

**Testimony of the New York City Department of Consumer Affairs
Before the
New York City Council Committees on Consumer Affairs and Housing and Buildings
Joint Hearing on
Introduction 682: Tenant Relocation Specialists and Agencies**

April 29, 2015

Good morning Chairman Espinal, Chairman Williams, and members of the Consumer Affairs and Housing and Buildings Committees. I am Amit Bagga, Deputy Commissioner of External Affairs for the Department of Consumer Affairs (“DCA”). I am joined by my colleagues Tamala Boyd, Associate General Counsel, and Mary Cooley, Director of City Legislative Affairs. We are here representing Commissioner Julie Menin, who regrets that she could not be here today, but sends her best to all of you. Commissioner Menin and DCA are committed to working with the Council to address issues of importance to all New Yorkers. Thank you for the opportunity to testify about Introduction 682, a bill related to licensing “tenant relocation specialists.”

DCA’s overall mission is to empower consumers and businesses alike to ensure a fair and vibrant marketplace. The agency licenses approximately 80,000 businesses across 55 different industries, mediates complaints between consumers and businesses, conducts patrol inspections and legal investigations, educates businesses about laws and rules, and also enforces New York City’s Earned Sick Time Act, commonly known as the “paid sick leave” law. In addition to its licensing, consumer protection, and labor-related work, DCA operates the Office of Financial Empowerment (“OFE”).

According to an April 2014 study by the NYU Furman Center, approximately two-thirds of New York City’s households rent their homes, and approximately one million of these households are “rent-burdened,” meaning that they pay half or more of their monthly income in rent.¹ Between 2005 and 2012, the median rent across the five boroughs rose 11 percent, while median household income rose by only two percent, indicating that renters faced a growing gap between their incomes and their ability to pay rent.² Lower-income New Yorkers, including those that the Furman Center study defines as “very low-income” and “extremely low-income,” are the most heavily affected, with 81 to 88 percent of these households being rent burdened. For the period of time covered by study, rents rose in four out of five boroughs, with Manhattan seeing the largest increase at 19 percent.

Recognizing the acute shortage of affordable housing, Mayor de Blasio has made the preservation or creation of hundreds of thousands of units of affordable housing a top priority. Ensuring that tenants can stay in the homes they are able to afford is a key component of the Mayor’s vision. As such, DCA commends the Council for taking steps to address the issue of tenant relocation.

¹ The Cost of Renting in New York City: NYU Furman Center / Capital One Affordable Rental Housing Landscape (April 2014). <http://furmancenter.org/NYCRentalLandscape>

² *ibid.*

Jurisdiction and Enforcement

DCA has broad jurisdiction to enforce the City's Consumer Protection Law and the Licensing Law and does so by conducting patrol enforcement, as well as by undertaking legal investigations of businesses and industries. We license many different types of businesses in New York City, including secondhand auto dealers, sidewalk cafes, tobacco retailers, newsstands, and many others.

Our most common mechanism of enforcement is the use of patrol inspections, which involve DCA inspectors physically visiting businesses to inspect for compliance with laws and rules. Because we know locations of businesses, we are able to plan these visits in advance. Being able to physically visit and observe a business is the only method of checking for compliance for many of the laws and rules we enforce. In general, our ability to enforce is greatly reduced when a business does not have a permanent physical location.

Our understanding of tenant relocation specialists is that they frequently do not operate in commercial office spaces or clearly identified offices. Additionally, the nature of their work puts them in the field on a daily basis.

For these reasons, enforcement over the work of these specialists would prove challenging. Our inspectors would not be able to inspect tenant relocation specialists on premises to ensure that the tenant relocation specialists are not violating the terms of their licenses, and it would be particularly challenging for our inspectors to identify unlicensed activity or observe the conduct prohibited or required in this bill. DCA does not currently have the sufficient expertise about the nuances of the relationships between landlords, tenants, and tenant relocation specialists or the capacity to take on licensing and enforcement of this bill.

Given our understanding of some of the aggressive tactics against tenants that tenant relocation specialists engage in, we do support exploring whether regulating these specialists and the industry in general would support the public good. With this in mind, we would like to take this opportunity to offer the Council suggestions that we think would significantly strengthen a regulatory approach, irrespective of which City agency might be assigned enforcement authority.

First, considering the nature of the industry, a regulatory authority would likely have to adopt a complaint-based approach to pursue enforcement. Such an approach would require robust record-keeping requirements so that allegations could be appropriately investigated. Examples of such records would be agreements between landlords and tenant relocation specialists or agencies, records of each interaction between tenant relocation specialists and tenants, records of the exchange of any money, among others. These records would clearly indicate names, addresses, contact information, dates, locations, nature of interactions, amounts of funds exchanged, and would in many cases require attestation from more than one party – the landlord and the specialist or the specialist and a tenant, for example.

In addition to the specialists and agencies, effective enforcement would require landlords to keep such records, as well. Absent these records, any type of enforcement would likely be very

challenging. Holding landlords accountable to maintain records, to have written contracts, and maintain documentation of financial transactions with the specialists would strengthen the ability of a regulatory agency to prosecute specialists who engage in illegal or unlicensed conduct, particularly since tenants may not necessarily complain about the specialist, but the landlord. Absent records kept by both specialists and landlords, enforcement would prove challenging.

Additionally, the penalty structure outlined in this bill also merits further examination, as does the issue of relief to aggrieved tenants. We would like to further explore the extent to which this bill, as currently drafted, will deter illegal conduct and help make aggrieved tenants whole. Under the current version of the bill, the fine for unlicensed activity is \$300. Based on our experience enforcing against unlicensed activity, this amount does not seem adequate to compel tenant relocation specialists to come into compliance with the law. Additionally, endowing tenants with a private right of action should be discussed further to ensure that tenants are able to secure appropriate restitution and/or damages.

DCA also suggests examining criminal histories as relevant of these specialists to ensure that tenants are not being forced to interact with individuals who receive remuneration for encouraging tenants to leave their homes. Finally, the current bill does not provide for criminal sanctions for tenant relocation specialists, which we think would be appropriate to include.

DCA commends the goal of regulating these tenant relocation specialists and other entities that elude the law or undermine our housing laws. In order to assess whether this legislation will effectively achieve those goals, we would have to explore several issues with the sponsors of the bill, advocates, and partners in government.

Additionally, it must be noted that were DCA to take on the licensing of tenant relocation specialists, the agency would require additional resources. We would require additional intake staff and mediators to address consumer complaints and mediate where possible, as well as additional attorneys to investigate and prosecute more complex or serious allegations. Ensuring that tenants know to complain to DCA would also require a public education campaign, which requires resources not only for advertising and materials, but also for additional outreach capacity, as the universe of tenants in New York City is very large.

Thank you for the opportunity to discuss this important issue with you today; my colleagues and I will be happy to answer any questions you might have.