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The Honorable Mathieu Eugene
Chair, New York City Council Committee on Civil & Human Rights
The Honorable Steven T. Levin
Chair, Committee on General Welfare
250 Broadway
New York, NY 10007

Re: Intro. 2047

Dear Chair Eugene and Chair Levin:

I write on behalf of the Consumer Data Industry Association (“CDIA”) to oppose Intro. 2047, a bill that would ban the criminal history in housing by landlords, state brokers, and their companies or agents. The bill would pose significant risks to the safety of tenants and buildings in apartments across New York City. Increased crime in and to apartment buildings is an experience shared by other cities that have passed similar bills, but no city has gone as far as that proposed in Intro. 2047.

The Consumer Data Industry Association is the voice of the consumer reporting industry, representing consumer reporting agencies, including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals and to help businesses, governments, and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition, and expanding consumers’ access to financial and other products suited to their unique needs.

1. The Seattle ordinance shows increased crime following the passage of its Fair Chance law

Intro. 2047 goes beyond laws in other cities, including Seattle’s Fair Chance Employment Ordinance. The Seattle ordinance allows landlords to consider criminal history information in certain limited circumstances.¹ Following the passage of the ordinance, at least one large building in Seattle experienced a spike in crime in the building

¹ Seattle Code Sec. 14-17-005 *et seq.*

and damage to the building. GRE Downtowner owns a 254-unit apartment building in downtown Seattle called The Addison on Fourth. As a result of the Fair Chance law, GRE stopped conducting criminal background checks on prospective tenants in The Addison. Following the law went in to effect and background checks stopped, 911 calls to the The Addison more than doubled. According to the property owner, following the Seattle ordinance, fights have broken out in the lobby of the building; used needles, trash, and feces are left in stairways and hallways; and fire alarms are being set off repeatedly in the middle of the night.²

In response to the increased crime following the effective date of the Fair Chance Employment Ordinance, The Addison's management was forced to install cameras in the hallways on every floor and in other public areas. Management also had to upgrade the door hardware, install a controlled access system for the elevator, and give residents fobs that allow them access only to their floor. Management also had to replace the main lobby door. The Addison had to hire additional janitors and armed security guards. These new security measures have significantly increased operating costs, yet problems remain rampant and The Addison's annual insurance deductible has climbed from \$5,000 to \$100,000. Building managers started to keep a growing list of individuals banned from the building for starting fights or damaging property. A staff member was assaulted at the property as well. Employees are afraid to work alone, so they now work in teams. Turnover is 400 percent.

In short, as a result of the inability of GRE to conduct criminal checks as it had before, "The Addison is in serious jeopardy. The five on-site managers are not social workers. They are persons trying to meet GRE's goal of providing safe, clean, comfortable, stable, and affordable housing for low-income Seattle residents. The ordinance is unlawfully hindering achievement of that goal."³

The Addison is not unique in its problems following the loss of criminal history information of tenant applicants. The [Washington Multifamily Housing Association](#) published an [update for its members](#) early in 2020. That update notes that following passage of the Seattle Fair Chance ordinance, overall denials increased 8%. Another landlord had one tenant that caused \$186,000 in damage and costs during his tenancy that, had the landlord been able to delve deeper into that tenant's criminal past, may have

² *Yim v. Seattle*, U.S.D.C. (W. Dist. Wash.), GRE Downtowner, LLC's motion for leave to file brief as amicus curiae in support of plaintiff's motion for summary judgment and in opposition to defendant's cross-motion for summary judgment (May 22, 2020) ("[Downtowner Brief](#)").

³ *Id.*

resulted in a different rental decision at the time of application. A tenant at yet another property had fugitive warrants for burglary when he stabbed a guest in the building in the chest over a cell phone.

2. Potential legal implications

Intro. 2047 goes beyond laws in other cities, including Seattle. The Seattle ordinance at least allows landlords to consider criminal history information in some minimal circumstances. Unfortunately, the Seattle law violates the U.S. Constitution and the federal Fair Credit Reporting Act (“FCRA”). At the hearing on Intro. 2047, there was some discussion about the Seattle litigation where plaintiffs and *amici* are contesting the law on Constitutional and statutory grounds. This case has moved back and forth between federal and state courts, and while the Washington Supreme Court raised the bar for the plaintiffs to prove their case, the case remains pending. Recently, litigation was filed in federal court in Minnesota, challenging Minneapolis’ Fair Chance law.⁴ The Portland ordinance is also under challenge.⁵

3. Conclusion

The Seattle experience shows how Intro. 2047 would pose significant risks to the safety of tenants and buildings in apartments across New York City. Increased crime in and to buildings is an experience shared by other cities that have passed similar bills, but no city has gone as far as that proposed in Intro. 2047.

We are happy to answer any questions you may have.

Sincerely,



Eric J. Ellman
Senior Vice President, Public Policy & Legal Affairs

⁴ *301, 712, 2103 and 3151 LLC et al. v. Minneapolis*, No. 0:20-cv-01904 (U.S. Dist. Ct., D. Minn).

⁵ *Newcomb v. Portland*, No. 3:20-cv-00294 (U.S. Dist. Ct., D. Ore.).