

20-3366

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

COMMUNITY HOUSING IMPROVEMENT PROGRAM, RENT STABILIZATION ASSOCIATION OF
N.Y.C., INC., CONSTANCE NUGENT-MILLER, MYCAK ASSOCIATES LLC, VERMYCK LLC,
M&G MYCAK LLC, CINDY REALTY LLC, DANIELLE REALTY LLC,
FOREST REALTY LLC,
Plaintiffs-Appellants,

v.

CITY OF NEW YORK, RENT GUIDELINES BOARD,
DAVID REISS, CECILIA JOZA, ALEX SCHWARZ, GERMAN TEJEDA,
MAY YU, PATTI STONE, J. SCOTT WALSH, LEAH GOODRIDGE,
SHEILA GARCIA, RUTHANNE VISNAUSKAS,
Defendants-Appellees,

N.Y. TENANTS AND NEIGHBORS (T&N),
COMMUNITY VOICES HEARD (CVH), COALITION FOR THE HOMELESS,,
Intervenors.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

**BRIEF OF *AMICUS CURIAE* DISTRICT COUNCIL 37 IN SUPPORT OF
DEFENDANTS-APPELLEES AND INTERVENORS FOR AFFIRMANCE**

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Amicus Curiae District Council 37, American Federation of State, County, and Municipal Employees, AFL-CIO (“DC 37”) is an amalgam of 62 local unions, and is a labor organization organized as a not-for-profit corporation. No publicly held corporation owns any stock in DC 37.

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IDENTITY AND INTEREST OF *AMICUS CURIAE* ¹

District Council 37 (“DC 37”) is New York City’s (“NYC”) largest public employee union. The union is comprised of sixty-two locals, representing workers in approximately 1,000 job titles. As municipal employees, DC 37 members provide essential services and critical infrastructure to NYC. Positions held by DC 37 members include public school lunch aides, day care and head start employees, hospital and health services employees, nurses and epidemiologists, 911 dispatchers, home care employees, EMTs, paramedics, fire department employees, public transportation employees, traffic employees, police department employees, court employees, custodians, clerical employees, social service employees, library employees, rent regulation services employees, motor vehicle operators, construction laborers, sewage treatment employees, accountants, statisticians, actuaries, assessors, appraisers, housing development specialists, parks employees, wildlife conservation

¹ Amicus DC 37 declares, pursuant to Fed. R. App. P. 29 (a)(4)(E)), that (i) no “party’s counsel authored the brief in whole or in part”; (ii) no “party” or “party’s counsel contributed money that was intended to fund preparing or submitting the brief”; and (iii) no “a person—other than [*Amicus Curiae* DC 37], its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief.” Amicus DC 37 further states, pursuant to Rule 29(a)(2), that all parties have consented to the filing of this brief.

employees, lifeguards, museum employees, and environmental protection workers.

DC 37 has a substantial interest in the outcome of this case. Many DC 37 members are of low-or-moderate income, and many live in rent-stabilized apartments in NYC neighborhoods that are rapidly gentrifying, at risk of gentrification, or already gentrified. Without the protections of the Rent Stabilization Law (“RSL”), many DC 37 members could no longer afford to remain in their homes and neighborhoods or live in the city they serve.

INTRODUCTION

DC 37 members’ experiences with the RSL provide an object lesson in how the RSL serves important government interests. As the District Court correctly concluded, the RSL is rationally related to multiple legitimate government purposes, including²: (1) preventing dislocation of low-to-moderate-income New Yorkers and (2) preserving “neighborhood stability and continuity.” *See* SPA-35-36. DC 37 members’ experiences demonstrate that the RSL serves these purposes.

As municipal employees, DC 37 members provide essential services and critical infrastructure to NYC. DC 37 represents workers who care

² For the reasons discussed by the District Court, the rational basis standard applies to a determination of whether the RSL comports with the due process clause. *See* SPA-35. “SPA” refers to Appellant’s Special Appendix, annexed to Appellant’s Brief, which includes the District Court’s Memorandum and Order.

for the sick, the children, and the elderly; maintain bridges, parks, roads and subways; staff the hospitals, schools, libraries, social service centers, and city colleges; uphold rent regulations and serve as interpreters and reporters in the courts; and perform the clerical work, the maintenance work, and the technical work that keep NYC running.

Many DC 37 members are of low-to-moderate income and would be, or already are, at risk of losing their homes due to rent profiteering because they live in neighborhoods that are either gentrifying, at risk of gentrification, or already gentrified. The RSL, including the 2019 amendments in the Housing Stability and Tenant Protection Act (“HSTPA”), provide these members with crucial protections, including safeguards against burdensome rent increases and family dislocations upon the death of the tenant of record. Without these protections, many DC 37 members could not afford to live in NYC, and the City would lose municipal workers who perform essential services. As demonstrated below, the RSL serves the legitimate government purposes of ensuring the affordability of housing and preserving neighborhoods.

