

No. \_\_\_\_\_

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In the  
**Supreme Court of the United States**

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G-MAX MANAGEMENT, INC., *et al.*,  
*Petitioners,*

v.

STATE OF NEW YORK, *et al.*,  
*Respondents.*

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**On Petition for Writ of Certiorari  
to the United States Court of Appeals  
for the Second Circuit**

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**PETITION FOR WRIT OF CERTIORARI**

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April 18, 2024

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## QUESTIONS PRESENTED

New York’s Housing Stability and Tenant Protection Act of 2019 transforms a temporary rent-regulation system into a permanent expropriation of vast swaths of private real estate, without just compensation, in the name of “affordable housing.” Among other things, the Act prohibits owners—even of small and mid-sized apartment buildings like Petitioners—from reclaiming rental units for their own personal use, and grants tenants a collective veto right over condo/co-op conversions. As Justice Thomas has observed, the constitutionality of regimes like New York’s is “an important and pressing question” that has divided the courts of appeals and should be addressed in “an appropriate future case.” *74 Pinehurst LLC v. New York*, 2024 WL 674658, at \*1 (U.S. Feb. 20, 2024) (statement respecting denials of certiorari). Although case-specific vehicle concerns may have dissuaded the Court from granting other recent petitions that sought to challenge the constitutionality of rent-control regimes in general, this case is based on a substantially different record, targeting only a specific set of amendments to New York’s regulatory regime, and thus provides an ideal vehicle for this Court’s review.

The questions presented are:

1. Whether New York’s rent-regulation laws, and in particular its new restrictions on owner reclamation and condo/co-op conversions, effect physical takings.
2. Whether this Court should overrule *Penn Central* or at least clarify the standards for determining when a regulatory taking occurs.

## **PARTIES TO THE PROCEEDING**

Petitioners Jane Ordway and Dexter Guerrieri, G-Max Management, Inc., 1139 Longfellow LLC, Green Valley Realty LLC, 4250 Van Cortland Park East LLC, 181 W. Tremont Associates LLC, 2114 Haviland Associates LLC, G. Siljay Holding LLC, 125 Holding LLC, J. Brooklyn 637-240 LLC, and 447-9 16th LLC were appellants in the Second Circuit.

The State of New York, Attorney General Letitia James, New York State Division of Housing and Community Renewal Commissioner Ruthanne Visnauskas, and New York State Division of Housing and Community Renewal Deputy Commissioner Woody Pascal were appellees in the Second Circuit.

Community Voices Heard and New York Tenants & Neighbors appeared in the Second Circuit as intervenors supporting appellees.

**CORPORATE DISCLOSURE STATEMENT**

G-Max Management, Inc., 1139 Longfellow, LLC, Green Valley Realty LLC, 4250 Van Cortland Park East, LLC, 181 W. Tremont Associates, LLC, 2114 Haviland Associates, LLC, G. Siljay Holding LLC, 125 Holding LLC, J. Brooklyn 637-240 LLC, and 447-9 16<sup>th</sup> LLC have no parent corporations, and no publicly held corporation owns 10% or more of the stock of any of these entities.

### **RELATED PROCEEDINGS**

The following proceedings are directly related to this petition under Rule 14.1(b)(iii):

- *Building & Realty Inst. of Westchester & Putnam Counties, Inc. v. New York*, Nos. 21-2526, 21-2448, 2024 WL 1061142 (2d Cir. Mar. 12, 2024). Judgment entered March 12, 2024.
- *Building & Realty Inst. of Westchester & Putnam Counties, Inc. v. New York*, No. 19-cv-11285, 2021 WL 4198332 (S.D.N.Y. Sept. 14, 2021). Judgment entered September 14, 2021.

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## **PETITION FOR WRIT OF CERTIORARI**

Petitioners respectfully ask this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case.

### **OPINIONS BELOW**

The opinion of the court of appeals (App.1–17) is available at 2024 WL 1061142. The opinion of the district court (App.18–130) dismissing Petitioners’ claims is available at 2021 WL 4198332.

### **JURISDICTION**

The Second Circuit issued its opinion on March 12, 2024. This Court has jurisdiction under 28 U.S.C. § 1254(1).

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The Takings Clause of the Fifth Amendment, which applies to the States through the Fourteenth Amendment, provides: “Nor shall private property be taken for public use, without just compensation.”

Relevant provisions of New York law, as amended by the Housing Stability and Tenant Protection Act of 2019, are reprinted at App.227–88.

### **INTRODUCTION**

The Takings Clause prevents the government from stripping property owners of their right to exclude others from their property—a right of “central importance” to the very concept of property ownership. *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 150 (2021). The core question in this case is whether that



fundamental protection applies to laws that effectively nullify a landlord’s right to evict tenants—*i.e.*, to exclude third parties and repossess private property as the owner’s “sole ... dominion,” which is “one of the most treasured rights” of private property ownership. *Id.* at 149 (quotation marks omitted). Under a proper understanding of the Takings Clause and this Court’s precedents, the answer to that question should be easy: a taking is a taking, regardless of whether it can be characterized as a regulation of the landlord-tenant relationship. Governments do not have carte blanche to transform private property into state-controlled housing stock without just compensation.

Based on a misreading of this Court’s decision in *Yee v. City of Escondido*, 503 U.S. 519 (1992), however, a number of lower courts, including the Second and Ninth Circuits, have held just the opposite—creating a circuit split and opening a gaping hole in the Fifth Amendment’s vital protections for private property. Indeed, the Second Circuit has expressly carved out a landlord-tenant exception to this Court’s recent decisions in *Cedar Point* and *Horne v. Department of Agriculture*, 576 U.S. 350 (2015), declaring that “neither case is relevant given neither ‘concerns a statute that regulates the landlord-tenant relationship.’” App.7 (quoting *Cnty. Hous. Improvement Program v. City of New York*, 59 F.4th 540, 553 (2d Cir.), *cert. denied*, 144 S. Ct. 264 (2023)).

As Justice Thomas recognized, this issue warrants this Court’s intervention. *74 Pinehurst LLC v. New York*, 2024 WL 674658, at \*1 (U.S. Feb. 20, 2024) (statement respecting denials of certiorari). While Justice Thomas expressed concern that prior

challenges to New York’s regime were too “generalized,” *id.*, this petition identifies specific regulations that effect physical takings with respect to specific Petitioners, whose allegations make clear how their right to evict tenants has been eviscerated.

This petition also provides the Court with an opportunity to reconsider *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978). If New York’s unprecedented regulatory regime does not go “too far,” *Horne*, 576 U.S. at 360 (quoting *Pa. Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922)), it is difficult to imagine what would. The decision below highlights the grave problems with *Penn Central’s* “ad hoc” framework for assessing regulatory takings, which has no basis in the text or original understanding of the Constitution. Moreover, in application it has become a rubber stamp for confiscatory government policies, which was surely never this Court’s intent.

## STATEMENT

### A. Background

#### 1. New York’s “Temporary” Rent Regulation Regime.

From a historical perspective, rent regulation in the United States is a modern affair. Begun as an emergency wartime measure, several cities and states adopted temporary rent-control or eviction-control measures in the World War I era. Zachary Bray, *The New Progressive Property and the Low-Income Housing Conflict*, 2012 B.Y.U. L. Rev. 1109, 1140 (2012). During World War II, the federal government

briefly introduced rent controls as part of its general wartime price-control program. *Id.*

Anticipating the withdrawal of federal rent control following World War II, the State of New York passed the Emergency Housing Rent Control Law in 1946 “to prevent speculative, unwarranted and abnormal increases in rents.” 1946 N.Y. Laws, ch. 274, § 1 (reproduced at N.Y. Unconsol. Law § 8581 *et seq.*). In 1962, the state legislature authorized municipalities to enact rent regulations. Local Emergency Housing Rent Control Act, 1962 N.Y. Laws ch. 21, § 1 (reproduced at N.Y. Unconsol. Law § 8601 *et seq.*).

New York City did not adopt rent regulations until 1969, when the City Council passed the Rent Stabilization Law (“RSL”). N.Y.C. Admin. Code § 25-501 *et seq.* Upon enacting the RSL, the City Council declared that a “serious public emergency continues to exist in the housing of a considerable number of persons.” N.Y.C. Admin. Code § 25-501. The City Council stated that “the transition from regulation to a normal market of free bargaining between landlord and tenant, while still the objective of state and city policy, must be administered with due regard for such emergency.” *Id.* Notably, this declaration of a public emergency came just eight years after New York City enacted restrictive zoning measures limiting both the size of buildings and occupancy, thereby reducing the City’s capacity to house people by four-fifths.<sup>1</sup>

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<sup>1</sup> Mihir Zaveri, *Why It’s So Hard to Find an Affordable Apartment in New York*, N.Y. Times (Aug. 1, 2022); N.Y. City Planning Comm’n, *Rezoning New York City: A Guide to the*

Notwithstanding its own contributions to the housing shortage and the RSL's stated policy objectives, the City Council—as required—renewed its finding of a “public emergency” triennially for half a century. N.Y. Unconsol. Law § 8603.

## **2. The 2019 Amendments and Their Effect on Petitioners' Property.**

With the passage of the Housing Stability and Tenant Protection Act of 2019 (“the 2019 Act”), the New York State Legislature abandoned any pretense of ever returning to a free-market system. The 2019 Act is not premised on any “emergency.” Indeed, the very purpose of the Act is to “[p]rovide *permanent* rent regulation.” *A08281 Memo*, N.Y. STATE ASSEMBLY, <https://bit.ly/3MEgvPt> (emphasis added). The Act accomplishes this by repealing key provisions of the RSL and adding draconian new restrictions, thereby transforming what began as a temporary wartime measure into a sweeping regime that converts private property into public housing stock indefinitely.

*First*, lest there be any doubt as to the Legislature's desire to permanently enshrine rent control, the 2019 Act repeals the sunset provisions that required the Legislature to periodically reconsider the need for “emergency” regulation. 2019 N.Y. Sess. Laws § 6458, Part A.

*Second*, the 2019 Act repeals the RSL's “luxury decontrol” provisions, which allowed landlords to

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Proposed Comprehensive Amendment to the Zoning Resolution of the City of New York (1959), *available at* <https://archive.org/details/rezoningnewyorkc00newy> (describing the 1961 zoning overhaul).

remove a unit from the RSL's rent-control and eviction-control regime once the monthly rent reached a specified value and the tenant vacated or once the tenant's income equaled or exceeded a statutory threshold. *Id.* at Part D, § 5. At the same time, absent a specific exception, rent-stabilized tenants retain the right to renew their leases continually—and can pass that right on to a wide range of successors (including but not limited to relatives by blood or marriage), who can in turn name their own successors, *ad infinitum*. See N.Y. Comp. Codes R. & Regs. tit. 9, § 2523.5(a), (c)(1) (renewal right); *id.* § 2520.6(o) (successor definition).

*Third*, the 2019 Act sharply restricts the circumstances under which owners can reclaim rent-regulated units for use as a primary residence, limiting them to a single unit per building and then only upon a showing of “immediate and compelling necessity.” 2019 N.Y. Sess. Laws § 6458, Part I. Before the 2019 Act, owners could recover more than one unit to use as their own home and could do so without demonstrating any “necessity,” let alone an “immediate and compelling necessity.” See *id.*; *Kokot v. Green*, 836 N.Y.S. 2d 493, 2007 WL 283081, at \*5 (N.Y. Civ. Ct. 2007) (Table). Now, absent exigent circumstances, *tenants* (and their designated successors, in perpetuity) have the power to exclude *owners* from the property the owners nominally own. See N.Y.C. Admin. Code §§ 26-511(c)(9)(b), 26-408(b)(1); N.Y. Comp. Codes R. & Regs. tit. 9, § 2524.4(a). This new rule applies even if the owner already commenced the reclamation process in reliance on the prior regime. 2019 N.Y. Sess. Laws § 6458 Laws, Part I § 5.

*Fourth*, the 2019 Act prohibits owners from converting rent-regulated and free-market rental properties into cooperatives or condominiums without majority tenant approval. *Id.* at Part N. Before the 2019 Act, property owners could exit the rental market by securing purchase agreements for 15% of their apartments, either from current tenants or *bona fide* outside purchasers who intended to occupy units upon vacancy. Then, as soon as tenants vacated the unsold units, the landlords could sell those units too. *See* N.Y. Gen. Bus. Law § 352-eeee (2018). Now, however, a property owner can exit the rental market via a condo/co-op conversion only by securing purchase agreements for 51% of apartments, *all* from current tenants. In other words, the tenants—not the property owner—get to decide whether the owner can convert its property.<sup>2</sup>

*Fifth*, the 2019 Act significantly limits owners' ability to account for rising costs through rent increases, even where those increases would not impact existing tenancies or lead to rents above the government-sanctioned rate. Before the 2019 Act, for example, owners could increase rents upon vacancy subject to the approval of rent guideline boards. N.Y. Unconsol. Law § 26-510. The 2019 Act, however, repealed these provisions. 2019 N.Y. Sess. Laws § 6458, Parts B & C. The Act now caps annual rent

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<sup>2</sup> The year after the 2019 Act, the aggregate value of condominium conversions fell 99% from \$600 million to \$6 million. *See* Steven L. Newman Real Estate Inst., Baruch Coll., CUNY, NYC Condominium and Cooperative Conversion: Historical Trends and Impacts of the Law Changes 8 (May 5, 2021), *available at* <https://tinyurl.com/284xca7r>.

increases for rent-controlled units at the average of the previous five years of increases authorized for rent-stabilized apartments and precludes property owners from adjusting rents to account for rising fuel costs. *Id.* at Part H. The 2019 Act even penalizes owners who had voluntarily offered a “preferential rent” (*i.e.*, a rent below the legal regulated rent) by prohibiting those owners from raising rent to the full government-sanctioned rate upon renewal, even if the owner agreed to the discount before the 2019 Act took effect. *See id.* at Part E.

*Sixth*, the 2019 Act handicaps owners’ ability to invest in the upkeep of their properties by limiting rent increases that account for renovations and improvements. In addition to limiting rent increases generally, the Act significantly lowers the rent increase cap for major capital improvements (“MCIs”)—such as the installation of a new roof, elevators, or boilers—and eliminates increases for MCIs altogether for buildings comprised less than 35% of regulated units. 2019 N.Y. Sess. Laws § 6458, Part K. Further, the 2019 Act makes these rent increase caps retroactive by applying the new caps to any MCIs approved since June 2012. *Id.* at Part K, § 5. For individual apartment improvements—such as new appliances, flooring, or air conditioners—property owners can increase rents only in the amount of \$15,000 per apartment over a 15-year period. *Id.* There is no exception for substantial renovations, like plumbing projects, which are typically necessary after a long tenancy. Landlords unable to absorb costs in excess of \$15,000 over a 15-year period will need to either offer subpar units or take units off the market.

Neither option furthers the Legislature’s goal of maintaining quality, affordable housing stock.

*Seventh*, the Act imposes other significant new limits on evictions for both rent-regulated and non-regulated apartments. These amendments, *inter alia*, extend the period for staying evictions from six months to a year and require the court to vacate an eviction warrant if the tenant pays the full amount of unpaid rent at any time before an eviction warrant’s execution (unless the landlord can prove that the tenant withheld the rent in bad faith). *Id.* at Part M, §§ 5, 19, 21, 25.

Petitioners Jane Ordway and Dexter Guerrieri own an eight-unit apartment building in Brooklyn. App.189 ¶ 168. The other Petitioners are small businesses that each own small to mid-size apartment buildings in New York City and Yonkers. App.144–49 ¶¶ 22–40.

The 2019 Act has substantially infringed on the property rights of all Petitioners. App.176 ¶ 127. Take Ms. Ordway and Mr. Guerrieri. After devoting considerable time and expense to repairing their eight-unit building, the two decided to recover a first and second floor unit for themselves. App.190–91 ¶ 170–71. Rather than continue living in two units separated by a public hallway, Ms. Ordway and Mr. Guerrieri planned to consolidate units on the first two floors of the building into their long-term home by also recovering the first-floor garden unit upon the expiration of its tenant’s lease. App.190–91 ¶ 171. But the garden unit’s tenant—a successful businessman and professional athlete—refused to vacate when his lease expired. App.191 ¶ 172. And



while Ms. Ordway and Mr. Guerrieri initiated owner-occupancy holdover proceedings in September 2018, which had progressed past the midway point by June 2019, the Act's new restrictions forced an abrupt end to Ms. Ordway's and Mr. Guerrieri's previously lawful consolidation efforts. App.191–92 ¶ 173. Because of the 2019 Act, Ms. Ordway and Mr. Guerrieri cannot recover their own property for their personal use.

Petitioners are also struggling to operate their small residential buildings for even a marginal profit. The 2019 Act's elimination of rent increases upon vacancy and limits on recoverable spending for improvements have forced both 181 W. Tremont Associates, LLC, and 125 Holding LLC to take deteriorating units off the market, and Brooklyn 637-240 and 447-9 16th LLC will need to do the same soon. App.184 ¶ 154; App.194–96 ¶¶ 180–85; App.197–98 ¶ 190. And, thanks to the 2019 Act's nearly impossible requirements for co-op/condo conversions, Petitioners can no longer avail themselves of that alternative. While several Petitioners believed their buildings were suitable for conversion into co-ops or condominiums and had anticipated carrying out such conversions, that option is no longer feasible due to the 2019 Act's requirement of majority tenant approval. *See, e.g.*, App.171 ¶¶ 113–15; App.182 ¶ 149; App.187–88 ¶ 163; App.195 ¶ 181; App.196 ¶ 186.

### **B. Proceedings Below**

Petitioners filed suit in the Southern District of New York on January 23, 2020, alleging, *inter alia*, that the Act effected a taking both facially and as applied. The District Court had jurisdiction under 28 U.S.C. § 1331. The District Court dismissed

Petitioners' complaint, and Petitioners timely appealed.

The Second Circuit affirmed the dismissal of Petitioners' claims. The court found no physical taking because Petitioners entered the rental market voluntarily (albeit long before the 2019 Act) and can (at least in theory, albeit under very limited circumstances) evict tenants. *See* App.6–7. As in the Second Circuit's prior decision in *Community Housing*, the court emphasized *Yee's* statement that localities have "broad power to regulate housing conditions in general and the landlord-tenant relationship." App.6 (quoting *Yee*, 503 U.S. at 528–29). Because neither the co-op/condo conversion amendments nor the extreme limitations on owner reclamation were *completely* "unconditional" impediments to owners' exercise of their rights, the court held, they could not constitute physical takings. App.7 (quoting *Cnty. Hous.*, 59 F.4th at 552). The court also stated that Petitioners' "reliance on *Cedar Point ... and Horne*" was "misplaced because neither case is relevant given [that] neither 'concerns a statute that regulates the landlord-tenant relationship.'" App.7 (quoting *Cnty. Hous.*, 59 F.4th at 553).

With respect to Petitioners' as-applied physical takings claims, the court focused on Ms. Ordway and Mr. Guerrieri's efforts to recover their property for personal use. The court observed that the 2019 Act allows a landlord to terminate a tenant's lease on several grounds, "such as for failing to pay rent, creating a nuisance, violating the lease, or using the property for illegal purposes." App.8 (quoting *74 Pinehurst LLC v. New York*, 59 F.4th 557, 563 (2d

Cir. 2023)). Ignoring the fact that all of those grounds are beyond the landlord’s control—and without identifying any ground that would be available to Petitioners—the court asserted that Petitioners had failed to plead an as-applied physical takings claim because they had not “demonstrated that they have attempted to use all available methods to either exit the rental market or evict tenants.” App.8. The court did not separately address the as-applied physical takings claims of the Petitioners who had been effectively foreclosed from pursuing condo/co-op conversions.

Applying *Penn Central*’s “flexible ‘ad hoc’” test, the court also affirmed the dismissal of Petitioners’ regulatory takings claims. App.9. With respect to the facial regulatory takings claim, the court concluded that Petitioners had not plausibly alleged that every owner of a rent-stabilized property had suffered an adverse economic impact or an interference with investment-backed expectations and that “the character of the government action sought to promote general welfare and public interest through a ‘comprehensive regulatory regime that governs nearly one million units,’” App.9 (quoting *Cnty. Hous.*, 59 F.4th at 555)—as if the sheer scale or purported intent of a taking could render it not a taking. Regarding the as-applied regulatory takings claims, the court agreed with the District Court’s finding that certain of Petitioners’ claims were not prudentially ripe because of the potential availability of hardship exemptions for modest rent increases and because of the theoretical possibility that a landlord could get majority tenant approval for a condo/co-op conversion. App.10–11. On the merits, the court below acknowledged that

Petitioners “alleged specific facts” showing a negative economic impact, but the court reasoned that any reasonable investor would have anticipated the possibility of regulatory changes and that the character of the legislation, which had the stated purpose of serving the public interest, “weighs strongly against [Petitioners’] claims.” App.11–12.

### **REASONS FOR GRANTING THE PETITION**

#### **I. The Second Circuit’s Decision Deepens A Circuit Split Regarding The Physical Takings Doctrine.**

##### **A. Courts Are Divided Over Whether Regulations That Generally Prohibit Landlords From Evicting Tenants Constitute a Physical Taking.**

The Second Circuit has now held four times that “limitations on the termination of a tenancy do not effect a taking so long as there is a possible route to an eviction.” *335-7 LLC v. City of New York*, 2023 WL 2291511, at \*2 (2d Cir. Mar. 1, 2023) (quoting *Cnty. Hous.*, 59 F.4th at 552), *cert. denied*, 2024 WL 674658 (U.S. Feb. 20, 2024); *accord Pinehurst*, 59 F.4th at 563; App.6–8. The Ninth Circuit has likewise determined that the government does not inflict a physical taking by forcing a property owner to continue tenancy after the expiration of the parties’ lease agreement, at least where the law allows for some at-fault evictions. *Kagan v. City of Los Angeles*, 2022 WL 16849064, at \*1 (9th Cir. Nov. 10, 2022), *cert. denied*, 144 S. Ct. 71 (2023).

The Eighth Circuit, in *Heights Apartments, LLC v. Walz*, arrived at the exact opposite conclusion. 30

F.4th 720, 733 (8th Cir. 2022). There, the court found a physical taking where an eviction moratorium “forbade the nonrenewal and termination of ongoing leases, even after they had been materially violated, unless the tenants seriously endangered the safety of others or damaged property significantly.” *Id.* In other words, the Eighth Circuit concluded that a law authorizing lease renewal against a landlord’s wishes gives rise to a *per se* physical taking even where, as here, landlords retain a possible route to eviction.

The fault line is the proper application of this Court’s physical takings precedent, specifically *Yee v. City of Escondido*, 503 U.S. 519 (1992). Notwithstanding *Yee*’s acknowledgment that a “different case would be presented were the statute, on its face or as applied, to compel a landowner over objection to rent his property or to refrain in perpetuity from terminating a tenancy,” *id.* at 528, the Second and Ninth Circuits interpret *Yee* as foreclosing a physical takings claim where an owner voluntarily placed his property on the rental market and any route to eviction—no matter how theoretical and unlikely—remains. App. 6–8; *Cnty. Hous.*, 59 F.4th at 552; *Kagan*, 2022 WL 16849064, at \*1.<sup>3</sup>

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<sup>3</sup> District courts have adopted similar interpretations of *Yee*—while recognizing the conflict with the Eighth Circuit. *See, e.g., Pakdel v. City & County of San Francisco*, 636 F. Supp. 3d 1065, 1073–74 (N.D. Cal. 2022); *Williams v. Alameda County*, 642 F. Supp. 3d 1001, 1016–20 (N.D. Cal. 2022); *Gallo v. District of Columbia*, 610 F. Supp. 3d 73, 87 (D.D.C. 2022). As the *Williams* court later observed in assessing a petition for interlocutory appeal, “there is a circuit split” on how to apply *Yee* and *Cedar Point* to housing laws and “there are substantial grounds for

For its part, the Eighth Circuit distinguished *Yee* because the rent controls at issue in *Yee* limited the amount of rent landlords could charge but allowed landlords to evict tenants after a notice period (even without cause). See *Heights Apartments*, 30 F.4th at 733; *Yee*, 503 U.S. at 527–28 (“[N]either the city nor the State compels petitioners, once they have rented their property to tenants, to continue doing so”). The Eighth Circuit therefore applied *Cedar Point*’s holding that “[w]henver a regulation results in a physical appropriation of property, a *per se* taking has occurred.” *Heights Apartments*, 30 F.4th at 733 (quoting *Cedar Point*, 594 U.S. at 149).

The Court should grant this petition to clarify that *Yee* does not foreclose a physical takings claim just because a regulation preserves a narrow, theoretical path to eviction—dependent on circumstances outside the landlord’s control, such as whether the tenant “us[es] the property for illegal purposes,” App.8 (quoting *Pinehurst*, 59 F.4th at 563)—where the regulation as a practical matter deprives owners of their fundamental right to exclude tenants from what nominally is the owner’s property.

### **B. The Second Circuit Is on the Wrong Side of This Circuit Split.**

With its most recent decision, the Second Circuit dug its heels further into the wrong side of this circuit split. This Court clarified just two terms ago that “[g]overnment action that physically appropriates property is no less a physical taking because it arises

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difference of opinion” on that question. *Williams v. Alameda County*, 657 F. Supp. 3d 1250, 1256 (N.D. Cal. 2023).

from a regulation.” *Cedar Point*, 594 U.S. at 149. Rather, the “essential question” when considering a physical taking is “whether the government has physically taken property for itself or someone else—by whatever means—or has instead restricted a property owner’s ability to use his own property.” *Id.*; see also *Sheetz v. County of El Dorado*, \_\_ S. Ct. \_\_, 2024 WL 1588707, at \*4 (U.S. Apr. 12, 2024) (“[I]nterfer[ing] with the owner’s right to exclude others ... is a *per se* taking.”).

That approach makes sense “because our Constitution deals in substance, not form.” *Id.* at \*8 (Gorsuch, J., concurring). As in *Cedar Point*, the law here works a physical taking because it “appropriates for the enjoyment of third parties the owners’ right to exclude.” 594 U.S. at 149. Nowhere is that physical taking more obvious than in the government’s taking of Ms. Ordway’s and Mr. Guerrieri’s property. Before the 2019 Act, they were entitled to recover a unit for their own personal use and had begun proceedings to do so. The Act, however, has given another person an exclusive right to occupy that unit—to prevent the owners from living in their own property. As this Court has explained, no matter how minimal the invasion, “[t]o require ... that the owner permit another to exercise complete dominion literally adds insult to injury.” *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 436 (1982). If stringing a cable across property is a physical taking, then there is no doubt that giving a third party the right to enter an owner’s property and live there indefinitely is a physical taking.

What makes no sense is the Second and Ninth Circuits' insistence on evaluating a physical taking based on an owner's original decision to enter the rental market (no matter how many decades ago) and whether the regulatory scheme preserves some pathway for landowners to end a tenancy (no matter how unlikely or outside of the owner's control). See App.6 (citing *Cnty. Hous.*, 59 F.4th at 551); *Kagan*, 2022 WL 16849064, at \*1. This Court has already rejected the idea that a physical taking cannot occur where someone made a voluntary choice to enter the regulated market. *Horne*, 576 U.S. at 365 (“Let them sell wine’ is probably not much more comforting to the raisin growers than similar retorts have been to others throughout history.”). To the contrary, “a landlord’s ability to rent his property may not be conditioned on his forfeiting the right to compensation for a physical occupation.” *Loretto*, 458 U.S. at 439 n.17.

The notion that a property owner’s right to exclude can be eviscerated as long as there are *some* circumstances in which eviction may be legally possible is similarly untenable. See App.8 (reasoning that New York law allows Petitioners to evict on “several bases” beyond their control, such as if a tenant fails to pay rent or commits illegal acts (quoting *Pinehurst*, 59 F.4th at 563)). In contrast to the Second Circuit’s assumption that a regulation can effect a physical taking only if the regulation is “unconditional” (*i.e.*, unbounded), App.7 (quoting *Cnty. Hous.*, 59 F.4th at 552), this Court has held that the rule against physical takings applies regardless of circumstances such as the size of the space invaded, *Loretto*, 458 U.S. at 435, the length of the invasion, *Cedar Point*, 594 U.S. at 152; or the nature of the



property (be it real or personal), *Horne*, 576 U.S. at 361. In *Cedar Point*, the labor organizers’ right of access to the owners’ property applied only “when certain conditions [were] met.” App.7 (quoting *Cnty. Hous.*, 59 F.4th at 552); see *Cedar Point*, 594 U.S. at 166 (Breyer, J., dissenting) (summarizing set of “detailed regulations that describe and limit the access at issue,” including limits on duration and a bar on “disruptive” conduct (quotation marks omitted)). Despite acknowledging those conditions on the access right, the Court held that “a *per se* taking has occurred.” *Cedar Point*, 594 U.S. at 143–49. Here, the rule against physical takings should likewise apply regardless of whether a landlord has some remote and theoretical means of evicting a tenant.

Properly understood, *Yee* is consistent with *Cedar Point*, *Horne*, and *Loretto*. In *Yee*, the challenged regulations allowed landlords to evict tenants after a notice period, even *without cause*. 503 U.S. at 528 (citing Cal. Civ. Code § 798.56(g)). The Court specifically cautioned that “[a] different case would be presented were the statute, on its face or as applied, to compel a landowner over objection to rent his property or to refrain in perpetuity from terminating a tenancy.” *Id.* That is just what New York has done with its owner-reclamation and condo/co-op conversion regulations.

Contrary to the reasoning of the Second and Ninth Circuit, *Yee* did not establish an exception to physical takings doctrine for laws that purport to regulate the landlord-tenant relationship. See App.6–8; *Kagan*, 2022 WL 16849064, at \*1. “The essential question is not, as the Ninth [and Second] Circuit[s]

seemed to think, whether the government action at issue comes garbed as a [landlord-tenant] regulation[.]” *Cedar Point*, 594 U.S. at 149. Whether the beneficiary of the government action is a labor organizer, a tenant, or anyone else, what matters is that “the regulation appropriates for the enjoyment of third parties the owners’ right to exclude.” *Id.*

## **II. The Second Circuit’s Regulatory Takings Holding Also Warrants Review.**

The Second Circuit also dismissed Petitioners’ claims that the 2019 Act constitutes a regulatory taking under *Penn Central*. This holding is incorrect and, by highlighting how malleable the *Penn Central* test has become, invites this Court to revisit *Penn Central* and clarify when a regulatory taking occurs.

### **A. The Second Circuit’s Regulatory Takings Decision Is Wrong.**

Had the Second Circuit properly applied *Penn Central*, it would have concluded that Petitioners stated a claim for a regulatory taking. Under the *Penn Central* test, courts consider “the character of the governmental action” along with the “economic impact of the regulation,” including “the extent to which the regulation has interfered with distinct investment-backed expectations.” *Penn Cent.*, 438 U.S. at 124.

To begin with, the government action here has all the trappings of a taking. The “central purpose of the Takings Clause” is to “bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Murr v. Wisconsin*, 582 U.S. 383, 405–06 (2017) (quoting *Armstrong v. United States*, 364 U.S.

40, 49 (1960)). The Act forces Petitioners to disproportionately bear the cost of what is essentially a government-sponsored affordable housing initiative. As the title of the 2019 Act—the Housing Stability and Tenant Protection Act—demonstrates, New York City wanted to protect tenants from having to pay higher rents and wanted to “stabiliz[e]” the supply of rental housing by preventing landlords from taking units off the rental market. And the City wanted to do all of that without incurring any cost itself, so it foisted the costs of these “public burdens” off onto property owners.

What’s more, Petitioners specifically alleged that the Act’s draconian restrictions on rent increases and eviction would be counterproductive. As Petitioners explained, the Act will “exacerbate any housing shortage because tenants will be further disincentivized from giving up their apartments and moving as market conditions shift, because units will be permanently rent-regulated at absurdly reduced rents, and because it will be too expensive for developers to build new units because of all of the market distortions caused by rent regulation.” App.135–36 ¶ 4. Individual Petitioners even alleged that they had been forced to take deteriorating units off the market because of limitations on rent increases for improvements and other burdens imposed by the Act. *See, e.g.*, App.184 ¶ 154; App.188–89 ¶ 166. Like the Eighth Circuit in *Heights Apartments*, at the pleading stage, the Second Circuit should have accepted allegations like these as true rather than assuming that government action would be beneficial. *See* 30 F.4th at 734.

The Second Circuit focused instead on what it presumed to be the government’s good intentions. App.9 (“[T]he government action sought to promote general welfare and public interest”); App.12 (concluding that “[t]he character of the governmental action ... weighs strongly against [Petitioners] claims” because the Act “is concerned with ‘broad public interests” (quoting *Cnty. Hous.*, 59 F.4th at 555)). That approach, which accepts the government’s own description of the “character of the government action” on faith, would “relegat[e] [the Takings Clause] ... to the status of a poor relation.” *Sheetz*, 2024 WL 1588707, at \*7 (quoting *Dolan v. City of Tigard*, 512 U.S. 374, 392 (1994)). Nearly every taking of private property will come wrapped in some public purpose, and a “strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way.” *Horne*, 576 U.S. at 362 (quotation marks omitted).

As for economic impact, the Second Circuit was forced to acknowledge that Petitioners had “alleged specific facts in their complaints tending to show a negative economic impact.” App.11. Yet the court held that “loss of profit” was “insufficient”—without explaining what *would* be sufficient under this factor. App.11 (quotation marks omitted). After all, Petitioners described economic harms including but not limited to sharp declines in rental income and “dramatic[ ]” devaluation of property. App.164–65 ¶¶ 91–92; App.172 ¶ 119; App.208 ¶ 224. That the Act deprives Petitioners of rental income needed to maintain their properties in marketable condition, and tanks the value of their real estate, should have been sufficient to plead economic harm weighing in

favor of a regulatory taking. *See Heights Apartments*, 30 F.4th at 734 (finding deprivation of rental income sufficient to establish this factor).

The Second Circuit also gave short shrift to Petitioners' reasonable investment-backed expectations. Petitioners alleged that they had invested considerable sums in their properties, not only to purchase them to but to make major improvements to previously rundown structures. *See, e.g.*, App.190, 194, 195–96, 198–99 ¶¶ 170, 179, 184, 194. When Petitioners made these investments, they could not reasonably have foreseen such a dramatic, unprecedented shift in the regulatory environment—a new regime that the enactors of the 2019 Act touted as the most stringent “in history.” App.141–42 ¶¶ 15–16. Yet the Second Circuit opined that because the RSL had “changed many times” over the years, “any reasonable investor” would have anticipated the RSL’s radical transformation in 2019. App.12.

In dismissing Petitioners' claims, the Second Circuit “abandon[ed] the guiding principle of the Takings Clause that ‘public burdens ... should be borne by the public as a whole.’” *Pennell v. City of San Jose*, 485 U.S. 1, 22 (1988) (Scalia, J., concurring in part and dissenting in part) (quoting *Armstrong*, 364 U.S. at 49). And it underscored just how meaningless the *Penn Central* test has become as a constraint on regulatory takings.

### **B. The Court Should Overrule *Penn Central* or Clarify the Proper Standard.**

As the foregoing illustrates, the Second Circuit interpreted *Penn Central* so narrowly as to render it a

dead letter. If the Second Circuit’s approach is viewed as faithful to *Penn Central*, then it is time for this Court to overrule that opinion. This Court’s *stare decisis* factors only confirm that *Penn Central* is ripe for repudiation. The decision was poorly reasoned, its multi-factor test is unworkable, it is inconsistent with other takings decisions and constitutional developments since, and the lack of clarity surrounding *Penn Central* undermines any claim of reliance. See *Janus v. Am. Fed. of State, County, & Mun. Emps.*, 585 U.S. 878, 916–17 (2018).

*Penn Central* was never meant to be a definitive legal interpretation of the Takings Clause. It was not even meant to announce “a set formula for determining when justice and fairness require that economic injuries caused by public action be compensated by the government.” 438 U.S. at 124 (quotation marks omitted). Rather, as explained in *Penn Central*, the Court was “engaging in ... essentially ad hoc, factual inquiries” to determine whether a taking occurred, and the factors identified were just “several factors that have particular significance.” *Id.* To elevate the multi-factor *Penn Central* inquiry to the status of a definitive constitutional test is to ignore the decision itself.<sup>4</sup>

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<sup>4</sup> Indeed, as one casebook has observed, “[c]lose reading of the opinion must cope with the report by Justice Brennan’s law clerk ... that it ‘was basically written Memorial Day weekend in three consecutive near all-nighters.’” Sara C. Bronin & J. Peter Byrne, *Historic Preservation Law* 360 (2d ed. 2021) (quoting Transcript, *Looking Back on Penn Central: A Panel Discussion with the Supreme Court Litigators*, 15 *Fordham Env’t L. Rev.* 287, 302 (2004)).

As myriad jurists and commentators have noted, the ad hoc *Penn Central* inquiry is unworkable. More than 35 years ago, Justice Stevens described this Court’s regulatory-takings jurisprudence as “open-ended and standardless.” *First English Evangelical Lutheran Church v. County of Los Angeles*, 482 U.S. 304, 340 n.17 (1987) (Stevens, J., dissenting); see also *Dist. Intown Props. Ltd. P’ship v. District of Columbia*, 198 F.3d 874, 886 (D.C. Cir. 1999) (Williams, J., concurring) (“Few regulations will flunk this nearly vacuous test.”). And, as Justice Thomas explained just a few years ago, no one has figured out the test in the interim: “nobody—not States, not property owners, not courts, nor juries—has any idea how to apply this standardless standard.” *Bridge Aina Le’a, LLC v. Haw. Land Use Comm’n*, 141 S. Ct. 731, 731 (2021) (Thomas, J., dissenting from denial of certiorari).

