



# Assemblymember Linda B. Rosenthal

Reports to the People • 67<sup>th</sup> Assembly District • Winter 2018

## Helping Raise Awareness about Lymphedema

Lymphedema is a chronic and debilitating disease that afflicts nearly 10 million Americans. While some people are born with lymphedema, it most often results from damage to the lymphatic system and can cause extreme and painful swelling of the extremities. Lymphedema often occurs in people who have had their lymph nodes removed, and a full 30% of all breast cancer survivors develop lymphedema following treatment.

Though lymphedema is widespread, particularly among cancer patients and survivors, it is often misunderstood and underdiagnosed by medical professionals. Many cancer survivors are not made aware of their risk for developing lymphedema, and it can take months or even years for people who do develop it to receive a proper diagnosis.

I am working to change that. A law that I authored now requires hospitals to provide patients at high risk for developing lymphedema with information about the disease and available treatment options.

Knowledge is power, and patients cannot effectively fight a disease they do not even know they have. In addition, if we ever want to be successful in finding newer, more effective treatments and eventually a cure, we must know which and how many patients struggle with the disease. Following cancer, lymphedema can feel like a one-two punch, but arming patients and medical professionals alike with information about the disease is one of the first steps toward effective management. I will continue to advocate for people with lymphedema as researchers search for a cure.

## Taking on Supertall Towers

All across the city and right here on the West Side, new buildings are rising to unprecedented heights. Using a variety of legal loopholes, developers and building owners are stretching building heights to their legal limits and beyond in a race to maximize views and fetch the highest rents or selling prices. Every new unit of housing built places a burden on existing neighborhood infrastructure, such as schools, streets, transportation and supermarkets, to name a few.

Floor area ratio, or FAR, is a means by which to ensure that building height, bulk and density complement each other without overburdening the existing community, including the street space and the surrounding light and air. Zoning rules require that buildings in specific types of neighborhoods do not exceed a certain FAR. This flexible rule provides developers with a menu of building design options, while also allowing for control over the appearance and density of the building.

Mechanical voids are spaces within buildings, sometimes entire floors, that are used to house electrical infrastructure, such as the HVAC system. Mechanical void space is not counted toward total FAR. Though the needs of each building are different, most standard buildings include mechanical equipment on the roof or in the basement or require only a small percentage of total building spaces.

Some developers, recognizing that void space can be manipulated to maximize building heights and rents, are stretching the amount of void space to construct massive buildings that wouldn't otherwise be allowed by zoning. For example, a new building located at 50 West 66th Street is proposed to rise to 775 feet, in large part because a whopping 23 percent of the building is being dedicated to void space alone.

This building, which is an as-of-right development, will rise to become the tallest on the West Side, and will dwarf the tower at 200 Amsterdam Avenue. A total of 178 feet will be used to house electrical equipment.

I have introduced legislation to close the mechanical void loophole by limiting the amount of space that can be used to house electrical equipment to less than 5% of the total FAR of the building or 20 feet floor to floor. Developers should not be allowed to use void space to build enormous towers that will tax our neighborhood amenities, cast shadows on our beautiful parks and diminish our access to light and air.

*Assemblymember Linda B. Rosenthal with members of Friends of Verdi Square Park at the group's inaugural event at Verdi Square, located at Broadway and Amsterdam Avenue between 72nd and 73rd Streets. The group is committed to restoring and maintaining Verdi Square by cleaning the park, addressing the rodent situation, planting new flowers, redesigning the landscape and investing in new street furniture.*

*Assemblymember Rosenthal is working with this intrepid group to transform the park into a more inviting space for neighbors and visitors alike. For more information or to get involved with this initiative, visit <https://www.friendsofverdisquare.org>. (From L to R: From left Nancy Kaufman, Ada Cini-glio, Assemblymember Linda B. Rosenthal, Evie Joselow, and Founder, Aleya Lehman.)*



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## Dangerous Ponding Condition Addressed at 72nd Street and Broadway

Pedestrians attempting to cross the street outside the entrance to the 1/2/3 subway station at the landmarked head house at 72nd Street and Broadway during or immediately after a rain storm have had to undertake daring and near-acrobatic moves to avoid the severe ponding. After one of the last rainy days, my staff and I witnessed pedestrians scaling the fence around the perimeter of the corner and leaping into ankle-deep water that spanned an entire traffic lane. One elderly woman with a cane was almost hit by a large delivery truck as she attempted to find a safe and dry place to cross the street.