ARGUMENT

I. THE RSL ENABLES LOW-AND-MODERATE-INCOME DC 37 MEMBERS TO REMAIN IN THE CITY THEY SERVE.

A. The RSL Prevents Displacements of Low-and-Moderate-Income New Yorkers, Including Many DC 37 Members.

The RSL’s protections allow low-and-moderate-income DC 37 Members to remain in the city they serve. As the District Court noted, one of the legitimate government purposes behind the RSL is “allow[ing] people of low-and-moderate income to remain in residence in New York City—and specific neighborhoods within—when they otherwise might not be able to.” SPA-35-36. *See also Greystone Hotel Co. v. City of New York*, 13 F. Supp. 2d 524, 528 (S.D.N.Y. 1998) (“The central, underlying purpose of the RSL is to ameliorate the dislocations and risk of widespread lack of suitable dwellings.”) (quoting *Manocherian v. Lenox Hill Hosp.*, 643 N.E.2d 479, 492 (N.Y. 1994)).

The RSL serves this purpose. “Nearly every academic study” has concluded that rent stabilization results in decreased tenant dislocation and increased “housing stability.”³ Moreover, “rent stabilization

³ Manuel Pastor, Vanessa Carter & Maya Abood, USC Dornsife Program for Env’tl. & Reg’l Equity, *Rent Matters: What Are the Impacts of Rent Stabilization Measures?* 16 (2018), https://dornsife.usc.edu/assets/sites/242/docs/Rent_Matters_PERE_Report_Final_02.pdf. *See also* Madeleine Parker & Karen Chapple, *Revisiting Rent Stabilization in the Neighborhood Context: The Potential Impact of Rent Regulation on Community Stability and Security in the New York Metropolitan*

overwhelmingly serves low and moderate income New Yorkers.”⁴ As Intervenor established, “The median household income for rent-stabilized households in [NYC] in 2017 (\$44,560) was only two-thirds that of households in private non-regulated units (\$67,000).”⁵ Furthermore, “[e]ighty-six percent of [NYC’s] rent stabilized units—more than 830,000 apartments—house low-, moderate-, or middle-income tenants, and the vast majority are low-income.”⁶ In light of the substantial benefit to low-and-moderate-income New Yorkers, any incidental benefit to higher-income New Yorkers is immaterial. *See, e.g., Preseault v. I.C.C.*, 494 U.S. 1, 19 (1990) (“The process of legislating often involves tradeoffs, compromises, and imperfect solutions.”).

Region, 46 Fordham Urb. L.J. 1137, 1169 (2019) (noting “evidence that rent stabilization increases housing stability,” while decreasing “displacement due to external forces (such as increased rents) rather than choice”).

⁴ *Rent Regulation and Tenant Protection Legislation: Hearing Before the S. Standing Comm. on Hous., Construct., & Cmty. Develop.*, 2019 Leg. Sess. 18 (N.Y. 2019) (statement of Elyzabeth Gaumer, Assist. Comm’r for Rsch. & Eval, NYC Dep’t of Hous. Pres. & Develop.), <https://www.nysenate.gov/transcripts/public-hearing-05-22-19-albany-rent-regulation-finalrevisedtxt>.

⁵ Intervenor’s Brief. at 11 (citing JA-170). “JA” refers to the Joint Appendix.

⁶ *Id.* (citing *Rent-Regulated Housing: Hearing Before the Assemb. Standing Comm. on Hous.*, 2019 Leg. Sess. 31 (N.Y. 2019) (Statement of Elyzabeth Gaumer), <https://bit.ly/3fdf5wk>)).

In its affordable housing programs, the New York City Department of Housing Preservation and Development (“HPD”), uses certain income categories to determine eligibility.⁷ In making such determinations, HPD defines income levels for a family of three as follows: (1) extremely low: 0-\$32,220; (2) very low: \$32,221-\$53,700; (3) low: \$53,701-\$85,920; and (4) moderate: \$85,921-\$128,880.⁸

The salaries of many DC 37 members fall within the low-to-moderate-income range. The salary for an Emergency Medical Specialist (EMT) with the Fire Department, whose job involves, among other things, providing emergency medical care and life support to New Yorkers and transporting them to medical facilities, is \$35,254. For a dental assistant with the New York City Health and Hospital Corporation (“NYCHHC”), it is \$32,135. The salary for an eligibility specialist with the Department of Social Services (“DSS”), who helps determine whether New Yorkers qualify for public assistance, is \$36,390.

⁷ See NYC Housing Preservation & Development, *Affordable Housing: Do You Qualify?*, <https://www1.nyc.gov/site/hpd/services-and-information/do-you-qualify.page> (hereinafter “*HPD Affordable Housing*”).