*Penn Central* is markedly out of step with this Court’s constitutional jurisprudence. Consider this Court’s Second Amendment decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022). There, the Court held “that when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct.” *Id.* at 17. The government cannot justify a regulation by “simply posit[ing] that the regulation promotes an important interest” but rather “must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Id.*

This “standard accords with how we protect other constitutional rights.” *Id.* at 24. “[W]hen the Government restricts speech, the Government bears the burden of proving the constitutionality of its

actions.” *United States v. Playboy Ent. Grp., Inc.*, 529 U.S. 803, 816 (2000). Where “a litigant asserts the right in court to ‘be confronted with the witnesses against him,’ we require courts to consult history to determine the scope of that right.” *N.Y. State Rifle & Pistol Ass’n*, 597 U.S. at 25 (quoting U.S. Const. amend. VI). And “when a litigant claims a violation of his rights under the Establishment Clause, Members of this Court ‘loo[k] to history for guidance.” *Id.* (quoting *Am. Legion v. Am. Humanist Ass’n*, 588 U.S. 29, 32 (2019) (plurality opinion)). The ad hoc *Penn Central* multi-factor balancing test is woefully at odds with how this Court treats other constitutional protections. See *Nekrilov v. City of Jersey City*, 45 F.4th 662, 686–87 (3d Cir. 2022) (Bibas, J., concurring) (noting that *Penn Central* is “hard to square” with the original understanding of the Takings Clause and outlining an alternative test grounded in history).

Finally, reliance interests are weak. As *Penn Central* made clear, it is effectively an ad hoc, fact-specific inquiry that provides little guidance to regulators or regulated parties. The Court has expressly “eschewed ‘any set formula’” that might establish a stable rule of law. *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Reg’l Planning Agency*, 535 U.S. 302, 336 (2002) (quoting *Penn Cent.*, 438 U.S. at 124). The doctrine is effectively “[a] know-it-when-you-see-it test” that “invites unprincipled, subjective decisionmaking dependent upon the decisionmaker.” *Bridge Aina Le’a*, 141 S. Ct. at 732 (Thomas, J., dissenting from denial of certiorari) (quotation marks omitted).



### **III. This Case Provides An Excellent Vehicle To Address Two Exceptionally Important Issues.**

#### **A. This Case Is an Excellent Vehicle to Address When Restrictions on Eviction Effect a Physical Taking.**

This case squarely implicates a significant constitutional issue that has divided the lower courts: whether regulations that prevent a landlord from evicting a tenant, except for reasons beyond the landlord's control, effect a physical taking. As Justice Thomas has observed, “[t]he constitutionality of regimes like New York City’s is an important and pressing question” on which this Court “should grant certiorari” in “an appropriate future case.” *Pinehurst*, 2024 WL 674658, at \*1 (Thomas, J., statement respecting denials of certiorari).

That “appropriate future case” has now arrived. *Id.* While Justice Thomas suggested that prior challenges to New York’s regime may have been too “generalized” to facilitate proper review, Petitioners have identified “specific New York City regulations” that “prevent [them] from evicting actual tenants for particular reasons.” *Id.* For example, as discussed, the 2019 owner-occupancy amendments effectively nullified Ms. Ordway’s and Mr. Guerrieri’s efforts to reclaim a garden unit in their building for use as part of their long-term home. App.189–93 ¶¶ 168–76. Ms. Ordway and Mr. Guerrieri wish to evict the current tenant, an affluent businessman and professional athlete, from their rent-stabilized unit so that they can occupy it themselves. *See id.* The couple was pursuing proceedings to recover the unit until those

efforts were short-circuited by the 2019 Act, which prohibits owners from reclaiming a dwelling unit absent an “immediate and compelling necessity.” App.191–92 ¶ 173 (quotation marks omitted). As a result, they have been excluded indefinitely from their own property. *Id.*

In addition, several Petitioners have specifically alleged that the condo/co-op conversion amendments prevent them from carrying out contemplated conversions of specific buildings. *See, e.g.*, App.171 ¶¶ 113–15; App.182–83 ¶ 149; App.1877–88 ¶ 163; App.195 ¶ 181; App.196 ¶ 186. While these Petitioners believed their buildings were suitable for conversion, the 2019 Act effectively foreclosed that option by granting current tenants a collective veto right. Like Ms. Ordway and Mr. Guerrieri, and as New York no doubt intended, these landlords have no choice but to continue renting.

By contrast, the allegations in prior challenges were not as specific or as robust. In *Pinehurst*, for example, the complaint alleged only that one owner had made an unsuccessful attempt at reclamation in 2011, many years before the 2019 Act, and that the owner’s sister had “considered” occupying a rent-stabilized unit in the building. BIO at 16, 2024 WL 674658 (No. 22-1130). In *335-7 LLC*, “no petitioner allege[d] that it wishes to exit the rental market or that the RSL has stopped it from doing so.” BIO at 14, 2024 WL 674658 (No. 22-1170). Here, several Petitioners have alleged that they wish to exit the rental market, whether through reclamation for personal use or condo/co-op conversions, and that the 2019 Act has prevented them from taking that course.

Thus, this petition cleanly presents the issue left open in *Yee*: whether a law that “compel[s] a landowner over objection to rent his property or to refrain in perpetuity from terminating a tenancy” effects a physical taking. *Yee*, 503 U.S. at 528. That some for-cause evictions remain available under the 2019 Act does not bring the Second Circuit’s decision within *Yee*’s ambit. The challenged scheme in *Yee* permitted not only for-cause evictions, but also, as the Court emphasized, evictions with six or twelve months’ notice *without* cause. *Id.* Thus, the landlords in *Yee* were not compelled to continue renting their property indefinitely. The 2019 Amendments, in contrast, provide no such escape hatch: a tenant, unless she commits a crime or creates a nuisance in the apartment, can live in the owner’s apartment as long as she wishes—and can designate a successor to live in it afterward. All the while, the landlord is excluded from what is purportedly her own property.

Nor is there any way to avoid the reality of a deepening circuit split by somehow reconciling the Second and Ninth Circuits’ position with the Eighth’s. As discussed, the challenged regulations in *Heights* allowed for the eviction of tenants under narrow circumstances. 30 F.4th at 724. But the Eighth Circuit still held that the plaintiffs alleged a *per se* physical taking under *Cedar Point* because the regulatory scheme turned every lease “into an indefinite lease, terminable only at the option of the tenant.” *Id.* (quotation marks omitted). On materially indistinguishable facts, the Second Circuit came to the opposite conclusion. This case thus offers an excellent vehicle for this Court to resolve the split.

**B. This Case Is an Excellent Vehicle to Clarify the Standards Applicable to Regulatory Takings.**

This case is also an ideal vehicle to clarify the standards applicable to regulatory takings. Because it arises from a motion to dismiss, the facts are not in dispute and the errors in the Second Circuit's *Penn Central* analysis are purely legal. As the Second Circuit acknowledged, Petitioners have alleged specific facts detailing the economic and practical impact of specific regulations. And while the ad hoc *Penn Central* "test" may be too much of a muddle to lend itself to a square, explicit circuit split, it is widely acknowledged to be so amorphous as to provide no meaningful guidance, such that courts reach divergent results on similar facts. That is all the more reason for the Court to grant this petition; "[a] know-it-when-you-see-it test is no good if one court sees it and another does not." *Bridge Aina Le'a*, 141 S. Ct. at 732 (Thomas, J., dissenting from denial of certiorari).

**C. The Issues Are Pressing and Exceptionally Important.**

The Takings Clause is the most critical protection that our Constitution gives property owners. But the Second Circuit's decision defines physical and regulatory takings so narrowly as to render the Takings Clause virtually inapplicable to landlords.

The Second Circuit's misguided approach will have an outsized effect. For one thing, New York City is the nation's largest rental market, with roughly one million rent-stabilized units. Many of these units' owners are individuals and small businesses like

Petitioners. Forcing this small portion of the population to shoulder the burden of a very public crisis is not only antithetical to the Takings Clause but detrimental to the affordable-housing cause itself. Indeed, as a result of the 2019 Act’s draconian caps on rent increases, many individuals and small businesses have simply chosen to leave their units vacant. *See* Sam Rabiya, *NYC Had 88,830 Vacant Rent-Stabilized Apartments Last Year, City Housing Agency Estimates*, The City (Oct. 20, 2022), <https://bit.ly/3WEdPpC>.

The impact of this case also extends well beyond New York City. Jurisdictions across the country are advancing rent and eviction controls. *See, e.g.*, Cal. Civ. Code § 1946.2; D.C. Code § 42-3505.01; Or. Rev. Stat. § 90.427; H.3744, 193d Gen. Ct. (Mass. 2023) (proposed Boston regulation); Regs. of Berkeley Rent Bd., ch. 12, subch. C, § 1274.5 (Cal.); Santa Monica Reg., ch. 4 subch. G, § 4107 (Cal.). Even the White House has advocated for national “just- or good-cause eviction protections.” Domestic Pol’y Council & Nat’l Econ. Council, *The White House Blueprint for a Renters Bill of Rights* 16 (Jan. 2023).

This Court’s review is necessary to resolve a clear circuit split over when a physical taking occurs in the landlord-tenant context and to address the confusion clouding the application of the Takings Clause to regulatory takings. Property owners like Petitioners are entitled to meaningful protection under the Takings Clause—not to have the lower courts read that fundamental protection out of existence whenever a government acts to benefit tenants at property owners’ expense.

**CONCLUSION**

The Court should grant this petition for certiorari.

Respectfully submitted,

Jeffrey S. Bucholtz

Amy R. Upshaw

Alexander Kazam

Zoe M. Beiner

KING & SPALDING LLP

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[rmastro@kslaw.com](mailto:rmastro@kslaw.com)

*Counsel for Petitioners*

April 18, 2024



# ***NYC LEGISLATIVE HISTORY***

## **1994 LOCAL LAW #4**

**226 PAGES**

**NYC Ad. Code**

**Rent Stabilization**

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We accept the following.   

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1994**

---

**No. 4**

---

Introduced by Council Members Ognibene, Fusco and O'Donovan.

**A LOCAL LAW**

**To amend the administrative code of the City of New York, in relation to amending the rent stabilization laws and the rent control laws with regard to apartments with a legal regulated rent of two thousand dollars per month or greater and to continue the rent stabilization law.**

*Be it enacted by the Council as follows:*

Section 1. Subparagraphs j and k of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, are amended to read as follows:

(j) Upon the issuance of an order of decontrol by the division, housing accommodations which: (1) are occupied by persons who have a total annual income in excess of two hundred fifty thousand dollars per annum in each of the two preceding calendar years, as defined in and subject to the limitations and process set forth in section 26-403.1 of this chapter; and (2) have a maximum rent of two thousand dollars or more per month [as of October first, nineteen hundred ninety-three]. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law.

(k) Any housing accommodation with a maximum rent of two thousand dollars or more per month [at any time between the effective date of this subparagraph and October first, nineteen hundred ninety-three] which is or becomes vacant on or after [the effective date of this subparagraphs *April first, nineteen hundred ninety-four*. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law. This subparagraph shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, has engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in



connection with such course of conduct, any other general enforcement provision of this law shall also apply.

§2. Paragraph b of section 26-403.1 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, is amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum rent [as of October first, nineteen hundred ninety-three] is two thousand dollars or more per month may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of two hundred fifty thousand dollars in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which [had] *have* a maximum rent of two thousand dollars or more per month [as of October first, nineteen hundred ninety-three] are required to complete the certification form; (ii) that tenants *have* protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of two hundred fifty thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of decontrol providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

§3. Section 26-504.1 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, is amended to read as follows:

§26-504.1. **Exclusion of accommodations of high income renters.** Upon the issuance of an order by the division, "housing accommodations" shall not include housing accommodations which: (1) are occupied by persons who have a total annual income in excess of two hundred fifty thousand dollars per annum for each of the two preceding calendar years, as defined in and subject to the limitations and process set forth in section 26-504.3 of this chapter; and (2) have a legal regulated rent of two thousand dollars or more per month [as of October first, nineteen hundred ninety-three]. Provided, however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-c of the multiple dwelling law.

§4. Section 26-504.2 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, is amended to read as follows:

§26-504.2 **Exclusion of high rent accommodations.** "Housing accommodations" shall not include any housing accommodation with a legal regulated rent of two thousand dollars or more per month [at any time between the effective date of this section and October first, nineteen hundred ninety-three] which is or becomes vacant on or after [the effective date of this section] *April first, nineteen hundred ninety-four*. Provided however, that the exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-c of the multiple dwelling law. This section shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

§5. Paragraph b of section 26-504.3 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, is amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated rent [as of October first, nineteen hundred ninety-three] is two thousand dollars or more per month may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of two hundred fifty thousand dollars in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which [had] *have* a legal regulated rent of two thousand dollars or more per month [as of October first, nineteen hundred ninety-three] are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of two hundred fifty thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such

housing accommodation shall not be subject to the provision of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

§6. Section 26-502 of the administrative code of the city of New York, as last amended by local law 20 for the year 1991, is amended to read as follows:

§26-502 **Additional findings and declaration of emergency.** The council hereby finds that a serious public emergency continues to exist in the housing of a considerable number of persons within the City of New York and will continue to exist after April first, [nineteen hundred ninety-one] *nineteen hundred ninety-four* and hereby reaffirms and repropulgates the findings and declaration set forth in section 26-501 of this title.

§7. Section 26-520 of the administrative code of the city of New York, as last amended by local law 20 for the year 1991, is amended to read as follows:

§26-520 **Expiration date.** This chapter shall expire on April first, [nineteen hundred ninety-four] *nineteen hundred ninety-seven* unless rent control shall sooner terminate as provided in subdivision three of section one of the local emergency housing rent control law.

§8. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on March 16, 1994, and approved by the Mayor on March 30, 1994.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 4 of 1994, Council Int. No. 220) contains the correct text and:

Received the following vote at the meeting of the New York City Council on March 21, 1994: 28 for, 18 against.

Was approved by the Mayor on March 30, 1994.

Was returned to the City Clerk on March 30, 1994.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel



THE COUNCIL OF THE CITY OF NEW YORK  
 FINANCE DIVISION  
 THOMAS MCMAHON, DIRECTOR  
 FISCAL IMPACT STATEMENT

INTRO. NO: 220

COMMITTEE: Housing and Buildings

**TITLE:** A Local Law to Amend the Administrative Code of the City of New York in Relation to Amending the Rent Stabilization Laws with Regard to Apartments with a Legal Regulated Rent of Two Thousand Dollars per month or Greater and to Continue the Rent Stabilization Law

**SPONSOR:** Council Members Ognibene, Fusco, O'Donovan and Spigner

**SUMMARY OF LEGISLATION:**

Intro 220 extends the Rent Stabilization law of 1969 to April 1, 1997, additionally it amends the administrative code to allow for the elimination of the October 1, 1993 deadline for vacancy deregulation of apartments with \$2,000 rent levels and with household earnings of \$250,000 or more. This legislation includes a provision to protect tenants who initiated a lease between October 2, 1993 and April 1, 1994 in rent-regulated apartments with rent levels above \$2,000 from being subject to retroactive deregulation.

**EFFECTIVE DATE:** This local law shall take effect immediately upon adoption.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal Year 1996

**FISCAL IMPACT STATEMENT:**

	Effective FY95	FY Succeeding Effective FY96	Full Fiscal Impact FY97
Revenues (+)	0	\$94,000	\$287,000
Expenditures (-)	0	0	0
Net	0	\$94,000	\$287,000

**IMPACT ON REVENUES:**

A similar bill passed last summer decontrolled approximately 10,000 units that met the income and rent criteria by October 1, 1993. This bill, which extends the timeframe for meeting these criteria, will affect up to an additional 450 and 475 units in Fiscal 1996 and 1997, respectively, as the household's income or rent level grows above the cap. This would result in higher property tax revenues of \$94,000 in Fiscal 1996 and \$287,000 in Fiscal 1997.

Detail for the deregulation of units already meeting the rent or income criteria and newly meeting the other criteria are as follows. Additions based on rent criteria: Census data shows that 3,000 units have rents between \$1,800 and \$2,000. Of these, half obtain 421a benefits and are thus ineligible for

deregulation under this bill. Of the remaining 1,500 eligible units, approximately 25 percent (per the Rent Guidelines Board) will turnover in any one year. Thus, there are 375 units near enough to the \$2,000 rent level such that addition of a vacancy allowance and legal improvements would bring the base rent above the threshold and hence subject to deregulation upon expiration of the lease. Additions based on income criteria: The same sources also show that 2,000 households in regulated units earn \$250,000 or more. Calculations using information from the Housing and Vacancy Survey for 1991 and Income Tax files suggests that residents of 75 to 100 rent regulated units will move into the \$250,000 plus income range in each of the next few years.

The legislation would not have a fiscal impact until Fiscal 1996 since this bill becomes effective in calendar year 1994 and Fiscal 1996 assessments use information from "Owner Income and Expense Statements" for calendar 1994, and also this bill requires incomes to be at the \$250,000 level for two years.

**IMPACT ON EXPENDITURES:**

There will be no impact on expenditures at the City level. However, New York State will incur expenses for establishing the mechanism to verify income and rents for additional tenants.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** City Council Finance Division  
Housing Vacancy Survey 1991  
Rent Guidelines Board  
Personal Income Tax Files

**ESTIMATE PREPARED BY:** Lonice Eversley, Financial Analyst  
Susan Lacerte, Financial Analyst  
Elisa Schein, Assistant Director  
Kurt Richwerger, Deputy Director  
City Council Finance Division

**DATE SUBMITTED TO COUNCIL:** February 28, 1994

**FIS HISTORY:** To be reconsidered by Committee on March 21, 1994.  
Considered by Committee on March 10, 1994.



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

JACK T. LINN  
DIRECTOR  
CITY LEGISLATIVE AFFAIRS

52 CHAMBERS STREET  
ROOM 309  
(212) 788-2902

March 30, 1994

Honorable Carlos Cuevas  
City Clerk and Clerk of the Council  
Municipal Building, 2nd Floor  
New York, NY 10007

Dear Mr. Cuevas:

Transmitted herewith are bills signed by the Mayor on March 30, 1994. The bills are as follow:

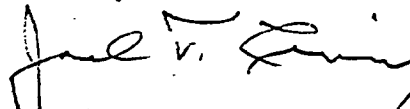
Introductory Number 33-A - Local Law 3 of 1994

A LOCAL LAW to amend the Administrative Code of the City of New York, in relation to access to reproductive health care facilities.

Introductory Number 220 - Local Law 4 of 1994

A LOCAL LAW to amend the Administrative Code of the City of New York, in relation to amending the rent stabilization laws and the rent control laws with regard to apartments with a legal regulated rent of two thousand dollars per month or greater and to continue the rent stabilization law.

Sincerely,

  
Jack T. Linn

JTL:sw

*G. Marino*



Staff: Anthony Baronci  
Counsel to the Committee

T H E C O U N C I L  
REPORT OF THE INFRASTRUCTURE DIVISION  
NICHOLAS LAPORTE, DIRECTOR

COMMITTEE ON HOUSING AND BUILDINGS

March 21, 1994

INT. NO. 220: By: Council Members Spigner, Ognibene, Fusco  
and O'Donovan

TITLE: In relation to amending the rent  
stabilization laws and the rent control  
laws with regard to apartments with a  
legal regulated rent of two thousand  
dollars per month or greater and to  
continue the rent stabilization law.

ADMINISTRATIVE CODE: Amends subparagraphs (j) and (k) of  
paragraph 2 of subdivision (e) of  
section 26-403; amends paragraph (b) of  
section 26-403.1; amends sections  
26-502, 26-504.1, 26-504.2 and 26-520;  
and amends paragraph (b) of section  
26-504.3.

LEGISLATIVE HISTORY: On July 7, 1993 the Governor of New York  
State signed into law Chapter 253, which, inter alia, amended  
the Administrative Code of the City of New York, the Emergency  
Tenant Protection Act of 1974, the New York State Tax Law and  
the New York State Real Property Tax Law in relation to  
eliminating rent regulation protections for certain high income  
tenants and high income rent apartments. Specifically, it  
permitted the deregulation of rent regulation for apartment(s)  
that:

1. at any time between July 1, 1993 and October 1, 1993, has a legal regulated rent of \$2,000 or more per month and is occupied by persons who have a total annual income in excess of \$250,000 per annum in each of the last two preceding calendar years; or
2. at any time between July 1, 1993 and October 1, 1993, has a legal regulated rent of \$2,000.

Housing accommodations which meet the first criteria are excluded from any form of rent regulation upon expiration of the current lease, while housing accommodations which meet the second criteria are excluded upon vacancy. Note, any housing accommodation which attain a legal regulated rent of \$2,000 or more after October 1, 1993 do not qualify for deregulation for any of the above reasons.

In order to obtain information about a tenant's annual income for the two preceding calendar years, Chapter 253 of the Laws of 1993 enacted new Administrative Code new sections 26-403.1 and 26.504.3 that permit the owner of each housing accommodation for which the legal regulated rent is \$2,000 or more per month to provide the tenant or tenants residing therein with an income certification form on or before May 1 in each calendar year. Those tenants(s) must certify whether their total annual income was in excess of \$250,000 per annum in the two preceding years.

INTENT: Int. No. 220, which also extends the Rent Stabilization Law of 1969 to April 1, 1997, amends Administrative Code sections 26-403, 26-403.1, 26,504.1 and 26-504.2 to eliminate the October 1, 1993 "deadline" so that apartments which have or attain a legal regulated rent after April 1, 1994 of \$2,000 or



more per month may qualify for exclusion from any form of rent regulation.

Under the current law, housing accommodations which attain a legal regulated rent of \$2,000 or more per month after October 1, 1993 and thereafter become vacant continue to be subject to rent regulation. Any subsequent tenant who takes possession of such housing accommodation and whose income level does not exceed \$250,000 per annum for the two preceding calendar years has a reasonable expectation that such housing accommodation shall continue to be subject to rent regulation for his or her (or their) tenure so long as rent regulations continue to be renewed every three years.

By merely removing the October 1, 1993 date, such housing accommodation, which under state law is subject to rent regulations may, as a result of Int. No. 220, become eligible for rent deregulation. As a result, the new tenant or tenants may be faced with an undue financial hardship, which he or she could not have anticipated, if such housing accommodation is deregulated.

To prevent this hardship from occurring Int. No. 220 would require that housing accommodations which attain a legal regulated rent of \$2,000 or more per month after October 1, 1993, but before April 1, 1994 may qualify for deregulation only if it becomes vacant after April 1, 1994. The April 1, 1994 date does not apply to deregulation on the basis of income. Income based deregulation may occur at any time.

This legislation would take effect immediately.

Update

On March 10, 1994 the Committee examined Int. No. 220, at which time the public submitted oral as well as written testimony. Upon conclusion of the March 10th hearing Int. No. 220 was laid over.

AB  
3/17/94 11:50 p.m.  
Int. No. 220

Tenant Unity Coalition

*K Mc  
R.W. Tidal  
T Mc Rent  
Stabilization  
Bill  
A. x B.*

February 10, 1994

Hon. Peter Vallone  
Speaker  
New York City Council  
City Hall  
New York, New York 10007

Dear Speaker Vallone:

Thank you for meeting with us on February 4 to discuss renewal of the rent control and rent stabilization laws.

As we stated, we are hoping that you will not only support renewal of these laws, but that you will unequivocally oppose any proposed amendments to weaken the laws or reduce tenant protections. Especially in light of the weakening of the tenant protection laws in the State Legislature last year, we believe that it is even more important that the City Council hold the line.

We urgently need you, Mr. Speaker, to be a visible and vocal advocate for tenant protection laws. Your leadership will be decisive in helping to get across to the public the message that elected officials support rent regulation laws not only because they protect tenants, but because they protect the housing stock, and make housing more affordable and the city more livable. In doing so, you will earn the gratitude of tenants across the city.

On a related subject, we urge that any proposal for real property tax reform apply to rental buildings as well as co-ops and condos. Co-op shareholders and condo owners certainly need and deserve relief from an unfair tax system, but so do renters. Placing co-ops and condos under Class I while leaving rental buildings in Class II would be unfair, resulting in even higher taxes for rental buildings and therefore raising rents under rent control and rent stabilization.

Thank you for your consideration of our views. We look forward to working with you and the City Council.

Sincerely,

*Hilda Chavis*

Hilda Chavis  
Northwest Bronx Community  
and Clergy Coalition

*Alison Cordero*

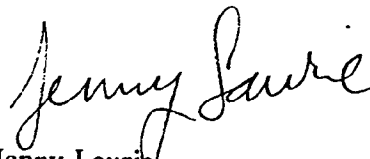
Alison Cordero  
St. Nicholas Neighborhood  
Preservation Corporation

Hon. Peter Vallone  
February 10, 1994

Page 2



Florence Fisher  
Queens League of United Tenants



Jenny Laurie  
Metropolitan Council on  
Housing



Michael McKee  
New York State Tenant and Neighborhood Coalition

The Council of the city of New York

Committee on Housing and Buildings

Date: 3/10/94

Int. 207, 208, 215, 217, 219, 220, 227, 228 Res 144, 146

Oversight Subject: \_\_\_\_\_

Council Member	Present	Yes	No	Abstain	Yes	No	Abstain
Spigner	✓						
Michels	✓						
Williams	✓						
Malave-Dlian	✓						
Linares							
Pegan	✓						
Marshall	✓						
Rosado							
Ognibene	✓						
Total Present							

Other Council Members Attending: Duane, Freed, Eristoff, Clarke, ~~...~~

Time of Opening: 12:15 p.m.

— O'Donovan, Fusco, McCabe, Millard, Fields, Berman

Time of Adjournment: 9:15 p.m.

Speakers:

CLAIRE SHULMAN  
PRESIDENT



CITY OF NEW YORK

OFFICE OF THE

PRESIDENT OF THE BOROUGH OF QUEENS

120-55 QUEENS BOULEVARD

KEW GARDENS, NEW YORK 11424

(718) 286-3000  
TDD (718) 286-2656  
FAX (718) 286-2885

**BOROUGH PRESIDENT CLAIRE SHULMAN  
CITY COUNCIL HOUSING AND BUILDINGS COMMITTEE HEARING**

**STATEMENT REGARDING RENT REGULATIONS**

**THURSDAY, MARCH 10, 1994 NOON**

---

THOUSANDS OF QUEENS RESIDENTS ALREADY SPEND A DIS-  
PROPORTIATE SHARE OF THEIR INCOME ON RENT. MANY MAKE  
HARD CHOICES ABOUT WHETHER TO SPEND MONEY BUYING FOOD  
AND RISK EVICTION FOR NON-PAYMENT. CONSEQUENTLY, I HAVE  
GRAVE CONCERN ABOUT PROPOSALS WHICH WOULD WEAKEN THE  
RENT REGULATORY SYSTEM.

LET ME STATE THIS UNEQUIVOCALLY. VACANCY DECONTROL  
WOULD BE AN UNMITIGATED DISASTER THAT WOULD SUBJECT  
VULNERABLE SENIOR CITIZENS AND OTHERS TO HARASSMENT BY  
UNSCRUPULOUS BUILDING OWNERS. LIKewise, A PROPOSAL TO  
PROVIDE A VACANCY RENTAL INCREASE OF 25% WOULD ALSO  
INVITE HARASSMENT. AND THOUSANDS OF APARTMENTS WOULD  
NO LONGER BE AFFORDABLE TO THE WORKING FAMILIES OF OUR  
CITY, EACH OF WHOM IS STRUGGLING TO MAINTAIN A DECENT  
LIFE FOR THEIR CHILDREN.

IN FAIRNESS, THERE ARE A NUMBER OF DECENT SMALL BUILDING OWNERS -MOM AND POP OPERATIONS- WHO ARE BESIEGED BY TWIN HAMMERS OF ESCALATING WATER COSTS AND REAL ESTATE TAXES. WE SHOULD CAREFULLY REVIEW CITY POLICY TO ENSURE THAT THESE BUILDINGS ARE NOT FORCED INTO OUR IN-REM INVENTORY WHICH WOULD BE ESPECIALLY HARD ON BOTH THE OWNERS AND TENANTS OF THESE BUILDINGS. IN THIS MANNER, WE WOULD BE ABLE TO ASSIST SMALL BUILDING OWNERS WITHOUT FURTHER INCREASING THE RENTS OF TENANTS WHO HAVE ALREADY SEEN THEIR RENTS OUTPACE THEIR ABILITY TO PAY.

TESTIMONY GIVEN BY

S. HELEN DANIELS, CHAIRPERSON  
BLACK AND LATINO PROPERTY OWNERS COALITION

TO THE  
CITY COUNCIL OF THE CITY OF NEW YORK  
HOUSING COMMITTEE

March 10, 1994

\* \* \* \* \*

GOOD AFTERNOON, MY NAME IS HELEN DANIELS AND I AM HERE AS THE CHAIRPERSON OF THE BLACK AND LATINO PROPERTY OWNERS COALITION. THE COALITION WAS FORMED TO REPRESENT THE INTERESTS OF MINORITY PROPERTY OWNERS IN NEW YORK CITY. THE ORGANIZERS FELT THAT THEIR PARTICULAR INTERESTS WERE NOT BEING ADDRESSED BY STATE AND LOCAL GOVERNMENT OFFICIALS. THE GOAL OF THE COALITION IS TO PROVIDE ANOTHER VOICE, ESPECIALLY AT THE LEGISLATIVE LEVEL, FOR HOME AND PROPERTY OWNER RELIEF. BY INFORMING LEGISLATORS THAT THERE ARE



MANY PROPERTY OWNERS IN MINORITY COMMUNITIES WHO DESIRE RELIEF FROM ONEROUS REGULATIONS, TAXES AND ADMINISTRATIVE PRACTICES, WE HOPE TO ATTRACT THE ATTENTION OF LEGISLATORS WHO MAY BE ABLE TO PROVIDE THE CRITICAL VOTES NECESSARY TO EFFECTUATE OVERDUE CHANGES.

I AM HERE TODAY TO LET THE LEGISLATURE KNOW THAT MINORITY OWNERSHIP OF NEW YORK'S RENTAL HOUSING IS GROWING. BLACKS AND LATINOS CONSTITUTE NEARLY 27% OF RECENT PURCHASERS OF RENTAL PROPERTIES. MOST OF THE MINORITY OWNERS OWN SMALLER RENTAL BUILDINGS, GENERALLY MANAGE THEIR OWN BUILDINGS, COLLECT THE RENTS AND DO SOME JANITORIAL AND MAINTENANCE WORK THEMSELVES. MINORITY-OWNED BUILDINGS ARE LARGELY LOCATED IN MINORITY OCCUPIED NEIGHBORHOODS, WHICH ARE OFTEN CATEGORIZED BY DETERIORATING HOUSING CONDITIONS AND MANY CITY OWNED STRUCTURES.

AS PROPERTY OWNERS, WHO LIVE IN THE COMMUNITY, WE UNDERSTAND THAT ONE OF THE MOST OPPRESSIVE AND RECURRING PROBLEMS FACING TENANTS IS EXORBITANT

RENT INCREASES. WE ALSO UNDERSTAND THAT RENT REGULATIONS WERE ENACTED TO HELP KEEP THESE RENT PRICES DOWN. HOWEVER, THE UNDERLYING PREMISE OF THESE CONTROLS WAS THAT THE PROPERTY OWNER WOULD BE PROTECTED. EVEN WITH REGULATION, AN OWNER WOULD STILL BE ALLOWED A "FAIR RETURN ON INVESTMENT" OR AT LEAST THE ABILITY TO MAINTAIN THE PROPERTY AND "BREAK EVEN." UNFORTUNATELY, UNDER THE RENT CONTROL LAWS, THIS HAS NOT BEEN THE CASE. RENT CONTROL HAS NOT BENEFITED THE TENANT OR THE SMALL BUILDING OWNER/LANDLORD. THE REASON FOR THIS IS: HOUSING CODES, PRO-TENANT ABATEMENT REMEDIES AND FORTY YEARS OF "EMERGENCY" AND NON-COMPETITIVE RENT REGULATIONS HAVE COMBINED TO MAKE IT IMPOSSIBLE FOR THE SMALL OWNER TO MAINTAIN AND OPERATE RENTAL PROPERTY. IN FAR TOO MANY CASES, THIS SITUATION HAS FORCED OWNERS TO ABANDON THEIR PROPERTIES OR CAUSE THE PROPERTIES TO GO IN-REM.

I WOULD LIKE TO SHARE WITH THE COMMITTEE A STORY THAT COMES TO MIND. IT IS A STORY OF AN OWNER OF A BROWNSTONE

IN HARLEM. THE OWNER HAD THREE TENANTS. EACH PAID BETWEEN \$10 AND \$12 WEEKLY, WHICH ADDED UP TO \$128 IN TOTAL MONTHLY RENTAL INCOME. THE OWNER RAISED THE RENT TO \$25 WEEKLY FOR EACH TENANT. THE TENANTS TOOK THE OWNER TO COURT AND THE TENANTS WON. THE RENTS WERE REDUCED TO THE ORIGINAL AMOUNTS BY THE COURT. MOREOVER, THE OWNER WAS REQUIRED TO PAY ALL COURT COSTS, FINES AND TENANT OVERCHARGES. AS A RESULT, THE OWNER COULD NOT PAY TAXES, MAINTENANCE COSTS AND OTHER EXPENSES. THE OWNER LOST THE PROPERTY. THE CITY OF NEW YORK BECAME THE LANDLORD AND RAISED THE RENTS TO \$250 MONTHLY PER TENANT AND UNIT. WHEN THE OWNER RECLAIMED THE BUILDING THE RENTS WERE AGAIN REDUCED TO THE ORIGINAL AMOUNTS. IF THE CITY NEEDED THAT MUCH TO CARRY THE BUILDING, THEN WHY DIDN'T THE OWNER? THE CITY WAS EXEMPT FROM ALL HOUSING REGULATIONS AND THE OWNER WAS NOT.

THE HEARINGS YOU ARE CONDUCTING SERVE TO REVIEW THE FUTURE OF RENT CONTROL. THE COALITION WOULD LIKE TO RECOMMEND VACANCY DECONTROL FOR

PROPERTIES OF 20 UNITS OR LESS. THIS WOULD ALLOW THE OWNERS TO INCREASE RENTS ONLY ON VACANT UNITS, WHILE THE OCCUPIED UNITS CONTINUE TO BE GOVERNED BY RENT CONTROL. IF WE ARE ALLOWED TO SET FAIR RENTS TO COVER OUR BASIC NEEDS WE CAN PRESERVE NEEDED HOUSING IN OUR COMMUNITIES.

BY PRESERVING HOUSING, WE PRESERVE NEIGHBORHOODS AND ENSURE THAT EVERY NEW YORKER HAS EQUAL ACCESS TO HOUSING.

THANK YOU.

# CHIP

COMMUNITY HOUSING IMPROVEMENT PROGRAM, INC.

145 WEST 58TH STREET, NEW YORK, N.Y. 10019

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Testimony of Dan Margulies  
Executive Director, Community Housing Improvement Program, Inc.  
before the New York City Council  
Committee on Housing and Buildings  
March 10, 1994

It was very difficult to decide what aspect of rent regulation to talk about in the limited time available today. Some of the choices included:

- Lost property taxes, estimated at up to \$100 million annually because of reduced property values. These estimates don't even count hundreds of millions in tax delinquencies that might be avoided.
- Poor housing conditions in regulated housing compared with unregulated apartments at similar rents.
- Reduced housing opportunities that discourage young people and economic growth, because the benefits that rent regulation gives to long term tenants discourage normal apartment turnover in desirable neighborhoods.
- Benefits that seem perversely targeted to the stable, advantaged, white middle class in the Manhattan core.
- Devastation in poor and minority neighborhoods, where small property owners expected homeownership to lift them up the economic ladder and, instead, had regulations knock them down.
- The futility of a system of price controls that, in 1993, achieved average stabilized rents citywide of \$593 per month as compared with average unregulated rents of \$636 -- what a price for \$43 a month!
- And, for want of a better description, the "culture of tenant protection" that protects drug addicts and other undesirable tenants from eviction or nonrenewal of leases at the expense of good tenants who deserve to enjoy their homes in peace and quiet.

But, these problems aren't new. So, then I thought I would answer the supposed arguments for rent regulation. Some advocates say it helps the poor. Well, both the State Division of Housing and Community Renewal and the Rent Guidelines Board have reported that market pressures keep rents in poor neighborhoods below the legal regulated rents to which owners are entitled. Others advocates say regulations preserve the middle class, but in the vast rows of middle class housing in the outer boroughs, average regulated and unregulated rents are virtually indistinguishable. Unfortunately, arguing these issues is like arguing religion. No scientific facts will sway a true believer.

For a while, I thought I should just spend my time embarrassing regulators with horror stories. The Governor just proposed spending \$37 million next year on rent administration. Every other state spends nothing. What do we get for the money? In one decision last month a tenant had their rent reduced \$30 a month and frozen because the temperature inside their refrigerator was 43 degrees. The DHCR didn't say what it should be, nor did the inspector adjust the thermostat to see if it made a difference. In another case, DHCR issued two orders on duplicate complaints -- one reducing the rent and one not -- based on two inspections the same day. I have a member suffering a buildingwide rent reduction, losing more than \$3,000 a month, because a DHCR inspector reported four dirty windows in a six story building.

I represent building owners, and I'm very concerned that the owner/managers -- the hands-on guys who keep buildings going with their own sweat -- are a dying breed. They're being killed by regulations and taxes. Institutional owners and professional managers can't be bothered with marginal housing and small buildings. Most people agree that the city already owns too much housing. Yet, I think we're approaching a time when even people who can still pay taxes would just as soon turn the property over, particularly small properties.

Ultimately, I couldn't decide one problem was more important than another. The list is endless. I will be happy to discuss any of these issues at length or keep adding more. The message, however, is clear. Rent control is 51 years old this month. It is time to plan for retirement.

The only way to get out of this mess is vacancy decontrol.

