



For Immediate Release
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Assemblymember Linda B. Rosenthal Announces Introduction of Legislation to Close Super tower Mechanical Voids Loophole

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New York, NY – Assemblymember Linda B. Rosenthal (D/WF-Manhattan) announced the introduction of state legislation (A.5026) to close the mechanical void loophole, which is increasingly exploited by building developers. Void space is not currently counted toward total building height, and is traditionally used to house mechanical infrastructure, such as HVAC. Building developers have begun to use void space to work around local zoning, and in some cases add upwards of 150 feet of total height to their buildings, creating higher selling and rental prices for upper floor units. The legislation is being introduced in the Senate by Senator Robert Jackson.

“There are no limits to the universe of some developers’ chicanery, and for the sake of our city’s communities it is imperative we address these subversive maneuvers head on. The mechanical void loophole is as brazen a developer parlor trick as it gets, and it is vital that the State step in to fill the regulatory void that exists,” said Assemblymember Linda B. Rosenthal. “While New York City has taken a first step at addressing the void issue, the state effort in addition to being more comprehensive, also better anticipates the new ways that developers are likely to exploit the regulation in the future.”

Assemblymember Rosenthal’s legislation will amend the New York State Multiple Dwelling Law. The bill will require that all void space exceeding either 5% of the total building height or 20 feet be counted toward total floor-area-ratio (FAR). After that, each additional 12 feet of void space height will be counted as an additional floor for the purposes of calculating total FAR. Further, the legislation will count any ceiling height in excess of 12 feet as an additional floor. And, the legislation will also ensure that open space, such as balconies and terraces not bordered by four walls, be counted toward total FAR. These changes will ensure current and future development abides by both the letter, and spirit, of the law.

“Where most New Yorkers see clouds, developers look up and see opportunity. Local zoning is designed to preserve the character and integrity of communities, and guard against developer overreach. When glaring loopholes emerge it is incumbent on us to take action to address the issue. In so doing, we must ensure we not only address the tricks of recent past, but that we cast a net wide enough to prevent these maneuverings in the future,” said Assemblymember Linda B. Rosenthal.

In response to months of mounting pressure, the Department of City Planning recently proposed regulations aimed at closing the mechanical void loophole. The City's proposal though, which is limited only to the City's designated "tower districts," would count any mechanical space taller than 25 feet in height as floor area, with each additional 25 feet counted as another floor. The City's proposal would apply only in R9 or R10 zoning districts, leaving large swaths of the City unprotected.

Senator Jackson, who represents developer hot-spots in Inwood and Washington Heights as well as parts of Harlem, the Upper West Side, Hell's Kitchen, and Chelsea, said: "I am proud to sponsor Assemblymember Rosenthal's comprehensive mechanical void bill in the Senate. This loophole has long been exploited by developers serving not the working people of New York City, but their billionaire clients who often do not even occupy these super-tall buildings. Our legislation at the state level will have a salutary effect for our communities in Manhattan by counting FAR fairly. It represents an important step toward reining in predatory developers."

"Right now developers are bending the rules to the point of breaking with these enormous "voids" that grossly inflate building heights while sidestepping limits on building size. New Yorkers are losing light and air for oversized enclosures no one will ever see, but which lift billionaires' penthouses higher into the sky. The City's bill is supposedly a response to it, but it is so full of loopholes itself as to be almost entirely ineffective. Assemblymember Rosenthal's bill, on the other hand, would actually get at the fundamental problem of space posing as one thing to avoid being counted towards zoning limits when it's really something else. We urge the City to follow the Assemblymember's lead in dealing with this issue, and really address the problem, rather than just giving developers a new way to get around our zoning protections," **said Andrew Berman, Executive Director, Greenwich Village Society for Historic Preservation.**

"The beauty of Assembly Member Linda Rosenthal's bill is its simplicity. Clear for everyone to understand, one wonders why it has taken so long for New York to regulate the basics. Zoning is by definition, a limit, and this is finally being set after years of abuse which have tested public safety. As New York sheds its manufacturing past there is little justification for the excessive mechanical floor area being proposed in construction today. This bill will address the greed, while providing for predictability in planning, which is in the public's best interest," **said Sean Khorsandi, Executive Director, Landmark West!**

"Gaming the system to maximize height through zoning loopholes in New York City's high density residential districts and beyond is fast becoming standard practice. In response there has been a groundswell of momentum from neighborhood-minded advocates looking for a comprehensive policy solution to close the loopholes that contribute to out of scale buildings and negatively impact residential character. The Assembly Member's bill to amend the Multiple Dwelling Law presents a broad new framework for reform that differs but complements the City's local zoning proposal which is focused solely on enclosed mechanical voids. In contrast, this bill would limit mechanical void exemption, address floor-to-ceiling heights, and count certain outdoor spaces as floor area. I am hopeful that the parallel proposal of these two varied approaches to different aspects of the loophole problem will enrich the public discourse around these ideas and lead to more productive, and effective policy outcomes. The character of the neighborhoods that make New York City livable is at stake, and I applaud the Assembly Member for taking this step to move the conversation forward," **said Rachel Levy, Executive Director, Friends of the Upper East Side Historic Districts.**

"Supertall buildings already completed or under construction will cast long shadows in the Park, blocking playgrounds, open fields, pathways and vegetation from sunlight. This bill will prevent builders from

taking further advantage of multiple loopholes in our zoning code that threaten Central Park. We encourage the State to pass this important legislation which will benefit New York for generations to come," **said Holly Rothkopf, Save Central Park NYC.**

"The Multiple Dwelling Law (MDL) is a powerful state law that trumps local zoning. It provides for minimum standards for residential buildings that local jurisdictions must meet in their zoning codes. While the City is addressing issue of mechanical voids through local zoning, this amendment to the MDL closes other zoning loopholes by limiting total mechanical exemptions and floor-to-floor heights. It also requires that outdoor spaces under buildings be counted as floor area, which addresses another void technique not addressed by the City's mechanical void amendment. Without question, if this amendment to the MDL becomes law, it will dramatically impact most, if not all, of the very tall buildings that have been getting so much attention in the City. The MDL is not often amended, and I think it's fair to characterize the proposed amendment as a bold move by the Assembly Member to use the tools at her disposal to address an issue so important to her constituency. I have no doubt her proposal will be met with stiff resistance from the City's real estate community, but the desire to close zoning loopholes in New York is strong among advocates and residents, and this single amendment to the MDL has the potential to shrink or close most of them," **said George Janes, Urban Planner.**

Assemblymember Linda B. Rosenthal is the Chair of the Committee on Alcoholism and Drug Abuse. She represents the 67th Assembly district, which includes the Upper West Side and parts of the Clinton/Hell's Kitchen neighborhoods in Manhattan.

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