⁸ *Id.*

For a clerical aide with the Department of Sanitation or a clerk with the Division of Housing and Community Renewal (“DHCR”), it is \$29,483.⁹

The incomes of individual members are consistent with these contractually dictated salaries. For example, Nabila Jacobs,¹⁰ an Administrative Aide with the New York City Police Department (“NYPD”), who shares an apartment with her minor son, makes \$25,000 a year. Lenora Bailey, a teaching assistant with the Department of Education (“DOE”), lives with her son and makes \$35,000 a year. Margery Donahue, an assistant custodian with the NYPD, supports herself and her two children on \$44,000 a year, while Octavia Clarke, a clerical associate with the NYCHHC, is raising her three children on \$47,000 year. Based on the HPD criteria discussed above, they are all low-income.¹¹

The RSL keeps rents affordable by prohibiting landlords from charging more than the legal regulated rent, regulating the extent to which the legal regulated rent may be raised, and providing procedures

⁹ DC 37’s Research and Negotiation Department provided the author all general DC 37 member job, income, and zip code data.

¹⁰ All information about individual DC 37 members comes from interviews with members conducted by DC 37 Municipal Employees Legal Services (“DC 37 MEELS”) attorneys. Members granted permission to use their stories. Members’ names have been changed to protect them from retaliation and preserve client confidentiality.

¹¹ See *HPD Affordable Housing*, *supra* note 7.

for enforcing these regulations. *See, e.g.*, N.Y. City Admin. Code §§ 26-510, 26-512, 26-516, 26-517. New York law also helps prevent evictions by requiring landlords to offer renewal leases and creating succession rights for family members of an apartment’s original tenant of record. *See, e.g., id.* § 26-511(c)(4); N.Y. Pub. Hous. Law § 14(3); N.Y. Rent Stab. Code § 2523.5(a),(b).

The 2019 amendments in the HSTPA further strengthen these protections by, among other things: (1) “[r]epealing “the ‘vacancy’ and ‘longevity’ increase provisions, which allowed landlords to charge higher rents when certain units became vacant”;¹² (2) repealing “the ‘preferential rate’ provisions, which allowed landlords who had been charging rates below the legal maximum to increase those rates when a lease ended”;¹³ and (3) reducing “the value of capital improvements — called ‘individual apartment improvements’ (IAI) and ‘major capital improvements’ (MCI)—that landlords may pass on to tenants through rent increases.”¹⁴

Additional amendments (1) limited “the number of units landlords can recover for personal use [to] one unit per building (and only upon a

¹² SPA-5 (citing N.Y. Reg. Sess. § 6458, Part B, §§ 1, 2).

¹³ *Id.* (citing § 6458, Part E).

¹⁴ *Id.* (citing § 6458, Part K, §§ 1, 2, 4, 11).

showing of immediate and compelling necessity);”¹⁵ and (2) repealed “the ‘luxury decontrol’ provisions, which allowed landlords, in certain circumstances, to decontrol a unit when the rent reached a specified value.”¹⁶ Collectively and individually, these provisions ensure that more units remain rent stabilized by eliminating the high rent avenues to deregulation and regulating the extent to which a landlord can raise the rents on those units, thereby keeping them more affordable. In effect, these amendments return the state of the RSL to essentially the way it had been before the draconian changes enacted mainly in 1997.

B. The Experiences of DC 37 Members Demonstrate How the RSL Prevents Displacement of Low-and-Moderate-Income New Yorkers Who Provide Essential Public Services.

As the experiences of DC 37 members demonstrate, the RSL’s limitations on rent increases has kept rent more affordable for many DC 37 members, thereby enabling them to keep their jobs in which they provide essential services to NYC. One such employee is Mary Nolan, who works as a clerical associate for the DSS, entering client information into a marketplace for Medicaid and health insurance plans and registering cases for medical assistance. She makes \$45,382.00 a year. When she first moved into her apartment in the Bronx in 1999, the same

¹⁵ *Id.* (citing § 6458, Part I).

¹⁶ *Id.* (citing § 6458, Part D, § 5).

year she began working for the DSS, the monthly rent was \$318. It is now \$855.14. According to Ms. Nolan, “My housing stability has allowed me to stay in my job for over twenty-two years.”

By allowing her to stay in her home, the rent stabilization laws have also allowed Ms. Nolan take care of her twenty-seven-year-old grandson, whose cerebral palsy has left him physically disabled. Ms. Nolan’s grandson was diagnosed when he was about eight years old, but he has been in a wheel chair since at least first grade. He now uses a motorized wheel chair. He moved into Ms. Nolan’s apartment for “better living conditions” and “more stability.” Previously, he lived with his mother in a third-floor walk-up apartment. Ms. Nolan’s apartment is on the ground floor, and is therefore more accessible.

The RSL prevents displacements of DC 37 members like Ms. Nolan who provide NYC with essential services, including educational services, medical and health services, public safety services, and other public services. Because of the RSL’s regulation of rent increases, DC 37 members have been able to remain in the city they serve.

1. The RSL Prevents Displacement of Public School Employees.

The RSL permits DC 37 members who provide educational services to remain in NYC. Carlton Hill, a senior lunch helper for the DOE, supervises the lunch program at a local public school. His wife is a lunch helper at another public school. Yearly, Mr. Hill makes about \$25,000,

and his wife makes about \$24,000. They live with their seventeen-year old son in a two-bedroom apartment in Queens Village, Queens. Mr. Hill moved into the apartment in or about June 2015. The rent on the apartment is \$1,650, which equals about 40% of the family's household income.