Thank you.

Average Stabilized Rent 1993 \$593

Average Unregulated Rent 1993 \$636\*

\*source: 1993 New York City Housing Vacancy Survey

Cost of Rent Administration 1994-1995 \$37,000,000\*\*

\*\*source: New York State Division of Housing and Community Renewal

Number of Manhattan Residential Building Sales 1981  
(Not Including COOP Conversions or Foreclosures) 1,757\*\*\*

Number of Manhattan Residential Building Sales 1987  
(Not Including COOP Conversions or Foreclosures) 1,240

Number of Manhattan Residential Building Sales 1992  
(Not Including COOP Conversions or Foreclosures) 400

\*\*\*source: Real Estate Board of New York

New York State Tenant and Neighborhood Coalition  
 505 Eighth Avenue, 24th Floor, New York, N.Y. 10018-6505 o (212) 695-8922

## AFFORDABILITY OF VACANT APARTMENTS—1984-1993

	1984	1987	1991	1993
No. apts. vacant, available for rent	39,594	47,486	76,727	70,345
No. vacant apts. reporting asking rent	29,838	42,990	67,004	57,272
Median renter income	\$12,600	\$16,000	\$20,000	\$19,005
No. vacant units affordable to median renter @ 30% of income	13,847	15,951	18,919	7,966
Percent vacant units affordable to median renter	46.4%	37.1%	28.2%	13.9%
Affordable rent to median renter @ 30% of income	\$315	\$400	\$500	\$475
Median asking rent	\$315	\$450	\$600	\$650

Source: 1987, 1991 and 1993 NYC Housing and Vacancy Surveys, U.S. Bureau of the Census



Testimony of the Civil Division of The Legal Aid  
Society before the New York City Council

March 10, 1994

This testimony is submitted by The Legal Aid Society's Civil Division and Archibald Murray, the Executive Director and Attorney-in-Chief of The Legal Aid Society. The Civil Division of The Legal Aid Society serves clients in the five boroughs of New York City, and our attorneys practice in all of New York City's Housing Courts. Last year, Civil Division staff represented some 33,000 indigent clients on a variety of civil legal matters, including a substantial number of housing cases. We have particular expertise in the representation of low-income families and senior citizens who live in Rent Stabilized and Rent Controlled housing.

Today, we are here to speak in favor of Proposed Local Law No. 215 and Resolutions numbers 144 and 146 and in opposition to Proposed Local Law Nos. 207, 208, 217, 219, 220, 227 and 228. The proposed weakening of the Rent Stabilization Law would have a disastrous effect on low income families and would increase homelessness because it would result in increased rent levels. We urge the City Council to renew the Rent Stabilization Law without further weakening of its critical tenant protections.

Our clients are desperately poor. They are individuals and families close to and in many cases well below, the federal poverty level. To be eligible for representation by the Society, a single individual's annual income in most cases cannot exceed \$8,713, a family of four in most cases cannot have a combined income greater

than \$17,938. Some of our clients work at minimum wage jobs, but for others, their only source of income is public assistance.

Since there are very few Rent Stabilized apartments available at rents within the welfare shelter guidelines or at levels that someone earning the minimum wage can afford, low income persons who are evicted are at great risk of becoming homeless. For example, the Department of Social Services provides only \$312 per month for rent to a mother with three children on public assistance. It is nearly impossible for families to rent apartment at that rent level, or even at a level that could be paid if they used most of their food money for rent, as many of our clients do.

Elderly people on fixed incomes are similarly caught in a bind between escalating rent increases and paying for food, gas, and electricity. Many go hungry so that they can pay the rent and insure themselves a place to live.

Most of the clients served by the Civil Division are one step away from becoming homeless due to rent increases. They are forced to make cruel choices between eating and paying their rent. If they become homeless, they have difficulty escaping the shelter system because the rents remain above their ability to pay.

To house a family in emergency shelter because there is no affordable permanent housing available for them, the City typically spends public funds of approximately \$3,000.00 per month. Homeless families spend an average of six months in the emergency shelter system, which could easily cost the city \$18,000.00 per family. More than 2,400 families languish in the City's shelter system for more than six months at a cost to the City of \$36,000.00

annually per family.

The quality of housing units affordable to low-income people is rapidly diminishing. For years, the City's rental market has hovered at a city-wide vacancy rate of four percent. At low rent levels, however, the vacancy rate was only two percent. Cooperative conversion and warehousing of 94,000 habitable apartments, as estimated by Prof. Michael Stegman in the 1991 City Housing and Vacancy Survey, have further reduced the supply of affordable rent stabilized apartments in New York City.

The City 1991 Housing Vacancy Survey shows that low income Rent Stabilized tenants' disposable income decreased by seven to fifteen percent for the period 1987 to 1991. During the same period, the number of tenants who were severely overcrowded and who were doubled up also increased. Rents during the 1980s in rent stabilized apartments rose by 85% -- substantially more than the rate of inflation.

Proposed Resolution No. 146 urges the State Legislature to enact a program modeled after the Senior Citizen Rent Increase Exemption which would shield low income households from rent increases. Such a program would help poor tenants who are currently in affordable apartments to continue to be able to afford their apartments despite annual increases and major capital improvement ("MCI") increases. Currently, poor families and individuals are being forced out of their apartments as they become less and less affordable on a limited income.

As detailed below, each of the proposed local laws would result in a drastic weakening of the Rent Stabilization Laws. There

has been no change in the emergency circumstances which resulted in the enactment of the tenant protection laws in the first place. In New York City, there is still an extremely low vacancy rate and an even lower vacancy rate for apartments at affordable levels. Even with the current protections, our clients cannot find affordable apartments. With deregulation, our clients would be less and less likely to obtain affordable housing. The City simply cannot afford the increase in homelessness that deregulation would cause. Already the City is spending five hundred million dollars per year in homeless services for families and individuals. That amount would skyrocket with deregulation.

Proposed Local Law No. 207

Proposed Local Law No. 207 would exempt all apartments which become vacant after the effective date of the proposed local law from the protection of the Rent Stabilization Law. Without the protection of the Rent Stabilization Laws, rents would be raised to a level poor people could simply not afford. Already rents have increased to a level that most poor families and elderly people can barely afford. With decontrol, there will be no limit on the amount of rent a landlord can charge. With the recent turn around in the real estate market there is simply no justification to allow landlords to simply charge any amount of rent that they choose.

In addition, without Rent Stabilization protection, a landlord can evict a tenant for any reason. A landlord would no longer have to show "cause", i.e. a good reason, to evict a tenant. He could evict a tenant for any reason or no reason. Additionally, the Rent Stabilization Code forbids a landlord from reducing

required services. Vacancy decontrol would mean that a landlord could fail to maintain required services, raise rents to unacceptably high levels and evict tenants for no reason.

The experience of Civil Division attorneys in Brooklyn Housing Court is that the protections of the Rent Stabilization Law often prevent poor people from being homeless. In addition, because they are protected by the Rent Stabilization Law, we can obtain needed and necessary repairs. In unregulated apartments, we often cannot secure repairs, because our clients are too frightened of eviction to pursue their defenses since they believe that the landlord will punish them if they pursue repairs.

Vacancy decontrol will force more families and elderly people onto the streets and into the shelters. Moreover, the few remaining rent stabilized tenants would be unable to move from their apartments -- no matter how bad the conditions in their apartments became or how bad the neighborhood became -- because they would never be able to afford another apartment.

Proposed Local Law Nos. 208 and 217

Proposed Local Law 208 suffers from the same flaw as Proposed Local Law 207. The provision allowing vacancy decontrol only for buildings under 20 units does not ameliorate the catastrophic effect of vacancy decontrol on low income tenants. Since many low income people live in buildings of twenty units or fewer, vacancy decontrol in these buildings will further increase homelessness and its related costs.

Similarly, Proposed Local Law No. 217 would exclude from the Rent Stabilization Law, vacancies in apartments renting for more

than \$900.00 per month. In our experience in Brooklyn, for example, many of our clients live in apartments renting for more than \$900.00 per month. They can only afford such rents by taking in roommates or sharing with other family members. According to City statistics, there are 134,000 units which rent for over \$900.00 per month. Losing that many apartments would radically reduce the housing opportunities renters have.--

In the experience of our Harlem Office, it is not unusual to find poor tenants paying rents that may be considered luxury rents. Through guidelines increases, vacancy and MCI increases, landlords have managed to restructure rents for vacant apartments in Harlem to double or triple their prior levels. Initially, landlords may have intended to rent these high rent apartments to higher income tenants. However they are often unable to attract higher income tenants. Thus, instead of renting the apartments to higher income tenants, the apartments are often rented to extended families or doubled up households. Frequently several generations live together in a rent stabilized apartment because that is the only way they can afford the rent. In such extended families, it is not unusual to find several persons working at low wage jobs to keep an apartment renting at \$900.00 or above. These families pool their income together to pay the rent.

Throughout the City, we represent formerly middle class tenants who have lost their jobs during the recession who take in roommates in order to continue remaining in their neighborhoods whose rents are at high levels.

Clearly, higher rents do not necessarily represent luxury

rents and decontrol of these units would harm low income tenants.

Lastly, allowing vacancy decontrol for rents of \$900.00 or more, leaves a landlord with a huge loophole. With every vacancy, a landlord can merely put in sufficient "1/40" individual apartment improvements to raise the rent to \$900.00 and then declare it decontrolled. Under Proposed Local Law No. 217, every apartment which becomes vacant, no matter how formerly affordable would then become decontrolled.

Proposed Local Law No. 227 and 228

Proposed Local Law Nos. 227 and 228 would increase the vacancy allowance when rent stabilized apartments become vacant to 25% over the former rent. This would have the effect of making apartments less and less affordable. Such a policy increases the numbers of low income people who simply cannot afford their apartments and are forced into the homeless system at great cost to the City. Moreover, there is no justification for such an increase. As Rent Stabilized Housing in New York City: A Summary of Rent Guidelines Board Research 1993 makes clear, the Rent Stabilization Guidelines Board increases more than guarantee landlords a reasonable rate of return and have exceeded inflation every year.

The "1/40" individual apartment improvements give a landlord an opportunity to raise the rent during the vacancy if improvements are made to an apartment. Our experience in representing low income tenants in Brooklyn is that almost every vacancy results in a substantial increase due to alleged "1/40" increases, so that the increases almost always result in a more than 25% increase over the former rent. Indeed, the City Housing Vacancy Survey shows that

rents for vacant apartments on average increased by 42% from 1987 to 1991. Thus, a 25% vacancy increase would give landlords an unjustified windfall and cause more poor tenants to be pushed onto the street.

In addition, should the City wish to aid small landlords, the City could do so by offering tax abatements and low income loans to maintain the premises. To raise vacancy rents by 25% will merely serve to make it more and more difficult for low income tenants to find affordable housing.

Moreover, the Rent Stabilization Law already has a procedure to raise rents if a landlord can show a rent hardship. Small (or large) landlords can avail themselves of the already existing procedure.

The proposal will also increase landlord harassment of tenants because the gain to landlords of forcing tenants out is so great. In our experience, landlord harassment is greater in small buildings.

Lastly the proposal is not tailored to help only small landlords. Many large landlords and management companies own buildings with twenty units or fewer.



Conclusion

For these reasons, we strongly oppose the proposed changes to the Rent Stabilization Law and urge the Council to approve proposed local law 215 and extend the protection of Rent Stabilization without devastating deregulation. Enacting any of the proposed changes in the Rent Stabilization Law will result in an devastating increase in homelessness and a corresponding increase in City expenditures for emergency shelter.

Submitted By:

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**March 10, 1994**

**Testimony on the Renewal of the Rent Laws  
before the City Council Housing & Buildings Committee**

Met Council supports the passage of Intro. 215 and Res. 144 which would renew the rent stabilization law and continue rent control without any weakening amendments. Met Council opposes all of the other bills which have been submitted to this committee for consideration. The other seven bills on the list would enact some form of deregulation. Tenants have had enough of deregulation, with the luxury decontrol and gutting of the registration system that last summer's state legislative changes brought.

The rent regulations are vital to the 2.5 million people who live in regulated apartments in this city. The rent laws protect tenants from unforeseen, precipitous rent hikes; they guarantee tenure or lease renewals; allow evictions only for good cause; and allow tenants recourse where landlords are not providing services or repairs. The laws provide an even playing field for tenants in a housing market that has extreme shortages. The system is not a subsidy, like Section 8, but simply limits the amount of profit the owners are allowed to collect.

The recently released Housing and Vacancy Survey report to the City Council shows that the rent laws could be stronger, not

weaker as all your proposals would have. "Renter households with incomes below the poverty level increased from 26.8 percent in 1990 to 29.9 percent in 1992." Renter households over all suffered a decrease in income between surveys of 12.3% adjusted for inflation. And "the median gross rent-to-income ration (the percentage of total income spent for rent and utilities) rose from 28.4 percent to 30.7 percent."

I would like to address myself to Intro 227 and 228, bills which would affect many of Met Council's members. I have heard the chairman of this committee express a concern for the small owners, who he feels are in imminent danger of losing their buildings in tax foreclosures. Focusing for a minute on the smaller buildings in low income neighborhoods, which is where these endangered buildings are, I would argue that the tenants in these buildings are as vulnerable as their owners; more in fact, because unlike the owners, they have no assets. Vacancy allowances promulgated by the Rent Guidelines Board, much lower than the proposed 25% in Intros 227 & 228, have done much damage to the affordable rental housing stock. The HVS report states that "The portion of low-rent units declined considerably between 1991 and 1993, even after adjusting for inflation. In March 1993 dollars, the proportion of units with gross rents less than \$400 a month decreased from 26.2 percent to 24.4 percent of occupied renter units." In addition, the figures for asking rents are dismal: the vacancy rate for apartments renting for \$300 to \$399 is 1%; for apartments renting for \$400 to \$499, the vacancy rate is 1.68% (Table 5, U.S. Bureau of the Census, 1993 New York City

Housing and Vacancy Survey). Past HVS figures have shown that low income people move the most compared to higher income people, and so these units are the most affected by vacancy allowances. These allowances cause the tremendous skewing that we see in rents so that the same sized apartments in one building can have widely different rents. A 25% vacancy allowance in small buildings would aggravate the intense competition for vacant apartments and would encourage harassment.

Current harassment laws and enforcement are a joke as any organizer will tell you. I recently worked with a tenants association in Harlem where the tenant leader in a building with hundreds of violations was sued for having a washing machine. This woman had had the washing machine since moving in; the super had helped her hook it up, and most other families in the building had washing machines with the landlord's knowledge. The tenants had the landlord in court for not maintaining the building and the landlord figured this was one way to silence her. (Her rent, by the way, is in the mid-600s.) The 25% vacancy allowance would tighten an already too tight market, would encourage harassment, and would not help the small owners in neighborhoods where the people making enough money for high rents are selling drugs.

There are a number of ways the Council could help small owners: equalize class 2 and 1 property tax assessments and lower rates for class 2 (perhaps with abatements for buildings serving low income people); lower or cap the water and sewer charges; force the Mayor to increase, rather than cut, the budget for the

low interest rehab loan programs administered by HPD; fold the rent control MBR system into the rent guidelines board system with rent stabilized units to lighten the bureaucratic load on small owners. All of these proposals would directly help the small owners and tenants in low income areas.

In summary, Met Council urges the Committee to pass the straight extenders, Intro 215 and Res. 144, out to the full Council for its vote on March 16, 1994. The two and a half million rent regulated tenants in the city are depending on you.

MARCH 10, 1994

HARVEY GOODMAN  
532 LA GUARDIA PL #331  
NEW YORK-NEW YORK 10012

TO -

THE HONORABLE PETER VANELONE,  
THE HONORABLE CITY COUNCIL MEMBERS;

I AM A NATIVE NEW YORKER, A TENANT, BATTLE SCARED  
AND SCARED ON THE BATTLE-FIELD OF NEW YORK REAL-  
ESTATE -

I LIVED IN A SMALL RENT CONTROLLED STUDIO FOR 21 YRS.  
12 OF THOSE YEARS WITH A LOVER WHO MOVED OUT - I WENT  
THRU HELL - AND I THANK GOD THE LAWS OF SUCCESSION  
HAVE BEEN CHANGED TO PROTECT PEOPLE LIKE ME - BUT I  
AM ONE OF THE GROWING LEGION OF HOMELESS PEOPLE IN  
NEW YORK CITY. LUCKY BECAUSE I AM ONE OF THE  
"HIDDEN HOMELESS" TAKEN IN BY FRIENDS - LOWER  
MIDDLE CLASS AS I AM, THERE IS NO "AFFORDABLE HOUSING"  
IN NEW YORK CITY FOR ME - THERE ARE PLENTY OF LUXURY  
APARTMENTS FOR RENT. THERE IS EITHER THE LUXURY OR  
THE PROJECTS.

RENTS HAVE INFLATED 180% IN 10 YRS. THIS IS A REAL  
HARDSHIP. HOUSING IS A NECESSITY. TO PRESERVE STRONG  
CONTROL ON ALREADY INFLATING RENTS IS NECESSARY FOR  
THE HEALTH OF THE CITY'S ECONOMY TOO - FOR AS RENTS  
RISE, THERE IS LESS MONEY AVAILABLE TO BUY OTHER  
PRODUCTS.

TO FURTHER DILUTE THE RENT CONTROL AND RENT  
STABILIZATION LAWS IN THIS TIME OF INCREASED  
UNEMPLOYMENT AND WHEN WE ARE TRYING TO KEEP  
INFLATION DOWN WOULD BE UNCONSCIONABLE - IT MOST  
CERTAINLY WILL ADD MORE PEOPLE TO THE GROWING  
LEGION OF THE HOMELESS - PLEASE KEEP THE RENT CONTROL  
AND STABILIZATION LAWS EXACT. THANK YOU

# **RENT STABILIZATION ASSOCIATION OF N.Y.C., INC.**

1500 Broadway • New York, N.Y. 10036

**Testimony of Jack Freund  
Executive Vice-President  
Rent Stabilization Association**

**Hearings of the City Council  
Committee on Housing and Buildings  
March 10, 1994**

The Committee on Housing and Buildings is today considering the extension of a set of anachronistic, counter-productive and ineffective rent regulations laws. These laws have been responsible for destroying the housing stock and the housing opportunities of City residents for more than 50 years.

I am therefore deeply gratified and, on behalf of the 25,000 members of the RSA who own and operate approximately one million units of rental housing, I want to thank the Committee for placing on today's agenda the first serious proposals for reform of the rent regulation laws in decades. Before addressing those reforms directly, I think it is important to understand the current crisis which makes these reforms necessary.

The City now faces a potential wave of housing abandonment which could equal the devastation which occurred in the 1960's and 70's. According to City data, there are now 15,000 multi-family rental buildings, primarily small, walk-up buildings, in tax arrears. Two years of in rem actions are now pending which total approximately 28,000 tax delinquent properties. Various studies have estimated that between 50,000 and 140,000 apartments are in danger of abandonment.

The abandonment potential affects the same low-income, minority neighborhoods which have already been decimated by social and economic deficiencies and threatens what remains of the quality of life in these neighborhoods. In addition, at a time of budgetary crisis, a new wave of housing abandonment will conservatively cost the City \$650 million annually in lost taxes and increased expenditures -- money which is desperately needed to fund essential city services such as police, fire protection and education.

The reform proposals before this committee directly address the economic crisis of the housing industry. Even the NYC Rent Guidelines Board, the economic guardian of the City's housing, has acknowledged that one out of every eight rent stabilized buildings is in economically marginal condition. Every study which has looked at this issue has identified the elemental problem: rental income is insufficient to meet operating cost expenses in a significant portion of the City's regulated buildings.

In a city such as New York, the culture of rent regulation has developed like an ingrown toe nail and cannot be quickly and completely excised without pain. No one realistically proposes that this system of rent regulations be eliminated overnight, even though harsh medicine is sometimes the best remedy. To the contrary, the proposals before this committee, ranging from a statutory vacancy allowance of 25% to the decontrol of apartments across the board as they become vacant, all share two characteristics: they address the issue of inadequate rental income, and they hold harmless all existing tenants.

We would urge this committee to adopt the most expansive of the proposals before you -- across the board vacancy decontrol. This proposal would provide economic relief to the housing industry, while protecting all in-place tenants and moving the City towards the free housing market which has always been the statutory intent of the rent regulation laws. This measure also has the advantage of phasing out rent regulations over a long period of time, estimated to be as long as 24 years, which would mean that market disruptions would be minimal.

The more limited proposal for vacancy decontrol of just those buildings containing 20 units or less has the advantage of targeting exactly those buildings which are in greatest danger of abandonment. And the proposal for a 25% vacancy allowance, while not moving us closer to the goal of a free housing market, at least addresses the issue of providing increased rental income to sustain our housing stock.

There are a couple of issues which are commonly raised as objections to any proposal for vacancy decontrol or increased vacancy allowances. One is that the incidence of harassment would increase. No one, and certainly not the RSA, condones harassment of tenants under any circumstances. That is why New York City has the most stringent anti-harassment laws in the country, which probably accounts for the fact that there are so few actual findings of tenant harassment by the regulatory agencies.

The other objection is that significant rent increases, whether arising from decontrol or vacancy allowances, decrease the supply of so-called affordable housing units.



This is a more difficult issue, but yet there is a clear choice: either we allow rents to rise to meet operating cost requirements, or we allow rents to remain at inadequately low levels and risk losing our housing resources to abandonment. Some would counter with the illusory suggestion that more non-profit housing is the solution. However, this ignores the fact that 20% of the housing sold by the City to non-profits is now also in tax arrears. That is because non-profits must meet the same operating cost pressures as private owners, unless substantial tax abatements and other concessions are provided, depriving the City of the money it needs to operate.

The real answer to this objection is another proposal which is on the table today, a resolution calling for a SCRIE type program for low income renters. There are a significant number of City residents whose income is insufficient to support any rent payments whatsoever. In these cases, the answer is to supplement incomes, not try to hold down rents, making the property owner bear the burden and ultimately, placing the burden on every taxpayer. The RSA strongly endorses the income supplementation measure before you, as well as other proposals for an increase in the shelter rent welfare allowance, which would allow low income New Yorkers to live in decent housing.

The Committee also has before it several measures which would rationalize the reform measures which were enacted in Albany last year. These measures attempted to introduce some equity into the rent laws by decontrolling certain luxury apartments occupied by wealthy renters. One measure would allow the decontrol of apartments occupied by households earning more than a quarter of a million dollars a year, regardless of the rent paid. It makes no sense to decontrol wealthy households if they pay \$2,000 or more per month in rent, but not if they pay less.

A second measure would eliminate the October 1, 1993 date as a trigger for the decontrol of apartments renting for more than \$2,000 a month. The October 1 date is purely arbitrary and does not conform with the notion that high rent apartments should not be regulated, whether they are high rent now or in the future. We urge the Committee to approve these amendments. They would not affect a significant number of apartments nor would they provide the required economic relief for the housing industry, but they would send a signal that government will not regulate where it is not necessary nor will it protect those not in need of protection.

In this context, I should note that the recently released data from the 1993 Housing and Vacancy Survey does not bear on any of the proposals before the Committee. While the 1993 vacancy declined to 3.44% from 3.78% in 1991, this is not a

statistically significant difference. Similarly, the drop in the vacancy rate for apartments renting for \$1,250 or greater from 10.15% to 4.47% does not mean we can be certain that the vacancy rate for this class of housing is less than 5%.

The new survey did produce some results which are very surprising and which appear illogical. Unfortunately, the computer data tapes for the survey have not yet been made available to the RSA, and so we have not been able to analyze these results.

What is significant about the survey results is that the City-wide vacancy rate remains at its second highest level in thirty years. Since the vacancy rate has remained below 5%, even in the midst of the most severe housing recession in decades, there is a question as to whether the vacancy rate can ever rise above 5% and whether the City can ever technically not be in a "housing emergency". There are significant questions about the way the vacancy rate is calculated which should be examined before the Council routinely continues to declare a housing emergency decade after decade.

In light of these considerations, I urge the Committee to act favorably on the proposals before you today. The City's economic future and the quality of life of its residents depends on a vibrant housing market. Instead, we have experienced a catatonic market which is quickly falling beyond any hope of resuscitation. We urge you to take this opportunity to breath new life into the City's rental housing in order to benefit the City's economy and its residents.

**TESTIMONY BEFORE THE THE NEW YORK CITY COUNCIL  
COMMITTEE ON HOUSING AND BUILDINGS**

**MARCH 10, 1994**

**By Timothy L. Collins  
Executive Director and Counsel to the  
New York City Rent Guidelines Board**

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Good afternoon. My name is Tim Collins and I am the Executive Director and Counsel for the New York City Rent Guidelines Board. I first want to thank the Committee for giving me this opportunity to speak. As you know, the Rent Guidelines Board conducts an annual investigation into the conditions of the rental housing industry and sets rents for the City's one million rent stabilized units. With the cooperation of numerous City and State agencies over the past five years the Board has dramatically expanded both the quantity and quality of the information and analysis used in the rent setting process. This achievement occurred at a time when the City's allocation for support staff and consulting services actually fell by over 20%. I understand that the Committee members have received copies of the staff's annual research report for 1993. If you have not yet received a copy please let me know and I will be sure to have one sent.

Before proceeding I need to make two disclaimers. First, my appearance here is by invitation of the Committee. The Rent Guidelines Board is not a Mayoral agency and I am not an employee of the City of New York. I work exclusively for the Rent Guidelines Board. In addition, those of you who are familiar with the work of the Board will recognize that I cannot speak on behalf of all of the various interests and points of view represented on the Board. So I will simply try to share with you some of the information that my staff has developed and note some of the unresolved questions that we have identified over the past few years. Finally, with one exception, I will avoid making specific recommendations on any legislative initiatives which might be contemplated by this Committee. As I stated in testimony before the State Senate Committee on Housing and Community Renewal this past May, my role here is not to influence legislation but to assist in ensuring that whatever actions might be taken are preceded by a rigorous and responsible discussion of the issues. I hope that the Committee will find my testimony helpful in this regard.

The one exception where I feel it is appropriate that I urge a legislative change concerns a single element of the local Rent Stabilization Law [N.Y.C. Admin. Code §26-510(c)] that has been overlooked for too long. This is really a fairly minor matter that has nothing to do with rent policies. I am referring to the per diem payments received by those who serve on the Rent Guidelines Board. Unfortunately, since the rent laws are only visited once every three years, this is the only real opportunity to recommend a change.

As I am sure you are all aware, service on the Rent Guidelines Board can be one of the most trying and thankless tasks in local government. We are very fortunate to have an outstanding and accomplished group on the present Board. When the Board was first established in 1969 the City-Council intended that it be composed of nine distinguished housing experts, who would bring integrity and competence to a difficult and complex process. Reflecting that intent, compensation was set at \$100 per day for members and \$125 per day for the Chair - a substantial sum at that time. In 1993 dollars that level of compensation is the equivalent of over \$400 per day for Members and over \$500 per day for the Chair. Yet, per diem compensation for the Rent Guidelines Board has never been revisited. That is, members are still receiving \$100 per day and the Chair still receives \$125 per day. In short, they haven't had a raise in twenty-five years.

In correcting for this I would hope that the Council might consider the per diem rates of other local Boards. Loft Board members receive \$175 per day - and that rate was established over a decade ago. Members of the Conflicts of Interest Board receive \$250 per day. The Chair receives \$275 a day. Those rates have been in effect since at least 1990. I understand that Members of the Civil Service Commission also receive \$250 per day, and the Chair receives \$275. Those rates have also been in effect since at least 1990.

Given the fact that the above mentioned rates are already quite dated, along with the fact that these types of rates tend to be updated at a slow pace, it would appear reasonable to establish rates of compensation for the Rent Guidelines Board that are slightly higher than those received by the Conflicts of Interest Board or the Civil Service Commission.

Since the Rent Guidelines Board typically meets about twelve times a year, if the members of the Board were to receive \$275 per day, and the Chair \$325 per day, the total additional cost to the City would be less than twenty-thousand dollars (\$20,000).

This is a long needed correction, and I would hope that, as a matter of good government, someone on the Council will introduce such a change and that the Committee will support it.

Unless there are any questions, at this point I would like to turn to more general concerns about local rent regulation policies.

\* \* \*

This Committee is being called upon to consider a number of bills concerning the extension and/or modification of existing rent regulations. As I said earlier, I take no official position on the ultimate course of the City's rent policies. I would, however, like to discuss the prudence of making long term changes under a short deadline in the kind of high pressure, politically charged atmosphere

in which the current changes are being proposed. The effects of rent regulation on the local economy, local tax revenues, neighborhood and household stability, economic and ethnic diversity, and on the attractiveness of the City to middle income households are poorly understood and rarely analyzed in a balanced fashion. We now have a good deal of information about the effects of rent regulation on the net operating incomes realized by property owners and I will turn to that issue later in my presentation. Here I only wish to emphasize that the issues connected with rent regulation are too complex and important to be treated as routine legislative matters.

In enacting the Rent Reform Act of 1993, I believe that the State has adopted a prudent approach by extending the Emergency Tenant Protection Act four years while committing itself to conduct a comprehensive study of rent regulation by June 30, 1995. It seems to me that it is within that effort, and in that forum, that sound rent policies might emerge. Since the City will be most heavily effected by this State initiative, local efforts to reconsider these laws might be more fruitfully directed at ensuring that the City's voice is heard when the State undertakes its review. The City needs to make a clear and convincing case that will assure the local public that any recommended course of action rests upon serious study and sound judgment - not politics. Protection against unconscionable rents, arbitrary evictions and loss of services have been an accepted fixture of local housing policies for over half a century. If a change is to be recommended, the public needs to know that it is the

product of serious thought - not a reflection of who controls the most votes or who makes the biggest campaign donations.

I shared much of the testimony which follows with the State Senate Committee on Housing and Community Renewal prior to the adoption of the Rent Reform Act of 1993. I hope that this updated presentation will assist this Committee in framing the questions that clearly deserve further analysis.

New York's rent regulation laws have been described by the Court of Appeals as an "impenetrable thicket confusing to lawyers and laymen alike". My eight years of experience in this field have led me to conclude that the policy issues underlying these laws are equally complex. This is no doubt due to the tremendous diversity of circumstances facing renters in New York and to the variety of housing types that they inhabit. It is also due, in part, to the politically charged atmosphere surrounding the issue of rent regulation.

Over the years millions of dollars have been spent by various interest groups attempting to influence City and State rent policies. Rent regulation may, in fact, need some reform. Indeed the Rent Guidelines Board is on record as supporting reform of the current hardship mechanisms by which owners may be ensured a fair return.



As each of you know, efforts to change rent regulations are not without precedent. Some reforms have been successful. Others have been disastrous. I am sure you are familiar with the City's brief experience with vacancy decontrol in the early 1970's. The public record on this experience is clear. Sharp rent increases and rising public apprehensions promptly led to the adoption of the Emergency Tenant Protection Act of 1974. You may not be as familiar with the impact of the rent control reforms that occurred during the same period. No where are the consequences of these reforms better examined than in a study of the City's housing policies from 1965 through 1973 by Flora Sellers Davidson, now Associate Dean of the Faculty at Barnard College. I have attached a copy of an abstract summarizing Dean Davidson's study for your convenience. Her analysis is a work of exceptional scholarship which essentially describes how political preoccupation with rent control can drown out far more critical issues which affect the viability of housing. This preoccupation with rent control as a way of stemming housing losses distracted policy makers from developing more productive strategies which may have prevented the unprecedented and tragic wave of housing abandonment which occurred in the 1970's.

Again, I add these observations not to suggest that legislative changes are necessarily a bad thing - but only to point out that the consequences of poorly conceived or premature decisions can be devastating.

I can state with some confidence that there are policies other than rent regulation which presently have a far greater impact on the viability of the City's housing stock. Many of those who testify before the Rent Guidelines Board each year often assert that much of the stress placed upon marginal properties is the result of regulated rents being held below market. Interestingly it is precisely in the City's poorest neighborhoods where the gap between regulated rents and market rents is the smallest. In fact, many of the rents in these neighborhoods are not constrained by rent regulation at all but by the inability of tenants to afford to pay more.

Over 150,000 rent stabilized households currently receive shelter allowances. The value of these allowances in inflation adjusted dollars for a family of four has plummeted from a value of \$568 in 1975 to \$312 in 1992. This drop in ability to pay forms a direct and immediate threat to the City's most critically needed private housing stock.

There are a number of other ways policy makers can get caught up in the tangle of reports, studies and opinions on the issue of rent regulation. For example, owner advocates will describe the relatively low turnover rates in New York as housing grid-lock. Tenant advocates will describe low turnover rates as neighborhood stability. In fact, it is probably a little of both.

Vacancy rates are another area of possible confusion. We know from recent HVS data that the housing shortage remains severe in a

number of sub-markets. The current vacancy rate is less than 3.5% - well below the emergency level of 5%. In fact, the housing shortage is far worse than these numbers indicate. During an economic downturn vacancy rates can be very misleading. Rent control, as you know, was established in 1943. A 1946 Report of a joint legislative committee to recodify the Multiple Dwelling Law noted that a housing shortage had begun to appear as early as 1936. It was also noted that the shortage was largely concealed because economic conditions during the depression forced families to double up. New York City is now emerging from perhaps the greatest economic downturn since the 1930's. We do know that the rate of overcrowding in rent stabilized apartments has risen from 7.6% in 1981 to 12.1% of households in 1993. If the economy picks up and those doubled up begin to form new households the current vacancy rate could drop precipitously - creating the most extreme kind of market tightness. This will only amplify the current shortage [in all markets] and further undermine fair bargaining between owners and tenants.

A further area of uncertainty is the impact of rent regulation on local tax revenues. Existing data on the tax benefits that full or partial deregulation will create is highly misleading. A 1988 study by Peat Marwick Main & Co. suggested that their recommendations for partial deregulation would result in up to a \$370 million dollar increase in City tax revenues. A more modest 1991 deregulation proposal by the Citizen's Budget Commission predicted a \$100 million dollar revenue increase would result from partial

deregulation. Both studies are premised upon a standard economic assumption. That assumption suggests that beyond the identified economic impact all other things will remain equal. But all other things do not always remain equal.

First, neither proposal considers the impact that a shift from consumer spending to rent payments might have on local sales tax revenues. A dollar spent on rent will travel a different route than a dollar spent on consumer goods or a dollar placed in a savings account at a local bank. Local revenues are affected no matter which way those dollars are spent. In addition to the implication for sales tax revenues, no one has analyzed what impact such a loss of disposable income might have on local businesses and, hence, income taxes. It is simply myopic to view the impact on local revenues only from the perspective of property taxes.

Second, and perhaps more importantly, no one has ever carefully explored whether or not rent and eviction protections have made New York a more desirable place to live for its middle class. New York's middle class today remains a vital part of its economy. The flight of middle income households, as you know, has resulted in serious economic deterioration in a number of other large cities. None of the current studies supporting deregulation attempt to quantify the extent to which deregulation might be the last straw for those who would be willing to take advantage of lower housing costs elsewhere.

In the short term, of course, rising rents would lead to somewhat higher property tax assessments which will in turn result in higher revenues for the City. Yet, given the City's existing valuation and rate system, the average tenant already bears a very high property tax burden. The average rent stabilized tenant indirectly pays over \$1,000 per year in property taxes - and that is for living space which is typically half that of private homes. About 70% of the City's households are renters. They receive none of the tax benefits that home owners - who form the majority of households elsewhere - benefit from. I think it is clear that we should explore better ways to fund local services than to demand more taxes from tenants through rent increases.

The best way to raise or stabilize local revenues is to keep existing businesses in the City and to attract new businesses. One of the most common concerns of companies asked to relocate to New York is the high cost of housing. Higher housing costs mean higher wage demands. Higher residential rents may, in this respect, hurt the City's business environment. The first order of business for anyone seeking to save the City's housing stock should be the creation of more jobs, so people can pay the rents that are already authorized under the law. As I will note later, collection losses are a far more severe problem for property owners than are the legal limits on rent increases.

Another issue that often gets distorted concerns the goal of rent stabilization. If you read the legislative findings of both the

Emergency Protection Act and the City's Rent Stabilization Law the goal of rent stabilization is to establish fair rents, rents that - because of the housing shortage - might otherwise be excessive or exploitive, regardless of household income. Rent stabilization was never intended to be an anti-poverty program. Indeed, when the City's Housing and Development Administration and Department of Consumer Affairs investigated spiraling rents in uncontrolled apartments in 1968 - a study which led to the enactment of rent stabilization - reports of rent gouging (quoting from their report) "were concentrated in the traditionally high rent areas of the City, and most heavily in large newer buildings". The goal was not to protect the poor but to inject some fairness into a failed market. It is remarkable how many times I have heard someone assert that rent stabilization is a failure because it doesn't protect the poor. Protecting the poor was never the primary concern of the system. Establishing fair rents in a market driven by a shortage was the objective.

Incidentally, however, the poor do benefit tremendously from the tenure protections under rent regulation. These tenure protections could easily be defeated by economic evictions if owners were completely free to set rents. Also, with a median household income of \$14,400 and a median age of 70, rent control appears to protect a particularly vulnerable class of tenants. That these tenants benefit from a system designed to correct for market failure is certainly helpful but that does not change the original purpose of the law.

✓ Notably, for rent regulated tenants in New York City earning less than \$100,000 per year the cost of housing as a proportion of income is somewhat lower than it is for tenants living in other high rent cities. Yet, for tenants in New York City who earn more than \$100,000 per year the proportion of income spent on rent is about the same as it is in other high rent cities.\* Therefore, the charge that rent regulation in New York City benefits the rich at the expense of those less well off is not supported in terms of relative average rent burdens.