After I pointed out the severe ponding during a walkthrough of the area with the New York City Department of Transportation (DOT), that agency and the New York City Department of Environmental Protection discovered that the catch basins were full of cement, and promised to clear them. (Apparently, a city contractor working to repair a different road condition nearby accidentally allowed concrete to wash into the catch basin and solidify there.)

As a result of your complaints and my advocacy, I am pleased to report that a temporary fix has been implemented to prevent the dangerous ponding. I expect the City to view this as a priority project, and will update you as it progresses. As always, if you notice dangerous conditions on your block or in your neighborhood, please contact my office.



Assemblymember Linda B. Rosenthal was honored by Brooklyn Animal Action, a Brooklyn-based volunteer-led animal rescue organization, at its annual Party for Paws Gala event for her work to protect animals. (From L to R: Claire Corey, Tara Green, Assemblymember Linda B. Rosenthal, Sheri Berman, President, Belinda Copper, Vice President, Donna Erhardt, Cindy Molk and Melinda Allison from Brooklyn Animal Action.)

## 2019 Will be the Year of the Tenant

For years, lawmakers like me and advocates have fought to strengthen protections for tenants and affordable housing. And for years, we have made minor progress but the major victories have eluded us as we came up against the realities of the State Senate, which was, until now, controlled by a coalition of lawmakers who were in the pockets of big real estate and landlords.

Today, with a Legislature that is controlled by two houses with members who care about affordable housing and hardworking New York families, comprehensive housing and tenant protection legislation has never been closer to becoming a reality.

Vacancy deregulation is the single largest contributor to the loss of affordable housing. It actually provides landlords with a legal incentive to harass their tenants into leaving their homes. Vacancy deregulation allows a landlord to deregulate a vacant unit when the rent exceeds \$2,733 a month.

I have long been the sponsor of legislation to repeal vacancy deregulation. For the first time in years, we finally have a real shot at passing my bill to repeal it once and for all.

In addition to repealing vacancy deregulation, we also have an opportunity to provide the dwindling number of rent-controlled tenants with desperately needed relief. Unlike their rent-stabilized counterparts, rent-controlled tenants face bi-annual 7.5 percent rent

## Protecting the Rights of Pregnant Patients

Imagine arriving at a hospital with a broken leg. The doctor recommends that you have surgery to repair the break, and cautions that failure to do so could result in your walking with a limp for the rest of your life. The doctor leaves you to make a decision about your future and your health. When the doctor returns to the examination room, you tell her that you have decided not to have the surgery, despite the consequences. The doctor looks you in the eye, tells you she disagrees with your judgment and wheels you into a surgical suite, despite your firm and repeated protestations.

Of course, this seems as absurd as it is unreal. A situation like this would never occur because doctors are required by law to obtain the patient's informed consent before they perform any procedure on them. If a patient refuses treatment, doctors are required to respect those wishes, and can only override that decision under a limited number of very special circumstances.

That is, unless you are pregnant. All across the country and right here in New York, pregnant patients find that medical providers often perform unnecessary and even dangerous procedures without first receiving their consent.

Right here in New York in 2011 at a Staten Island hospital, Rinat Dray was forced to undergo a Cesarean section against her will. The mother of two wanted to deliver naturally, but alleges

that the doctors at the hospital pressured her to have a C-section. Though Dray refused the procedure, and the doctor's note in her file said the patient was "decisionally capable," the doctor overrode her wishes, and performed the surgery. In addition to the emotional trauma Dray experienced, she sustained significant injury to her bladder during the procedure.

After Dray sued the hospital, it was revealed that the hospital had a secret policy of allowing doctors to override the will of decisionally competent pregnant patients in certain situations.

Pregnant patients do not lose their ability or right to make decisions about their care.

The American College of Obstetricians and Gynecologists (ACOG) and the American Academy of Pediatric both condemned the practice of performing medical procedures against a pregnant person's will. According to ACOG, "Pregnancy is not an exception to the principal that a decisionally capable patient has the right to refuse treatment, even treatment needed to maintain life."

I am working with both organizations and other advocacy groups and patients to craft legislation to ensure that pregnant patients do not lose their rights as a result of their pregnancy. New York State should protect all patients equally, and since that is not the case, this new legislation will make sure that the law works for all.

increases as a result of the application of the arcane and statutorily required Maximum Base Rent (MBR) formula. As a result of the MBR system, rent-controlled tenants, who are among the most vulnerable tenants citywide, often pay rents that are far higher than their rent-stabilized neighbors, and they are least capable of insulating themselves against the increases.