Olivia Santiago has also benefited from the RSL's affordability provisions. Ms. Santiago works part-time as a school aide for the DOE, where she has been employed for twenty years, and part-time for a home health agency, where she has been employed for five years. In her position with the DOE, she supervises children and performs clerical and administrative work and makes about \$20,000. Last year, in her position with the home health agency, she made about \$9000 caring for patients. Ms. Santiago shares her apartment in the Bronx with her husband, who worked as a machine operator until March 2020, when he had a COVID-19-related stroke. He is slowly recovering and currently has no income. In the approximately six years Ms. Santiago has lived in her apartment, the monthly rent has increased from \$900 to \$1,119.

The RSL has similarly helped Lenora Bailey and Beverly Conley stay in their homes. For twenty-five years, Ms. Bailey has worked as a teaching assistant with the DOE. Her job involves "everything. Home visits, attendance." She makes \$35,000 a year. Ms. Bailey lives in Jamaica/Hollis, Queens with her thirteen-year-old son. In the eleven years she has lived in her apartment, the monthly rent has increased

from \$1040 to \$1528. Ms. Conley has similarly worked for the DOE for twenty years. She currently makes \$37,000 a year as a family assistant, helping school psychologists with student evaluations. In the eighteen years Ms. Conley has lived in her apartment in the Bronx, the monthly rent has increased from approximately \$700.00 to \$1332.67.

2. The RSL Helps Prevent Displacement of Public Safety Employees.

The RSL permits DC 37 members who provide public safety services to remain in NYC. Nabila Jacobs, an administrative aide, makes \$25,000 a year performing clerical work for the NYPD. When she first began working for the NYPD, she was required to live in the city. Ms. Jacobs shares a one-bedroom apartment in Flatbush, Brooklyn with her minor son. In the five years she has lived there, her monthly rent has increased from \$1400 to \$1464.

Margery Donahue, an assistant custodian with the NYPD, where she has worked for thirteen years, makes approximately \$44,000 a year. Ms. Donahue shares her apartment in the South Bronx with her two sons, who are five and thirteen years old. Her two daughters, who are eighteen and twenty-two, recently moved out. In the fourteen years Ms. Donahue has lived in her apartment, her monthly rent has increased from \$850 to \$975.

Ulysses Ingram works as a crime analyst for the NYPD. His primary duties include conducting interviews and analyzing reports and

911 calls. His annual salary is \$54,000. Mr. Ingram has lived in his apartment in Inwood, Manhattan for four years. He initially signed the lease with two other people, but they moved out. When he moved in, the landlord charged a preferential monthly rent of \$2,100. Mr. Ingram currently pays \$2,323.75 a month.

3. The RSL Prevents Displacement of Medical and Health Services Employees.

The RSL permits DC 37 members who provide medical and health services to remain in NYC. Henry Nichols, who has worked for the past sixteen years as a behavior health associate for the NYCHHC, makes about \$45,000 per year. He processes incoming patients when they arrive at the hospital's psychiatric emergency room. Mr. Nichols shares a two-bedroom apartment in the Bronx with his wife and two minor children. He moved into the apartment in June 2012. The monthly rent is \$1,368, which is about 36% of Mr. Nichols's income.

Octavia Clarke, who has been a clerical associate with the NYCHHC for 17 years, makes \$47,000 a year. Ms. Clarke lives with her three children in an apartment in Crown Heights, Brooklyn. In the 14 years Ms. Clarke has lived there, the monthly rent has increased from approximately \$700.00 to \$894.95.

4. The RSL Prevents Displacement of Many Other Municipal Employees.

The RSL permits DC 37 members who provide many other public services to remain in NYC. Kevin Nelson has worked for the DHCR since 2016. He makes \$57,000 a year. As a rent examiner, Mr. Nelson reviews and analyzes landlords' applications for rent increases based on claimed improvements. Mr. Nelson has lived in the same building in Washington Heights since 2000, and in his current apartment in the building since 2006. The building was "built in the 1940s for Black actors and musicians." When he moved in, the monthly rent was \$800. It is now \$1040. Mr. Nelson says that he cannot "pay anything close to Manhattan market value," and that the RSL is the only reason he can stay in NYC.

Tamara Harris, now retired, was an eligibility specialist for the Human Resources Administration ("HRA") for 28-1/2 years. At first, she handled public assistance benefits and, later, emergency medical Medicaid benefits. After that, she worked in another HRA department, the HIV/AIDS Services Administration, assisting people with HIV and/or AIDS. Her annual income was approximately \$40,000. She could afford her rent, but when she needed more money, she worked overtime. She currently receives the benefit of the Disability Rent Increase Exemption ("DRIE"). Her rent is frozen at \$1,054.36, about \$20 less than the legal-regulated rent for her apartment. When renewing her lease, she always chooses a two-year renewal.