Recent measures to reconstruct rent regulation by limiting protection to certain income groups fundamentally alter the original premise of the system. Again, that premise was to ensure that fair rents are established for all tenants - not just the poorest. Changes in that premise raise constitutional issues which have yet to be tested. It is clear that states and localities have, under the police power, an authority to regulate markets and prices. Such practices date back to colonial times and indeed were sustained throughout the United States Supreme Court's conservative *Lochner* era - a period when even child labor laws were held unconstitutional. It is not clear, however, that rent regulations can be made selective on the basis of income classifications of the benefited population.

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\* These observations are based on a review of Table 7 of *Reforming Residential Rent Regulations*, a study sponsored by the Citizens Budget Commission, published in February of 1991.

When owners are told that they may charge market rents for affluent tenants but must charge less than market for those less well off, the system gives the appearance that the owners are being asked to bear a public welfare burden that is more properly allocated among taxpayers as a whole.

This argument follows from the notion that rent regulation creates a subsidy for those it benefits. The City Council should not fall into this conceptual trap. Rent regulation was established to restore fair bargaining relations for all parties in a market driven by a severe housing shortage. The ultimate goal of the Rent Guidelines Board is to attempt to establish rents at levels that would exist in the absence of the housing shortage/emergency. That is, the Board attempts to establish increases that might occur if balanced bargaining relations existed between all owners and all tenants. To describe such rents as creating a "subsidy" assumes that market level rents are presumptively fair - a presumption which is fundamentally at odds with the declaration of a housing emergency.

Another area that is subject to a great deal of confusion concerns the effects of rent regulation on housing abandonment and new construction. I cannot summarize for you all of the various reports and studies I have seen on this issue over the years. But my staff has gathered a tremendous amount of information on this issue in recent years. In addition the Board hosted a round table discussion with five experts holding diverse views on the subject of





TESTIMONY

ON THE CONTINUATION OF RENT REGULATIONS

TO THE CITY COUNCIL HOUSING AND BUILDING COMMITTEE

FROM ALAN G. HEVESI

NEW YORK CITY COMPTROLLER

PRESENTED BY DEPUTY COMPTROLLER JACK CHARTIER

MARCH 10, 1994

I am testifying today on behalf of City Comptroller Alan Hevesi. My name is Jack Chartier and I am Deputy Comptroller for Intergovernmental and Community Relations.

On behalf of the Comptroller, I would like to thank Chairman Archie Spigner and the other members of the Housing and Building Committee of the City Council for giving us the opportunity to testify today.

To come to the right decision about rent regulations, it is important to put the issue in the broader context of what is happening in the City's economy. The Comptroller is mandated by the City Charter to analyze the City's economy, and so our analysis of rent regulations begins from that perspective.

As you know, New York has lost almost 400,000 jobs over the last four years. Most of those jobs were low-skilled and entry-level jobs. The result has been the growth of two economies within the City -- one, for those with skills, offering good pay and opportunity; the other, for those with fewer skills, offering less and less opportunity.

This trend is dangerous for the long-term health of the City. We cannot afford to be a City made up only of the very rich and the very poor. We must preserve a place for working people. Above all else, that means two things -- jobs and affordable housing.

The Comptroller has talked about the importance of stimulating jobs in other forums. The issue for today is affordable housing. And affordable housing is a vital issue for all New Yorkers, because without affordable housing, many New Yorkers -- poor and middle class -- may be forced to leave the City. And if we start to lose our people, we lose our vitality and our future.

Data from the latest Housing and Vacancy Survey prepared by the Department of Housing Preservation and Development show that the average income for people in rent stabilized apartments fell 11.4 percent from 1990 to 1992, after adjusting for inflation. Rents were stable, after adjusting for inflation. That means that people were forced to spend more of their money for housing and had less left for other expenses. According to the Vacancy Survey, the average amount of income going to rent increased from 28.4 percent to 30.7 percent.

New York is trying to attract more businesses and help those already here grow by cutting business taxes. That is important because New York is seen as a high cost place to do business. It is also a high cost place to live. And that makes it difficult to attract and hold the workers that business needs.

That is why the Comptroller believes that affordable housing must be one of the City's top priorities and why he urges the Council to maintain the City's rent regulations as they now exist.

In his inaugural address, the Comptroller stressed the importance of protecting the weakest among us. Let's look at who benefits from rent regulations. One-quarter of those in controlled and stabilized apartments are senior citizens. Another 15 percent receive public assistance. That covers 40 percent of those protected by rent regulations. Many of the rest are middle class

or working poor, people who go to work every day, but who have a tough time making ends meet. They simply cannot afford to pay higher rents, or to have their lives disrupted when a landlord thinks he can get more money from another tenant.

The 1991 Vacancy Study showed that rent regulations provide stability for tenants. Over half of the tenants in rent stabilized apartments had been in their apartments for eight years or more. On the other hand, almost half of the tenants in unregulated apartments had been in their apartment for three years or less.

The stability fostered by rent regulation is good for the City. When people spend a longer time in their apartments, they have the opportunity to become more committed to their neighborhoods and get more involved in the community. When people are forced to move frequently, their involvement and commitment suffers.

Of course, rent regulation is not the complete solution for providing affordable housing. The City needs more programs like those created by the City pension funds, which have invested half a billion dollars to create and maintain affordable housing in the City. And the Comptroller is committed to expanding those programs.

Rent regulations are a good policy for New York City. They are vital to providing affordable housing to hundreds of thousands of New Yorkers. The Comptroller urges the Council to pass the two bills introduced by Councilman Stanley Michaels and other members of the Council that will maintain rent regulations.

Thank you.



ALEXANDER B. PETE GRANNIS  
65th Assembly District  
New York County

CHAIRMAN  
Committee on Insurance

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STATEMENT OF ASSEMBLYMAN PETE GRANNIS  
IN SUPPORT OF INTRO 215 AND RESOLUTION 144  
COMMITTEE ON HOUSING AND BUILDINGS  
NEW YORK CITY COUNCIL  
MARCH 10, 1994

I appear before you today to urge you and the full City Council to adopt Resolution #144 and pass Intro. #215, and by so doing continue rent protections desperately needed by NYC tenants on the basis of the continuing existence of a housing emergency.

Rent regulations are vital for the lives and well being of tenants living in rental apartments in the city. They depend on these laws to shield them from unfair evictions, illegal practices and excessive rent increases. These regulations, whose fate now rests in your hands, enable rental residents of this city to live in affordable apartments, raise a family, and contribute to their community and the city as a whole without the threat of being uprooted every lease renewal. For thousands upon thousands of seniors, rent regulations allow them to live out their lives in their homes, living independently, contributing to their neighborhoods.

Rent regulations, however, do not only benefit individuals but communities as well. By preserving affordable housing, rent protections are probably the most effective tool in the city's arsenal for maintaining economic diversity in our neighborhoods. Regulations provide a buffer for established long-standing neighborhoods against the forces of gentrification and dislocating development.

As the Council, and most importantly tenants, well know, when the issue of rent extenders came before the state Legislature last year, the Senate Republican majority, at the urging of the real estate industry, repeatedly pushed negotiations dangerously close to the expiration date with total disregard for the emotional impact on the lives and health of city residents.

As word of the risk caused by the Senate's callous efforts to disrupt the continuation of rent protections spread during the months the issue was before the Legislature, tenants became increasingly apprehensive about the fate of their homes. Far more than usual, in these troubled economic times, the real estate industry's highly aggressive campaign against rent protections took a tremendous psychological toll on renters, especially seniors and

lower-income families. By approving the measures before you today, without weakening amendments, you will not only help to reassure tenants across the city, but will send a clear signal that this body, unlike the Republicans in the state Senate, understands that tenants are the backbone of the city's future.



INC. 139 HENRY STREET NYC 10002/962-3069 FAX/406-5879

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CITY COUNCIL HOUSING AND BUILDINGS COMMITTEE HEARING  
TESTIMONY BY FLORENCE ENG, ASSISTANT EXECUTIVE DIRECTOR  
OF IT'S TIME...INC.

Speaker Vallone, Chairman Spigner and Honorable Members of  
the City Council:

I represent It's Time...Inc, a CBO located on the Lower East  
Side. It's Time has served community residents for over 27  
years. I am here to express my organization's support for  
the continuation of strong Rent Control and Rent  
Stabilization Laws here in New York City.

Some of It's Time's clients are here with me today to support  
the extension of rent guidelines. Others who could not  
attend this hearing have signed petitions. I have here 801200  
signatures addressed to the City Council and to the Mayor.  
We continue to collect more. Our clients are your  
constituents.

Some owners are claiming the rent laws are providing a  
subsidy, when in fact it's the opposite. Rent stabilization  
minimizes market failure so that renters do not fall into a  
need for subsidy. According to the 1990 Census, 29% of the  
population in our primary service area have incomes below

*Working since 1966 for senior citizens, youth and tenants in the Lower East Side and Chinatown.*

Anthony Johnson • Executive Director

125% of the poverty level.

The rent laws are aimed at minimizing the effects of a housing shortage and as you know, there is a shortage in housing, reflected in the 3.44% vacancy rate in 1993. A study done for It's Time by the Graduate School of Management and Urban Policy at the New School For Social Research, found the vacancy rate in our primary service area to be 2.35% in 1990. (Please see attached Table A.)

The laws serve to stabilize rental prices in a housing shortage, to keep housing financially within reach. According to the NYC Housing and Vacancy Survey 1991, the median income of renters has dropped compared to the income needed to pay median rents. (See attached Table B.) If not for the rent laws, this would create profiteering, excessively high rents and the withholding of services and repairs.

Housing is dramatically overcrowded. (Please see attached Table C.) The population in our service area grew at twice the rate of NYC as a whole. The New School study found that the number of household with more than one person per room in the primary service area jumped from 18% in 1980 to 26% in 1990. Chinatown is even more crowded, with an overcrowding rate of 29% in 1990. This area is the most crowded on the Lower East Side. There is increased doubling and tripling up with friends, relatives and strangers.

Local residents who are the working poor need stable and secure housing so that they may concentrate on other aspects of their lives, such as their children and their work. With affordable housing, the working class stays in the community, attracts businesses to the community and neighborhoods thrive.



CHINATOWN TENANTS COALITION

CITY COUNCIL HOUSING AND BUILDINGS COMMITTEE HEARING

TESTIMONY BY FLORENCE ENG, ASSISTANT EXECUTIVE DIRECTOR OF

IT'S TIME...INC.

Speaker Vallone, Chairman Spigner and Honorable Members of  
the City Council:

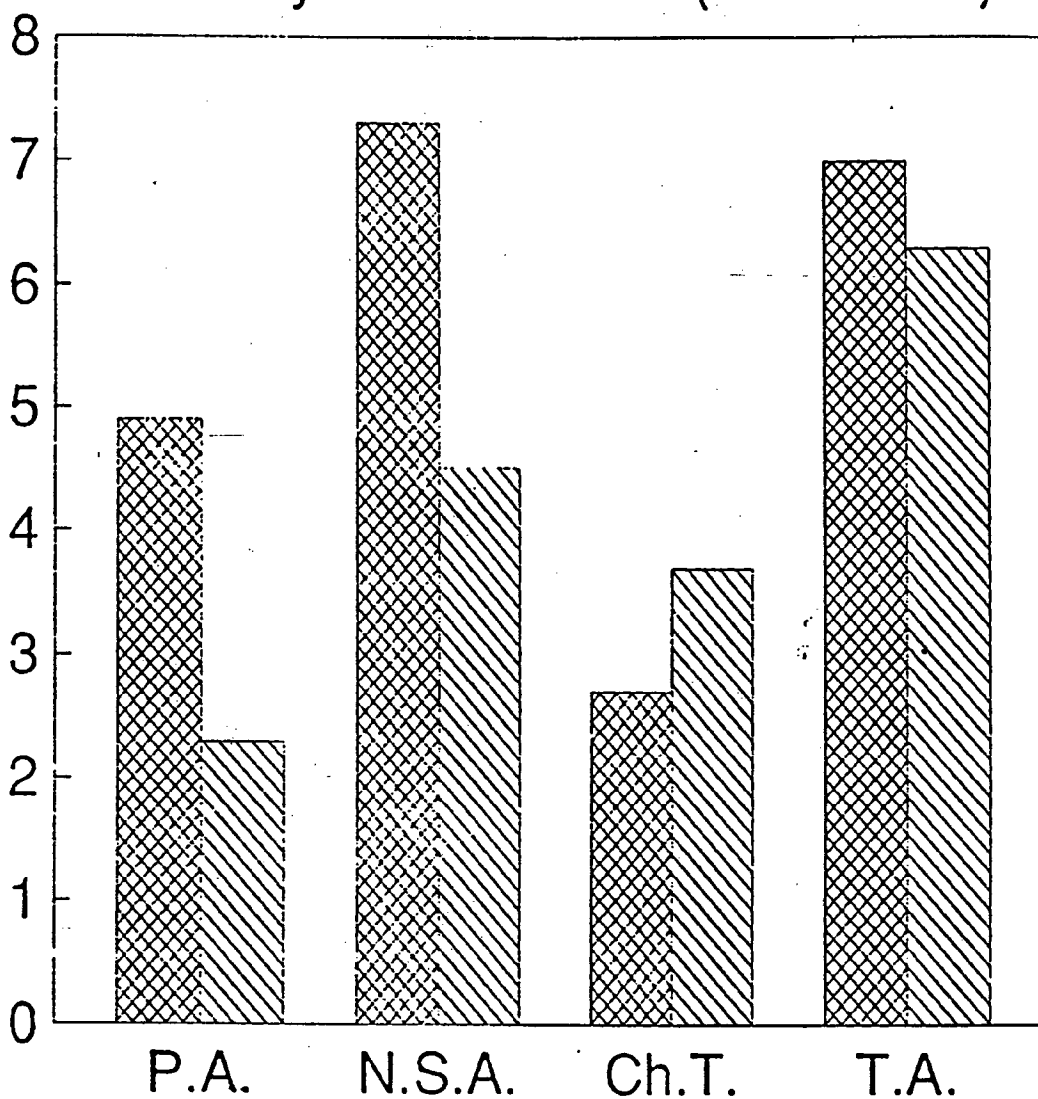
I represent the Chinatown Tenants Coalition. I am here to  
express our support for the continuation of strong Rent  
Control and Rent Stabilization Laws in New York City.

We are a coalition of 6 community based groups in Chinatown,  
It's Time...Inc., the Lower East Side Local Enforcement Unit,  
CIVIC, the Chinese Progressive Association, Asian Americans  
For Equality, and the Chinese United Methodist Church.  
Representatives from each group are with me today.

Many of your Chinese constituents are newly arrived  
immigrants and have low incomes. According to the 1990  
Census, the Asian population has grown substantially in the  
last decade. Many arrive in New York for economic reasons.  
They work hard for a better chance for their children. The  
rent laws protect them from sudden huge increases and owners  
who withhold services and repairs. Safe and secure  
housing is essential for community residents to concentrate  
on caring for their children and their work.

Please renew the rent laws without weakening amendments.

Vacancy Rate: (1980 1990)



P.A.: Primary Area  
 N.S.A.: N. Secondary Area  
 Ch.T.: Chinatown  
 T.A.: Third Area

\* Source: U.S. 1980 & 1990 Census

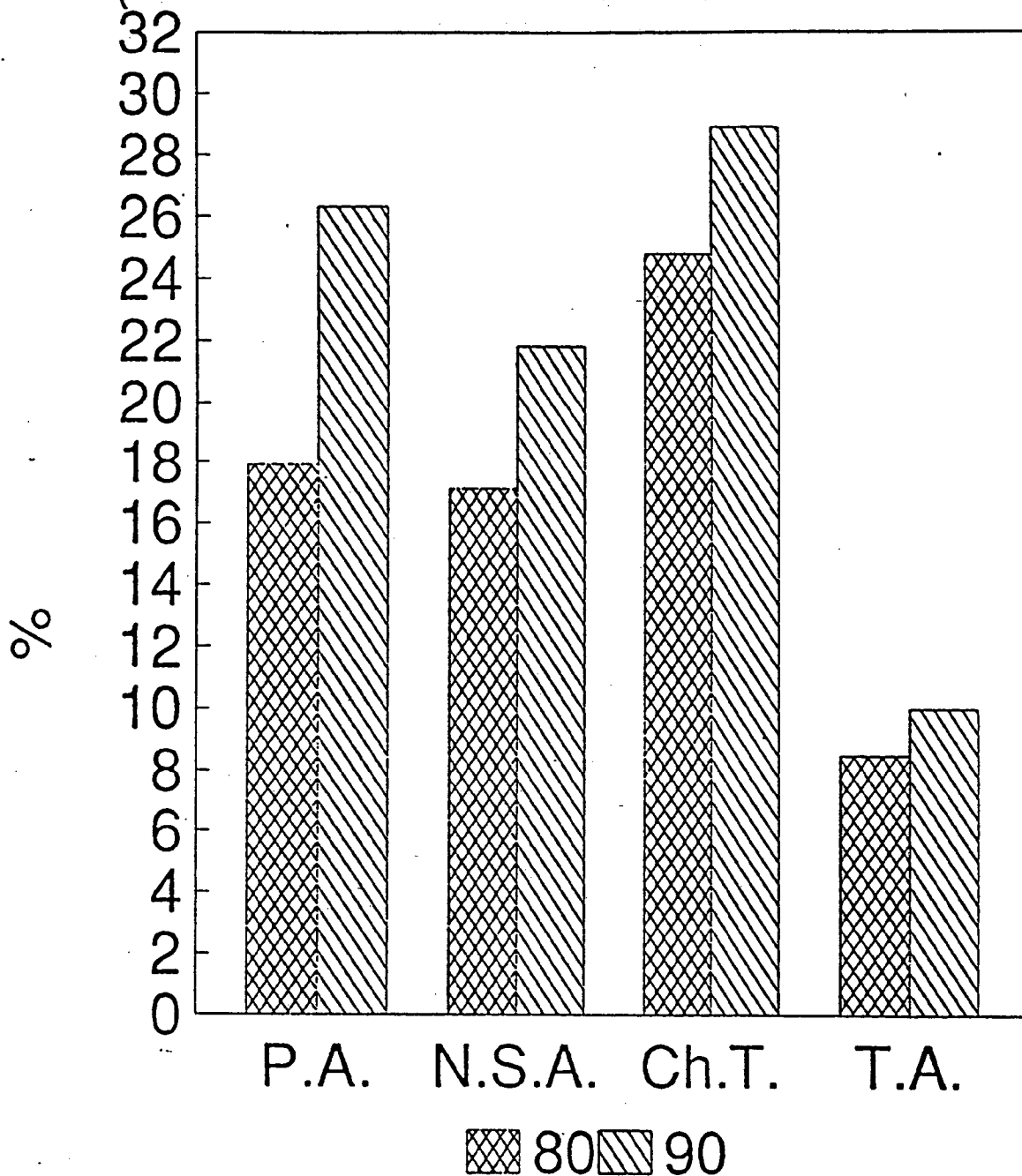
TABLE B

	1978	1981	1984	1987	1991
Index of Renter Affordability					
Current Dollars					
Median Asking Rent for Vacant Available Apts.	\$ 185	\$ 240	\$ 315	\$ 450	\$ 600
Household Income Needed to Afford Median Vacant Apt. at 30% of income	7,400	9,600	12,600	18,000	24,000
Median Renter Household Income	8,500	10,500	12,600	16,000	20,000
Index of Renter Housing Affordability	114.9%	109.4%	100.0%	88.9%	83.3%

Source: *Worlds Apart: Housing Race/Ethnicity and Income in New York City 1978-1987*, pg. 54., and NYC HVS 1991, Series IA, Table 9 and Series IIA, Table 31

# Persons per Room

(% Hshlds. with Greater than 1/room)



PA: Primary Area  
 NSA: N. Secondary Area  
 ChT: Chinatown  
 TA: Third Area

\* Source: 1980 & 1990 U.S. Census



THE CITY OF NEW YORK  
OFFICE OF THE PRESIDENT  
OF THE  
BOROUGH OF MANHATTAN

MUNICIPAL BUILDING  
NEW YORK, N.Y. 10007  
(212) 669-8300

RUTH W. MESSINGER  
BOROUGH PRESIDENT

TESTIMONY OF MANHATTAN BOROUGH PRESIDENT RUTH W. MESSINGER BEFORE  
THE CITY COUNCIL COMMITTEE ON HOUSING AND BUILDINGS CONCERNING  
THE EXTENSION OF THE RENT CONTROL AND RENT STABILIZATION LAWS.  
THURSDAY, MARCH 10, 1993. CITY HALL.

I unequivocally support Intro. 215 and Res. 144, which will extend for three years the rent stabilization and rent control laws for the tenants of New York City.

Rent regulation and tenant protections are an essential component of the city's overall housing policy. NYC has nearly three million housing units; over two-thirds of them are rental units. Approximately half the rental stock is regulated through rent stabilization (1,013,097 units) or rent control (101,798 units). These rent regulated apartments are home to some two and one-half million people.

Every three years, the NYC Housing and Vacancy Survey (HVS) is prepared for the City using housing and economic data from the U.S. Bureau of the Census. The 1993 HVS documents an 8% decline from 1991 in the number of vacant and available-for-rent units. This puts the current vacancy rate at 3.44%. This is well below the 5% set by the State Legislature as the threshold for determining a housing emergency. This is also the standard that gives the City Council its authority to renew the rent laws. We have certainly met and exceeded this criteria.

The rent laws are an indispensable part of the City's strategy for addressing its housing crisis. For an increasing number of households, these laws are a hedge against homelessness. While it is true that households of all incomes live in our rent regulated stock, lower income households are clearly the main beneficiaries. According to the 1993 HVS, 63% of households living in rent controlled units and 48% of households living in rent stabilized units earn less than \$20,000 per year. The proportion of renter households with incomes below the poverty level has increased and is now 30%. At the same time the proportion of low-rent units, those renting for less than \$400 per month, has declined to 24%, and now represent less than one-quarter of the total number of occupied renter units.

It was the shortage in the supply of affordable housing that first prompted the State Legislature in 1943 to introduce laws to regulate rents and to preserve tenure and housing quality. Strategies to address the crisis today must be comprehensive and meaningful and include the rent, eviction and housing quality protections provided by the current rent laws. In this spirit, I urge you to vote in favor of Intro. 215 and Res. 144.

The many other bills before this Committee today seek to undermine and roll back the existing regulations and protections. For example, Intro. 227 and Intro. 228, which have received a lot of attention in the media today, would allow a 25% rent increase upon vacancy. This increase is arbitrary and is not based the real costs of operating buildings. The NYC Rent Guidelines Board sets annual rent adjustments, including vacancy allowances, using data on landlord costs and information and testimony from tenants and owners. In addition, large increases upon vacancy can act as an inducement for owner harassment and illegal evictions.

Therefore I urge you to vote for Intro. 215 and Res. 144 to extend the existing rent laws for all rent controlled and rent stabilized buildings.



THE COUNCIL  
OF  
THE CITY OF NEW YORK  
CITY HALL  
NEW YORK, N.Y. 10007

## *The Rent Regulation Reform Act of 1994*

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The Honorable  
**Thomas V. Ognibene**  
Council Member  
District 30, Queens

The Honorable  
**John A. Fusco**  
Council Member  
District 50, Staten Island-Brooklyn

The Honorable  
**Jerome X. O'Donovan**  
Council Member  
District 49, Staten Island

March 1994

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BALANCING THE NEED TO EXEMPT LOW INCOME TENANTS FROM RENT INCREASES WITH THE NECESSITY TO PROTECT AT-RISK RENTAL PROPERTIES	PAGE 8



## SUMMARY OF PROVISIONS

On February 28, 1994, a bipartisan delegation of Council Members, including Council Member Thomas V. Ognibene (R-C, Queens), John A. Fusco (R-C, Staten Island/Brooklyn), and Jerome X. O'Donovan (D-C, Staten Island), introduced a package of landmark legislative initiatives that would provide for sweeping changes to New York City's archaic system of rent regulations. In addition to extending the city's rent stabilization laws through April 1, 1997, these legislative proposals will seek to:

- Deregulate housing accommodations covered under the rent control and rent stabilization laws, which become vacant on or after the effective date of this legislation.
- Deregulate housing accommodations covered under rent control and rent stabilization laws occupied by tenants with high incomes, in excess of \$250,000.00 per year.
- Deregulate housing accommodation covered under the rent control and rent stabilization laws with legal monthly rents of \$2,000.00 or greater and which will become vacant on or after April 1, 1994.
- Deregulate housing accommodation covered under the rent control and rent stabilization laws, in small buildings containing 20 units or less and which become vacant on or after the effective date of this legislation.
- Urge the State Legislature and Governor Cuomo to enact state enabling legislation authorizing the city to establish a Low Income Tenant Rent Increase Exemption Program (LITRIE) to exempt tenant households with low incomes from rent increases while providing owners of at-risk residential properties with reciprocal property tax credits.

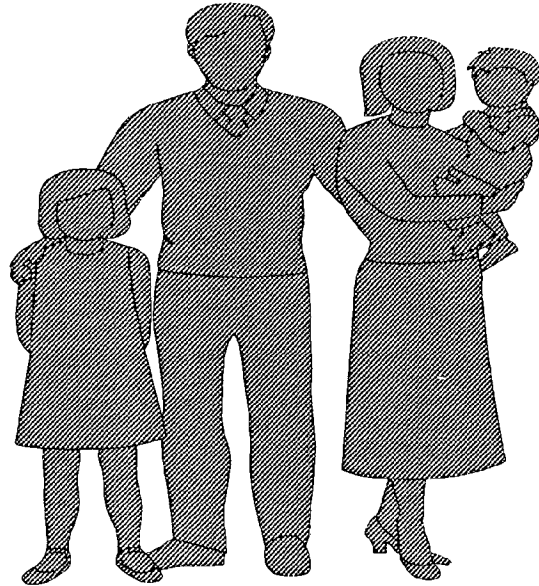
## VACANCY DEREGULATION

Rent regulations have been in effect in New York City for the past half century and apply to approximately one half of the City's rental housing stock. While these regulations that limit increases of rent in certain housing accommodations result in benefits for a large number of rental households in New York City, the costs of these rental subsidies burden other City residents, the City's private housing stock, and its ability to generate tax revenue.

Although initially established as an emergency measure to protect tenants on low or fixed incomes, the city's system of archaic rent regulations has resulted in an inequitable distribution of benefits, has deterred maintenance and investment in housing stock, has contributed to higher levels of abandonment and delinquency, and has resulted in lower assessed values and tax yields.

### **LEGISLATIVE PROPOSAL:**

*Rent regulations must be reformed in order to ease constraints on the supply of affordable housing. In order to pursue a gradual deregulation of rents that does not adversely impact tenants in occupancy, particularly low and fixed households, Council Members Thomas V. Ognibene, John A. Fusco, and Jerome X. O'Donovan have introduced legislation that would deregulate rent stabilized and rent controlled units when they are vacated. The legislation would also extend the city rent stabilization law through April 1, 1997.*



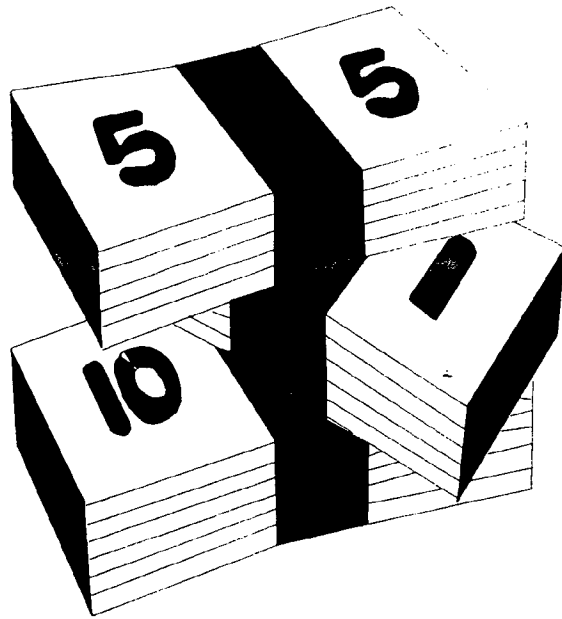
*Vacancy deregulation was one of two recommendations for reform offered by the Citizens Budget Commission in a report published in February 1991. The CBC considered this reform initiative advantageous because it would not adversely impact tenants-in-occupancy and lower and fixed income tenants.*

## INCOME RESTRICTIONS

Many beneficiaries of rent regulation protection have incomes that would not generally render them eligible for subsidized housing, Mitchell-Lama housing, NYC Housing Authority accommodations, or protection under the Senior Citizens Rent Increase Exemption (SCRIE) program. Given the dearth of available public resources to adequately finance necessary programs, and the loss of property tax revenue due to the devaluation of rent regulated properties, rent protection for high income households does not constitute sound public policy.

Governor Cuomo and the state legislature agreed with this premise and passed legislation (Chapter 253 of the Laws of 1993) this past year targeting rent regulation benefits provided to higher income tenants residing in regulated high rent units.

Under the state law which amended sections of the administrative code dealing with rent control and rent stabilization, tenants with total annual incomes of \$250,000 for the previous two calendar years who live in units that had monthly rents of \$2,000 or more as of October 1, 1993, would be subject to an income certification process leading to deregulation. Additionally, the state law provides for the deregulation of regulated units with monthly rents of \$2,000 or more once they become vacant.



***Providing tenants with annual household incomes in excess of \$250,000 with rent subsidies does not constitute sound public policy.***

However, this state effort at reforming the rent regulation system treats high income and high rent as interrelated issues. As a result, two higher income households living in the same apartment building may be subject to, or exempt from the provisions the deregulation law simply by virtue of the level of their monthly rents. As the April 1, 1994 deadline quickly approaches for the City Council to extend the sunset provision of the city's rent stabilization law, and to adopt a resolution declaring the continued existence of a housing emergency warranting the extension of the local rent control law, the city has the ability under the Urstadt Law to

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*The Rent Regulation Reform Act of 1994*

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effectuate more meaningful reforms in the rent regulation system.

**LEGISLATIVE PROPOSAL:**

*In order to treat the rent regulation issues of high income deregulation and high rent deregulation as mutually exclusive matters, Council Members Ognibene, Fusco and O'Donovan have introduced legislation that amends provisions of Chapter 3 (rent control) and Chapter 4 (rent stabilization) of Title 26 of the Administrative Code that were previously modified by Chapter 253 of the Laws of 1993. The legislation deletes references to "maximum monthly rents of \$2,000 or more per month as of October 1, 1993" as a condition precedent for the statutory certification of the households with total annual incomes of \$250,000 or more. Under the provisions of this bill, all New Yorkers with annual incomes of \$250,000 or more and who currently benefit from rent regulation protections would be subject to income certification and deregulation without consideration to the amount of their monthly rents.*

*This legislation would not modify current administrative code provisions providing for the deregulation of units renting for \$2,000 or more per month when they become vacant.*

*The legislation would also extend the city rent stabilization law through April 1, 1997.*

## LUXURY APARTMENT DEREGULATION

Recognizing that tenants who can afford to live in luxury apartment units have economic choices, Governor Cuomo and the State Legislature enacted legislation (Chapter 253 of the Laws of 1993) that would deregulate rent regulated apartments with monthly rents of \$2,000 or more when they become vacant.

However, the Legislature limited this vacancy deregulation initiative by only targeting luxury apartments that had monthly rents of \$2,000 or more on or before October 1, 1993. As a result of this provision, rent regulated units whose monthly rents exceed \$2,000 per month after the October 1, 1993 deadline, and subsequently become vacant, would not be subject to deregulation.

### **LEGISLATIVE PROPOSAL:**

*Because high income New Yorkers who can afford to live in high rent apartments have economic choices not available to households living on low and fixed incomes, it is no longer sound public policy to regulate the rents of "luxury" apartments.*

*In order to deregulate such "luxury" units, Council Members Fusco, Ognibene and O'Donovan have introduced legislation that would eliminate the October 1, 1993 deadline from language from the deregulation provisions applicable to rental units with monthly contract rents of \$2,000.00 or more from rent regulations. As a result of the bill, all regulated units with monthly rents of \$2,000 or more would be deregulated when they become vacant. The legislation would also extend the city rent stabilization law through April 1, 1997.*



***As a result of state actions in 1993, only luxury regulated apartments with monthly rents of \$2,000 or more as of October 1, 1993 would be deregulated when they become vacant.***

## PROVIDING RELIEF FOR SMALL RENT REGULATED BUILDINGS

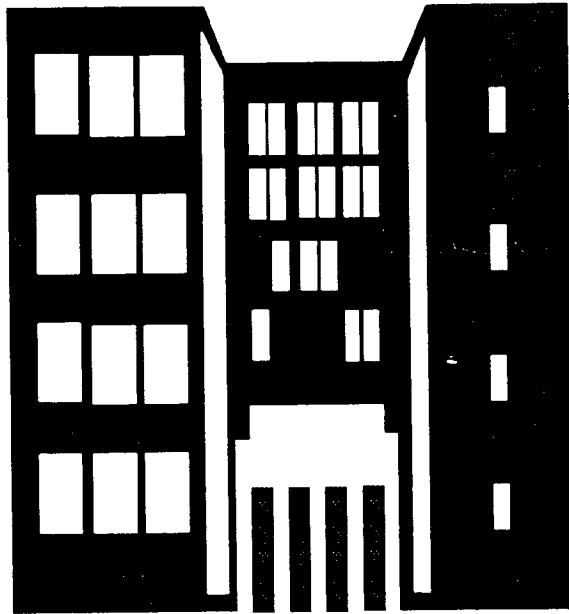
An archaic system of rent regulation has created an inequitable situation for the city's smaller rental buildings where operating and maintenance costs run far in excess of rental income. Rising costs associated with rental housing, particularly sharp increases in water and sewer rates, have contributed to skyrocketing levels of abandonment and tax delinquency.

Based on Department of Housing Preservation and Development in-rem data, more than 70% of all buildings and 85% of all units acquired by New York City through in-rem tax foreclosure fall within the category of buildings containing between three and 50 units. Data compiled by the New York City Department of Finance during the period of FY90-FY91 found that small walk-up apartment buildings experienced a 33% increase in tax delinquencies. In FY91, these smaller rental buildings comprised nearly 50% of all tax delinquencies in Class 2.

### **LEGISLATIVE PROPOSALS:**

*Because of the hardship caused by rent regulations that have resulted in rental incomes too low to support operating and maintenance costs in smaller buildings, the legislation of Council Members Fusco, Ognibene and O'Donovan will seek to provide relief to the owner-operators of these small multiple dwellings.*

*The legislation will deregulate rental units in housing accommodations with 20 or fewer units when they become vacant. The legislation would also extend the city rent stabilization law through April 1, 1997.*



*According to the NYC Department of Finance, smaller multiple dwelling units represented nearly half of all Class 2 property tax delinquencies in FY91.*

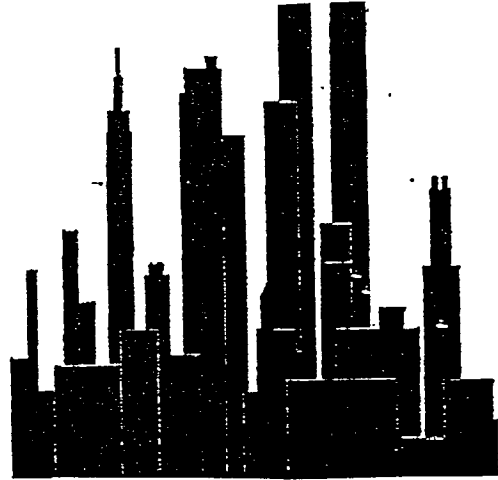
## BALANCING THE NEED TO EXEMPT LOW INCOME TENANTS FROM RENT INCREASES WITH THE NECESSITY TO PROTECT AT-RISK RENTAL PROPERTIES

According to a recently published report by the Community Service Society of New York, entitled, "**Housing On the Block: Disinvestment and Abandonment Risks in New York City Neighborhoods**," nearly one out of every six privately owned rental properties -- approximately 7,500 multiple dwelling buildings with 140,000 apartment units -- is at serious risk of abandonment. The report found that the tax delinquency and abandonment rate for the most fragile segment of the city's private rental housing market - rent regulated units in low income communities -- had increased by an alarming 71% during the past four years. During Fiscal Year 1992, the city vested approximately 400 occupied residential buildings with 2,529 units, and another 278 vacant buildings.

These findings were echoed in a 1992 report, "**Preserving New York's Low Income Housing Stock**," published by the Citizens Housing and Planning Council. Recognizing the need for rents that realistically reflect building maintenance and operating costs, CHPC also stated, "at the same time it is necessary to recognize that many New Yorkers simply do not have the means to pay economic rents without incurring financial hardship."

### **LEGISLATIVE PROPOSAL:**

*Having reported on the vulnerable state of private rental housing in New York City, the Citizens Housing and Planning Council and the Community Service Society of New York have both endorsed a proposal to establish a rent increase exemption that covers low income tenants in residential buildings at high risk of delinquency and abandonment in targeted neighborhoods. The Citizens Housing and Planning Council has specifically recommended that a program*



*According to the Community Service Society, a march 1992 report of the New York Department of Finance counted over 4,000 multiple dwelling rental properties with more than 76,000 units technically eligible for tax foreclosure.*

*The Rent Regulation Reform Act of 1994*

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*similar to the Senior Citizens Rent Increase Exemption program (SCRIE) be created to cover non-public assistance, non-elderly households residing in private, rent regulated housing and earning approximately 50% of the metropolitan area median income.*

*Because the City Council is not authorized by state law to establish a SCRIE-like program to shield low income tenants for rent increases, Council Members Fusco, Ognibene and O'Donovan have introduced legislation urging Governor Cuomo and the State Legislature to enact a state enabling initiative authorizing New York City to establish a Low Income Tenant Rent Increase Exemption program (LITRIE) that would cover that portion of rent payments that exceeds one third of household income and the subsidies that would be delivered to property owners in the form of property tax abatements as a result of reduced rental income.*

*Establishing a LITRIE program would result in the loss of property tax collections. But the minimal loss of tax revenue is more than adequately outweighed by the benefits of the program -- the diversion of a large segment of vulnerable rental properties from the city's publicly financed multi-billion dollar in-rem foreclosure and property management bureaucracy, the maintenance of residential properties on the tax rolls, and the encouragement of reinvestment in the private housing stock.*



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Newsday / Mitsu Yasukawa

Vincent, 78, who asked that his last name not be used, spends his time at Peter's Place, a Manhattan drop-in shelter.

to landlords to house large families from shelters. City Hall has also proposed a virtual halt to construction of low-income single-room occupancy housing for singles, and it wants to dismantle a centralized bureau that helps the mentally ill homeless.

