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EDUCATION RESEARCH ADVOCACY & SUPPORT TO ELIMINATE RACISM

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Testimony of Elaine Gross on behalf of ERASE Racism for
Dec. 2, 2025 hearing of Committee on Housing & Buildings

I'm Elaine Gross, the Founder of ERASE Racism. My organization has focused on Long Island but has led and participated in region-wide and state-wide efforts to fight housing discrimination and housing segregation.

I regret not being able to testify in person in support of the coop disclosure bill, the current version of which is Intro 407. ERASE Racism has long supported coop disclosure, and we are both disappointed and perplexed by the ability of a small but highly influential group of coop board members, aided by their attorneys and consultants, have managed for well over a decade to stymy common-sense legislation that is so clearly in the public interest, is supported by the public, and is supported by coop residents who are not board members.

The coop industry is not subtle: it has used secrecy and wants to be able to continue to use secrecy to preserve board-member unaccountability and privilege. Progressive legislative bodies do not tolerate the elevation of self-interest over public interest in other contexts; the Council needs to stop tolerating it at the behest of coop boards.

Despite the cries of the industry that transparency would be a catastrophe – which, when you think about it is a remarkable admission: we're sunk if you know why we make our decisions – I can report that, when Westchester, Nassau, and Suffolk Counties each passed (or, in the case of Westchester, passed and then strengthened) versions of a coop disclosure law, the sky did not fall.

In real life, people are not spending all their time seeking to file baseless lawsuits; what they're interested in most is finding a home. If it turns out that discrimination has played a role in denying them a home, *they should be able to fight back.* It isn't hard to realize why coop boards want to maintain secrecy. Even before people apply, that lack of transparency gives real estate brokers an incentive not to take applicants – especially applicants who don't demographically "fit" the existing building profile – to listings that they perceive as having a risk of not working out. Applicants themselves are deterred by a process that can have them turned down – after months of work – with absolutely no explanation.

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Then, of course, those who do apply and who are turned down without a reason have no way to assess what has happened, including whether or not they have been illegally discriminated against. **Under current law, coops, unlike other entities involved in the sale of housing, cannot be "tested" to determine if someone seeking housing has been turned down based on their membership in a protected class. That is why there are relatively few cases filed, not that coop boards are uniquely virtuous.** (The continued existence of discrimination by coop boards is reconfirmed in news reports every few years).

As others will surely mention, compliance with Intro 407 is simple.

And, contrary to the scare tactics that have been employed, Intro 407 does not invite an inquiry into whether a coop's reasons are "good" reasons. If a coop's statement says only that the board believed that the applicant would not be an active shareholder, that's not specific enough. But let's say a board's statement conveys that it acted because the applicant indicated that he or she was not willing to volunteer time to help tend the coop's garden.

Some eyebrows might be raised and that reason could be assessed for whether it was a pretext, but the "provide reasons" part of Intro 407 itself is satisfied. To reiterate: if that was the only reason of all those who participated, and the coop has timely and specifically set it out in a written statement to the appalicant, Intro 407 does not provide for a cause of action asking a judge whether the coop *should* have that standard.

In terms of increasing the effectiveness of existing housing discrimination law, it is a big improvement over other coop disclosure legislation. This bill explicitly limits the justifications that can be used if a discrimination case is later brought, to those contained in the timely statement the legislation demands. (Remember: coop boards know every reason for rejection at the time the rejection is made. They just made it!)

There is no reason to allow *post hoc* (after the fact) reasons created by discrimination-defense attorneys to muddy the waters.

Moreover, to the extent that coop representatives may advise their clients to have a kitchen-sink-full of reasons, those representatives are steering their clients wrong. Every reason given will be able to be assessed, and, once some reasons given are false, a jury is entitled to conclude that the coop's defense in a later fair housing action is not credible.

I strongly urge the passage of Intro 407.