5. The Rights to a Renewal Lease and Succession Help Prevent Displacement.

Anti-eviction provisions have also protected DC 37 members from displacement. The RSL protects tenants from eviction by creating a right to a renewal lease. Through succession, moreover, New York law protects against the eviction of family members when the tenant dies or permanently vacates the apartment, by extending this right to the tenant's family members under certain circumstances. *See* N.Y. City Admin. Code § 26-511(c)(4); N.Y. Pub. Hous. Law § 14(3); N.Y. Rent Stab. Code § 2523.5(a),(b). These provisions have helped prevent the dislocation of DC 37 members.

For example, Edward Ibrahim, a senior school lunch helper, lives in the same Harlem apartment in which he grew up. He moved out after getting married, but returned to the apartment in 2006 to take care of his sick mother, who was the tenant of record. He succeeded to the apartment in 2019. The initial rent for the apartment in 1984 was \$249.20. The current rent is \$1031.18. Mr. Ibrahim has worked for his employer for twenty-one years and earns \$34,000 a year.

Similarly, Norma Stanton has lived in her current apartment in Crown Heights, Brooklyn for forty-three years. She too is a tenant through succession; her mother was the original tenant of record. Ms. Stanton now lives with her fifteen-year-old daughter. As a social worker with the DOE, where she has worked for seven years, Ms. Stanton helps

implement a court-mandated program for mentally ill clients. She makes \$68,000 a year. Applying the HPD criteria discussed above, Ms. Stanton's household is low-income based on income and family size.¹⁷ When Ms. Stanton first moved into the apartment, her rent was \$213.15 a month. It is now \$883.62 a month.

Several previously discussed DC 37 members also succeeded to their rent-stabilized leases. In 1999, when Mary Nolan moved into the apartment she now shares with her disabled grandson, her partner, who moved in in 1963, was the tenant of record. Ms. Nolan succeeded to the apartment after her partner died in 2013. Similarly, Norma Bailey recently succeeded to the apartment she shares with her thirteen-year old-son. When she moved in eleven years ago, her aunt was the tenant of record.

C. By Preventing Displacement, the RSL Ensures Reasonable Commute Times for DC 37 Members So They Can Maintain Municipal Jobs While Caring for Their Families.

The RSL also makes it possible for DC 37 members to continue working their city jobs, by enabling them to live within a reasonable commuting distance of their jobs and their children's schools. Tanya Edwards, now retired, worked as a school aide with the Board of Education. She assisted with lunch duty and office work and made \$11,000 to \$12,000 a year. Ms. Edwards has lived in the same building

¹⁷ See *HPD Affordable Housing, supra*, note 7.

in Washington Heights for thirty years and in her current apartment for six years. Across the street is the school that her children attended and where Ms. Edwards worked before she retired. Ms. Edwards could just walk across the street to go to work and to take her children to school. She could also prepare dinner for her family and spend time with her children because home was a few steps from their school and her job.

When Beverly Conley's children were younger, she too could combine her commute to work with her children's commute to school. Ms. Conley, who lives in the Bronx, took a bus and then a train with her children, dropping them off at school in Manhattan, and then continuing to Brooklyn, where she worked as a family assistant with the DOE.

The RSL continues to provide working DC 37 members with similar benefits. Edward Ibrahim enjoys his apartment's convenient location. It is close to public transportation and his job as a school lunch helper. His employer tries to place workers in schools close to where they live, and his commute by bus is approximately twenty minutes. When his children were younger, he took them to school on public transportation. Nabila Jacobs also likes the convenience of her neighborhood. It takes approximately forty-five minutes by bus to get to her job as an administrative aide with the NYPD. The bus stop is near her apartment, and the bus comes quite frequently. She also can walk her son to his school, which is very close to their home. Her church is two blocks away.

The RSL has similarly allowed Margery Donahue, Carlton Hill, Olivia Santiago, and Kevin Nelson to live within reasonable commuting distance of their workplaces. Ms. Donahue’s commute by car to her job as an assistant custodian with the NYPD is 7 minutes, and both of her sons attend schools within 10-minutes of her home. Mr. Hill’s apartment is about four minutes away from the school where his wife works and fifteen minutes away from the school where he works. Ms. Santiago often walks to her job as a school aide. It takes her approximately twenty-five minutes. Although Kevin Nelson has an hour commute from Washington Heights to Queens, he says that if not “for affordable housing,” he would have to move to New Jersey or somewhere else, where “it would be much harder” for him to get to work.

D. The Protections DC 37 Members Receive from the RSL Benefit Landlords.

Landlords also benefit from the protections DC 37 members receive from the RSL. DC 37 members provide essential services to NYC. Among other things, they help provide education, healthcare, transportation, and emergency services and help keep NYC’s streets and parks safe and clean. They also staff libraries, process building applications, and answer 911 calls. The RSL allows DC 37 members to continue providing these services, because they permit them to remain in NYC, within reasonable commuting distance of their jobs.