I am the sponsor of legislation that would change the way the rent increases are calculated for rent-controlled tenants. The bill would abolish the MBR system and instead calculate rent increases for rent-controlled tenants by taking the average of the previous five years' rent increases for one-year leases, voted on by the New York City Rent Guidelines Board for rent-stabilized tenants. This bill will make the rent-controlled system more equitable, and help ensure that rent-controlled tenants can stay in their homes and the communities they helped to build.

The rent laws expire on June 15, 2019, and we must seize this opportunity to reform the laws that have helped turn New York City and other parts of the state into playgrounds for the very rich. In addition to repealing vacancy deregulation and providing relief to rent-controlled tenants, we must reform the MCI and IAI systems and put an end to preferential rent and the vacancy bonus. This is the moment that we have been waiting for to create laws that protect our affordable housing and the hardworking people who live here.

## Working to Make Cosmetics Cruelty-Free

Beauty should not be painful, not for people or for animals. It is said that you can judge a society by the way it treats animals. Sadly, if New York were judged by that metric, we would not fare so well. According to some estimates, New York ranks near the bottom of the list of all states in terms of animal welfare laws.

For years, I have been fighting to strengthen the laws that protect animals, and despite making some progress (I have passed at least one law to protect animals every year since I have been in office), more remains to be done.

In addition to working toward banning the inhumane and unnecessary practice of cat declawing and modernizing the cruelty laws that date back to the times when street lights were lit by hand, I am working to make the cosmetics industry more animal friendly.

I am the sponsor of legislation that would ban the sale of any cosmetic product in New York State if the final product or any of its ingredients are tested on animals. Animal testing is a dirty secret, and despite being unnecessary and unhelpful, it is still widely practiced. Some cosmetics companies rub chemicals into the eyes or onto the bare skin of rabbits or other animals to evaluate how the animals react to the irritant. The animals are not provided with any pain relief.

Companies also force-feed animals chemicals to see whether the animals develop any illness or negative effects as a result. Some animals develop serious conditions, like cancer, or experience birth defects as a result of exposure. In the worst cases, animals are force-fed increasing doses of chemicals to determine the level at which the chemical becomes lethal.

In addition to being horribly painful, tests conducted on animals are not entirely predictive of the effects that the chemical components found in cosmetics will have on humans. And, according to the Humane Society of the United States, nearly 50 non-animal tests are validated for use on cosmetic products.

In fact, dozens of cruelty-free companies sell hundreds of products today that are safe for human use and also not tested on animals. We must hold companies to a higher standard, particularly when cruelty-free alternatives exist.

This year, California became the first state in the nation to ban the sale of cosmetic products that are tested on animals. New York has an opportunity to be next by passing my bill.



*Assemblymember Linda B. Rosenthal participates in a panel discussion with Sophia Roe, chef and holistic health and wellness advocate and Jonna Piira, founder of Kali Boxes, for a rousing discussion about how to smash the stigma that still surrounds menstruation. The panel was moderated by constituent Jessica Wu, the founder of PeriodSpace.org, which is an online reproductive health resources site and platform that encourages public discussion about menstruation.*

## The Last Straw?

I have introduced legislation to limit plastic straw pollution in New York State. The bill would require New York State restaurants to make plastic straws available to customers on request only.

Plastic pollution is a major threat to our environment, and many New York State municipalities have banned single use plastic bags locally. I am working to limit plastic bag waste and provide individuals with incentives and support to make the switch to reusable alternatives.

Plastic straws pose a similar, though less well-known threat to the environment. Americans use more than 500 million plastic straws every single day. At this rate, by 2050, the number of plastic straws in our oceans will exceed the number of fish. According to For a Strawless Ocean, an advocacy organization dedicated to reducing plastic straw pollution in our oceans, 71 percent of seabirds and 30 percent of turtles have been found with plastics in their stomachs. A full half of these marine wildlife die as a result.

An outright ban on plastic straws would place too great a burden on individuals with certain disabilities who need plastic, bendable straws to drink. Requiring that plastic straws be made available to customers upon request only will help to achieve a dramatic reduction in their use statewide while also ensuring that those who need straws continue to have access to them. Until this bill becomes law, I encourage all of you who can to use alternatives to plastic straws.

## Reforming the Apartment Security Deposit System

I am developing a package of bills that will help make housing more accessible to more New Yorkers by reforming the apartment security deposit system in New York. For as long as security deposits have existed landlords have exploited the lack of regulation and oversight to abuse the system to enrich themselves at the tenants' expense.

