



ANOTHER DAY, ANOTHER NEW LAW

By: Joshua Stein, Principal, Joshua Stein PLLC

*Joshua Stein
Joshua Stein PLLC
501 Madison Avenue, Suite 402
New York, NY 10022
joshua@joshuastein.com
www.joshuastein.com*

Political winds shifted in November. Now, in the first couple months of 2019, it seems our City and State legislators have embarked on a hyperactive binge of proposing or passing new laws.

We hear about bans on plastic bags and plastic straws. Restaurants might have to announce the sugar content of their offerings. Employers might have to give their employees two weeks of paid vacation and stop expecting them to check email at night. The City and its taxpayers might provide healthcare for everyone who doesn't have it already, though it's unclear whether that would actually add anything to what the City already does. It might just rebrand and reorganize things (i.e., temporarily cause chaos).

The City seems about to prohibit use of voids that developers use when they want to build taller buildings. Taller buildings are obviously bad, of course, because New York City is and should always remain a place with only the shortest possible buildings.

The State might make it harder than ever for rental apartment building owners to preserve and upgrade their properties or achieve market rents, all to "save" low rents for some people. New multifamily buildings might need to set aside a percentage of apartments for the homeless. The City or State might impose a tax on vacant stores. Even in the face of record-high vacancy and declining rents for retail space, the City or State might help out by requiring rent arbitration for commercial lease renewals.

All those new ideas for new laws have been thrown into the mix, or in a few cases suggested again with new vigor, only since January 1. They follow other recent enactments such as paid sick

leave, complex scheduling rules for fast food employees (here come the iPad ordering kiosks!), mandatory annual disclosures on "wage theft," requirements on lactation rooms for nursing mothers, foreclosure disclosure procedures that further complicate and obfuscate the process, and plastic foam prohibitions. And the City and State recently passed separate and different new laws on sexual harassment—requiring even the smallest employers to make mandatory disclosures and conduct regular sexual harassment training programs.

Every new law means well. It seeks to solve some problem or protect someone from something. But each new law also imposes costs and burdens. At a minimum, it adds complexity, potential penalties and distraction resulting from the need to understand and comply. And with each new law the City or State, whose hands are already quite full, takes on yet another mission to improve the world. That means more employees, more inquiries to government agencies (more unanswered phone calls) and more guidelines, announcements and signs. That costs more money and will help worsen the next budget crisis for a City and State that already impose some of the highest taxes in the country.

Lawmakers should consider curbing their enthusiasm. There ought to be a law against any more new laws for a while. Instead, the legislators ought to take a hard look at the many laws and programs that already exist, and try to get rid of or fix some that no longer make sense or impose a burden not justified by the benefits created.

As just one tiny example, the City recently passed a great new law to protect freelancers. It requires written contracts for every assignment above a certain low threshold. Those contracts must

state the compensation structure and timing of payment for any independent contractor. This all sounds perfectly reasonable. But the split payable to real estate salespersons and brokers—all typically independent contractors—is often somewhat fluid, depending on the circumstances of each deal. It's not so simple to document the compensation structure for real estate licensees. But the new law now requires it, even though real estate brokerage rarely suffered from whatever nonpayment issues drove the new law. Maybe the City ought to take a look at whether the new law really needs to cover real estate licensees and, if not, trim back the law—a very easy fix.

The alcoholic beverage law, which tries to protect children from alcohol and adults from alcoholism, has paved the way for all kinds of weird regulations. Do we really need all of them? Is there really something horribly wrong with a liquor licensee operating within a few hundred feet from the entrance of a church?

Speaking of churches, do we really need to prohibit parking, 24 hours a day, in front of every house of worship? A lot of other places don't have that rule. Does it serve some special purpose in New York, beyond generating parking ticket revenue?

Questions like these could go on and on, focusing on City and State laws from the mundane to the quasi-constitutional. Instead of asking such questions, it seems our City and State legislators instead display endless irrational exuberance about creating new laws and new programs, as if they were all free.

They aren't.