Landlords, like all New Yorkers, benefit from the essential services DC 37 members provide. Indeed, they reap even greater benefits than most New Yorkers. Landlords routinely use the services of DC 37 members who work for the Department of Buildings, HPD, and the DHCR, among others. Additionally, many municipal services help make NYC a desirable place to live. Indeed, a rental property's proximity to the schools, parks, cultural institutions, and libraries DC 37 members staff and maintain, as well as the public transportation they help provide, makes the property more attractive to current and prospective tenants.

As discussed above, the RSL prevents displacement of low-and-moderate-income DC 37 Members. In doing so, it serves a legitimate government purpose.

II. THE RSL SERVES THE LEGITIMATE GOVERNMENT PURPOSE OF PROMOTING LOCAL NEIGHBORHOOD PRESERVATION, CONTINUITY, AND STABILITY, AS DEMONSTRATED BY THE EXPERIENCES OF DC 37 MEMBERS.

A. The RSL Serves the Legitimate Purpose of Preserving Neighborhoods.

Preserving neighborhoods is a legitimate government purpose. A “[s]tate has a legitimate interest in local neighborhood preservation, continuity, and stability.” *Nordlinger v. Hahn*, 505 U.S. 1, 12 (1992) (holding state “legitimately can decide to structure its tax system to discourage rapid turnover in ownership of homes . . . in order to inhibit displacement of lower income families by the forces of gentrification”).

See also id. at 35 (Stevens, J., Dissenting) (agreeing “[i]t is beyond question that inhibiting the displacement of lower income families by the forces of gentrification is a legitimate state interest”) (internal citations and punctuation omitted).

The rent stabilization laws further this legitimate state interest. “The majority of the neighborhoods potentially most affected by rent regulation are low-income,” and “[m]ost of these neighborhoods are either currently undergoing processes of gentrification, displacement, or both; or have vulnerabilities that place them at risk of such change.”¹⁸ Furthermore, most low-income New Yorkers live in neighborhoods that either are gentrifying, at risk of gentrifying, or already gentrified.¹⁹

B. DC 37 Members Live in Gentrifying Neighborhoods.

Significant numbers of DC 37 members live in neighborhoods that are gentrifying, at risk of gentrification, or already gentrified. For example, approximately 22,437 DC 37 members live in zip codes associated with a cluster of Brooklyn neighborhoods that includes Bedford-Stuyvesant, Brownsville, Bushwick, Crown Heights, East New York, Flatbush, East Flatbush, and Prospect Heights.²⁰ Approximately

¹⁸ Parker & Chapple, *supra* note 3, at 1140.

¹⁹ *See* Urban Displacement Project, *New York - Gentrification and Displacement*, <https://www.urbandisplacement.org/new-york/new-york-gentrification-and-displacement> (hereinafter, “*Gentrification & Displacement*”).

²⁰ *See* note 9, *supra*.

8,191 members live in zip codes associated with a cluster of Upper Manhattan neighborhoods that includes Harlem, East Harlem, Washington Heights, and Inwood. In Queens, approximately 6,266 members live in zip codes associated with a cluster of neighborhoods that includes Jamaica, Hollis, and St. Albans, while another 1,338 members live in the primary zip code for Ridgewood and 659 in the primary zip code for Middle Village. In the Bronx, approximately 2,565 members live in zip codes associated with Mott Haven and Hunts Point, and 2,167 in zip codes associated with Morrisania. Finally, on Staten Island, approximately 651 members live in zip codes associated with Grymes Hill and 300 in a zip code associated with Port Richmond.

According to an interactive map produced by the University of California, Berkeley's Urban Displacement Project and New York University's Center for Urban Science and Progress, most of the neighborhoods discussed above include areas characterized either by "ongoing gentrification" or "ongoing displacement of low-income households" or deemed "at risk of gentrification," while a few, including several of the Queens neighborhoods discussed above, are already in advanced stages of gentrification.²¹ Additionally, a 2015 report on gentrification in NYC from the NYU Furman Center listed as gentrifying many of the neighborhoods listed above, including Bedford-Stuyvesant,

²¹ See *Gentrification & Displacement*, *supra* note 19.

Brownsville, Bushwick, Crown Heights, Harlem, East Harlem, Washington Heights, Inwood, Hunts Point, Mott Haven, and Morrisania.²²

DC 37 Members have witnessed the effects of gentrification in their own neighborhoods. Teresa Iverson, a computer specialist for the DSS, has seen many changes in Harlem, where she was born in 1958. She has noticed considerable new development and an “influx of new people.” Many small businesses have closed, and many of her neighbors have left, including some who moved “down South.” When Ms. Iverson first moved in to her current apartment, the monthly rent was \$750. It is now \$1260. In contrast, Ms. Iverson says her next-door neighbor pays close to \$4000 a month for an apartment in the same building, and students upstairs share an apartment for which they pay \$3500 a month. According to Ms. Iverson, because of rising rents, once a person is forced to move out of Harlem, they “have no chance” of moving back.

