

THE MARSHALL PLAN FOR MANHATTAN

THE MANHATTAN TENANTS UNION

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BRAD
HOYLMAN
FOR BOROUGH PRESIDENT

INTRODUCTION

With the eviction moratorium eventually expiring, tens of thousands of NYC renters who have been struggling to pay rent amid the economic fallout of the pandemic are at risk of becoming homeless. Meanwhile, landlords and property owners face the costly and uncertain prospect of evicting an unprecedented number of tenants while attempting to collect thousands of dollars in back rent from them in Court.

It is universally recognized that voluntary, negotiated settlements between landlords and tenants are preferable to eviction and litigation. Mediation as a concept has long been encouraged by Housing Court, and was supported in July by the City's Taskforce on Racial Inclusion and Equity.

Yet, it should be clear to everyone that relying on one-on-one individual negotiations between landlords and tenants is inadequate given the scale of the looming eviction crisis created by the pandemic. There are many reasons for this:

1. Many tenants do not have the time, expertise, information or ability to negotiate such agreements;
2. Individual tenants economically battered by the pandemic are often unable to negotiate on an equal footing with landlords;
3. Individual mediations can yield different outcomes and unfair results for similarly situated tenants — of the same landlord — based on an individual tenant's ability to negotiate, or, worse, the tenant's race, nationality, gender and other discriminatory factors;
4. It is often infeasible for landlords with a significant number of tenants to negotiate rent reductions or rent payment plans one-on-one with dozens or hundreds of individual tenants (especially if those tenants are spread among different buildings). A landlord facing the problem of unpaid back and future rent across-the-board needs certainty that negotiating the rent down, or negotiating long-term back rent payment plans, will yield a stable situation. Indeed, even if a landlord wants to collectively negotiate with a large number of tenants, it is rare for a building to have a tenants' organization with whom the landlord can negotiate. It is a sad fact of our housing market that while condominiums and co-ops have boards to address a collective need to reduce maintenance fees or common charges due to hardships caused by the pandemic — rental buildings often do not.
5. The results of individual one-on-one mediations are often not made public, and are not designed to be adopted by tenants who do not participate in the negotiations. Accordingly, they are unlikely to be embraced by tenants who did not have a say in the negotiations. Organized negotiations between landlords and groups of tenants, by contrast, can generate public "template agreements" on which other agreements between non-participating tenants (and even non-participating landlords) can be based — further avoiding evictions and litigation.

PROPOSAL

As Borough President, Brad Hoylman will address these problems by creating Manhattan Tenant Unions ("MTU"s) and launching a Manhattan Tenant Union Rent Negotiation Service.

The goal and effect of this plan will be to avoid evictions and lawsuits for back rent by (1) facilitating the creation of informal "unions" of tenants who rent from the same landlord and thus facilitate the sharing of important information; (2) connecting these new tenant unions to their landlords; and (3) supplying mediators and negotiation services to create mutually acceptable agreements for rent reductions and/or repayment plans.

Specifically, the program will:

1. Develop an on-line portal and telephone intake system for tenants seeking to negotiate rent reductions and/or payment plans, and leverage the City's current tenant hotlines;
2. Identify, connect and organize tenants in single and, critically, multiple buildings owned by the same landlord or holding company into negotiating units;
3. Locate and invite landlords to negotiate with these tenant unions as an efficient and cost-effective way to avoid mass evictions and litigation;
4. Link up with neutral and confidential government and volunteer mediators;
5. Work to create "templates" of accepted rent reduction and payment plans that can be replicated for similar buildings and for similar groups of tenants; and
6. Assist tenants in setting up one-on-one negotiations with the City's new Landlord-Tenant Mediation Project if no tenant union can be formed in a given situation.

EXPLANATION

The Manhattan Borough President's office excels at having an on-the-ground street-level presence — through, among other things, its central role with Community Boards and connections with City Council members — as well as oversight of the economy, land use, and critical issues facing the entire borough. The dual nature of the office makes it an ideal perch from which to identify, connect and organize tenants in multiple buildings owned by the same landlord or holding company into negotiating units.

The Borough President's staff, through on-line and community outreach, and telephone recruitment, will actively look to identify multiple tenants facing eviction from one or multiple buildings owned by the same landlord. When identified, the Borough President will work the tenants to recruit their neighbors and additional tenants of that landlord to be organized into de facto tenant unions.

The Manhattan Tenant Unions will be democratically structured to select representatives authorized to: collectively negotiate rent reduction and/or back rent payment plans with landlords, communicate proposals to the group, and ultimately come to agreements that can be templates for even larger numbers of tenants.

A landlord faced with dozens to hundreds of tenants that, due to the pandemic, cannot pay the rent to which they initially agreed (and may not be able to for some time) will be able to meet with tenant-selected representatives of such a group to negotiate mutually acceptable rent reductions and/or payment plans.

As part of this plan the Borough President will work with Community Dispute Resolution Centers, volunteer lawyers from bar associations and legal services organizations and government offices to ensure a supply of accomplished, neutral mediators that have the best chance of facilitating large agreements between landlords and tenants.

Ideally, the agreements to come out of these negotiations will be templates with which other landlords and other tenants can base agreements. For example, a specific schedule of permanent or temporary rent reductions combined with long term back rent payment plans adopted by one building could spread to others.

Last July, Charlene McCray's Taskforce on Racial Inclusion and Equity announced a City-wide Landlord-Tenant Mediation Project to facilitate individual negotiations and mediations among tenants and "small landlords." While any push toward mediation over eviction should be welcomed, the scope of this crisis calls for something more: tenant unions negotiating and mediating as a group with small and large landlords borough-wide (and city-wide if other Borough Presidents wish to participate.) If this program is successful, it is envisioned that it could be utilized for small business commercial tenants, as well.

CONCLUSION

The current and looming pandemic-created eviction crisis threatens the entire fabric of Manhattan, the City, and the State. Government at all levels needs to be engaged to alleviate this crisis. The Manhattan Borough President's office is not a housing regulator, cannot initiate enforcement or legal actions, and had no role in rent stabilization or rent control.

However, because of its role in community boards and land-use, the Borough President's office has unique deep contacts with tenants, real estate interests, community boards, and community activists. Brad Hoylman believes the office needs to be re-envisioned to leverage those contacts into meaningful wins for hard working New York families.

Manhattan Tenant Unions are part of that new vision: organizing tenants to be able to fairly and effectively negotiate with landlords through the sharing of information and collective bargaining to avoid evictions and litigation that leads to pyrrhic court victories for landlords and unnecessary and destructive homelessness for renters.