A security deposit is an upfront payment demanded by a landlord from a prospective tenant to insure against any potential damages made to a unit by an outgoing tenant. In theory, security deposits should not be prohibitive, should be returned in full if no damages are made, and the landlord should retain no more than the amount necessary to cover any expenses associated with needed repairs. In practice, security deposits are poorly regulated and the result is an arbitrary process that usually leaves the tenant with no formal recourse to recover lost money.

Landlords often require upwards of two months rent in security, and in a city as unaffordable as New York, many prospective tenants struggle to gather the security, broker and other fees required at an initial lease signing.

According to a report from the office of New York City Comptroller Scott Stringer, New York City tenants spent \$507 million on security deposits in 2016. When landlords refuse to return security deposits for illegal and capricious reasons, tenants are out thousands of dollars.

The higher the security deposit required and the longer it is held, the harder it becomes for low- and middle-income families to find stable and affordable housing.

To address these problems, I will be introducing legislation that will cap the amount a landlord can charge for a security deposit to one month's rent for a one-year lease, and to allow tenants to roll security deposit payments into their monthly rent so the upfront expenditure is not prohibitive. Another bill I am working on will establish the tenancy deposit protection program and will require security deposits to be held by a third party, instead of the landlord. It would also require that landlords and tenants come to an agreement before any portion of the security deposit is withheld for damages, unpaid rent or other fees.

Together, this package of bills will help to level the playing field and ensure that security deposits are not abused by landlords. I will be working closely with Comptroller Stringer on these important pieces of legislation.



Assemblymember Linda B. Rosenthal and State Senator Brian Benjamin join advocates, colleagues in government and 32BJ SEIU members to protest the actions of Global Elite Group, a security contractor in operation at John F. Kennedy International and Newark Liberty International Airports, which had previously been ordered to pay 600 aggrieved security workers \$700,000 for wage violations. Global Elite Group refused to accommodate the requests of two pregnant employees who asked to be moved to security posts during their pregnancies to limit their exposure to airplane exhaust. One of the women lost her job and her home as a result, and the other continued to work in the dangerous conditions. The day after this protest, the State announced an investigation into the company's treatment of pregnant workers.

## Airbnb Moves to Block Transparency, Safety Legislation

In the nearly 13 years that I have represented the 67th Assembly district, I have seen the explosive growth of illegal hotel activity, first in my district on Manhattan's West Side, and then across the City of New York. Illegal hotel activity began as a means by which unscrupulous landlords looking to make a quick buck emptied their buildings – usually single room occupancy or otherwise rent regulated – of nearly all permanent tenants to make room for tourists whose short-term stay was more lucrative to landlords. At their inception, illegal hotels operated in the shadows, hidden from the view of enforcement agencies and elected officials.

Enter Airbnb, which brazenly refuses to comply with the laws designed to protect tenants and affordable housing. Though the Office of the New York State Attorney General estimates that close to half of all Airbnb listings are illegal, Airbnb has helped to commercialize the illegal hotel industry, turning it into a multibillion dollar enterprise.

For years, I and many of my colleagues in government have demanded Airbnb comply with the laws and voluntarily share data about its listings with enforcement agencies to ensure that those listings comply with building, fire and housing codes. Though Airbnb readily

shares this data with regulators in other cities across the country, it has outright refused to do so here in New York.

As a result of Airbnb's intransigence, I introduced legislation that would require Airbnb to disclose listing data to the City's Office of Special Enforcement (OSE). The City Council passed a law, modeled after my state bill, that now requires Airbnb and similar online booking websites to share relevant listing data, including listing address, full host legal name and address and the number of days the unit will be listed.

This information will help OSE ensure units rented through Airbnb and other websites are safe and in compliance with building and fire codes. It will also help OSE protect affordable housing and tenant privacy, safety and comfort.

Predictably, Airbnb sued the City of New York, just as it sued the State (which it lost), to block enforcement of this new law aimed at transparency. I submitted an Amicus Curiae ("Friend of the Court") brief in this case in support of the City's disclosure law, and will continue to fight against illegal hotels, and for affordable housing and tenant protection, in Albany.

New York State Assembly, Albany, New York 12248



# NEWS

from  
Assemblymember  
**Linda B. Rosenthal**

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## 2018 Flu Shot Day



I was pleased to host my 12th Annual Free Flu Shot Day in October at my district office. The great nurses of the Mount Sinai Health System, Barbara Smith, Angela Gabasan and Beverley Witter, inoculated nearly 200 constituents, plus my staff and me against the flu. Thank you, Mount Sinai and Brad Korn, Corporate Director of Community Affairs, for helping to put together such a successful event!