Mary Nolan, who lives in Morrisania, also says her neighborhood has gentrified. She says that when she moved there, “it was mostly Black and Latino.” In the last three to four years, she has noticed an increase in the white population and more homeless and displaced persons. Some

²² See NYU Furman Center, NYU School of Law and Wagner School of Public Service, *State of New York City’s Housing and Neighborhoods in 2015* 5-6 (2015), https://furmancenter.org/files/sotc/NYUFurmanCenter_SOCin2015_9JUNE2016.pdf.

types of retail stores have improved, but longstanding local businesses have closed, including a Spanish restaurant that was open for over thirty years and a laundromat that was replaced by a dance studio. According to Ms. Nolan, newer tenants move in, but soon move out because the rent is too high. Edward Ibrahim, a school lunch helper who grew up in Harlem, has witnessed chain stores replacing smaller neighborhood shops.

Other DC 37 members have described similar signs of gentrification in their neighborhoods. Norma Stanton, a social worker who has lived in Crown Heights for forty-three years, has noticed more high rises, luxury buildings, and Airbnb rentals, as well as rising food costs. Kevin Nelson, a DHCR rent examiner who lives in Washington Heights, has noticed more “luxury apartments,” that are “not so affordable,” especially closer to Columbia University Hospital. Nabila Jacobs similarly describes new buildings “going up all around” her Flatbush neighborhood. Ms. Jacobs, who pays \$1464 for the apartment she shares with her son, says the current asking price for a two-bedroom in the neighborhood is over \$3000.

C. The RSL Protects the Neighborhoods in which DC 37 Members Live Against the Forces of Gentrification.

The RSL allows DC 37 members to stay in their homes in neighborhoods that are gentrifying, at risk of gentrification, or already gentrified. In doing so, it helps preserve neighborhood stability.

1. DC 37 Members Have Longstanding Connections to Their Neighborhoods.

Many DC 37 members have longstanding ties to their neighborhoods. Some grew up in the neighborhoods where they still live, and some come from families who have lived in the same neighborhood for multiple generations. For example, Teresa Iverson was born three blocks away from her current apartment in Harlem, and she grew up five blocks away in an apartment into which her family, including her great-grandmother who was a domestic worker, moved in 1951.

Ms. Iverson has neighborhood friends who attended elementary school with her in the 1960s. Her cousin currently lives upstairs from her. Next door to her building “is a whole building of people” who grew up in Harlem, some of whom are fifth-generation Harlem residents. Ms. Iverson says these neighbors “remind [her] of who she [is].”

Ms. Iverson considers Harlem her home. Although she temporarily left in 1985, she stayed nearby in the Bronx, where she raised her children. Much of her family remained in Harlem, including her grandmother, who lived in Ms. Iverson’s current apartment for almost thirty years. Ms. Iverson feels like “she never left Harlem.”

Ms. Iverson moved into her current apartment in Harlem in 2007 to take care of her grandmother. Subsequently, her grandmother died, her grandfather suffered a stroke and entered a nursing home, and her mother moved in with her. Eventually, Ms. Iverson’s mother moved into

the same nursing home as Ms. Iverson's grandfather. Ms. Iverson's grandfather passed away in 2018, and her mother passed away in January 2021. The nursing home where they lived is only three train stops and twenty minutes from Ms. Iverson's apartment. When they were still alive, Ms. Iverson frequently visited them and brought children and grandchildren to see them. She says she could not have done this without the RSL.

Ms. Iverson's twenty-five-year-old son lives with Ms. Iverson in her current apartment. While living there, he completed an undergraduate degree at Manhattan College, where he is currently a graduate student, and where he currently teaches. The college is four subway stops and twenty-five minutes from Ms. Iverson's apartment. According to Ms. Iverson, by living at home, her son saved \$1,500 a month for a dorm room. Ms. Iverson's brother attended Columbia University while living in the rent-stabilized Harlem apartment in which he and Ms. Iverson grew up. His commute to school was about fifteen minutes.

Norma Stanton, Edward Ibrahim, and Tanya Edwards also have longstanding connections to their neighborhoods. Ms. Stanton has lived in Crown Heights for forty-three years and has many friends there. Mr. Ibrahim, a school lunch helper, lives in the same Harlem apartment in which he grew up. Both the apartment and his neighborhood have a sentimental value to him. Ms. Edwards, a retired school aide, has lived in the same building in Washington Heights for most of the last thirty

years. Ms. Edwards knows many people in the neighborhood, and she says that she is “a part of the community.”

2. DC 37 Members Have Strong Familial and Community Ties in Their Neighborhoods.

Many DC 37 members also have significant familial and community ties in their neighborhoods. Tamara Harris’s daughter lives two blocks away from the Harlem apartment into which Ms. Harris moved about twenty years ago. Her niece lives five blocks away, and her sister and mother live nearby in the neighborhood. When Ms. Harris first moved in, she and the other tenants would decorate the building on holidays like Christmas and Halloween. They would also exchange gifts for the children in the building. On each floor, “everyone knew everyone else.” Then people started moving out, and younger people moved in “who didn’t care and smoked pot.” Still, Ms. Harris has never wanted to leave NYC.