"I'd like to see Giuliani help the homeless, but I doubt it — he doesn't seem to like us," said Vincent, 78, a retired newspaper deliverer who asked that his last name not be used. Vincent

is spending his days at Peter's Place, a drop-in shelter on West 23rd Street in Manhattan, bedding down at night in a series of church basements.

His dream is an affordable apartment, "like in days of old," he said.

"If you're mayor, you either help the homeless or not," said Vincent, rubbing his white-stubbled chin. "You can't help the homeless just by saying you're not trying to hurt them."

Ronald Kiefer, 50, in search of a

room of his own, agreed. "I don't want to stay in a shelter for 90 days, that's my point. I get Social Security — \$532 a month. All I want is affordable housing. One room. I don't want a mansion."

Samuel Jackson, 52, is a former building inspector who was laid off in 1980. "What is Giuliani doing about all the abandoned buildings in the city?" asked Jackson. "If the mayor really wants to stop homelessness, he's got to nip that in the bud."

## ps Bias

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klyn Bridge and in  
onald in the Bronx.



Newsday / Jim Cummins

The Guardians' Eric Adams says crimes with white victims are solved faster than crimes with black victims.

## 2 Rent Bills Due For Council Vote

By Rob Polner

STAFF WRITER

The City Council's Housing Committee is expected to choose today between allowing landlords to raise rents beyond a \$2,000 ceiling, or allowing a blanket extension of rent protections for three years.

Also today, the full council is expected to approve whichever of the two bills is passed by the nine-member committee, sending it on to the mayor's office for his signature or veto by March 31.

In anticipation of the Housing Committee's vote, council Speaker Peter Vallone (D-Queens) has been trying to line up the council majority necessary to pass the bill that would deregulate apartments renting at \$2,000 or more. The committee presumably would only pass the bill, co-sponsored by Councilman Thomas Ognibene (R-Queens) and Councilman Archie Spigner (D-Queens), chairman of the Housing Committee, after receiving indications that a majority of the council supported it.

Vallone contends that wealthy tenants should not be covered by rent protections. But in an indication of the issue's volatility, about 25 tenants confronted Vallone last week at his appearance at the County Line Democratic Club in Queens, said citywide tenants' advocate Michael McKee, a supporter of the alternative bill sponsored by Councilman Stanley Michels (D-Manhattan).

Advocates say deregulating luxury apartments would encourage landlords to try to raise rents past the \$2,000 threshold, while sending a message to the state Legislature to deregulate lower-priced apartments, too.

Michels' bill, supported by Mayor Rudolph Giuliani, calls for an extension of existing rent protections on the city's rent-stabilized and rent-controlled apartments. Under the city charter, the council must approve one of the bills by tomorrow.

funnel money to key lawmakers of both parties, over and above the huge sums they pour directly into Congressional campaigns. (See chart.) Their existence now poses an obstacle to serious campaign finance reform.

With House Speaker Thomas Foley hoping to bring campaign finance legislation to the floor shortly for a vote, negotiations are intensifying among Democratic Congressional leaders over the exact terms of reform. The future of leadership PAC's is among the thorny issues still unresolved.

The campaign finance bill approved by the Senate properly bans leadership PAC's. The House bill does not — a retreat from the reform measure vetoed two years ago by President Bush. Yet to perpetuate the slushy lawmaker PAC's as a backdoor avenue for influence-seeking special interests would negate any new limits placed on campaign contributions and spending.

The Senate majority leader, George Mitchell, does not maintain a leadership PAC. Top House Democrats do, which may help explain the House

### PAC Leaders

Funds raised by political action committees controlled by Congressional leaders, and money given to support other candidates from 1989 through 1993.

	Amount raised	Contributions to candidates
Senate minority leader Bob Dole	\$7,028,791	\$911,165
House Speaker Thomas Foley	941,397	522,619
House majority leader Richard Gephardt	2,271,046	580,811
House minority leader Robert Michel	432,077	343,500
House minority whip Newt Gingrich	5,792,810	16,458

Source: Federal Election Committee

because they wish to impart teachings and beliefs about public schooling. Others have a philosophically different opinion on or want to protect children from drug use and violence their children may have de-

## Japan Stands In On Nuclear Arms

To the Editor:

Speculation that Japan nuclear weapons in view of plutonium build-up greatly me. Postwar Japan, as the ar victim in the history o maintained a fervent a commitment. Both the G and the people dearly cheri nuclear three principles th pan will not possess, devel others to import nuclear Moreover, Article 9 of the Constitution prohibits the tary force, precluding any lawfully sustaining milita capability.

Current atomic power is strictly civilian. Finally military links with the U make it impossible for J cretely develop nuclear cap

During the Persian Gulf a proposal to send a mine the gulf for postwar rec divided the nation; many any dispatch of Japan might fuel other Asian na of a re-emergent Japan While the minesweeper given a green light after a debate, constitutional con sending troops overseas Japanese self-defense fo participation in peacekeep

The idea of building nuc ons has not even been ra military, the Government, in general public debate. I ing to such an idea would b able public controversy. Japan can produce nuclei any time because of the of technology is to ignore whelming legal, political tural obstacles. It' really tion for Japan. MIKI

Cambridge, Mass., Ma

The writer is a graduate the Fletcher School of Law macy, Tufts University.

## We Still Have to

To the Editor:

Maybe it was best th anced-budget amendmen down, but there is still a c to force the country to me gate ways. I believe the deficits of the last decade criminal. Everyone vag stands that our debts wil down to future generation to pay. In the strictest burden imposes taxation resentation on those i

## Reforming Rent Rules

Once again, as they do every three years, New York City's rent regulations are expiring. And once again, City Council members are battling over whether and how to revise them. At least this time they are actually considering a sensible, if modest, reform of the laws. If the bill now pending passes, wealthy renters benefiting from artificially low rents will have to pay more. That bill — the city's version of an even more modest state law decontrolling luxury apartments — is hardly adequate reform, but it is at least a first step in the right direction.

Real reform is politically impossible, considering the influence the renters' lobby has with elected officials. Supporters of rent controls wrongly but persuasively argue that the controls protect the poor and middle class, and that without those regulations most renters would be gouged by nefarious landlords. But any decontrol law could be written to protect renters from abuse.

Lifting rent regulations would benefit the very people who wrongheadedly support controls. Rent stabilization does not so much protect the poor and middle class as hurt them — by discouraging development of affordable housing and therefore inflating the cost of existing housing. Developers fail to build modest-cost housing because they cannot afford to; the rents they can charge are too low. Old housing deteriorates, most new construction is for

luxury buyers and renters only, and the middle class and poor get squeezed.

The bill under consideration would improve matters. Under the proposed legislation, if an apartment's rent is \$2,000 a month or more, it will eventually be deregulated, when the current tenant moves out. But if a tenant earns more than \$250,000 during two consecutive calendar years, and the apartment rents for \$2,000 or more a month, that apartment would be freed of rent regulations when the lease expires, whether the tenant stays or leaves.

The very existence of this bill demonstrates the irrationality of current laws. It should amaze all New Yorkers that anyone earning a quarter of a million dollars a year benefits from what is, after all, a subsidized rent. But many people do.

New Yorkers, including low- and middle-income citizens, would be lucky if rent stabilization were phased out. But that is not about to happen; opposing rent regulations is poison for politicians. So the real choice in the Council is between passage of this bill and a simple extension of the old rent regulations without any change at all.

The luxury decontrol bill has a chance, because Speaker Peter Vallone and Councilman Archie Spigner of Queens, chairman of the Housing Committee, support it. They deserve the company of their colleagues.

## Let the Sun Shine on Old Secrets

President Clinton has a chance not only to make history but to assure its more honest rendering by historians. A draft executive order that would declassify tens of millions of secret documents, prepared by the National Security Council, is now being circulated to key Federal agencies for comment. If the order survives the expected fusillade by guardians of the secret files, Mr. Clinton can with the stroke of a pen honor his repeated promises for more open government.

Under the proposed policy, the presumption will be in favor of openness in deciding whether a

promise its sources and methods. But the agency, as scholars have found, exercises that veto with promiscuous zeal, forbidding access even to the World War II archives of its predecessor, the Office of Strategic Services. And to this day, Americans are denied knowledge of the most fundamental fact about the C.I.A.: its annual budget.

The proposed policy, regrettably, does not extend to secret budgets. But this is an omission that Congress could correct. Representative Dan Glickman of Kansas, chairman of the House Intelligence Committee, proposes legislation that would write

S c d f i i t u c F F n f s C t l p t i

NYTIMES 3/21/94

# Rich to Lose Roof on Rents

By Bob Liff  
STAFF WRITER

The City Council yesterday voted to push tenants making more than \$250,000 and paying at least \$2,000 a month in rent out of the rent regulation system, throwing the political hot potato into the lap of Mayor Rudolph Giuliani.

And in extending a provision first approved by the state Legislature last year, the council voted to deregulate any apartment with rent above \$2,000 a month when the current tenant moves. The high income/high rent provision would deregulate apartment rents at lease renewal.

With an April 1 deadline approaching, a Giuliani veto would mean that rent control and stabilization would end for more than 1.1 million apartments, as state law requires. Giuliani, whose waffling on the issue during last year's mayoral campaign caused him grief, backed a simple extension of rent regulation, and his aides said only that he would consider the council's proposal.

Since it is unlikely that Giuliani would allow total deregulation at next week's deadline, "he has no choice but to sign it," one council insider said.

The council's action removing fewer than 10,000 apartments from rent regulation is, depending on whom you ask, either a small step toward sanity in a bureaucratically bloated system that stifles landlords, or the beginning of a wholesale assault on the millions of New Yorkers who depend on the rent regulation system.

The "luxury decontrol" provision was approved by the council on a vote

of 28-18, garnering just two votes more than the minimum 26 needed to pass in the 51-member council. It was a bitter debate, as Manhattanites tried to stave off change for a borough where the average one-bedroom apartment in some neighborhoods rents for \$1,500.

Councilman Stanley Michels (D-Manhattan) accused his colleagues of "planting the poisonous seed of destruction of rent control and regulation" by chipping away at it for the first time since a post-World War II housing emergency was declared in 1947.

But Councilman Walter McCaffrey (D-Queens) at one point expressed irritation at "people who think civilization only exists if a Zabar's is in that borough," a reference to the famous deli and supplies store on Manhattan's Upper West Side.

Council members such as June Eisland of the Bronx' Riverdale section; Morton Povman of Forest Hills, Queens; and Helen Marshall of East Elmhurst, all representing middle-class neighborhoods with high concentrations of rental apartments, broke with Council Speaker Peter Vallone (D-Queens) in opposing the \$2,000-a-month vacancy deregulation.

Housing Committee Chairman Archie Spigner (D-Queens) was rebuffed in pressing for more drastic relaxing of regulations, permitting landlords to impose a one-time 25 percent rent increase. Several council members also pressed unsuccessfully for "vacancy decontrol," meaning all apartments would revert to market rent when the current tenant leaves.



Ellis Henican

of staff, and City Transportation Commissioner Lee Sander. Diverse backgrounds? Outside citizens? Frequent users of mass transit? Yeah, right.

A reasonable argument can be made for putting the city transportation commissioner on the MTA board, if only for the sake of coordinating policy. And Sander used to work for the Transit Authority and the state Transportation Department. So he knows a few things about buses and trains, probably even rides one from time to time.

But the other two nominees? Let's just say I haven't seen John Dyson on the G-train lately.

On the subject of police merger, it wouldn't be fair to accuse Giuliani of flip-flopping. He's been a merger man all along. But the same certainly can't be said of his new police commissioner. Back when William Bratton was chief of the transit police, he was a vociferous and actually quite eloquent opponent of merger. Today, if it's blue, Bratton wants to merge it.

Now, all is not entirely bleak on the City Hall transit front. One hopeful sign is that the Mayor's Transportation Office — a force for genuine good over the years — is still in business. Another is that the City Council still has a chance to undo some of this budget-cutting. Any heartbeats left in the council chamber?

Listening yesterday to Richard Schwartz, Giuliani's chief policy adviser, there wasn't even the slightest hint of a mayoral reversal in the wind.

"We inherited the largest budget deficit that any new mayor has inherited in the history of the city, a \$2.4 billion gap," Schwartz said. "There is no possible way of closing that gap without making cuts — some difficult — in all kinds of city services."

It's not like fat can't be cut out of agencies like the Transit Authority, Schwartz added. "They can produce much more service for the dollar than they presently do."

No arguing with that, of course. But a Giuliani turnaround still sounded awfully distant.

"We hope we can improve the city's fiscal condition and thereby revive the capital program and restore cuts in a number of areas, such as mass transit." That's as far as Schwartz would go.

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NEWSDAY 3/22/94

## Controversial Kiss II

Roseanne Arnold struck again Tuesday in Hollywood, Calif., with a lip-and-body clench with Carol Burnett, who had just presented her with a People's Choice Award for favorite TV actress. The embrace was inspired by the controversial Arnold-Mariel Hemingway kiss on "Roseanne."

# Tenants Fear A Rent Hike

By Rob Polner  
STAFF WRITER

Stirring fear in tenant advocates, the head of the City Council's housing committee has proposed a bill that would allow a landlord to hike rent 25 percent whenever any of the more than 1 million rent-stabilized apartments in the city become vacant.

Current law allows an increase of up to 5 percent upon vacancy in rent-stabilized apartment units.

On the eve of today's public hearing on rent laws, tenant supporters said they were nervous, while landlord advocates voiced enthusiasm for the bill, which was offered by Housing and Buildings Committee Chairman Archie Spigner (D-Queens).

"To my memory, no chairman has sponsored a decontrolling bill before," said Michael McKee, chairman of the New York State Tenant and Neighborhood Coalition.

Some tenant advocates also were concerned how Mayor Rudolph Giuliani's pro-business philosophy would affect passage of the proposal. Giuliani has not said he would veto Spigner's bill, or any of the eight other bills up for consideration.

The bills range from one that would set a minimum rent of \$450 in buildings with 20 or fewer units, to one that would lift rent limits for any apartment whose household income exceeds \$75,000.

Reflecting the volatility of the issue, the rhetoric on both sides heated up yesterday in anticipation of the hearing at noon today at City Hall.

But Giuliani spokesman Forrest Taylor said the mayor believes rent control and rent stabilization should be maintained as they are for at least three years, and that he backs a bill, offered by Councilman Stanley Michels (D-Manhattan), that would do that.

McKee, though, said Giuliani and City Council Speaker Peter Vallone did not accept his invitations to stand with

ing and join them in calling for a continuation of current rent laws.

Taylor said he didn't know anything about McKee's invitation, while Vallone said "there's no way" he would allow rent law amendments.

The council will vote on the rent laws March 16, and Giuliani must sign or veto them by March 31.

Tenant leaders said Spigner's proposal would encourage tenant harassment by landlords and would help landlords only in well-off neighborhoods such as Chelsea and the Upper East Side in Manhattan; in poor ones, the tenants would not be able to afford rent hikes anyway, they said.

But Spigner differed, saying he is concerned about the 33,000 to 41,000 units that landlords have abandoned and the at least 50,000 more "on the brink" of falling into deplorable conditions. Giving landlords breaks when tenants leave would help improve the city's housing stock, he said.

Roberta Bernstein, president of the Small Property Owners of New York, which represents landlords, called Spigner's bill "excellent," adding that the interest in lifting rent limits is "different from anything that has happened in the council before."

According to a city-commissioned housing survey, the city has nearly 3 million housing units, of which more than 1 million are rent-stabilized and 100,000 rent-controlled, the strongest tenant protection. About 70,300 rent-stabilized units turn over yearly. The median rent is \$501, meaning half of the city's tenants pay more than and half pay less.

The council reviews rent regulations every three years, while the city rent guidelines board each June adjusts, up or down, the increases that landlords are allowed to charge. When these rent-stabilized apartments become vacant, landlords can currently boost rents up to 5 percent, plus 2.5 percent of the cost of any improvements to the unit.

Bob Liff contributed to this story

years — for what are supposed to be pre-employment screenings.

The Background Investigation Unit "did not have well-defined guidelines that resulted in inconsistent application of investigative procedures," the auditors said. "Further, we noted that no one monitored the number and status of cases sent to [the personnel department] for background investigation."

One eye-opening statistic: "As of July 16, 1992, there were 1,021 incomplete background investigation cases from 1987."

In fact, the TA officials couldn't even say how much money was being spent for the shoddy checks. "We have concluded that the Authority's expenditure on background

investigations cannot be readily determined," the auditors wrote. "Charges for background investigations were commingled with other expenses in at least two general-ledger accounts."

This just goes on and on.

"In our sample of 50 cases from 1983 to 1992, we found four cases classified as closed (yet no credit checks were performed) and 11 cases were stamped closed without explanation as to why they were closed (despite the absence of previous employment and education verification). We also found seven TA managers hired between May, 1988, and July, 1991, whose cases have remained open because of the absence of the verification of criminal records. . . . Further, we noted that verifications of criminal records were confined only to New York State. This exposed the Authority to the risks of employing individuals who have criminal records outside New York. We also found that credit checks were discontinued in early 1990."

Anyway, you get the idea.

When the inspector general's investigators began looking into all this, they concluded the situation was dire enough to require a dramatic response: having the IG's office take over the entire business of pre-employment screenings. John Pritchard, Flinter's predecessor, drew up a detailed proposal to do this.

Transit Authority officials asked for more time to study the matter — then decided to put the business out for competitive bids. The inspector general has since refused to participate in the bidding process. The bids of several private security firms are being reviewed now.

For the time being, the Background Investigation Unit is still handling the checks.

## IN THE SUBWAYS



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she and her sister ran from the Vera Wang Bridal House at 991 Madison Ave. after the 1:40 p.m. shooting.

Wang designed skating outfits for Olympic silver medalist Nancy Kerrigan and Holly Hunter's Oscar dress.

Police said they believe the thieves may have stalked the family, who had been shopping at Barney's on Madison and Bergdorf Goodman earlier in the day before taking a taxi to the bridal shop. "It's possible that they were eyeballed there," the investigator said. "They broke her finger taking her ring off," another police source said.

A law-enforcement source identified the wounded couple as Gerald and Edith Schaeffer from Potomac, Md., and said they were shopping with their two daughters, Alisa, 22, who is getting married this fall, and Jennifer, 15.

Schaeffer, 48, and his brother Andy own a number of taxicab companies in the Washington area, said Ruth Schaeffer, their sister-in-law.

Gerald and Edith Schaeffer were listed in serious but stable condition at New York Hospital-Cornell Medical Center. He was shot twice, at least once in the abdomen, and his wife, who is 47, was shot once in the abdomen.

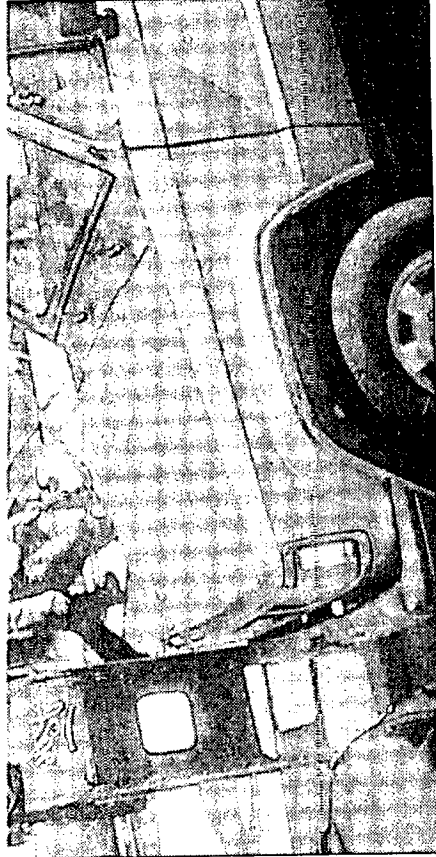


Photo by Mitch Gerber

One of the victims is rushed from the scene after yesterday's robbery and shooting.

"They're expected to recover," said hospital administrator Louis Weinstein.

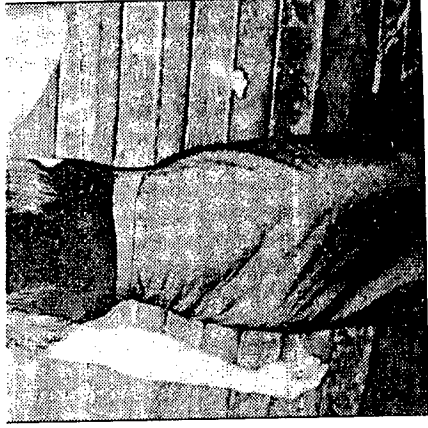
Capt. William Roe of Manhattan Detectives said the robbers were buzzed into the store by a receptionist.

After about five minutes, the manager began speaking with the two and one pulled a semiautomatic pistol and put it in her back, forcing her to take

them to an upstairs showroom, Roe said. Once upstairs, they confronted the Schaeffers and the thief with the gun tried to grab Edith Schaeffer's ring.

"He reached out and grabbed her hand with the ring on it and then he shot her," Roe said.

Police described the gunman as a white male in his 30s, about 5-foot-5,



AP File Photo

Holly Hunter

with dark hair. The second man was described as 5-foot-9 with brown and gray hair, and a bushy mustache.

Anyone who saw the robbers fleeing is asked to call (212) 452-0636 or the Crime Stoppers Hotline at (212) 577-TIPS.

Tom Collins contributed to this story.

# Rudy to Sign Rent Control Extension

By Bob Liff  
STAFF WRITER

Mayor Rudolph Giuliani said yesterday he would sign the extension of the city's rent control and stabilization law, preserving programs that hold down rents in 1.1 million city apartments but stripping protections from high-rent apartments with high-income tenants.

The measure, approved Monday with just two votes to spare by the City Council, will remove apartments with rents over \$2,000 a month from the regulation system when they become vacant, and \$2,000 a month apartments with tenants making more than \$250,000 a year at lease renewal time.

A one-time provision in state law last year allowing landlords to escape regulation on high-income tenants in approximately 10,000 high-rent apart-

ments was made permanent by the city action, meaning tenants in apartments where rents reach \$2,000 in the future can eventually lose protections.

Aides to Giuliani, whose waffling on rent regulations was an issue during his

mayoral campaign, had studied whether the mayor could veto the measure and still have a rent regulation law in place by April 1. That is the deadline after which the rent regulation system, in effect since World War II, would have ex-

pired and required reauthorization by the state Legislature. Giuliani had said he wanted a simple extension of the current law, which did not include the \$2,000 a month vacancy decontrol. But during his campaign last year, he called the issue "too emotional." Giuliani first expressed support for a luxury decontrol, then said he was for a simple extension, and finally lobbied Republican state senators who opted for a form of luxury decontrol anyway.

Tenant advocates argued Giuliani did nothing during the last two weeks when City Council leaders were considering whether to, in their eyes, chip away at rent protections.

"I find it highly doubtful that anyone believes that these rent regulations exist to benefit wealthiest individuals," Giuliani said yesterday.

## Howard Stern Insists: It's Guv I Love

A receptionist taking a message for state Democratic chairman Al Gordon chuckled when told the subject is Howard Stern's bid for governor.

Political consultant Hank Morris, who is used to propelling come-from-behind candidates to victory said, "Are you serious?" when asked

about the shock jock's chances. But yesterday during a news conference at his midtown radio studio, Stern insisted he was serious indeed. "I swear to you this is no disc jockey shtick. I swear to you I am serious."

Please see STERN on Page A61



NEW YORK STATE  
**DIVISION OF HOUSING AND COMMUNITY RENEWAL**  
OFFICE OF RENT ADMINISTRATION  
GERTZ PLAZA / 92-31 UNION HALL ST.  
JAMAICA, NY 11433

GEORGE E. PATAKI, GOVERNOR  
JOSEPH H. HOLLAND, COMMISSIONER

**OPERATIONAL BULLETIN 95-3**  
**(Replaces Operational Bulletin No. 94-1)**

**- Implementing -**

**RENT REGULATION REFORM ACT OF 1993**  
**NEW YORK CITY LOCAL LAW 1994, No. 4**

**- affecting -**

**New York City Rent Stabilization Law (RSL)**  
**Emergency Tenant Protection Act of 1974 (ETPA)**  
**New York City Rent and Rehabilitation Law**  
**(City Rent Control Law or CRCL)**  
**Emergency Housing Rent Control Law**  
**(State Rent Control Law or SRCL)**

This Operational Bulletin, which replaces Operational Bulletin 94-1 issued on January 3, 1994, is issued pursuant to section 2527.11 of the Rent Stabilization Code; the Emergency Tenant Protection Regulations adopted under the Emergency Tenant Protection Act; section 2209.8 of the City Rent and Eviction Regulations; and section 2109.8 of the State Rent and Eviction Regulations.

Both the Rent Regulation Reform Act of 1993 (RRRA), Chapter 253 of the Laws of 1993, effective July 7, 1993, and New York City Local Law 1994, No. 4 (Local Law 4), effective April 1, 1994 provide for deregulation of high rent housing accommodations. The RRRA applies to all four of the above Rent Laws. Local Law 4 applies solely to the RSL and CRCL.

As discussed below, under both the RRRA and Local Law 4, deregulation of a high rent housing accommodation may occur:

- A. Upon vacancy; or
- B. As a result of occupancy by a high income tenant.

The RRRA also:

- I. Establishes conditions for rent increases based upon individual apartment improvements.
- II. Provides for deregulation of vacant rent regulated housing accommodations located in ETPA-locality cooperatives and condominiums, and if occupied, provides for deregulation upon vacancy.
- III. Modifies penalties for failure to register rent stabilized housing accommodations subject to the RSL and ETPA.

#### **I. High Rent Deregulation**

Under all four systems of rent regulation, there is provision for high rent deregulation, with some variation among the systems. All references are to the RSL or ETPA, unless either the CRCL or SRCL is indicated in brackets. In this section, in order to reflect Local Law 4, housing accommodations regulated pursuant to the RSL or CRCL will be referred to as New York City (NYC) housing accommodations.

##### **A. Deregulation upon vacancy**

The RRRRA added section 26-504.2 to the RSL and paragraph 13 to section 5a of the ETPA [and added subparagraph k to paragraph 2 of subdivision e of section 26-403 of the CRCL, and paragraph (n) to subdivision 2 of section 2 of the SRCL], providing for deregulation of vacant high rent housing accommodations, and if occupied, for deregulation upon their vacancy. Local Law 4 subsequently amended such sections of the RSL and CRCL.

##### **1. Conditions for deregulation**

###### **a. Housing accommodations subject to the ETPA or SRCL (outside New York City)**

- i. The housing accommodation must have had a legal regulated rent or maximum rent of \$2,000 or more per month at any time between July 7, 1993 and October 1, 1993. The legal regulated rents on July 7, 1993 and on October 1, 1993 are included; and
- ii. The housing accommodation must have been or become vacant on or after July 7, 1993.

###### **b. Housing accommodations subject to the RSL or CRCL (New York City)**

- i. The housing accommodation must have a legal regulated rent or maximum rent of \$2,000.00 or more per month; and

ii. The housing accommodation must have been or become vacant on or after April 1, 1994. Please note that prior to April 1, 1994, the effective date of Local Law 4, New York City housing accommodations regulated pursuant to the RSL or CRCL were subject to deregulation under the RRRRA, according to the conditions set forth in section IA(1)(a), above.

c. Definition of "maximum rent"

For the CRCL, maximum rent is the maximum collectible rent (MCR); for the SRCL, maximum rent is the rent authorized by DHCR pursuant to a periodic increase process based upon owner application.

2. Examples illustrating conditions for deregulation

a. The legal regulated rent is \$2,050 per month on August 1, 1993. The tenant in occupancy on August 1, 1993 vacates, and the next tenant executes a lease that commences September 1, 1993 for a lower monthly rental of \$1,950.

The new tenancy is not subject to rent regulation. As long as the legal regulated rent was \$2,000 or more per month at any time during the applicable period, between July 7, 1993 and October 1, 1993, a subsequent reduction in the legal regulated rent below \$2,000 per month does not prevent high rent vacancy deregulation.

b. The legal regulated rent is set at \$2,050 per month pursuant to a lease that commenced January 1, 1992 and expired December 31, 1993. On May 1, 1993, DHCR issued a final order reducing the rent to a level below \$2,000 per month based upon a finding that the owner has failed to maintain required services. The owner filed an application to restore the rent on October 15, 1993. In a decision issued March 1, 1994, DHCR restored the rent to \$2,050 per month, effective November 1, 1993.

ETPA: Where the tenant in occupancy vacates on or after July 7, 1993, the housing accommodation is not deregulated because the legal regulated rent was not \$2,000 or more per month between July 7, 1993 and October 1, 1993. Although the reduced rent was later restored, for the period of effectiveness of the rent reduction order, which in this example covered the entire period between July 7, 1993 and October 1, 1993, the reduced rent was below \$2,000 per month.



RSL: For vacancies occurring prior to April 1, 1994, the result would be the same as above. However, a vacancy on or after April 1, 1994 would result in deregulation under Local Law 4 because the legal regulated rent has been restored to \$2,000 or more per month.

- c. Under both the RSL, prior to its amendment by Local Law 4, and the ETPA, where prior to October 2, 1993, an owner installed new equipment in a vacant housing accommodation that had a monthly maximum or legal regulated rent of less than \$2,000, and where such installation results in an increase in the monthly rental amount to at least \$2,000, the lawful monthly maximum or legal regulated rent will be deemed as having been \$2,000 or more between July 7, 1993 and October 1, 1993, provided that the next tenant in occupancy actually rents the housing accommodation for at least \$2,000 per month. This is so, notwithstanding that the housing accommodation was not actually occupied by and rented to a tenant at that amount prior to October 2, 1993.

In NYC, pursuant to Local Law 4, the result will be the same if the owner installs the new equipment in a housing accommodation which is or becomes vacant on or after April 1, 1994.

As evidence that the subject housing accommodation was deregulated upon vacancy, owners should maintain all records from the date of filing of the last registration statement applicable to the housing accommodation.

- d. Where an owner substantially alters the outer dimensions of a vacant, rent-stabilized housing accommodation which qualifies for a "first rent" and executed a vacancy lease that commenced between July 7, 1993 and October 1, 1993 (for a NYC housing accommodation, the vacancy lease must also have commenced between July 7, 1993 and October 1, 1993, or on or after April 1, 1994), providing for a monthly rent of \$2,000 or more, the new tenancy is not subject to rent regulation.
- e. Where a tenant in occupancy under a renewal lease sublet a housing accommodation pursuant to a sublease effective between July 7, 1993 and October 1, 1993 (or, for a NYC housing accommodation, pursuant to a sublease effective between July 7, 1993 and October 1, 1993, or a sublease effective on or after April 1, 1994), for which a sublet allowance would apply; the housing

accommodation had a monthly legal regulated rent of less than \$2,000 at the time of the subletting; and the collection by the owner of a sublet vacancy allowance results in an increase in the monthly rental amount to at least \$2,000; the housing accommodation will qualify for deregulation based upon the monthly legal regulated rent having been \$2,000 or more between July 7, 1993 and October 1, 1993 (or, for a NYC housing accommodation, between July 7, 1993 and October 1, 1993 or on or after April 1, 1994). However, if the monthly rental amount for such period would not have otherwise reached at least \$2,000 were it not for a ten percent surcharge payable to the tenant if the housing accommodation is sublet fully furnished, the monthly legal regulated rent will not be regarded as having been \$2,000 or more for such periods.

- f. A NYC housing accommodation is occupied at a rental of \$1,950 from July 7, 1993 through October 1, 1993. On November 1, 1993, a new tenant moves in and pays a legal regulated rent of \$2,050. Based upon a subsequent finding of a diminution of services, the legal regulated rent is reduced to \$1,900, effective February 1, 1994. On May 1, 1994, with the rent reduction still in effect, the tenant vacated and another tenant moved in at the reduced rent of \$1,900.00 per month. The housing accommodation is not vacancy deregulated pursuant to the RRRA or Local Law 4 of 1994. During neither the period from July 7, 1993 through October 1, 1993, nor the period commencing April 1, 1994, was the legal regulated rent \$2,000 or more per month.

### 3. Exceptions

- a. A housing accommodation found by DHCR to have become vacant due to an owner's harassment will not be deregulated.
- b. Where a member of the household has acquired the right to be named on a renewal lease [for the CRCL and SRCL, the right to continue in occupancy as a statutory tenant] by "succession," as a "family member" (traditional or nontraditional) under DHCR regulations, the housing accommodation will not be considered as having become vacant.
- c. These deregulation provisions shall not apply to housing accommodations which are subject to rent regulation by virtue of receiving tax benefits

pursuant to sections 421-a or 489 of the Real Property Tax Law, until the expiration of the tax abatement period.

**B. Deregulation of high rent housing accommodations occupied by high income tenants**

The RRRRA added sections 26-504.1 and 26-504.3 to the RSL, and following renumbering, paragraph 12 to subdivision a of section 5, and a new section 5-a, to the ETPA [and added a new subparagraph (j) to paragraph 2 of subdivision e of section 26-403 of the CRCL, added a new section 26-403.1 to the CRCL, added paragraph (m) to subdivision 2 of section 2 of the SRCL, and added a new section 2-a to the SRCL], providing for deregulation of housing accommodations occupied by certain "high income" tenants. Local Law 4 subsequently amended such sections of the RSL and CRCL.

**1. The RRRRA and Local Law 4 provide for deregulation under the following conditions:**

a. For housing accommodations outside New York City, the legal regulated or maximum rent of the housing accommodation must have been \$2,000 or more per month as of October 1, 1993, which means on October 1, 1993, and not earlier or later. For NYC housing accommodations, the legal regulated or maximum rent must have been \$2,000.00 or more per month as of October 1, 1993, or be such amount on or after April 1, 1994.

b. The housing accommodation must be occupied by a tenant who had a total annual income in excess of \$250,000 per year in each of the two calendar years preceding the year in which the owner serves the tenant with an income certification form (ICF).

(1) **Annual income** is defined as the federal adjusted gross income, as reported on the New York State income tax return.

(2) **Total annual income** is defined as: i. for housing accommodations subject to the ETPA or RSL, the sum of the annual incomes of all tenants or co-tenants named on the lease who occupy the housing accommodation, whether or not as their primary residence, and of all other persons who occupy the housing accommodation as their primary residence on other than a temporary basis; and ii. for housing accommodations subject to the SRCL or CRCL, the sum of the annual incomes of all persons who occupy the housing accommodation

as their primary residence on other than a temporary basis. For housing accommodations subject to any of such four Rent Laws, the incomes of bona fide employees of such tenants, co-tenants, and occupants residing in the housing accommodation in connection with their employment are not included. In addition, where a housing accommodation is sublet, the annual income of a bona fide sublessee is also not to be included, although the annual income of the sublessor will be included. Therefore, the annual income of a tenant or co-tenant named on the lease who will reoccupy the housing accommodation when the sublease expires will be included.

**2. Examples**

- a. As noted above, a condition for high rent, high income deregulation is that the housing accommodation must have had a monthly legal regulated rent or a maximum rent of \$2,000 or more on October 1, 1993 (both inside and outside NYC), or such rent on or after April 1, 1994 (NYC). As discussed above in the examples set forth under high rent vacancy deregulation (I.A), various issues may arise which affect the determination of whether the rent reached such level. Generally, such examples are also applicable to high rent high income deregulation.
- b. A tenant was occupying a NYC housing accommodation pursuant to a lease that provided for a rent of \$1,950.00 per month and that expired on October 31, 1994. The tenant renewed his lease for a two-year term commencing November 1, 1994 at a rent of \$2,050.00 per month. Pursuant to the RRRRA and prior to the enactment of Local Law 4, the housing accommodation would not have been eligible for high rent, high income deregulation because the legal regulated rent was less than \$2,000.00 per month on October 1, 1993. Pursuant to Local Law 4, the housing accommodation may now be eligible for high rent, high income deregulation, provided that the legal regulated rent is \$2,000.00 per month on or after April 1, 1994.

**3. The RRRRA requires the following procedures:**

- a. **Income Certification Form ("ICF")**
  - (1) With regard to a high rent housing accommodation, the owner must serve the

tenant on or before May 1st in each calendar year with DHCR's ICF. DHCR will not process an owner's petition for high income rent deregulation under the RRRRA where the ICF has not been served on the tenant on or before May 1st. Where an owner serves an ICF upon a tenant, the owner must serve the ICF by at least one of the following methods:

- (a) Personal delivery, where a copy of the ICF is signed (not initialed) by the tenant upon receipt;
- (b) Certified mail, where accompanied by a United States Postal Service receipt;
- (c) Regular first class mail, where accompanied by a United States Postal Service Certificate of Mailing.

The ICF requires the listing of the names of all tenants, co-tenants, and other occupants whose incomes must be included in "total annual income," as defined above; and the identification of bona fide employees of such tenants, co-tenants, and other occupants residing in the housing accommodation in connection with their employment, and bona fide subtenants in occupancy pursuant to the provisions of section 226-b of the Real Property Law.

