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Gale A. Brewer, Borough President

**Testimony of Gale A. Brewer, Manhattan Borough President
New York City Council Committee on Housing and Buildings
Oversight: Short Term Rentals – Stimulating the Economy or Destabilizing
Neighborhoods?
January 20, 2015**

Good morning. My name is Gale A. Brewer and I am the Manhattan Borough President. Thank you to Chair Williams and to the members of the Committee on Housing and Buildings for the opportunity to testify.

The issues before you today are tremendously important. The topic we're hearing about today touches on so many different areas of law and policy, from the State Multiple Dwelling Law to our City's Building, Fire and Housing Codes, as well as zoning law and broad questions of land use policy. That's before we even start talking about the issues of technology, the internet, and federal communications law.

It is easy to get lost in all the questions that get raised in this conversation, and I think it helps to start with a central goal to keep in mind throughout: **that our City and State governments have a duty to protect our residential buildings and protect the safety, security and privacy of New Yorkers' homes** That is why, working with a broad coalition of fellow elected officials, tenant and housing advocates, and City agencies, I passed Local Law 45 of 2012, which allows City enforcement agencies to impose higher fines that serve as a real deterrent to illegal short-term rental operators. It is also why the same coalition worked with Senator Krueger and Assemblymember Gottfried to pass Chapter 225 of the Laws of 2010, which made technical changes and corrections to state law and City codes for the same ultimate

purpose: to give City agencies the tools they needed to enforce against illegal short-term rental operators.

New York City is unique in this country for the high-pressure nature of our housing market and the density of our housing; and we face unique pressures, challenges, and problems as a result. We create our very private and sacred homes within multiple dwellings of various sizes, but without much buffer between us. Our laws therefore have come to define the nature and character of our homes, and have recognized the importance of privacy and safety we hope for in our homes – even, and especially, when those homes all share common hallways and elevators.

A home is a home; public space is public space. And transient hotels and hostels are just that: public space. This qualitative difference is embodied in the law for a reason – to protect tourists and other transient visitors on the one hand, to protect residents and residential housing on the other.

It makes no sense to think that visitors to our City, no matter how we welcome them, will fit in seamlessly in our residential multiple dwellings. We conduct ourselves differently when we are within the building where we make our home. We put out welcome mats, leave our children's tiny wet snowboots in the hallway to dry, park a bike or a sled, and expect our newspaper to lie undisturbed until we pick it up. After all, we don't live in a transient hotel. We recognize our neighbors.

If we weaken or fail to enforce the existing laws and regulations against illegal hotel activity, we are in effect forcing thousands of citizens to live as if they are in a transient hotel. And, moreover, we are opening the doors to arbitrage – the hijacking and repurposing of

residential housing for non-residential purposes. In the context of residential vacancy rates that have hovered near or below 3 percent for decades, this outcome would be unacceptable.

By the same token, prompted both by forethought and sometimes by tragedy, we have developed a complex and effective system of fire, health and safety codes to protect consumers in our city – including tourists and visitors. Stronger fire codes, security requirements, and other safety features in hotels and transient housing are enforced because experience has taught us they are both wise and necessary.

I understand some view the business model represented by many of the companies under discussion today as forward-thinking and progressive, and even creatively transgressive of current hotel business models and the current regulatory framework. It is certainly the case that sometimes, truly innovative new business models run afoul of pre-existing rules in ways the writers of those rules did not expect. Sometimes, rules must change to accommodate innovation. But in the case we're discussing today, the rules as they are written are no accident. Before anyone had heard the word "internet," New York had laws preventing class-A residential housing from being rented to short-term visitors. Their purpose was to protect both our housing stock and residents.

The scenario we are discussing today is one that we see time and time again in government. A business comes along whose practices run wildly counter to laws and regulations that were written to protect consumers and residents and protect a resource of crucial importance to our city – in this case, preserving housing inventory for permanent residents. The business tries, through every means at its disposal, to carve holes in the regulatory system to accommodate its business model and enable the realization of enormous profits.

This is an important test. Will we allow the financial interests of these businesses to trump the needs of New Yorkers; to risk, by flouting regulations, the lives and safety of tenants as well as visitors, and most critically, to add to the pace at which regulated and affordable housing is disappearing? Without the defense of our existing laws, and robust enforcement of our City regulations, that is just what will happen.

The businesses that seek to weaken or permit exceptions to our laws are well funded and powerful. And the data released last year by the Attorney General shows that a disproportionately large share of the apartments being illegally used as transient hotels, and held off the rental market, are controlled by a small group of owners. You have heard compelling data from the testimony before me, and will hear much more from the witnesses following me, regarding the number of units at stake and how this practice adds to the loss of our fast-diminishing stock of affordable housing.

My staff and I, however, have also heard over the years from victims suffering most directly from the growth of so-called “apartment sharing” in the City. Many tenants face serious nuisance conditions from noise, garbage, and unwanted traffic. The elderly and families with very young children are particularly made to feel unsafe by the constant streams of strangers in the lobbies and hallways of their building. But the greatest problem is the threat to tenants by owners who hope to vacate as many units as possible, or even entire buildings, to then be used as transient, illegal hotels. Over the years I, my staff, and my fellow Manhattan elected officials have all encountered cases where landlords harassed tenants or refused to renew leases, all in an attempt to clear out units for more lucrative use as illegal hotel rooms. We have even seen cases where a landlord’s use of an apartment as an illegal hotel room functioned as a harassment tactic

aimed at neighboring tenants. For the sake of these New Yorkers, I urge this Committee to demand greater funding for enforcement of our laws and regulations in this area.

Having spent eight years chairing the Council's Science and Technology Committee, I am confident you will find no stronger voice for the application of new technology throughout the City than I. But, despite what some claim, this is fundamentally not an issue of accommodating and applying new technology. This is the continuation of a very old fight, and it's a fight to protect our housing. Preserving affordable housing, and keeping all our housing safe and healthy for all New Yorkers, must be our first and overriding goal.

Thank you.