Like Ms. Harris, Mary Nolan has strong ties to her community and to NYC. Ms. Nolan, who lives in Morrisania, considers her friends in her building like family. Before Ms. Nolan’s daughter moved out of state in 2011, she lived nearby. Ms. Nolan’s grandchildren visit her in her apartment, and she sometimes looks after them while their parents work. She also belongs to a church in Manhattan.

Other DC 37 Members have similar ties to their neighborhoods. Carlton Hill and his wife both have relatives who live close to their

apartment in Queens Village. Lenora Bailey lives five minutes by car or twenty minutes by foot from her mother's home in Hollis. She also has a good friend in Fresh Meadows, Queens, which is a 15-minute walk from her home. Octavia Clarke lives close to her mother in Crown Heights.

3. Preserving Neighborhoods Fosters Security.

For many DC 37 members, neighborhood continuity provides the safety and security that comes from living in a community of neighbors who know and look out for each other. Ms. Nolan has neighbors in Morrisania who look out for her and her disabled grandson. She and her neighbors depend on each other. According to Ms. Nolan, "We have and are a community. We are caring and close." Ms. Nolan has watched her neighbors' children grow up and join the military, go to college, and get married. Her neighbors' kids call her, "Grandma." Tenants in her building have a system of codes involving the doorbell. Two short rings means the tenant does not have their keys. Three rings means the tenant is afraid because someone is following them, and that someone should go down, accompanied by another person for added protection, to open the door instead of buzzing the tenant in. Ms. Nolan feels safe in the neighborhood. She is afraid to move at her age. According to Ms. Nolan, "There's nothing like stability and safety at my age for myself and my grandson."

Kyle Hendricks has also found a sense of security through his neighborhood community. Mr. Hendricks, a retired HRA fraud

investigator, lives in Harlem with his disabled daughter, who will be twenty years old this year. His daughter attends a District 75 specialized school four blocks away. Mr. Hendricks wants his daughter to stay in her school program until she turns twenty-two because she lost so much time due to the COVID-19 pandemic.

Mr. Hendricks's daughter walks to school. People in the neighborhood know her and look out for her. The crossing guards all greet her. She often stops to get coffee at Dunkin Donuts, where the employees know her. Sometimes, she stops at a local bodega to get breakfast or a cheeseburger for lunch. If she does not have money with her, the shopkeepers let her have her food without paying. Because the people in the community know his daughter and look after her, Mr. Hendricks feels comfortable allowing her a measure of independence that walking to school alone provides. If not for the RSL, Mr. Hendricks could not afford to live in the neighborhood, and his daughter would be unable to attend her District 75 specialized school.

4. Preserving Neighborhoods Protects NYC Culture and Fosters Community Involvement.

Many DC 37 members derive benefits from and contribute to local churches, hospitals, parks, libraries and other community organizations and institutions. Teresa Iverson, the fourth generation Harlem native mentioned above, grew up going to the Apollo Theater, and she and her son still participate in events like Harlem Week and a yearly Memorial

Day Weekend jazz event. She frequents the local library and walks her dog to Riverside Park every day. Her son volunteers at an organization that provides support to local youth.

Tamara Harris takes computer classes at a senior center a block-and-a-half from away from the Harlem apartment she has called home for the last twenty years. She also takes a crochet class nearby. She finds the class fun and relaxing, and like the life of the party, she gets her classmates talking. She also alternates between three neighborhood churches, depending on which one her friends plan to attend. Carlton Hill serves as a volunteer firefighter in nearby Nassau County, and his son participates in the NYPD Explorer's Program at the neighborhood precinct. Kevin Nelson attends church in Downtown Manhattan, twenty-minutes away by train from his Washington Heights apartment. He also frequents neighborhood libraries and enjoys walks in local parks.

By allowing DC 37 members to remain in neighborhoods that are gentrifying, at risk of gentrification, or already gentrified, the RSL preserves neighborhood stability and continuity. In doing so, it serves a legitimate government purpose.

CONCLUSION

For the aforementioned reasons and the reasons in Appellees' and Intervenors' briefs, the Court should affirm the decision of the District Court.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned counsel for *Amicus Curiae* District Council 37 certifies, pursuant to Federal Rules of Appellate Procedure 32(g)(1) and 29(a)(4)(g), that this *amicus* brief:

1. complies with the type-volume limitation of Federal Rules of Appellate Procedure 32(a)(7)(B), 32(e), and 29(d) and Local Rule 29.1(c), which incorporates Local Rule 32.1(a)(4)(A), because it contains 6,486 words, including footnotes and excluding the parts of the brief exempted by Federal Rules of Appellate Procedure 32(f); and

2. complies with the typeface and type style requirements of Federal Rules of Appellate Procedure 32(a)(5) and 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word for Microsoft Office Professional Plus 2016 in 14-point Century Schoolbook.

/s/ Cameron W. Arnold

Dated: April 23, 2021