Commencing January 1, 1996, the ICF form will require tenants to state whether an occupant, such as a minor child, is not required to file a New York State income tax return. In addition, the operative date for the determination of who is a tenant, co-tenant or occupant who must be identified on the ICF, and whose income, if any, will be included in total annual income, will be the date of service of the ICF upon the tenant. The ICF will also require the tenant to list all tenants, co-tenants, and other occupants whose incomes may be included in total annual income, and who vacated the housing accommodation within the calendar year in which the ICF is served, or within the two calendar years preceding the service of the ICF, and the dates on which such persons vacated the housing accommodation. It should

be noted that the tenant will be required to include in total annual income the income of any such person who vacated the housing accommodation temporarily.

The ICF also requires a certification of whether the total annual income of only those tenants and occupants described in paragraph B.1.b(2) above exceeded \$250,000 in each of the two preceding calendar years. The ICF informs the tenant of the protection against harassment, that disclosure of income information is limited to the manner required on the ICF, and that only the tenants of housing accommodations that had a rent meeting the conditions specified in Section B.1.a. above may be served with and asked to complete an ICF. Where the monthly legal regulated rent or maximum rent of the housing accommodation does not meet the conditions specified in Section B.1.a., an owner is not authorized to serve an ICF on the tenant of such housing accommodation.

- (2) The tenant must return the completed ICF to the owner within thirty days of service by the owner. The tenant is advised to retain a copy of the completed ICF.
- (3) If the tenant(s) complete the ICF by conceding that the total annual income exceeded \$250,000 in each of the two preceding calendar years, the owner may apply to DHCR for high income rent deregulation by filing a Petition by Owner for High Income Rent Deregulation (OPD), together with the ICF, by June 30th of the year in which the owner serves the ICF upon the tenant. DHCR will not process the owner's petition where a complete OPD has not been filed with DHCR by such June 30th deadline. Incomplete or otherwise defective OPD's filed on or before June 15th will be rejected without prejudice, and owners advised of the reasons for such rejection and of the right to refile a complete OPD by June 30th. This advisement will not be available to owners who file incomplete or defective OPD's after June 15th, but they will still be entitled to perfect their OPD's by June 30th, if they so choose.

The OPD must be filed in person or by mail. An OPD filed by mail must be postmarked no later than June 30th. If the prepaid postage on the envelope in which the certification is mailed is by private postage meter, and the envelope does not have an official U.S. Postal Service postmark, then the certification will not be considered timely filed unless received by June 30th, or the owner submits other adequate proof of mailing by June 30th, such as an official Postal Service receipt or certificate of mailing. Within thirty days after the filing, DHCR will issue a deregulation order effective at the expiration of the existing lease [for CRCL and SRCL, effective June 1st of the following year]. A copy of the order will be mailed to the tenant by regular and certified mail, return receipt requested, and a copy will be mailed to the owner.

- (4) To be eligible for high rent, high income deregulation, a NYC housing accommodation must continuously have a legal regulated or maximum rent of \$2,000 or more per month from the owner's service of the ICF upon the tenant to the issuance of an order deregulating the housing accommodation.

**b. Failure of tenant to return ICF**

If the tenant fails to return the completed ICF to the owner, or if the owner disputes the information supplied by the tenant on the ICF, the owner may, by June 30th of the calendar year, request that DHCR verify, through the New York State Department of Taxation and Finance, whether the total annual household income exceeded \$250,000 for each of the two preceding calendar years. DHCR will, within twenty days of receipt of the owner's request, ask for necessary identifying information from the tenant, giving the tenant sixty days to respond and advising the tenant that failure to respond will result in deregulation. If the tenant fails to provide the requested information, DHCR will issue by December 1st of such year an order providing that the housing accommodation shall be deregulated effective upon the expiration of the existing lease [for CRCL and SRCL, where leases are not used, deregulation will be effective on March 1st of the following year]. A copy of the order will be mailed to the tenant by regular and certified mail, return receipt requested, and a copy will be

mailed to the owner. Where there is more than one named tenant, and only one responds to the notice, DHCR shall not consider the tenants to be in default.

**c. Verification of total annual household income**

If the Department of Taxation and Finance determines that the total annual household income exceeded \$250,000 in each of the two preceding calendar years, the owner and tenant shall be notified by DHCR by November 15th and given 30 days to comment. Within forty-five days after the expiration of the comment period, where the facts warrant, DHCR shall issue an order of deregulation, effective upon expiration of the existing lease [for CRCL and SRCL, effective March 1st of the following year], and serve such order by mail as discussed under paragraph b. above.

Where the Department of Taxation and Finance determines that the income threshold has not been met or cannot ascertain whether the threshold has been met, DHCR will deny the OPD.

- d.** For both paragraphs b. and c. above, the same procedural filing requirements and deadlines as are set forth in paragraph a. above shall apply.

**e. Lease renewal**

Under the RRRRA, an order of deregulation affecting a housing accommodation subject to either the RSL or the ETPA is not effective prior to the expiration of the existing lease. When an owner has filed an OPD with the DHCR, and the "window period" for the offer of the ensuing renewal lease, (in NYC, 120-150 days, and in the ETPA localities, 90-120 days prior to the end of the tenant's existing lease term) has not expired, and the proceeding for deregulation is pending, pursuant to section 2522.5(g) of the Rent Stabilization Code, or section 2502.5(c)(7) of the Tenant Protection Regulations, owners shall be permitted to attach a rider to the offered renewal lease, on a form prescribed or a facsimile of such form approved by the DHCR, containing a clause notifying the tenant that the offered renewal lease shall no longer be in effect after 60 days from the issuance by the DHCR of an order of deregulation, or, in the event that a Petition for Administrative Review (PAR) is filed against such order of deregulation, as discussed in paragraph f below, after 60 days from the issuance by DHCR of



an order dismissing or denying the PAR. In addition, at the owner's option, the owner may also offer a separate rider which provides for the substitution of an unregulated lease upon the issuance of an order of deregulation, at a rental amount and upon such other terms and conditions as are specified therein by the owner, and which rider shall not be subject to approval by the DHCR. In the event the tenant accepts such lease, the unregulated lease shall become effective on the first rent payment date occurring after 60 days from the issuance of an order of deregulation, or after 60 days from the issuance of an order dismissing or denying a PAR filed against such order of deregulation.

**f. Administrative and judicial review**

Orders pursuant to the RRRRA granting or denying deregulation are subject to PAR's, which must be filed with the DHCR within thirty-five days after the date such orders are issued. A party aggrieved by a PAR order may seek judicial review by filing a proceeding in the Supreme Court under Article 78 of the Civil Practice Law and Rules.

**4. Privacy**

- a. The only information exchanged in the process of income verification among the owner, tenant, DHCR and the Department of Taxation and Finance is whether the income threshold has been met.

Specific income figures will not be disclosed or exchanged.

- b. The provisions of the State Freedom of Information Law ("FOIL") which might otherwise allow certain information to be disclosed, do not apply to any income information obtained by the DHCR pursuant to the RRRRA.

**5. Subsequent occupancy**

A high rent housing accommodation, which becomes deregulated on the basis of high income, remains deregulated, notwithstanding subsequent occupancy by a household, the total annual income of which would not qualify for high income deregulation.

**6. Additional Issues**

Question: Where the tenant on the lease is a corporation, is the annual income of the

corporation considered in determining whether the threshold income level is met?

Answer: No. Only the annual incomes of qualified occupants will be considered.

Question: Where a tenant occupies two or more contiguous housing accommodations which may or may not be structurally combined to some degree, but not to a degree that would qualify for a "first rent," will the rents of each be combined in determining whether the monthly legal regulated rent is \$2,000 or more?

Answer: Because the facts of each situation will vary extensively, this issue will be considered on a case by case basis. Generally, the greater the degree of integration of apartments and their usage, the more likely they will be considered one apartment for determination of the issue.

## II. Rent Increases For Individual Apartment Improvements

The RRRRA modified the conditions under which rent increases are allowed for individual apartment improvements under all four rent regulatory systems.

### **A. Required DHCR approval eliminated**

1. Before the enactment of the RRRRA, the approval of DHCR was required in order for rent increases to be collected for individual apartment improvements under the CRCL and the SRCL and, in certain instances, under ETPA. Under the RRRRA, the approval of DHCR is no longer required under any system. However, where there is a tenant in occupancy at the time of the improvement, written tenant consent is required. In the case of a vacant housing accommodation, no tenant consent is required.
2. For all applications for individual apartment improvement rent increases with tenant consent, or where the apartment was vacant, which were pending when the RRRRA became effective (July 7, 1993), DHCR has sent notices to the parties informing them that, since such applications are no longer required, the proceedings have been closed without processing.

### **B. Amount of rent increase**

1. Before the enactment of the RRRRA, the amount of the permanent increase in the legal regulated rent (for

rent stabilization) or maximum rent (for rent control) was not contained in any of the rent laws but was set by regulation or DHCR practice at one-fortieth (1/40) of the cost of the improvement, including the cost of installation, but excluding finance charges. This 1/40th increase was made statutory by the RRRRA for all four rent regulatory systems.

2. The RRRRA, consistent with already established DHCR regulation and practice, provided that no further rent increase for an individual apartment improvement is permitted during the useful life of the replaced equipment.

**C. Notification requirement and effective date of rent increase**

1. Under the RRRRA, for housing accommodations governed by the CRCL and SRCL, an owner must notify DHCR of the individual apartment improvement on Form RN-79-b. Such notification is not required under RSL or ETPA.
2. Where the filing of Form RN-79-b with DHCR is required, the increase is not collectible until the first rent payment date after the owner's filing of such form.

**D. DHCR approval still required for air conditioner charges**

Where DHCR approval has been required in order for an owner to collect charges for the use of an air conditioner, whether electricity is included in the rent or not, such approval is still required. Permissible charges for air conditioners in New York City rent regulated housing accommodations are established annually. The latest establishment of such charges is found in the Tenth Annual Update of Section B of Supplement No. 1 to Operational Bulletin 84-4, issued September 8, 1995.

**III. Vacancy Deregulation of Cooperative and Condominium Housing Accommodations in Municipalities in Nassau, Westchester and Rockland Counties Which Have Adopted ETPA**

The RRRRA amended subdivision a of Section 5 of ETPA by adding a new paragraph 14, which adds a category of housing accommodations exempt from ETPA. This exemption applies to housing accommodations located in buildings converted to co-operative or condominium ownership, which are or become vacant on or after July 7, 1993, and to such housing accommodations which are occupied by "non-purchasing tenants" (as defined by Sec. 352-eee of the General Business Law) upon the occurrence of a vacancy after July 7, 1993. The rent laws and the general enforcement provisions of ETPA shall also continue to apply where DHCR finds that a tenant has vacated because of an owner's harassment.

This provision of the RRRRA essentially brings into conformity the status of such vacated housing accommodations located in buildings under cooperative or condominium forms of ownership with the exempt status of similar housing accommodations located in New York City.

**IV. Penalties for Failure to Register Rent Stabilized Housing Accommodations Subject to RSL and ETPA**

The RRRRA amended sections 26-516 and 26-517 of the RSL, and subdivision a of section 12 and subdivision e of section 12-a of ETPA, modifying the penalties for failure to register rent stabilized housing accommodations and modifying the procedures for determining nonregistration-related overcharges.

- A. Treble damages may no longer be imposed against an owner based solely on the owner's failure to register initially or annually. Where, however, DHCR finds that an owner has willfully collected an overcharge other than an overcharge attributable to an owner's nonregistration, DHCR will assess treble damages on the entire overcharge, including that portion based upon the owner's nonregistration.
- B. Where rent increases were lawful but for the owner's failure to register, and where the owner files and serves a late registration, DHCR will not thereafter find that the owner has collected an overcharge at any time prior to the filing of the late registration. Furthermore, where DHCR finds that an owner has collected an overcharge other than an overcharge attributable to non-registration, but the collection of such overcharge was not willful pursuant to DHCR Policy Statement 89-2 and where the owner files and serves a late registration, DHCR shall not find that the owner collected an overcharge based upon non-registration. If, however, a late registration is filed subsequent to the filing of a rent overcharge complaint, DHCR will assess the owner with a late filing surcharge for each unit affected in the amount of fifty percent of the current administrative fee for timely filed registrations. The surcharge, based upon the current administrative fee, is \$5.00. Where DHCR assesses an owner with a late filing surcharge, under the RSL, the owner must pay this surcharge to the New York City Department of Finance, and under the ETPA, to the applicable locality.
- C. Owners are not permitted to collect that portion of a temporary retroactive major capital improvement (MCI) rent increase which is applicable to a period during which the owner had not registered the housing accommodation. The RRRRA has not altered this prohibition.
- D. The provisions of the RRRRA described in paragraphs A and B of this section apply only to proceedings docketed by DHCR on or after July 1, 1991. However, with regard to overcharge cases docketed prior to that date, to avoid processing

inconsistency, and because of recent court decisions that have sought to limit the imposition of treble damages, in such cases DHCR will not impose treble damages where any overcharge results solely from the owner's failure to prove service of the initial registration form (RR-1), or of an annual registration form, on either the DHCR or the tenant, and all rent increases charged are otherwise lawful. DHCR deems a proceeding to be docketed as of the date such complaint is date-stamped as received in DHCR's mail room or is date-stamped by a DHCR employee when such complaint is submitted in person at a DHCR office.

- E. A PAR against an order involving a complaint docketed prior to July 1, 1991, being an appeal of the determination of that proceeding, will not be considered a separate "proceeding" subject to the provisions of the RRRRA described in item B of this section of this Operational Bulletin.
- F. With regard to complaints docketed on or after July 1, 1991, because the scope of review of a PAR is limited to that which was presented in the Rent Administrator's proceeding, an owner who files a late registration after the issuance of a Rent Administrator's order finding overcharges based solely upon non-registration will remain responsible for such rent overcharges.

#### V. Significant Policy and Procedural Changes

As stated above, this Operational Bulletin supersedes and replaces Operational Bulletin 94-1, issued January 3, 1994. The replacement of 94-1 is necessary to reflect the subsequent enactment of Local Law 4, which amended the RRRRA, as well as to effectuate the following significant changes in policy and procedure determined by the Office of Rent Administration to be necessary and appropriate pursuant to its authority to implement the RRRRA:

#### **Total Annual Income**

To more accurately reflect the specific provisions of the RRRRA, this Operational Bulletin includes both the Rent Control and Rent Stabilization/ETPA definitions of "total annual income" for the purpose of high income/high rent deregulation. As it affects housing accommodations subject to the ETPA or RSL, except for certain employees and subtenants, the RRRRA authorizes the inclusion of the annual incomes of all persons named on the lease who occupy the housing accommodation, whether or not the housing accommodation is used as their primary residence, and all other persons who occupy the housing accommodation as their primary residence on other than a temporary basis. However, for housing accommodations

subject to the SRCL or CRCL, with similar exceptions, the RRRRA authorizes the inclusion of the annual incomes of all occupants, including tenants, who occupy the housing accommodation as their **primary residence** on other than a temporary basis. Operational Bulletin 94-1 included only the Rent Stabilization/ETPA definition, and did not distinguish between that definition and the Rent Control definition. This Operational Bulletin clarifies that for ETPA and RSL housing accommodations, primary residence of named tenants in occupancy is not a factor for the inclusion of their income in the determination of "total annual income." See I.B.1.b.(2), at page 6.

In addition, as is discussed below, to discourage attempts to avoid lawful deregulation, this Operational Bulletin clarifies that total annual income includes the incomes of certain persons who vacated the housing accommodation temporarily prior to service of the ICF.

#### **Income Certification Form**

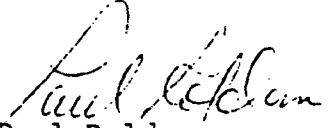
Difficulties in determining the effectiveness of the ICF for the purposes of high income/high rent deregulation have been experienced during the initial year of the RRRRA. Therefore, an operative date for the determination of who must be identified, and whose income must be included, has been established as the date of **service** of the ICF.

Furthermore, to assure that the incomes of persons who may have vacated the housing accommodation prior to service of the ICF, but which incomes would otherwise be properly included within "total annual income" are properly "captured" for high income/high rent deregulation, the ICF will require the tenant to list all persons whose incomes are relevant, and who vacated the housing accommodation in the year of service of the ICF, or within the two calendar years preceding the service of the ICF, including the dates when they vacated. The income of any such person who vacated the housing accommodation **temporarily** is to be included in total annual income. The required information should enable an owner to investigate the circumstances of the vacating prior to the service of the ICF, and assist in preventing the avoidance of lawful deregulation.

In addition, to facilitate the "matching" of income and names as stated on the ICF, and to address problems experienced during the initial RRRRA year, tenants will also be required to state whether an occupant, such as a minor child, is actually required to file a New York State income tax return. These changes in the ICF form become effective January 1, 1996, for use thereafter. See I.B.3.a.(1) at page 7.

## Lease Renewal

During the initial year of the RRRRA, owners have experienced uncertainty and inequity resulting from the impact of lease renewal requirements under the ETPA and the RSL upon the high income/high rent deregulation process. The RRRRA provides that an order of deregulation is effective only upon the expiration of the "existing lease." Owners who have initiated the deregulation process are confronted with uncertainty as to whether to renew an expiring lease while their petition is still before the agency. Should they do so, they risk the inequity of being "locked" into another lease term, despite the subsequent granting of the petition for deregulation. To assure that the legislative intent of the RRRRA is fully effectuated, as well as to also provide tenants with the security of lease renewal in the event that the owner's petition is ultimately denied, provision has been made for a cancellation clause rider procedure. Owners will be permitted to condition lease renewal upon the resolution of the high income/high rent deregulation process, including the determination of any administrative appeal. To provide tenants whose renewal leases are cancelled pursuant to rider with the opportunity to remain in occupancy at a known rental amount, owners are also authorized to include a rider with the renewal lease offering an unregulated lease that, at the tenant's option, may be substituted for the cancelled renewal lease. See I.R3 e , at page 11.

  
Paul Roldan  
Deputy Commissioner  
for Rent Administration

December 18, 1995




THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

JACK T. LINN  
DIRECTOR  
CITY LEGISLATIVE AFFAIRS

52 CHAMBERS STREET  
ROOM 309  
(212) 788-2902

MEMORANDUM

To: Mayor Rudolph W. Guiliani  
From: Jack T. Linn   
Date: March 22, 1994  
Re: Intro. 220

I IMPACTS

As a matter of law, Intro. 220 would affect all regulated apartments, stabilized and controlled; in reality, Intro. 220 would affect only stabilized apartments, since there are virtually no controlled apartments renting for more than \$1500 per month. Geographically, the impact of this proposed local law would be felt almost exclusively in Manhattan, since virtually all regulated high-rent apartments are located in Manhattan. Even within Manhattan the impact is limited to a few neighborhoods. Affected Council Districts include those represented by Council Members Eristoff, Millard, Pagan, Duane, Freed and Eldridge.

The following data is from HPD's Housing and Vacancy Report of March 1993:

Total housing units		2,985,527
Total rental units		2,047,017
	Controlled	101,798
	Stabilized	1,013,097
Total (occupied and vacant) units renting for \$1500 or more per month		43,051
	Total regulated units	25,663



Total (occupied and vacant) units renting for rent between \$1500 - 1999		25,280
Regulated units	15,587	

Total (occupied and vacant) units renting for \$2000 or more		17,771
Regulated units	10,076	

Of the 10,076 regulated units with rents in excess of \$2000, approximately half receive tax benefits through either the 421-A or J-51 programs, and were explicitly excluded from the State de-regulation action of last Spring, leaving about 5000 units affected by the State action. For the same reason only about half, or about 7500, of the units now renting for between \$1500 and \$1999 would be affected by Intro. 220. Assuming annual rent increases of 5%, all 7500 apartments would become eligible for vacancy decontrol within 7 years because of the City's action.

HPD estimates that 96.5% of the affected units are located in Manhattan, distributed as follows:

Upper East Side	28%
Stuyvesant Square and Turtle Bay	19%
Greenwich Village/Financial District	19%
Upper West Side	18.5%
Chelsea/Clinton/Midtown	12%

## II OPTIONS

The Council has transmitted Intro. 220 to us, so you are now free to act. Your options are as follows:

1. You may sign the bill. This would involve first calling a public hearing, and providing five days notice prior to the date of that hearing. We have already placed on your calendar a hearing on local laws on March 30th, so that you could sign Intro. 33-A (the Reproductive Clinic Access Law). In order to hear Intro. 220 on the same day, we must publish a notice in this Friday's City Record and one other newspaper. In order to ensure publication on Friday, we must submit advertising copy tomorrow, so you need to make a decision today or tomorrow morning at the latest.

After you have signed the bill, it must be transmitted to the Secretary of State in Albany. As long as the Secretary of State receives the bill by April 1, it will be effective in time to avoid the expiration of rent regulations.

2. Should you decide to veto Intro. 220, you may do so immediately, without a public hearing. The City Council can only receive your veto message officially at a

regularly scheduled Council meeting. The next one is scheduled for March 30th. The Council could attempt an override at that meeting. Should they succeed, Intro. 220 would become law without your signature. We would only need to transmit it to the Secretary of State. Should they fail, all rent regulations would expire on schedule on April 1, and tenants would be placed at risk.

In order to prevent this exposure for tenants, it would be necessary for the Council to do one of two things:

a) either forego an attempt to override your veto, and immediately convene a Council meeting in order to pass Intro. 215 (the straight extender), or

b) immediately convene a Council meeting in order to consider a temporary extender by amending Intro. 215 to provide an extension of rent regulations while we fight the override battle. The Council could only consider an amended version of Intro. 215 immediately if you agree to send a Message of Necessity. You could choose not to do so, and force them to either pass the straight three-year extender, or else take responsibility for placing tenants at risk during the period it takes to resolve the veto override fight.

attachment

c. Deputy Mayor Peter Powers  
Randy Maestro  
Dennison Young  
Paul Crotty  
Richard Schwartz



LAW DEPARTMENT

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PRIVILEGED & CONFIDENTIAL

MEMORANDUM

TO: JEFFREY D. FRIEDLANDER  
Chief Counsel

FROM: SPENCER FISHER  
Assistant Chief, Division of Legal Counsel

DATE: March 22, 1994

RE: Approval or Veto of Int. No. 220

The City Council yesterday approved Int. No. 220, which provides for decontrol of certain units currently subject to rent control and rent stabilization. This memorandum addresses procedural issues raised by the passage of the proposal by the Council. Once the proposed local law is formally presented to the Mayor, he will have the following options:

1. Veto. The Mayor may "disapprove" the local law within thirty days after its presentation to him. Disapproval is accomplished by returning the local law to the City Clerk with objections stated in writing. No public hearing is required for disapproval. The local law must then be presented to the Council by the City Clerk, with the Mayor's objections, at the next regular meeting on March 30; the Mayor's objections must be entered into the record of the Council's proceedings. See Matter of Barile v. City Comptroller of the City of Utica, 56 Misc.

2d 190 (Sup. Ct., Oneida Co. 1968) (public hearing not required for mayor to veto local law, and local law must be presented at regular meeting prior to attempt to override veto). The Council may override the veto within thirty days "thereafter." Municipal Home Rule Law §21; Charter §37. Once the objections have been presented and duly entered, the Council may attempt to override the Mayor's veto at the same regular meeting at which the objections were first presented. Matter of Barile v. City Comptroller of the City of Utica, cited above, at 194 ("The local law may be reconsidered by the Council at any time within 30 days after the Clerk returns the legislation with the Mayor's objections and enters them in the Council records").

In order to override the Mayor's veto under state law, at least two-thirds of the Council's "total voting power" (or, in the words of the Charter, two-thirds of "all the council members) must vote to override. The apparent intention of the state law, consistent with General Construction Law §41 (which provides for public bodies to act by a majority of their whole number, as if there were no vacancies), was to have the required number for a veto override remain constant notwithstanding the existence of vacancies in individual Council seats. Therefore, 34 votes (two-thirds of the total Council membership excluding the Public Advocate) would be required to override the Mayor's veto. Municipal Home Rule Law §21; Charter §37. (The Public Advocate may only vote in case of a tie and therefore should not be considered a part of the "total voting power" of the Council pursuant to the Municipal Home Rule Law; this is consistent with the Charter, which does not apply the term "council member" to the Public Advocate. Charter §22.)

If the Council fails to override upon reconsideration, its time to override terminates immediately. If the Council overrides the veto, the local law is deemed adopted. It

would thereafter be certified by the Corporation Counsel and the City Clerk and filed with the City Clerk and the Secretary of State. Municipal Home Rule Law §27. While state law provides that a local law is not effective before it is filed with the Secretary of State, the City may argue that the Council intended that rights conferred by a local law vest as of its adoption, and that those rights are retrospectively brought into effect by subsequent filing. Matter of Hehl v. Gross, 35 A.D.2d 570, 571-572 (2nd Dept. 1970), aff'd, 30 N.Y.2d 828 (1972) (civil service rights conferred by local law vested at time of approval at referendum rather than at time of subsequent filing with Secretary of State).

Prior to a mayoral veto, the Council may recall the local law and, presumably, amend it at a special meeting. Municipal Home Rule Law §21. However, the Mayor would then need to hold a public hearing on at least five days' notice in order to approve the amended local law.

2. Approval. The Mayor may approve the local law, after a public hearing held on at least five days' notice. The notice must be given within ten days of presentation of presentation to the Mayor, and the hearing must held within twenty days of presentation. If the Mayor approves Int. No. 220, it provides for an immediate effective date. However, it would be subject to the filing requirements described above.

3. No Action. The Mayor may fail to act upon the local law, in which case it is deemed adopted thirty days after its presentation to him. Of course, this would extend well beyond April 1, the expiration date of rent stabilization. The local law would be subject to filing as described above after the thirty-day period.

4. Another Local Law. If the Mayor disapproves the local law and the Council does not override the veto, then another local law may be considered by the Council. The local law would be subject to a "waiting period" of up to seven calendar days prior to passage, unless the Mayor certified as to the necessity for immediate passage or unless it had already been introduced more than seven calendar days earlier. Municipal Home Rule Law §20(5). The Mayor could then veto that local law (as described in [1] above), approve it (as described in [2] above) or allow it to be deemed adopted after thirty days (as described in [3] above).

Because the Council passed the resolution required for extension of rent control (as opposed to rent stabilization) the provisions governing rent-controlled units (Administrative Code §26-401 et seq.) will remain in effect beyond April 1. However, because Administrative Code §26-520 provides for the Rent Stabilization Law to expire on April 1, 1994, the provisions of this law, which govern the vast majority of all rent-regulated units, would probably not continue beyond midnight at the end of April 1, 1994, unless they are extended, whether by Int. No. 220 or another local law, on or prior to April 1.<sup>1</sup>

If the Council enacts a local law extending rent stabilization after April 1, perhaps with an effective date retroactive to April 1, and if there is only a brief hiatus in regulation, then it may be argued that the hiatus is insignificant, especially given that landlords and tenants were put on notice before April 1 that the process of considering extension was under way. While there could be considerable public speculation and uncertainty, a court would not be likely to

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<sup>1</sup> While an argument may be made that certain provisions of state law require an affirmative legislative finding in order to decontrol units, and that the mere expiration of the local law should not be sufficient to terminate rent regulation for all rent stabilized units, the success of this argument is at best uncertain, given the explicit expiration date for rent stabilization in §26-520.

exacerbate the situation. A delay longer than a few days would produce greater risks. After April 1, landlords may argue that rent stabilization could not be reimposed because reimposition would result in more restrictive regulation than the total lack of rent regulation that would have immediately preceded it, and this would purportedly violate the 1971 state enactment known as the "Urstadt Law." Unconsolidated Laws §8605. However, the City could argue that the purpose of the Urstadt Law was not to prevent the continuation of rent regulation after a short interim period. Unconsolidated Laws § 8623.

If no new local law is enacted at all, then considerable uncertainty and, presumably, litigation among private parties and against the City would be the result. It appears that vacant units would be subject to immediate decontrol, while occupied units would be phased out of rent regulation as their one- or two-year rent-stabilized leases terminated. Tenants who had received offers to renew their leases, as required by the Rent Stabilization Code and on terms specified by the Code, would argue that they could accept those offers, and leases already entered into but not yet effective would presumably take effect. However, the precise legal effects of an abrupt end to rent stabilization upon occupied units cannot be predicted with certainty, and would probably be determined in the courts.

If necessary, a short local law extender of a few weeks or months, similar to those enacted by the State Legislature last year during its negotiations, would permit political accommodation and would be highly preferable to any crisis brought about by the sudden lifting of all controls. Such a local law could provide in its effective date provision that it would in any case terminate upon the effective date of a subsequent local law of a specified type, thereby allowing subsequent enactment of compromise legislation.



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**PRIVILEGED & CONFIDENTIAL**

**MEMORANDUM**

**TO:** JEFFREY D. FRIEDLANDER  
Chief Counsel

**FROM:** SPENCER FISHER  
Assistant Chief, Division of Legal Counsel

**DATE:** March 22, 1994

**RE:** Approval or Veto of Int. No. 220

The City Council yesterday approved Int. No. 220, which provides for decontrol of certain units currently subject to rent control and rent stabilization. This memorandum addresses procedural issues raised by the passage of the proposal by the Council. Once the proposed local law is formally presented to the Mayor, he will have the following options:

1. Veto. The Mayor may "disapprove" the local law within thirty days after its presentation to him. Disapproval is accomplished by returning the local law to the City Clerk with objections stated in writing. No public hearing is required for disapproval. The local law must then be presented to the Council by the City Clerk, with the Mayor's objections, at the next regular meeting on March 30; the Mayor's objections must be entered into the record of the Council's proceedings. See Matter of Barile v. City Comptroller of the City of Utica, 56 Misc.



2d 190 (Sup. Ct., Oneida Co. 1968) (public hearing not required for mayor to veto local law, and local law must be presented at regular meeting prior to attempt to override veto). The Council may override the veto within thirty days "thereafter." Municipal Home Rule Law §21; Charter §37. Once the objections have been presented and duly entered, the Council may attempt to override the Mayor's veto at the same regular meeting at which the objections were first presented. Matter of Barile v. City Comptroller of the City of Utica, cited above, at 194 ("The local law may be reconsidered by the Council at any time within 30 days after the Clerk returns the legislation with the Mayor's objections and enters them in the Council records").

In order to override the Mayor's veto under state law, at least two-thirds of the Council's "total voting power" (or, in the words of the Charter, two-thirds of "all the council members) must vote to override. The apparent intention of the state law, consistent with General Construction Law §41 (which provides for public bodies to act by a majority of their whole number, as if there were no vacancies), was to have the required number for a veto override remain constant notwithstanding the existence of vacancies in individual Council seats. Therefore, 34 votes (two-thirds of the total Council membership excluding the Public Advocate) would be required to override the Mayor's veto. Municipal Home Rule Law §21; Charter §37. (The Public Advocate may only vote in case of a tie and therefore should not be considered a part of the "total voting power" of the Council pursuant to the Municipal Home Rule Law; this is consistent with the Charter, which does not apply the term "council member" to the Public Advocate. Charter §22.)

If the Council fails to override upon reconsideration, its time to override terminates immediately. If the Council overrides the veto, the local law is deemed adopted. It

would thereafter be certified by the Corporation Counsel and the City Clerk and filed with the City Clerk and the Secretary of State. Municipal Home Rule Law §27. While state law provides that a local law is not effective before it is filed with the Secretary of State, the City may argue that the Council intended that rights conferred by a local law vest as of its adoption, and that those rights are retrospectively brought into effect by subsequent filing. Matter of Hehl v. Gross, 35 A.D.2d 570, 571-572 (2nd Dept. 1970), aff'd, 30 N.Y.2d 828 (1972) (civil service rights conferred by local law vested at time of approval at referendum rather than at time of subsequent filing with Secretary of State).

Prior to a mayoral veto, the Council may recall the local law and, presumably, amend it at a special meeting. Municipal Home Rule Law §21. However, the Mayor would then need to hold a public hearing on at least five days' notice in order to approve the amended local law.

2. Approval. The Mayor may approve the local law, after a public hearing held on at least five days' notice. The notice must be given within ten days of presentation of presentation to the Mayor, and the hearing must held within twenty days of presentation. If the Mayor approves Int. No. 220, it provides for an immediate effective date. However, it would be subject to the filing requirements described above.

3. No Action. The Mayor may fail to act upon the local law, in which case it is deemed adopted thirty days after its presentation to him. Of course, this would extend well beyond April 1, the expiration date of rent stabilization. The local law would be subject to filing as described above after the thirty-day period.

4. Another Local Law. If the Mayor disapproves the local law and the Council does not override the veto, then another local law may be considered by the Council. The local law would be subject to a "waiting period" of up to seven calendar days prior to passage, unless the Mayor certified as to the necessity for immediate passage or unless it had already been introduced more than seven calendar days earlier. Municipal Home Rule Law §20(5). The Mayor could then veto that local law (as described in [1] above), approve it (as described in [2] above) or allow it to be deemed adopted after thirty days (as described in [3] above).

Because the Council passed the resolution required for extension of rent control (as opposed to rent stabilization) the provisions governing rent-controlled units (Administrative Code §26-401 et seq.) will remain in effect beyond April 1. However, because Administrative Code §26-520 provides for the Rent Stabilization Law to expire on April 1, 1994, the provisions of this law, which govern the vast majority of all rent-regulated units, would probably not continue beyond midnight at the end of April 1, 1994, unless they are extended, whether by Int. No. 220 or another local law, on or prior to April 1.<sup>1</sup>

If the Council enacts a local law extending rent stabilization after April 1, perhaps with an effective date retroactive to April 1, and if there is only a brief hiatus in regulation, then it may be argued that the hiatus is insignificant, especially given that landlords and tenants were put on notice before April 1 that the process of considering extension was under way. While there could be considerable public speculation and uncertainty, a court would not be likely to

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<sup>1</sup> While an argument may be made that certain provisions of state law require an affirmative legislative finding in order to decontrol units, and that the mere expiration of the local law should not be sufficient to terminate rent regulation for all rent stabilized units, the success of this argument is at best uncertain, given the explicit expiration date for rent stabilization in §26-520.

exacerbate the situation. A delay longer than a few days would produce greater risks. After April 1, landlords may argue that rent stabilization could not be reimposed because reimposition would result in more restrictive regulation than the total lack of rent regulation that would have immediately preceded it, and this would purportedly violate the 1971 state enactment known as the "Urstadt Law." Unconsolidated Laws §8605. However, the City could argue that the purpose of the Urstadt Law was not to prevent the continuation of rent regulation after a short interim period. Unconsolidated Laws § 8623.


If no new local law is enacted at all, then considerable uncertainty and, presumably, litigation among private parties and against the City would be the result. It appears that vacant units would be subject to immediate decontrol, while occupied units would be phased out of rent regulation as their one- or two-year rent-stabilized leases terminated. Tenants who had received offers to renew their leases, as required by the Rent Stabilization Code and on terms specified by the Code, would argue that they could accept those offers, and leases already entered into but not yet effective would presumably take effect. However, the precise legal effects of an abrupt end to rent stabilization upon occupied units cannot be predicted with certainty, and would probably be determined in the courts.

If necessary, a short local law extender of a few weeks or months, similar to those enacted by the State Legislature last year during its negotiations, would permit political accommodation and would be highly preferable to any crisis brought about by the sudden lifting of all controls. Such a local law could provide in its effective date provision that it would in any case terminate upon the effective date of a subsequent local law of a specified type, thereby allowing subsequent enactment of compromise legislation.



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N. Y. 10007

MEMORANDUM

To: Mayor Rudolph W. Giuliani  
From: Jack T. Linn   
Date: March 11, 1994  
Re: Rent Control/Stabilization

---

Yesterday the Council Housing and Buildings Committee considered a package of bills, all of them aimed at amending portions of the current rent control/rent stabilization laws governing the City of New York. The purposes of these bills varied, ranging from full vacancy decontrol to a straight extension of existing rent regulations. While the Committee did not act on any measure, the hearing debate focused primarily on two legislative proposals, Intro. 215, the straight extender of rent stabilization and Intro. 220, the bill that furthers "luxury" decontrol. The Council has indicated its intention of adopting Intro. 220 on March 16 or perhaps at a specially scheduled March 21 Stated Meeting.

**Intro. 215**

- This bill is sponsored by Council Members Michels and Eristoff and twenty-two of their colleagues, in conjunction with you.
- It provides for a straight three-year extension of the current rent stabilization law. (The companion Resolution 144 provides the same extension for rent-controlled apartments).
- This proposal has received broad political support from elected officials, including Governor Cuomo, Senator Leichter, the five Borough Presidents, and Comptroller Hevesi. Of course, tenant advocates, led by the New York State Tenant and Neighborhood Coalition, strongly support the straight extender.

- HPD Commissioner Wright testified on behalf of the Administration in support of Intro. 215.

**Intro. 220**

- This bill is sponsored by Council Members Ognibene, Fusco and O'Donovan.
  - The bill would amend the rent stabilization and control laws by permitting decontrol of apartments that are occupied by persons with an annual income in excess of two hundred fifty thousand dollars whenever their maximum rent reaches two thousand dollars per month, whereas the State Legislature decontrolled only those apartments for which both conditions were met on one particular day, October 1, 1993.
  - The Law Department has concerns regarding Intro. 220. The Law Department indicates (see attached memo) that the bill raises a broad question of pre-emption, that is, whether the City may alter a State-created scheme, so as to deviate from parallel provisions in State enabling legislation. The Law Department opines that "the authority to enact Intro. 220 is uncertain."
  - As you are aware, the Rent Stabilization Association, the Real Estate Board of New York, and other property-owner organizations support this measure.
  - RSA estimates that passage of Intro. 220 would increase our property tax revenues by \$1.58 million per year. Finance and OMB are checking RSA's numbers.
  - We expect the Council to adopt this proposal unless they are persuaded that they lack the legal authority.
- c. Deputy Mayor Peter Powers  
Randy Maestro  
Dennison Young  
Richard Schwartz



LAW DEPARTMENT

100 CHURCH STREET  
NEW YORK, N.Y. 10007

PAULA A. CROTTY  
Corporation Counsel

(212) 785-

PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM

TO: JEFFREY FRIEDLANDER  
PAUL REPHEN

FROM: SPENCER FISHER  
MARY-LYNNE RIFENBURGH

DATE: MARCH 9, 1994

RE: INTRO. 220--Amending the Rent Stabilization and Rent Control Laws in regard to apartments with a legal regulated rent of two thousand dollars per month or greater

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The purpose of this memorandum is to describe briefly some of the legal issues arising from Intro. 220. This bill would amend the rent stabilization and rent control laws with regard to apartments occupied by lessees with total annual incomes of two hundred fifty thousand dollars or more and/or maximum legal regulated rents of two thousand dollars per month or greater.

