jersey. We strongly urge the Committee and the Legislature to act favorably upon our above recommendations, and subsequently on these bills as well, and to do so before the end of the current session of the Legislature.

Respectfully submitted,

Russell J. Edmunds