Provisions of the Bill

Intro. 220 amends the rent stabilization and control laws by permitting apartments to be decontrolled under specified circumstances if their maximum rent exceeds two thousand dollars per month at any time after the effective date of Intro. 220, rather than as of October 1, 1993, the cutoff date set by the

State Legislature. Currently, under §§ 26-401 et seq. (New York City Rent Control) and 26-501 et seq. (New York City Rent Stabilization) of the Administrative Code, as amended by the Rent Regulation Reform Act of 1993 (Chapter 253, Laws 1993), such apartments are decontrolled under two circumstances: (1) upon issuance of an order of decontrol by the State Division of Housing and Community Renewal (DHCR), if they are occupied by tenants who have a total annual income in excess of two hundred fifty thousand dollars per annum in each of the two preceding calendar years, and had a maximum rent of two thousand dollars or more as of October 1, 1993, or (2) if the maximum rent was two thousand dollars per month or more at any time between July 7, 1993 and October 1, 1993 and the apartment became vacant after July 7, 1993.

Under Intro. 220, apartments that are occupied by persons with a total annual income in excess of two hundred fifty thousand dollars per annum and that have a maximum rent of two thousand dollars or more per month at any time, would be decontrolled upon issuance of an order of decontrol by DHCR. In addition, any apartment with a maximum rent of two thousand dollars or more per month at any time, which becomes vacant on or after April 1, 1994 would also be decontrolled. Intro. 220 also generally extends rent stabilization to 1997. (A resolution would be needed to similarly extend rent control to 1997.)



### State Law

In 1993, the State Legislature added to state law and to the Administrative Code numerous high income/high rent decontrol provisions. The provisions added to the City's own Administrative Code are substantially identical to those added to laws applicable to apartments both within and outside New York City. Chapter 253 of the Laws of 1993. The law provides that prior to issuance of an order of decontrol by DHCR under the high income/high rent scheme, landlords must give tenants whose apartments had a maximum rent of two thousand dollars per month or more an income certification form. If the form, when returned to the landlord, indicates an income greater than two hundred and fifty thousand dollars for the preceding two calendar years, the landlord must send it to the DHCR, which then issues an order of decontrol. The DHCR may request that the State Department of Taxation and Finance (DTF) verify the income of tenants pursuant to this law. In addition, the law provides for decontrol of any vacant apartment for which the maximum rent as of October 1, 1993 was two thousand dollars or more per month.

### Legal Issues

Intro. 220 differs from the State-enacted scheme for decontrol of high income/high rent apartments by deleting the provisions restricting such decontrol to units with high rents as of October 1, 1993.<sup>1</sup> Thus more units would become subject to

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<sup>1</sup> It should be noted that another proposal by the Council, Intro. 219, also diverges from the State's high rent/high income  
(continued...)

decontrol than under the State scheme. At least three issues must be considered. A threshold issue is whether the City may alter a State-created scheme, which was placed in the Administrative Code by State legislation, so as to deviate from parallel provisions in State enabling legislation. Second, the administration of the high income/high rent decontrol system by State agencies (the Division of Housing and Community Renewal and the Department of Taxation and Finance) raises the issue of whether the City can, by local legislation, effectively mandate that those agencies administer the decontrol of a larger pool of units than originally envisioned by the State legislation. Finally, since income verification by DTF involves tax information which by law may be confidential, the question arises whether the City can, by local law, require the State tax authority to access tax information for a larger group of persons than originally contemplated by the State legislation.

#### Discussion

The system of rent control and rent stabilization laws is complex and its history spans many years. Due to this complexity, it is unclear whether the City has the authority to adopt Intro. 220.

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<sup>1</sup> (...continued)  
decontrol scheme by allowing decontrol to occur if: (1) the income of the resident tenants exceeds two hundred fifty thousand dollars per year in each of the two preceding calendar years (regardless of the apartment's rent); or (2) the maximum rent is two thousand dollars or more per month at any time and the apartment becomes vacant after April 1, 1994.

Certain provisions appear to support the City's authority. First, under the Local Emergency Housing Rent Control Act, Unconsolidated Laws §8601 et seq., and specifically under §8605, the City apparently may adopt local laws that are less stringent or restrictive with regard to control of rents than are presently in effect. However, this provision predates the high income/high rent control provisions of State law.

Second, under Unconsolidated Laws §§8623 (Emergency Tenant Protection Act of 1974--rent stabilization) and 8603 (rent control), localities are vested with the authority to determine whether to continue, in whole or in part, the housing emergency which requires rent stabilization and control. Arguably, these provisions of law support a decision by a local legislative body to decontrol a particular class of units, providing the legislative body develops a sound factual record for deciding to take such action. (It is unclear whether such a record has thus far been developed.) However, as mentioned above, these sections predate the high income/high rent provisions of the 1993 law which amended the Administrative Code.

The argument that the City lacks authority to enact Intro. 220 is essentially based upon the detailed scheme set forth by the State Legislature for high income/high rent decontrol. It is uncertain whether the City can vary from specific provisions of that scheme by relying upon the general authority of the provisions discussed above.

Additionally, the reaction of State agencies that would be called upon to administer the decontrol provisions of Intro.

220 cannot be predicted with certainty. The state housing and tax agencies may be reluctant to recognize the right of the City to legislate the duties of those agencies, especially in a manner that may affect policies of tax confidentiality. Given that the courts have found housing to be a matter of state concern, these agencies and the courts may defer to the specific policies of the 1993 state legislation.

Finally, it is not inconceivable that, since Intro. 220 would decontrol housing accommodations and potentially cause a socioeconomic impact, it could be challenged by a potential litigant on the basis of the State Environmental Quality Review Act.

#### Conclusion

The authority to enact Intro. 220 is uncertain. It may be argued that the provisions of Intro. 220 are within the broad authority conferred by the provisions of State enabling legislation. On the other hand, there is sufficient basis to doubt the authority of the City to enact Intro. 220, because it is inconsistent with recently enacted specific provisions of State law, including State-enacted Administrative Code provisions, in a manner impacting upon the duties of State agencies acting in an area of state concern.

cc: Paul Crotty

Intro 220

FOR

DENTS GITTERS

Oliver LeBlanc  
Jimmy Silber  
Helen Daniels  
HERMAN ROSANETZ

AGAINST

Michael McKee  
JOSHUA WOLINSKY  
LAWRENCE RACIES  
Linda Heunberg  
Kathy Kinsella  
Jenny Laurie  
Hilda Chavis  
Clyoia Sokenick  
Gary Lawman, President, Bellevue Hospital  
Community Board  
Jane Wood -  
DAWN SULLIVAN  
MARIE MAHER.

① Make Work with you  
to make certain no  
bureaucracy

- for protection
- for analysis  
by Council of dogs  
if necessary

② Broad consensus  
that rent control is  
rent regulation not  
be given where rent is  
high ~~the~~ or income high

- less. assets
- Dep. Senate
- signed by a  
Dem. Gov

③ Comprehensive  
Study of Housing

④ Passed at best moments  
with few lines



THE COUNCIL  
OF  
THE CITY OF NEW YORK

ANDREW ERISTOFF  
COUNCIL MEMBER, FOURTH DISTRICT

251 EAST 77TH STREET  
LOWER LEVEL  
NEW YORK, N.Y. 10021  
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408 EAST 14TH STREET  
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COMMITTEES:  
PARKS, RECREATION &  
CULTURAL AFFAIRS  
CIVIL SERVICE & LABOR  
GOVERNMENTAL OPERATIONS

March 14, 1994

VIA FAX

Hon. Rudolph W. Giuliani  
Mayor of the City of New York  
City Hall  
New York, NY 10007

Dear Mayor Giuliani: *Rudy*

I am writing in order to thank you for your early sponsorship of Intro. 215, (which extends rent control and rent stabilization without any further weakening amendments,) and to ask for your active and firm leadership in support of this legislation in upcoming negotiations with the City Council's leadership.

Organizations representing building owners are mounting a last-minute lobbying effort to remove the state law's October 1, 1993, test date for applying the so-called "luxury decontrol" provisions enacted last summer. This proposal is objectionable on both policy and procedural grounds. I urge you to stand firm with the millions of tenants who are counting on your leadership to help protect the rent laws from further erosion.

With very best wishes,

Sincerely,

Andrew S. Eristoff  
Council Member

cc: Jack Lynn, Director, Office of City Legislative Affairs

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*(Int 200)*



**DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

DEBORAH C. WRIGHT, Commissioner

Office of Housing Policy and Supervision  
100 GOLD STREET, NEW YORK, N.Y. 10038

HAROLD M. SHULTZ, Deputy Commissioner

CARMEN L. TORRES, Assistant Commissioner / Local Government Relations

FAX TO: *James Lee*

FAX NO. *708-0920*

NO. PAGES *9*

FROM: *See (File)*

H.P.D.  
LOCAL GOVERNMENT AFFAIRS  
100 GOLD STREET, NYC 10038

Telephone: *(212) 978-*

Comments:

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*7-11-94*

HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

BROOKLYN

SUBBOROUGH	N	Percent	Community Board	Council District	Council Member	Percent of Population Within Council District
1	12186	5.26	1	33	Fisher	55.99
2	3960	1.71	2	34	Robles	44.01
				35	Pinkett	59.96
				33	Fisher	32.79
				38	McCabe	5.60
				36	Robinson	1.50
3	4458	1.92	3	34	Robles	0.14
				36	Robinson	63.26
				41	Williams	20.65
				34	Robles	15.82
4	13724	5.92	4	35	Pinkett	0.27
				37	Malave-Dilan	46.06
5	1114	0.48	5	34	Robles	53.34
				37	Malave Dilan	46.06
				42	Wooten	44.68
6	13207	5.70	6	46	Berman	9.26
				39	DeBrienza	45.00
				38	McCabe	36.11
7	6692	2.89	7	33	Fisher	18.89
				38	McCabe	79.51
8	10060	4.34	8	39	DeBrienza	20.49
				36	Robinson	51.20
9	5552	2.40	9	35	Pinkett	35.32
				41	Williams	00.51
				35	Pinkett	42.88
				40	Clarke	40.44
10	1990	0.86	10	41	Williams	16.68
				43	Albanese	93.62
				50	Fusco (S)	3.25
				39	DeBrienza	1.63
				38	McCabe	1.50



HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

BROOKLYN

SUBBOROUGH	N	Percent	Community Board	Council District	Councilmember	Percent of Population Within Council District
11	5075	2.19	11	44	Dear	37.37
				50	Fusco (S)	23.54
				43	Albanese	23.00
				47	Lasher	15.92
12	577	0.25	12	48	Weiner	0.16
				39	DiBrienza	48.32
				44	Dear	36.22
				38	McCabe	8.44
				43	Albanese	3.17
				40	Clarke	2.83
13	1952	0.84	13	48	Weiner	1.01
				47	Lasher	97.44
14	2583	1.11	14	48	Weiner	2.56
				40	Clarke	38.91
				48	Weiner	27.34
				45	Henry	18.20
15	1415	0.61	15	44	Dear	15.54
				48	Weiner	66.88
				47	Lasher	18.11
				46	Berman	13.72
16	4572	1.97	16	44	Dear	1.29
				42	Wooten	48.49
				41	Williams	40.73
				37	Malave-Dilan	10.77
				37	Malave-Dilan	46.06
				42	Nooten	44.68
				46	Berman	9.26

HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

BROOKLYN

SUBBOROUGH	N	Percent	Community Board	Council District	Councilmember	Percent of Population Within Council District
17	4892	2.11	17	45	Henry	46.55
				41	Williams	27.43
				40	Clarke	18.85
18	551	0.24	18	42	Wooten	7.17
				46	Berman	69.13
				45	Henry	20.89
				42	Wooten	8.48
				48	Weiner	1.50

HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

MANHATTAN

SUBBOROUGH	N	Percent	Community Board	Council District	Councilmember	Percent of Population Within Council District
1	10330	4.46	1	1	Freed	100
			2	3	Duane	55.77
				1	Freed	32.99
				1	Pagan	11.24
2	11531	4.97	3	2	Pagan	50.44
				1	Freed	49.56
3	7804	3.37	4	2	Pagan	88.44
				3	Duane	11.56
				6	Eldridge	49.20
				3	Duane	29.34
				2	Pagan	20.20
				4	Eristoff	1.25
4	2628	1.13	6	4	Eldridge	42.46
				6	Eristoff	36.22
				2	Pagan	18.87
				4	Millard	2.45
5	14361	6.20	7	3	Duane	67.08
				6	Eldridge	21.34
				8	Powell	11.57
				9	Fields	59.99
6	8405	3.63	8	5	Millard	40.01
				4	Eristoff	77.82
7	3839	1.66	9	7	Michels	20.88
				9	Fields	1.30
8	4502	1.94	10	8	Powell	87.77
				9	Fields	12.17
				7	Michels	0.06
9	1868	0.81	11	8	Powell	80.01
				8	Powell	16.43
10	1355	0.58	12	9	Fields	71.71
				10	Linares	28.29
				7	Michels	

HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

QUEENS

SUBBOROUGH	N	Percent	Community Board	Council District	Councilmember	Percent of Population Within Council District
1	10828	4.67	1	22	Vallone	77.92
2	6392	2.76	2	26	McCaffrey	22.08
3	1764	0.76	3	25	McCaffrey	85.66
				21	Sabini	14.34
				25	Marshall	63.06
4	3397	1.47	4	22	Sabini	34.90
				25	Vallone	2.04
				21	Sabini	55.51
				29	Marshall	41.22
5	8114	3.50	5	29	Koslowitz	2.20
				26	McCaffrey	1.07
				30	Ognibene	72.85
6	155	0.07	6	29	Koslowitz	17.78
				26	McCaffrey	9.23
				29	Koslowitz	74.75
				24	Povman	18.27
				25	Sabini	4.25
7	3036	1.31	7	30	Ognibene	2.73
				20	Harrison	57.49
				19	Abel	41.16
8	4231	1.83	8	24	Povman	1.35
				24	Povman	84.94
				23	Leftler	14.35
9	2584	1.11	9	28	White	0.68
				32	Stabile	37.19
				29	Koslowitz	27.21
				30	Ognibene	23.56
				28	White	11.65
				24	Povman	0.40

HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

QUEENS

SUBBOROUGH	N	Percent	Community Board	Council District	Council Member	Percent of Population Within Council District
11	1681	0.73	11	19	Abel	48.78
				23	Leffler	39.92
12	2505	1.08	12	20	Harrison	11.30
				27	Spigner	44.82
				28	White	42.43
				31	Watkins	6.37
				23	Leffler	3.96
13	1753	0.76	13	24	Povman	2.41
				23	Leffler	40.80
				31	Watkins	30.56
14	622	0.27	14	27	Spigner	28.64
				31	Watkins	68.83
				32	Stabile	31.17

HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

STATEN ISLAND

SUBBOROUGH	N	Percent	Community Board	Council District	Councilmember	Percent of Population Within Council District
1	2823	1.22	1	49	O'Donovan	94.47
				50	Fusco	5.53
2	897	0.39	2	50	Fusco	75.14
				51	Cerullo	16.00
3	750	0.33	3	49	O'Donovan	8.86
				51	Cerullo	95.57
				50	Fusco	4.43

HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

BRONX

SUBBOROUGH	N	Percent	Community Board	Council District	Councilmember	Percent of Population Within Council District
1	5138	2.22	1	17	Rosado	79.87
				8	Powell (M)	20.13
			2	17	Rosado	67.50
				18	Cruz	32.41
2	2188	0.94	3	16	Foster	0.09
				16	Foster	63.65
				15	Rivera	17.40
				18	Cruz	9.73
				17	Rosado	9.23
			6	15	Rivera	94.87
3	823	0.36	4	11	Eisland	5.13
				16	Foster	61.76
4	1671	0.72	5	14	Ruiz	24.23
				17	Rosado	14.01
				14	Ruiz	50.33
5	1676	0.72	7	15	Rivera	25.41
				16	Foster	24.36
				11	Eisland	43.44
6	702	0.30	8	15	Rivera	30.24
				14	Ruiz	26.32
				11	Eisland	68.61
7	1969	0.85	9	14	Ruiz	23.46
				10	Linares (M)	7.93
				18	Cruz	77.95
				17	Rosado	17.23
				13	DeMarco	4.83

HVS 1993 STABILIZED UNITS (OCCUPIED AND VACANT)  
WITH 1-19 UNITS

BRONX

SUBBOROUGH	N	Percent	Community Board	Council District	Council member	Percent of Population Within Council District
8	1883	0.81	10	13	DeMarco	65.44
				12	Warden	34.43
9	1805	0.78	11	18	Cruz	0.18
				13	Demarco	80.06
				12	Warden	8.27
				11	Eisland	6.83
				15	Rivera	2.64
10	1224	0.53	12	18	Cruz	2.20
				12	Warden	84.95
				11	Eisland	14.82
				13	DeMarco	0.23



THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
Office of Housing Policy and Supervision

DEPARTMENTAL MEMORANDUM

DATE: March 14, 1994

TO: Anthony Barongi, Counsel, Housing and Buildings Committee  
FROM: Harold M. Shultz, Deputy Commissioner, HPS *HMS*  
SUBJECT: High Income Renters and High Income Units

Pursuant to our phone conversation of earlier today, here is the information that you requested:

- According to the 1993 Housing and Vacancy Survey there are 17,771 units that rent for \$2,000 per month or more.
- Virtually all of these units are within Manhattan. To the extent that there are units outside of Manhattan, the numbers are so low as to fall below the HVS level of achievable accuracy. In general any number of less than 3,000 is considered too small to be accurately measurable.
- Of the 17,771 units, about 7,000 are units that are not within the rent regulatory system, leaving approximately 10,000 units with rents greater than or equal to \$2,000 per month that are rent regulated.

*10,000 units, 5000*

*bcc Martha Hirst  
Jim Chin*

REC  
MAR 14 1994  
LEGISLATIVE

FROM STAN MITCHELLS

3/18/94:

VOTES TO SUSTAIN VETO OF INTRO 220

- |             |    |                 |
|-------------|----|-----------------|
|             | 1  | DUANE           |
|             | 2  | FELDRIDGE       |
| MANHATTAN / | 3  | FIELDS          |
| ( PALANI )  | 4  | CONZ            |
|             | 5  | LINARES         |
| CRUE        | 6  | FREEN           |
| MARSHALL    | 7  | FRISTOFF        |
| MCLABE      | 8  | MILLARD         |
| ALBANESE    | 9  | MITCHELLS       |
| HENRY       | 10 | MARSHALL        |
| CLARK       | 11 | MCLABE          |
| ↗           | 12 | ALBANESE        |
|             | 13 | DI BRENZA       |
|             | 14 | HENRY           |
|             | 15 | CLARKE          |
| BYCLAND     | 16 | POWELL          |
| EASTER      | 17 | RIVERA          |
| WARDEN      |    |                 |
| DELANI      |    |                 |
| B-H CALLAS  |    |                 |
| VEFFLER     |    |                 |
| FISHER      |    |                 |
| QUIZ        |    |                 |
| RIVERA      |    | WEINER          |
| POUMAN      |    | WHITE KOSLOWITZ |

LL BREAKING ALBANY DEAL  
FLOATING DATE

PAIN FOR TENANTS

FOR REST;

PLEASE TRY TO LIMIT  
YOUR REMARKS TO 2 MINUTES

- There are fees if any unlimited rights

- However the cost of fee  
is paid

- is subject to

some reasonable restrictions

- for part of the whole

- Supported extension

we just

- (leaving) concern

- with ~~obvious~~ restrictions - at the

exp. level

- Gov. sent

- Gov. income

- Consensus

- Dem. Assembly

- Dep. State

- New Gov.



## **Who Owns New York's Rental Housing**

- Minority ownership of New York's rental housing is growing - Blacks and Latinos constitute nearly 27% of recent purchasers of rental properties
- More than half of New York City's rental housing is owned by immigrants, including Puerto Ricans and other Latinos
- The proportion of properties owned by Latinos is growing
- Most of the minority owners own smaller buildings, and generally manage their own buildings, collect the rents and do some janitorial and maintenance work themselves
- Approximately 10% of the rent regulated housing stock is owned by minority owners
- Minority owned buildings are largely located in minority occupied neighborhoods, which are often categorized by deteriorating housing conditions, boarded up condition and many City owned structures.

## **Rental Housing Is In Trouble**

- According to the NYC Rent Guidelines Board, one out of eight stabilized buildings is economically troubled.
- According to the Citizens Housing and Planning Council, 50,000 apartments are in danger of abandonment.
- According to the Community Service Society, 140,000 units are in danger of abandonment.
- Most of the threatened buildings contain 20 units or less and are located in low-income, minority areas which have already been devastated by abandonment.
- The NYC Department of Finance confirms that residential real estate tax delinquencies have tripled over the last four years.

- More than half of the tax delinquencies are for small, walk-up apartment buildings.
- In rem foreclosure actions are now outstanding for approximately 29,000 properties city-wide.

Sources:

NYC Department of Finance, *Annual Report on the New York City Real Property Tax: Fiscal Year 1994*.

New York City Rent Guidelines Board, Resolution 93-1.

Citizens Budget Commission, *Reforming Residential Rent Regulations* 1991.

Citizens Housing & Planning Council, *Preserving New York's Low-Income Housing Stock* 1992.

Community Service Society, *Housing on the Block* 1993.

Arthur D. Little Inc., *The Owner of New York's Rental Housing: A Profile*, 1985.

Micheal Stegman, *New York City Housing and Vacancy Survey*, 1987.

George Sternlieb, *The Urban Housing Dilemma*, 1970.

# RENT STABILIZATION ASSOCIATION OF N.Y.C., INC.

1500 Broadway • New York, N.Y. 10036

## Fact Sheet on Small Building Vacancy Decontrol

1. How many apartments would be affected by a vacancy decontrol provision for buildings containing 20 units or less?

According to the 1991 Housing and Vacancy Survey, approximately 20% of all rent regulated apartments are in buildings with less than 20 units, including 207,000 rent stabilized apartments and 25,000 rent controlled apartments. Approximately half of all small buildings are located in Brooklyn, with the second largest concentration in Manhattan. Based on a City-wide turnover rate of just below 10% in 1991, we can expect that approximately 23,000 apartments would be subject to vacancy decontrol each year.

2. How many small apartment buildings are in danger of abandonment?

Estimates of the number of units in danger of abandonment range from 50,000 to 140,000 apartments. All sources ( Rent Guidelines Board, HPD, Community Service Society, and Citizens Housing and Planning Council ) agree that the buildings most in danger of abandonment are the smaller, older buildings with lower than average rent rolls and higher than average operating costs. The City's tax delinquency rolls reflect 14,000 walk-up apartment buildings which are delinquent. Assume that the average size of these units is 10 units, then the abandonment potential would conform to the high estimate of 140,000 produced by CSS.

3. What is the cost to the City if these buildings are abandoned?

The City incurs several kinds of costs when buildings are abandoned: lost municipal revenue, the cost of operating in rem property, the cost of renovating in rem property and the cost of sheltering displaced households. Assuming a loss of 50,000 apartments, the City would lose \$75 million annually in foregone real estate taxes and water and sewer charges, \$150 million a year to maintain and operate the tax foreclosed properties, a commitment of \$2.5 billion over ten years or \$250 million a year in capital costs to restore these buildings to adequate conditions, and an expenditure of \$175 million in shelter costs assuming

that only 10% of the affected households would be rendered homeless. The total costs of abandonment, conservatively estimated would amount to \$650 million per year, although it would probably take two to three years to phase up to the total cost. Conversely, the city could save up to \$650 million per year if vacancy decontrol saved these buildings from abundance

4. What are the benefits to the City of enacting vacancy decontrol for buildings containing 20 units or less?

The City would avoid total tax expenditures and direct costs totalling at least \$650 million per year. While vacancy decontrol would not prevent all abandonment, those buildings saved from abandonment would produce economic multipliers resulting from increased investment in the properties, the retention of residents which would generate neighborhood businesses and continued investment in adjacent properties which would otherwise deteriorate and create additional tax and economic losses.

5. What is the average rent in small buildings in danger of abandonment?

A 1993 analysis by the Rent Guidelines Board staff indicates that 75% of the buildings in tax arrears contain less than 20 units and had average rents of \$400, 10% lower than average rents for comparably sized buildings and 20% lower than the average for all buildings. These buildings were also demonstrated to have higher operating expenses than average with a rent to income ratio in excess of 90%. Because of the elimination of the RGB low rent adjustment, a percentage increase applied to low rent apartments fails to generate the dollar amount needed to keep up with increased operating costs. Another analysis indicates that the average rent in small buildings in danger of abandonment was \$333 in 1989. Assuming likely rent guidelines increases, these rents would average \$375 in 1994. Rents in these buildings tend to cluster around the average, without any high rents to help offset the low average rent. Nevertheless, these buildings do contain apartments with very low rents, which have been kept low by long-term tenancies. Given the low-income nature of the neighborhoods in question, it is unlikely that the average rents would increase significantly upon vacancy. However, the very low rents could be increased to the average upon vacancy, providing necessary income to the building without exceeding the affordability bounds of the neighborhood.



# RENT STABILIZATION ASSOCIATION OF N.Y.C., INC.

1500 Broadway • New York, N.Y. 10036

## **Fact Sheet on Vacancy Decontrol for Rent Regulated Apartments**

### **1. Why should vacancy decontrol be enacted?**

Decontrol of rent regulated apartments as they become vacant is the fairest and most politically viable of various options for phasing out the rent regulation systems. The primary advantage of vacancy decontrol is that it does not affect tenants currently in occupancy. Vacancy decontrol also works very slowly and, therefore, would create minimal market disruptions. It is estimated that it would take up to 24 years for virtually all stabilized apartments to be deregulated based on historic turnover patterns.

In addition, there is historical precedent for vacancy decontrol, which operated in New York City between 1971 and 1974. Vacancy decontrol still operates in New York City today for formerly rent controlled units which become vacant in buildings with less than 6 units, as well as for apartments which become vacant in buildings whose 421-a or J-51 tax abatement has expired.

Vacancy decontrol would yield substantial benefits. The Citizens' Budget Commission estimated that the City would generate an additional \$80- 100 million in real estate taxes annually from vacancy decontrol combined with high-income decontrol. Additionally, up to \$600 million a year in lost taxes and increased expenditures could be saved if vacancy decontrol helps to keep privately owned apartment buildings from being abandoned.

### **2. Is there an increased risk of housing abandonment?**

There is a wide and growing awareness of the potential for a new wave of housing abandonment. The Citizens' Housing and Planning estimated that 50,000 apartments are in danger of abandonment. More recently, the Community Service Society identified 140,000 marginal apartments. The Rent Guidelines Board has determined that one out of eight rent stabilized buildings are in economic distress.

Data from the NYC Department of Finance indicates that real estate tax delinquencies have more than tripled over the last four years and the number of properties subject to municipal foreclosure has also tripled.

The majority of buildings in danger of abandonment contain 20 apartments or less, and are located in the same low-income minority neighborhoods which were devastated by the last wave of abandonment in the 1960's and 70's. The affected neighborhoods also have a preponderance of public housing, city-owned housing and other federally subsidized housing. Further abandonment would reduce housing choice and the quality of life in these neighborhoods.

Vacancy decontrol, limited to buildings containing 20 units or less, could give these buildings a chance for survival while saving the City huge annual costs.

### **3. What is the cost to the City if these buildings are abandoned?**

The City incurs several kinds of costs when buildings are abandoned: lost municipal revenue, the cost of operating in rem property, the cost of renovating in rem property and the cost of sheltering displaced households. Assuming a loss of 50,000 apartments, the City would lose \$75 million annually in foregone real estate taxes and water and sewer charges, \$150 million a year to maintain and operate the tax foreclosed properties, a commitment of \$2.5 billion over ten years or \$250 million a year in capital costs to restore these buildings to adequate conditions, and an expenditure of \$175 million in shelter costs assuming that only 10% of the affected households would be rendered homeless. The total costs of abandonment, conservatively estimated would amount to \$650 million per year, although it would probably take two to three years to phase up to the total cost. Conversely, the city could save up to \$650 million per year if vacancy decontrol saved these buildings from abandonment.

**Sources:**

**Annual Report on the New York City Real Property Tax: Fiscal Year 1994, NYC Department of Finance**

**New York City Rent Guidelines Board, Resolution 93-1**

**Citizens Budget Commission, "Reforming Residential Rent Regulations" 1991**

**Citizens Housing & Planning Council, "Preserving New York's Low-Income Housing Stock" 1992**

**Community Service Society, "Housing on the Block" 1993**

Remarks by Mayor Rudolph W. Giuliani

at Public Hearing on Local Laws

City Hall

Wednesday, March 30, 1994 -- 10:30 a.m.

There are two bills before me today for consideration. The first bill is Introductory Number 33-A, sponsored by Council Members Eldridge, Marshall, Eisland, Cerullo, Pinkett, McCaffrey, Linares, Fields, Watkins, Michels, Clarke, McCabe, Pagan, DiBrienza, Albanese, Freed, Duane, Koslowitz, Rivera, White, Warden, Cruz, Eristoff, Berman, Sabini, Fisher, Millard, Weiner, Henry, Leffler and Warden and co-sponsored by Council Member Robinson and the Public Advocate (Mr. Green).

Press Office  
FINAL  
LL 4/94  
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The second bill is Introductory Number 220, a bill sponsored by Housing and Buildings Chair Archie Spigner and Council Members Ognibene, O'Donovan, Fusco, Williams and Pagan. This bill provides for the extension of rent stabilization in New York City for three years, ending March 31, 1997, while amending the rent control and rent stabilization laws by de-regulating certain apartments under specific circumstances.

**Last year the State Legislature amended the rent control and rent stabilization laws, allowing the de-regulation of apartments if they were occupied by households earning more than \$250,000 per year and had a maximum rent of more than two thousand dollars per month between July 1 and October 1, 1993. Also, apartments could be de-regulated if the maximum rent was more than two thousand dollars per month between July 1, 1993 and October 1, 1993 and the apartment became vacant.**

**Intro. 220 removes the October 1, 1993 cutoff date set by the State Legislature to permit de-regulation of certain units anytime the conditions are satisfied.**

**This is not a bill that I supported. I co-sponsored with Council Members Michels and Eristoff a bill that would have extended rent regulation in its current form. However, that bill was defeated in committee, and the City Council then passed the bill in front of me today.**

**If I do not sign this bill the protection of rent stabilization will expire at midnight April 1, and the residents of over 1,000,000 households in this City would be subject to the disastrous effects of sudden deregulation.**

**I am also mindful that the direct impacts of Intro. 220 apply only to the wealthiest residents of New York City and the most expensive rental apartments.**



**I will now turn to the bill's sponsors and then to any other elected official wishing to speak.**

**Now, I turn to the general audience.**

**Is there anyone in the general audience to be heard in opposition?**

**Is there anyone in the general audience to be heard in support?**

**There being no one else to be heard, and for the reasons previously stated, I will now sign the bill.**



file w/  
local law

THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

IMMEDIATE RELEASE

Wednesday, March 23, 1994  
Contact: Cristyne Lategano 212-788-2958

**MAYOR ANNOUNCES INTENT TO  
SIGN RENT STABILIZATION BILL**

**CITY HALL:** Mayor Rudolph W. Giuliani today announced his intention of signing Intro. 220, which would extend current rent stabilization protections.

"While I am not necessarily in favor of all facets of the two laws melded in this package," said Mayor Giuliani, "this is the law that is front of me at this point in time and I have elected to ensure that rent stabilization protections remain in place. If I do not sign this bill, the protections of Rent Stabilization will expire at midnight, April 1st. If that were to occur, the result would be disastrous for the residents of more than one million households."

Mayor Giuliani co-sponsored the bill that would have extended the Rent Stabilization law in its current form. However, the Housing Committee of the New York City Council rejected that bill, and the full Council then voted in favor of Intro. 220 by a vote of 28 in favor, and 18 opposed.

Intro. 220 changes current law by deregulating apartments renting for more than \$2000 per month and occupied by households with incomes in excess of \$250,000 per year, when current leases expire.

"I find it highly doubtful," said Mayor Giuliani, "that anyone believes that these rent regulations exist to benefit those wealthiest individuals."

Another provision of the new law would deregulate other apartments renting for more than \$2000 per month, but only when they become vacant.

The changes in rent regulation proposed by the City Council extend changes initially made last spring by the New York State Legislature. The two changes together would affect only approximately 7500 of the more than one million regulated apartments in New York City.

--more--

The legislative process requires that a public hearing be held on the matter, and one has been set for Wednesday, March 30, 1994 in the Public Hearing Room of City Hall at 10:30 a.m.

The Notice of Public Hearing reads as follows:  
Introductory Number 220, A Local Law to amend the Administrative Code of New York City, in relation to amending the rent stabilization laws and rent control laws with regard to apartments with a legal regulated rent of two thousand dollars per month or greater and to continue the rent stabilization law.

--30--



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THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

JACK T. LINN  
DIRECTOR  
CITY LEGISLATIVE AFFAIRS

52 CHAMBERS STREET  
ROOM 309  
(212) 788-2902

March 30, 1994

Honorable Carlos Cuevas  
City Clerk and Clerk of the Council  
Municipal Building, 2nd Floor  
New York, NY 10007

Dear Mr. Cuevas:

Transmitted herewith are bills signed by the Mayor on March 30, 1994. The bills are as follow:

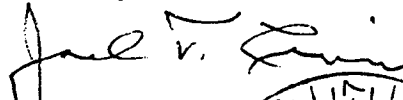
Introductory Number 33-A - Local Law 3 of 1994

A LOCAL LAW to amend the Administrative Code of the City of New York, in relation to access to reproductive health care facilities.

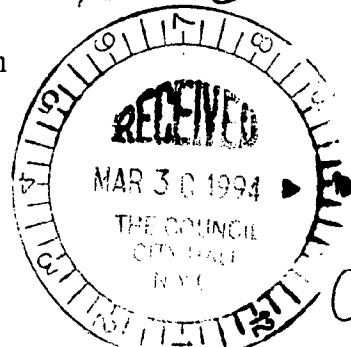
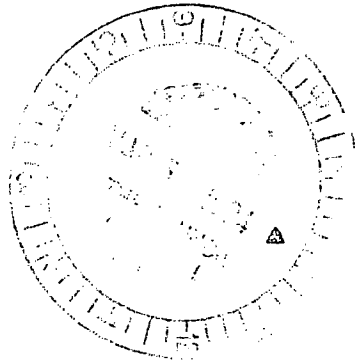
Introductory Number 220 - Local Law 4 of 1994

A LOCAL LAW to amend the Administrative Code of the City of New York, in relation to amending the rent stabilization laws and the rent control laws with regard to apartments with a legal regulated rent of two thousand dollars per month or greater and to continue the rent stabilization law.

Sincerely,

  
Jack T. Linn

JTL:sw



*G. Marino*

file

**RENT STABILIZATION ASSOCIATION OF N.Y.C., INC.**

1500 Broadway • New York, N.Y. 10036


*Jack Freund*  
*Executive Vice President*

(212) 944-4710

**MEMORANDUM**

Date: March 9, 1994

To: Jack Linn

From: Jack Freund 

Subject: Revenue Aspects of Various Decontrol Scenarios

Decontrol of rent regulated apartments generates revenue in a number of ways. First, direct increased real estate tax revenue is generated because the City bases Class 2 assessments on income generated by the property. As rent revenue increases, assessments and billable taxes increase. Second, real estate tax revenues can also be increased to the extent that increased rental income allows owners to become current on delinquent tax payments and water and sewer charges. Third, to the extent that increased rent revenue prevents abandonment and City ownership of property, the City avoids tax expenditures required to maintain and operate the properties and the capital costs of restoring these properties to habitable condition. In addition, to the extent that some occupants of abandoned become homeless, expenditures for homeless housing programs are eliminated.

The analysis below estimates the economic benefits to the City which result from these different sources under various decontrol scenarios. These are conservative estimates compared to a direct tax revenue estimate of the \$80-\$100 million estimated by the Citizens Budget Commission or \$370 estimated by Peat Marwick Main & Co.. Obviously, the more broad-based the decontrol scenario, the more revenue is generated. The economic benefits outlined here do not include economic multiplier effects resulting from increased building maintenance and improvement activity made possible by increased rent revenues. These multipliers will be dealt with in a separate report.

**Vacancy Decontrol ( decontrol of all apartments as they become vacant):**

\$28 million - first year direct increased taxes based on increased rents<sup>1</sup>

\$60 million - increased taxes from delinquent tax payments<sup>2</sup>

\$15 million - increase from delinquent water and sewer charges<sup>3</sup>

\$150 million - tax savings from cost of maintaining City-owned buildings<sup>4</sup>

\$250 million - annual capital cost savings from building renovations<sup>5</sup>

\$175 million - savings in shelter costs for homeless families<sup>6</sup>

---

**\$678 million - Total economic benefit from increased tax revenue and expenditure savings.**

**Assumptions:**

1. Assumes \$593 average monthly rent, 20% average rent increase (based on Citizens' Budget Commission report), turnover rate of 10% applied to a universe of 980,00 stabilized apartments, real estate tax benefits equal to 20% of increased rents ( tax revenues would be greater to the extent that increased rents are not offset by increased costs).
2. Assumes 50,000 units are saved from abandonment with an average tax bill of \$1,200. There are now 14,000 walk-up apartments in tax delinquency. Assuming 10 units per building on average, there would 140,000 units in jeopardy, conforming to the estimate of the Community Service Society. Therefore, 50,000 units appears to be a conservative estimate.
3. Assumes buildings in tax delinquency are also delinquent on water and sewer charges, estimated here at \$300 per unit per year.
4. Assumes maintenance and operation cost of \$3,000 per apartment per year, or \$250 per month.
5. Assumes renovation cost of \$50,000 per apartment spread over ten years.
6. Assumes 10% of the 50,000 affected households are rendered homeless, at an annual cost of \$35,000 per family per year for transitional housing.

**25% Statutory Vacancy Allowance:**

\$21 million - first year direct tax revenue from increased rents.<sup>1</sup>

\$60 million - increased taxes from delinquent tax payments

\$15 million - increase from delinquent water and sewer charges

\$150 million - tax savings from cost of maintaining City-owned buildings

\$250 million - annual capital cost savings from building renovations

\$175 million - savings in shelter costs for homeless families

---

**\$ 671 million - Total economic benefit from increased tax revenue and expenditure savings.**

**Assumptions:**

1. Same as above but with 15% rent increase. Revenue estimates would rise in subsequent years as base rents are inflation adjusted. Assuming a 3% annual inflation adjustment, revenues would rise from \$21 million in the first year to \$23 million in fourth year.
2. Assumes that anti-abandonment effects would be the same as for vacancy decontrol, since rent increases are not estimated to average as much as 25%.

**Vacancy Decontrol for Apartments in Buildings Containing 20 units or less:**

\$4.2 million - first year direct tax revenue from increased rents.<sup>1</sup>

\$60 million - increased taxes from delinquent tax payments

\$15 million - increase from delinquent water and sewer charges

\$150 million - tax savings from cost of maintaining City-owned buildings

\$250 million - annual capital cost savings from building renovations

\$175 million - savings in shelter costs for homeless families

**\$654 million - Total economic benefit from increased tax revenue and expenditure savings.**

**Assumptions:**

1. Assumes 20% of rent regulated units are in buildings containing 20 units or less.
2. All other anti-abandonment assumptions are held constant since the majority of buildings in tax delinquency and in danger of abandonment are estimated to be in smaller buildings.

**Vacancy Decontrol for Rents \$900 or greater:**

**\$6.2 million - first year direct tax revenue from increased rents.**

**\$6.2 million - Total Economic Benefit**

**Assumptions:**

1. Assumes a \$1,200 average rent for this class of apartments, an average increase of 20%, a universe of 107,221 apartments and an annual turnover rate of 10%
2. Assumes that this class of property is not generally in tax delinquency or in danger of abandonment. Therefore, other economic benefits do not apply.

**Vacancy Decontrol of Apartments Renting for \$2,000 or more:**

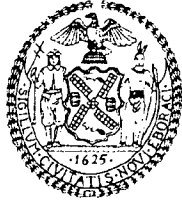
**\$1.58 million- first year direct tax revenue from increased rents.**

**\$1.58 million- total economic benefit.**

**Assumptions:**

1. Assumes only benefit is increased tax revenue.
2. At this rent level, it is assumed that increased revenues are not accompanied by increased expense and that all rent increases go straight to the bottom line. Also assumes average rent of \$2,200 per month, a 15% average rent increase, a capitalization rate of 10%, and an assessment ratio of 40%, a universe of 9,000 apartments and annual turnover of 1,000 apartments.





THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N. Y. 10007

JACK T. LINN  
DIRECTOR  
CITY LEGISLATIVE AFFAIRS

52 CHAMBERS STREET  
ROOM 309  
(212) 788-2902

PUBLIC HEARING ON LOCAL LAWS

The Mayor will hold a Public Hearing on Local Laws on **Wednesday, March 30, 1994 at 10:30 a.m.** at the Mayor's Office, Executive Chamber, City Hall, Borough of Manhattan, New York City. The following legislation will be before him for consideration:

**Introductory Number 33-A**, A LOCAL LAW to amend the Administrative Code of the City of New York, in relation to access to reproductive health care facilities.

**Introductory Number 220**, A LOCAL LAW to amend the Administrative Code of the City of New York, in relation to amending the rent stabilization laws and the rent control laws with regard to apartments with a legal regulated rent of two thousand dollars per month or greater and to continue the rent stabilization law.

JTL:sw

3/23/94

OK!  
INT. 220

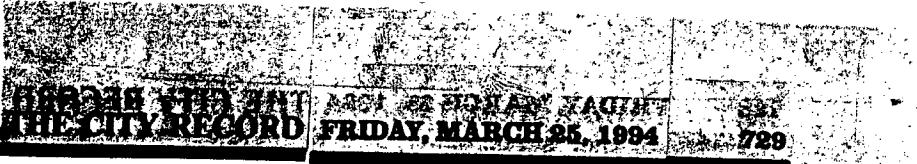
LEGAL NOTICE

OFFICE OF THE MAYOR  
NOTICE PUBLIC HEARING  
ON PROPOSED LOCAL LAWS  
PURSUANT TO STATUTORY RE-  
QUIREMENT NOTICE IS HEREBY  
GIVEN that local laws numbered and  
titled hereinafter specified have been  
passed by the Council and that a pub-  
lic hearing on such local laws will be  
held at the Mayor's Office, Executive  
Chamber, City Hall, Borough of Man-  
hattan, New York City, on Wednes-  
day, March 30, 1994 at 10:30 a.m.,  
viz:

**Introductory Number 33-A, A  
LOCAL LAW** to amend the Admin-  
istrative Code of the City of New  
York, in relation to access to repro-  
ductive health care facilities.  
**Introductory Number 220, A LO-  
CAL LAW** to amend the Adminis-  
trative Code of the City of New York, in  
relation to amending the rent stabiliza-  
tion laws and the rent control laws  
with regard to apartments with a legal  
regulated rent of two thousand dollars  
per month or greater and to continue  
the rent stabilization law.

Rudolph W. Giuliani  
Mayor

NOTE: Individuals requesting Sign  
Language Interpreters should contact  
the Mayor's Office of City Legislative  
Affairs, 52 Chambers Street, Room  
309, New York, NY 10007 (212) 788-  
2902, no later than five business  
days prior to the public hearing.  
TDD users should use N.Y. Telephone  
relay service.



OFFICE OF THE MAYOR

HEARINGS

PURSUANT TO STATUTORY REQUIREMENT, NOTICE  
IS HEREBY GIVEN that local laws numbered and titled  
hereinafter specified have been passed by the Council and  
the a public hearing on such local laws will be held at the  
Mayor's Office, Executive Chamber, City Hall, Borough of  
Manhattan, New York City, on Wednesday, March 30, 1994  
at 10:30 am viz:

**Introductory Number 33-A A LOCAL LAW** to amend the  
Administrative code of the City of the City of New York, in  
relation to access to reproductive health care facilities.

**Introductory Number 220. A LOCAL LAW** to amend the  
Administrative Code of the City of New York, in relation to  
amending the rent stabilization laws and the rent control  
laws with regard to apartments with a legal regulated rent  
of two thousand dollars per month or greater and to con-  
tinue the rent stabilization law.

RUDOLPH W. GIULIANI, MAYOR

NOTE: Individuals requesting Sign Language Interpreters  
should contact the mayor's Office of City Legislative Affairs,  
52 Chambers Street, Room 309, New York, NY 10007, (212)  
788-2902, no later than five business days prior to the pub-  
lic hearing. TDD users should use N.Y. Telephone relay  
service.



THE COUNCIL  
OF  
THE CITY OF NEW YORK  
CITY HALL

E C C I V

MAR 21 1994

DIRECTOR CITY  
CLERK

Monday, March 21, 1994

Hon. Rudolph Giuliani, Mayor  
The City of New York  
City Hall  
New York, New York 10007

Dear Mayor Giuliani:

Pursuant to Section 21 of the Municipal Home Rule Law and Section 38 of the New York City Charter, I hereby certify and present to you the following bill:

Int. No.220

A LOCAL LAW to amend the administrative code of the city of New York, in relation to amending the rent stabilization laws and the rent control laws with regard to apartments with a legal regulated rent of two thousand dollars per month or greater and to continue the rent stabilization law.

Very truly yours,

CARLOS CUEVAS  
City Clerk, Clerk of the Council

CC/am



Rose Associates, Inc.

Frederick P Rose  
Chairman

#68  
940401-2010  
940401-2014  
fyi

380 Madison Avenue  
New York, NY 10017-2593  
Direct Line: (212) 210-6600  
Direct Fax: (212) 210-6766

March 30, 1994

Honorable Rudolph Giuliani  
Mayor of the City of New York  
City Hall  
New York, NY 10007

Dear Rudy:

I write to congratulate you on your forthright action in supporting the changes in rent regulation. This outrageous protection for the very rich has prohibited new construction which is only way any shortage will ever be solved.

With best regards.

Sincerely,

Frederick P. Rose

FPR:sd

6:36pm



Office of the Mayor

City Legislative Affairs

MARTHA K. HIRST

re: Rent Control  
Rent Stab.

JTL

Harold <sup>explains</sup> reports  
Debbie Wright  
believes the right  
thing to do is go  
with the straight  
x tenders. She thinks  
on <sup>the basis of</sup> ~~A~~ housing policy  
priorities, this is not  
the fight to have  
be's focused on <sup>the</sup> →

in new stock as a  
priority) in addition  
to the politics of it for  
the Mayor.

HPD will now work  
on its policy arguments  
against the non straight  
extender bills,

SPENCER

GOOD MORNING. THANK YOU MR. MAYOR, FOR THIS OPPORTUNITY TO SPEAK. AS YOU KNOW PASSAGE OF INT. NO. 220, DID NOT OCCUR WITHOUT OPPOSITION. IN FACT, THE FINAL VOTE BY THE COUNCIL IN ADOPTING INT. NO. 220 WAS 28 IN THE AFFIRMATIVE, 18 IN THE NEGATIVE, ONLY TWO VOTES ABOVE THE 26 VOTES NEEDED TO ADOPT LEGISLATION. I BELIEVE THE REASON FOR SUCH A CLOSE VOTE IS THE PUBLIC'S MISCONCEPTION ABOUT WHO THIS BILL AFFECTS.

UNDER INT. NO. 220 RENT STABILIZATION <sup>and rent control regulation</sup> IS EXTENDED TO APRIL FIRST 1997, BUT APARTMENTS WHICH RENT FOR \$2,000 OR MORE PER MONTH AFTER APRIL 1, 1994 WILL BECOME DEREGULATED EITHER UPON VACANCY OR UPON LEASE RENEWAL WHERE THE OCCUPANT OR OCCUPANTS IN EACH OF THE LAST TWO YEARS EARNED MORE THAN \$250,000.

IT IS MY UNDERSTANDING THAT MANY SENIOR CITIZENS ON A FIXED INCOME HAVE EXPRESSED CONCERN THAT INT. NO. 220 WOULD NEGATIVELY IMPACT THEM. HOWEVER, I ASSURE THEM THAT THEY ARE

IN NO WAY AFFECTED BY INT. NO. 220 EXCEPT THAT THERE  
APARTMENTS SHALL CONTINUE TO BE RENT STABILIZED.

IN ADDITION TENANTS WHO RESIDE IN BUILDINGS WHICH WERE  
CONSTRUCTED UNDER 421-A TAX BENEFITS HAVE ALSO EXPRESSED  
CONCERNS THAT THEY TOO WILL BE NEGATIVELY IMPACTED. HOWEVER,  
INT. NO. 220 CLEARLY EXCLUDES APARTMENTS IN BUILDINGS  
CONSTRUCTED UNDER 421-A.

BUT TENANTS ARE MORE CONCERNED THAT INT. NO. 220  
REPRESENTS A SLOW BUT SURE DWINDLING OF RENT REGULATIONS. IF  
ONLY THAT WERE TRUE. RENT REGULATIONS HAVE BEEN AROUND FOR  
FIFTY YEARS IN NEW YORK CITY. AND IN THAT TIME WE HAVE SEEN  
THE REAL ESTATE INDUSTRY BROUGHT TO THEIR KNEES. WHAT WAS  
RIGHT FOR NEW YORK CITY FIFTY YEARS AGO IS NOT NECESSARILY  
RIGHT TODAY. YES, INT. NO. 220 IS A STEP BUT UNFORTUNATELY  
~~IT'S ONLY A SMALL STEP. AND MY ONLY REGRET IS THAT IT IS~~  
~~SUCH A SMALL STEP.~~





THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

IMMEDIATE RELEASE

Wednesday, March 23, 1994  
Contact: Cristyne Lategano 212-788-2958

**MAYOR ANNOUNCES INTENT TO  
SIGN RENT STABILIZATION BILL**

**CITY HALL:** Mayor Rudolph W. Giuliani today announced his intention of signing Intro. 220, which would extend current rent stabilization protections.

"While I am not necessarily in favor of all facets of the two laws melded in this package," said Mayor Giuliani, "this is the law that is front of me at this point in time and I have elected to ensure that rent stabilization protections remain in place. If I do not sign this bill, the protections of Rent Stabilization will expire at midnight, April 1st. If that were to occur, the result would be disastrous for the residents of more than one million households."

Mayor Giuliani co-sponsored the bill that would have extended the Rent Stabilization law in its current form. However, the Housing Committee of the New York City Council rejected that bill, and the full Council then voted in favor of Intro. 220 by a vote of 28 in favor, and 18 opposed.

Intro. 220 changes current law by deregulating apartments renting for more than \$2000 per month and occupied by households with incomes in excess of \$250,000 per year, when current leases expire.

"I find it highly doubtful," said Mayor Giuliani, "that anyone believes that these rent regulations exist to benefit those wealthiest individuals."

Another provision of the new law would deregulate other apartments renting for more than \$2000 per month, but only when they become vacant.

The changes in rent regulation proposed by the City Council extend changes initially made last spring by the New York State Legislature. The two changes together would affect only approximately 7500 of the more than one million regulated apartments in New York City.

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The legislative process requires that a public hearing be held on the matter, and one has been set for Wednesday, March 30, 1994 in the Public Hearing Room of City Hall at 10:30 a.m.

The Notice of Public Hearing reads as follows:  
Introductory Number 220, A Local Law to amend the Administrative Code of New York City, in relation to amending the rent stabilization laws and rent control laws with regard to apartments with a legal regulated rent of two thousand dollars per month or greater and to continue the rent stabilization law.



STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

March 15, 1994

Honorable Peter F. Vallone  
Speaker  
City Council  
City Hall  
New York, New York 10007

Dear Speaker Vallone:

I was pleased to learn of your support for renewal of New York City's rent laws but concerned about a proposal you are thinking of adopting.

In my testimony before your Housing and Buildings Committee on March 10th, I urged the Council to refrain from making any changes in the laws before the completion of a Joint Legislative Study of rent regulation as mandated by the Rent Regulation Reform Act of 1993. While I can understand the appeal of so-called "luxury decontrol", I must tell you that the full impact of the high rent/high income provisions of the Act are yet to be felt and may result in unanticipated complications for the entire regulatory process. Since the Act only passed last July 7th, we have no way of knowing at this time how many apartments are affected. The income verification process began as required by the law on January 1st.

Under these circumstances I must oppose the bills introduced in the City Council which would permit vacancy decontrol and high income decontrol of regulated units renting for \$2000 per month at any time after April 1, 1994. The effect of this legislation would be to nullify the State Legislature's restriction that the \$2000 rent for rent stabilized and rent controlled accommodations in New York City be reached between July 7, 1993 and October 1, 1993.

The State Legislature's action was intended to provide a window of opportunity for high rent apartments subject to all four of the State's rent laws to escape rent regulation and not to permit the practice to continue in perpetuity. The end date prevents owners from making improvements just to escape regulation. For example, a tenant vacates an apartment renting for \$1400 per month. The owner renovates the bathroom or even installs a new kitchen, whether or not these renovations were

needed. With an individual apartment improvement increase and the vacancy allowance, the legal regulated rent on that apartment could easily rise to the \$2000 decontrol threshold. That apartment would be permanently exempt from rent regulation, even if at some future date the owner could no longer command \$2000. per month. If the apartment was decontrolled because the tenant's household income met the \$25,000 decontrol standard, it would remain permanently exempt even if rented to a new tenant with a lower household income.

Furthermore, the permanent exemption provided for in the high rent/luxury decontrol provisions is a great incentive for owners to aggressively encourage vacancies. This is particularly true with rent controlled apartments where the owner could then set a so-called fair market rent, even if no improvements are made.

While most owners are responsible and law-abiding, there certainly exist some who are unscrupulous and who would act to evade the rent laws by misleading tenants in an attempt to obtain their vacancy, or engage in harassment, designed to force the tenant to vacate and obtain the exemption. While this may not appear to be a likely result, I can assure you that it is not merely an idle possibility. You may recall that the last time a widespread vacancy deregulation law was passed in 1971 it was quickly abolished by the end of 1973, in part based on widespread reports and studies showing a dramatic increase in harassment of tenants.

As I stated in my testimony at the March 10th hearing, we have already learned that income verification will be very difficult if not impossible given the inability of the DHCR or the State Department of Taxation and Finance to lawfully use Social Security numbers to check reported income. As for tenants, they are potentially subject to repeated requests for income certification. If the window period is removed and the time frame for decontrol open-ended, owners are free to initiate the income certification process annually.

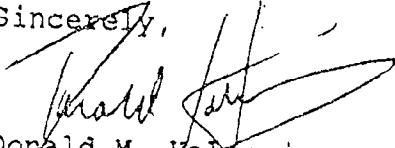
Finally, adoption of these changes will dramatically increase the administrative burden on an Agency already suffering with huge caseloads, at a time when there are insufficient funds to pay for staff enhancements to process additional cases. Many witnesses at the City Council hearings testified or made reference to the long administrative delays associated with processing of tenant complaints over overcharge and service reductions and owner applications for major capital improvements and hardships. Council members also raised the issue of long delays in case processing. Permitting ongoing luxury decontrol would add thousands of additional petitions for deregulation each

year, which, because they need to be processed pursuant to strict deadlines would require further diversion of staff.

In my capacity as State Director of Housing and Commissioner of the Division of Housing and Community Renewal, charged with administering rent regulation, I urge you to refrain, at least for the present time, from tampering with the already cumbersome provisions of the Rent Regulation Reform Act of 1993. I believe the most prudent course of action is to await the results of the Joint Senate and Assembly Study of the laws as mandated in that Act. At this time I hope that you will join Governor Cuomo and me in opposing any amendments to the New York City rent laws which would weaken tenant protections under rent regulation.

If you would like any additional information on our experience with this law, I would be happy to meet with you or provide such information.

Sincerely,



Donald M. Halperin  
Director of Housing

MEMORANDUM

To: Mayor Rudolph W. Giuliani  
Fr: Jack T. Linn  
Date: March 21, 1994  
Re: Council's vote on Intro. 220.

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At today's Stated Meeting, the full Council adopted Intro. 220 by a vote of 28 to 18. (The Council also adopted unanimously Resolution 144 which provides a straight three-year extension of the current rent control law.)

**Intro. 220**

- This measure was introduced by Council Members Ognibene, Fusco, O'Donovan and Spigner.
- Under Intro. 220, rent-regulated (rent-controlled and rent-stabilized) apartments are permitted to be de-regulated under specific circumstances:
  1. when the apartment is occupied by persons with an annual income in excess of two hundred fifty thousand dollars and their maximum rent reaches two thousand dollars per month at any time after July 1, 1993 or;
  2. when the maximum rent reaches two thousand dollars per month at any time and becomes vacant on or after April 1, 1994.
- Attached is the list of the Council Members who cast their vote on Intro. 220.

Intro 220 was adopted by a vote of 28 to 18\*:

Council Members who  
opposed Intro. 220.

Albanese (D-Bklyn)  
DiBrienza (D-Bklyn)  
Duane (D-Man)  
Eisland (D-Man)  
Eldridge (D-Man)  
Freed (D-Man)  
Koslowitz (D-Qns)  
Lasher (D-Blyn)  
Leffler (D-Qns)  
Linares (D-Man)  
Marshall (D-Qns)  
McCabe (D-Bklyn)  
Michels (D-Man)  
Millard (R-Man)  
Povman (D-Qns)  
Powell (D-Man)  
Ruiz (D-Bx)

Council Members who  
supported Intro. 220.

Berman (D-Blyn)  
Clarke (D-Blyn)  
Cruz (D-Bx)  
DeMarco (D-Bx)  
Dilan (D-Bklyn)  
Fisher (D-Blyn)  
Foster (D-Bx)  
Fusco (R-SI)  
Harrison (D-Qns)  
Henry (D-Bklyn)  
McCaffrey (D-Qns)  
O'Donovan (D-SI)  
Ognibene (R-Qns)  
Pagan (D-Man)  
Pinkett (D-Blyn)  
Rivera (D-Bx)  
Robinson (D-Bklyn)  
Robles (D-Bklyn)  
Spigner (D-Qns)  
Stabile (D-Qns)  
Watkins (D-Qns)  
Warden (D-Bx)  
Weiner (D-Bklyn)  
White (D-Qns)  
Williams (D-Bklyn)  
Wooten (D-Bklyn)  
Abel (R-Qns)  
Vallone (D-Qns)

\* Council Members Fields, Dear, Rosado and Sabini were absent from the meeting.

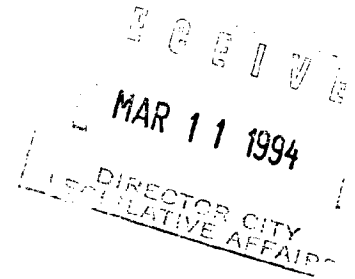
c. Deputy Mayor Peter Powers  
Randy Maestro  
Dennison Young  
Richard Schwartz

**421-a TENANTS' ACTION COMMITTEE**

300 EAST 56th STREET - SUITE 25D

NEW YORK, N.Y. 10022

(212) 838-7099



March 9, 1994

Mayor Rudy Giuliani  
City Hall  
New York, N. Y. 10007

Dear Mayor Giuliani:

As you are aware, the New York City Council will vote on the City's rent laws on March 16, 1994. The "Rent Protection Reform Bill of 1994" which was passed in the last session of the New York State legislature was the result of an agreement between the Republican controlled Senate and the Democrat controlled Assembly.

It would be a travesty should the real estate lobby be more effective than they were in Albany in influencing the City Council to make further changes in the New York City rent laws.

We urge you to renew your pre-election commitment and to indicate your support for the continuation, without change, of the New York City rent laws.

Respectfully,



Bernard Hibbel, Chairman  
421-a Tenants' Action Committee



**421-a TENANTS' ACTION COMMITTEE**

300 EAST 56th STREET - SUITE 25D

NEW YORK, N.Y. 10022

(212) 838-7099

March 9, 1994

Councilman Speaker Peter Vallone  
City Hall  
New York, N. Y. 10007


Dear Speaker Vallone:

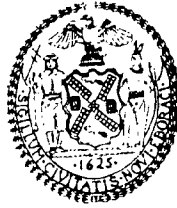
The "Rent Protection Reform Bill of 1993" which was passed in the last session of the New York State legislature was the result of agreement between the Republican controlled Senate and the Democratic controlled Assembly.

It would be a travesty should the real estate lobby be more effective than they were in Albany in influencing the City Council to make further changes in the New York City rent laws.

We urge you to make certain that the rent laws continue without revision.

Respectfully,

  
\_\_\_\_\_  
Bernard Hibel, Chairman  
421-a Tenants' Action Committee



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

**MAYOR RUDOLPH W. GIULIANI**  
**THE CITY OF NEW YORK**

**PRESS OFFICE**

Release #055-94

**FOR IMMEDIATE RELEASE**  
Date: February 14, 1994

Contact: Cristyne Lategano (212) 788-2958  
Forrest R. Taylor (212) 788-2958  
Valerie Bradley (212) 978-5601

**MAYOR GIULIANI RELEASES INITIAL FINDINGS OF  
1993 NEW YORK CITY HOUSING AND VACANCY SURVEY**

**CITY HALL:** Mayor Rudolph Giuliani today released the initial results of the 1993 New York City Housing and Vacancy Survey, which documents a city-wide decrease of approximately 6,000 vacant-for-rent units, lowering the 1993 vacancy rate to 3.44 percent, down from 3.78 percent during the same period in 1991. This figure is significantly lower than the 5 percent threshold which, according to state law, constitutes a housing emergency and the need for the continuation of rent regulation.

Conducted by the U.S. Bureau of the Census for the City of New York in early 1993, the Survey also reports that the city's total inventory of residential units has remained relatively stable at about 2.99 million. The overall quality of the structural and maintenance condition of the city's rental housing improved since 1991.

Mayor Giuliani said, "This survey shows that while the inventory of residential units has remained stable and structural and maintenance conditions have improved, there are still significant

--more--

housing shortages in New York City. The task of providing more affordable housing cannot rest solely with government. We must provide greater opportunities for private sector involvement. In addition to looking at ways to provide an economic climate that makes it easier for developers and building owners to do business in this city, I have asked Housing Commissioner Deborah Wright to assess the City's disposition strategies for occupied in-rem stock to determine what initiatives can be created to stimulate greater private sector and not-for-profit sector involvement in providing quality housing for our citizens."

Housing Commissioner Deborah C. Wright said, "The housing survey shows that there is still much to be done to provide decent, affordable rental housing in New York City. We must redouble our efforts to make owning and managing property in New York City easier. We will be exploring ways to make procedures at City agencies with regulatory functions that impact on building owners more user-friendly. Also, in the coming months, the City will be looking at how to eliminate unnecessary requirements and to consolidate the overlapping functions of City and other government agencies."

The Housing and Vacancy Survey, which is produced every three years, is the principal statistical tool for determining the City's rental vacancy rate. The survey excludes "special places" -- institutions, group quarters, dormitories and commercial hotels.

The final survey report on the 1993 Housing and Vacancy Survey will be released this fall by the Department of Housing Preservation and Development (HPD), which commissioned the survey. The City has hired a consultant, Dr. Anthony Blackburn, of Cambridge, Massachusetts, to write the report.

Initial findings of the survey also indicate that:

\* Between 1991 and 1993, the rental vacancy rate in Manhattan declined substantially, from 4.45 to 3.51 percent. In Queens the rate declined from 3.67 to 3.07 percent. Vacancy rates remained virtually the same in the other boroughs.

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- \* The vacancy rate for units with asking rents of less than \$300 was lower in 1993 than in 1991. Using inflation-adjusted asking rents (changing 1991 rents into March, 1993 dollars), the vacancy rate in 1993 was 0.58 percent, and in 1991 was 1.19 percent.
- \* The 1993 vacancy rates for units with inflation-adjusted asking rents of \$300-\$399 and \$400-\$499 also decreased from 1.65 percent and 2.53 percent respectively in 1991 to 1.00 percent and 1.68 percent respectively.
- \* Vacancy rates for units with asking rents between \$700 and \$1,249 were higher than 5.00 percent in 1993.
- \* The vacancy rate for units with inflation-adjusted asking rents of \$1,250 or more greatly declined, from 10.15 percent in 1991 to 4.47 percent in 1993.
- \* The median all-household income decreased from \$24,000 in 1990 to \$23,000 in 1992 or 4.2 percent. Inflation-adjusted median incomes (changing 1990 incomes into 1992 dollars) for all households declined 11.5 percent from 1990 to 1992.
- \* The median income of renters decreased by 5 percent in two years, from \$20,000 in 1990 to \$19,005 in 1992, representing an inflation-adjusted decrease of 12.3 percent.
- \* The proportion of renter households with incomes below the poverty level increased from 26.8 percent in 1990 to 29.9 percent in 1992.
- \* The median gross rent-to-income ratio (the percentage of total income spent for rent and utilities) rose from 28.4 percent to 30.7 percent.
- \* The median gross rent (includes tenant-paid utilities) in 1993 was \$551, an increase of 8.3 percent, from \$509 a month in 1991. However, the inflation-adjusted increase in median gross rent (changing 1991 rent into March, 1993 dollars) was 0.7 percent.
- \* The median contract rent (excludes utilities) was \$501 in 1993, a 5.5 percent increase from \$475 in 1991. This was a 1.8 percent decrease after inflation.

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\* The percent of renter-occupied units in dilapidated buildings remained constant at 1.2 percent in 1993, as it was in 1991. The percent of renter-occupied units in buildings with no building defects increased from 86.0 percent in 1991 to 89.3 percent in 1993.

\* In 1993, the proportion of rental units with five or more maintenance deficiencies was 5.9 percent, down from 7.7 percent in 1991; the proportion with no maintenance deficiencies rose slightly, from 38.2 to 41.0 percent.

\* The proportion of renter households near buildings with broken or boarded-up windows on the street declined from 15.7 percent in 1991 to 13.7 percent in 1993.

\* The overall population in households of the city remained stable at about 7.12 million people.



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

RICHARD N. GOTTFRIED  
64th Assembly District

Room 822  
Legislative Office Building  
Albany, New York 12248  
(518) 455-4941

270 Broadway  
Room 1516  
New York, New York 10007  
(212) 385-6642

CHAIRMAN  
Committee on Health

COMMITTEES  
Rules  
Higher Education  
Judiciary  
Insurance  
Social Services  
Majority Steering Committee

March 16, 1994

Hon. Peter Vallone  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

*Dypon-FYE*  
*C. Harding*  
*Jenn*

Dear Peter:

I applaud your decision not to support the numerous amendments that would undermine the City's rent laws.

I am disturbed to learn, however, of your support for decontrol of so-called "luxury" apartments renting for over \$2,000 at vacancy, or when the lease of tenants earning \$250,000 or more expires.

Passing this measure sets a dangerous precedent and will cause more problems than it will solve.

Last year, New York State passed a law allowing landlords to investigate a tenant's income records. That law expired October 1, 1993. By renewing this law, you are sending the message that landlords invading tenants' privacy is appropriate. Also, \$2,000 a month sounds like a lot right now, but an apartment renting for \$1,000 a month was considered "luxury" not so long ago, too. It will not be long before \$2,000 a month for an apartment is commonplace.

Also, a vacancy rent hike would be an enormous incentive for landlords to harass tenants, in order to force them out. The elderly would be the main targets. This is not a guess. It is based on history. When vacancy decontrol and vacancy increases have been used in the past, that was the result. Laws against harassment are not enough. Only a tiny fraction of criminals are caught and punished.

Also, while a tenant earning \$250,000 may have the ability to pay a rent higher than \$2,000, often times, people earning far less than \$250,000 share these apartments out of necessity. It is not uncommon these days for five or six tenants with a

combined income of \$250,000 to share the rent for a large apartment.

When an apartment becomes decontrolled, it becomes unaffordable to middle-income tenants, thus worsening the housing situation generally.

Income checks have already caused a mountain of paperwork for the State Division of Housing and Community Renewal. DHCR Commissioner Donald Halperin is staunchly opposed to the City Council extending these provisions, and I agree with him. This proposal will add a new costly layer of bureaucracy to an agency already far overburdened with paperwork.

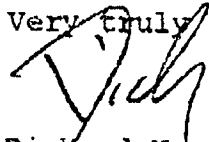
Finally, what concerns me most about the rent decontrol in the City Council is that this could be the second in a string of victories for the landlord lobby in less than a year. In Albany, landlords successfully chipped away at existing rent laws. Now, they may succeed again in the City Council, to the detriment of tenants. Next time, they will be even bolder, and will try to further erode rent laws and endanger our most vulnerable citizens.

Tenants are not receiving a "free ride" under Rent Control or Stabilization. In fact, it is usually the elderly, who have lived in their apartments for years and years and seen their rent increased over and over again as their incomes dwindle, that are the most hurt by weakening of tenant protections.

The issue before the City Council is especially unfair for tenants. The landlords and their friends can argue for weaker tenant protection. But because of the 1971 Rockefeller legislation, the City is barred from enacting any provision to strengthen the laws. So the only fair course is to continue the laws as they are.

In Albany last year, the rent laws were weakened by the State Senate, then renewed only minutes before they expired. With the deadline for the City Council to act soon approaching, I urge you to disregard all weakening amendments and pass the New York City rent laws as they exist today.

Very truly yours,



Richard N. Gottfried  
Assembly Member

RNG/lmd  
316rent

cc: Mayor Rudolph Giuliani

Chart of Proposed Bills and Resolutions for Extension of Rent Control and Rent Stabilization  
As of 3/3/94

Bill #	Sponsors	Rent Control	Rent Stabilization
Reso. 144	Michels, Eristoff	Straight Extension	
Intro. 215	Michels, Eristoff		Straight extension to 1997
Intro. 207	Fusco, Ognibene, O'Donovan		Vacancy decontrol
Intro. 208	Fusco, Ognibene, O'Donovan	Vacancy decontrol in buildings with 20 units or less	Vacancy decontrol in buildings with 20 units or less Extension to 1997
Intro. 217	O'Donovan	Vacancy decontrol of units with rents in excess of \$900/month.	Vacancy decontrol of units with rents in excess of \$900/month. Extension to 1997
Intro. 219	Fusco, Ognibene, O'Donovan	Decontrol units with family income in excess of \$250,000. Vacancy decontrol of units with rents in excess of \$2000/month. (Current law requires both conditions to exist prior to decontrol.)	Decontrol units with family income in excess of \$250,000. Vacancy decontrol of units with rents in excess of \$2000/month. Extension to 1997. (Current law requires both conditions to exist prior to decontrol.)
Intro. 220	Fusco, Ognibene, O'Donovan	Continuing decontrol of units with family income in excess of \$250,000 and rents in excess of \$2000/month. (Current law permits decontrol only if conditions existed prior to 10/1/93)	Continuing decontrol of units with family income in excess of \$250,000 and rents in excess of \$2000/month. Extension to 1997. (Current law permits decontrol only if conditions existed prior to 10/1/93.)
Intro. 227	Spigner		Allows 25% increase on vacancy. Extension to 1997
Intro. 228	Spigner		Allows 25% increase on vacancy in buildings of twenty units or less. Extension to 1997
Reso. 146	Fusco, Ognibene, O'Donovan	Seeks State passage of low-income SCRJE	Seeks State passage of low-income SCRJE



940324-1012  
fyi



STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

DONALD M. HALPERIN  
DIRECTOR OF HOUSING

March 15, 1994

Honorable Rudolph Guiliani  
Mayor of the City of New York  
City Hall  
New York, NY 10007

Dear Mayor Guiliani:

I thought you might be interested in my views of the future of rent regulation in New York City as described in the attached letter I recently sent to Speaker Vallone.

Best regards.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald M. Halperin", written over a horizontal line.

Donald M. Halperin  
Director of Housing

940324-1012  
fyi



STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

DONALD M. HALPERIN  
DIRECTOR OF HOUSING

March 15, 1994

Honorable Peter F. Vallone  
Speaker  
City Council  
City Hall  
New York, New York 10007

Dear Speaker Vallone:

I was pleased to learn of your support for renewal of New York City's rent laws but concerned about a proposal you are thinking of adopting.

In my testimony before your Housing and Buildings Committee on March 10th, I urged the Council to refrain from making any changes in the laws before the completion of a Joint Legislative Study of rent regulation as mandated by the Rent Regulation Reform Act of 1993. While I can understand the appeal of so-called "luxury decontrol", I must tell you that the full impact of the high rent/high income provisions of the Act are yet to be felt and may result in unanticipated complications for the entire regulatory process. Since the Act only passed last July 7th, we have no way of knowing at this time how many apartments are affected. The income verification process began as required by the law on January 1st.

Under these circumstances I must oppose the bills introduced in the City Council which would permit vacancy decontrol and high income decontrol of regulated units renting for \$2000 per month at any time after April 1, 1994. The effect of this legislation would be to nullify the State Legislature's restriction that the \$2000 rent for rent stabilized and rent controlled accommodations in New York City be reached between July 7, 1993 and October 1, 1993.

The State Legislature's action was intended to provide a window of opportunity for high rent apartments subject to all four of the State's rent laws to escape rent regulation and not to permit the practice to continue in perpetuity. The end date prevents owners from making improvements just to escape regulation. For example, a tenant vacates an apartment renting for \$1400 per month. The owner renovates the bathroom or even installs a new kitchen, whether or not these renovations were

needed. With an individual apartment improvement increase and the vacancy allowance, the legal regulated rent on that apartment could easily rise to the \$2000 decontrol threshold. That apartment would be permanently exempt from rent regulation, even if at some future date the owner could no longer command \$2000. per month. If the apartment was decontrolled because the tenant's household income met the \$250,000 decontrol standard, it would remain permanently exempt even if rented to a new tenant with a lower household income.

Furthermore, the permanent exemption provided for in the high rent/luxury decontrol provisions is a great incentive for owners to aggressively encourage vacancies. This is particularly true with rent controlled apartments where the owner could then set a so-called fair market rent, even if no improvements are made.

While most owners are responsible and law-abiding, there certainly exist some who are unscrupulous and who would act to evade the rent laws by misleading tenants in an attempt to obtain their vacancy, or engage in harassment, designed to force the tenant to vacate and obtain the exemption. While this may not appear to be a likely result, I can assure you that it is not merely an idle possibility. You may recall that the last time a widespread vacancy deregulation law was passed in 1971 it was quickly abolished by the end of 1973, in part based on widespread reports and studies showing a dramatic increase in harassment of tenants.

As I stated in my testimony at the March 10th hearing, we have already learned that income verification will be very difficult if not impossible given the inability of the DHCR or the State Department of Taxation and Finance to lawfully use Social Security numbers to check reported income. As for tenants, they are potentially subject to repeated requests for income certification. If the window period is removed and the time frame for decontrol open-ended, owners are free to initiate the income certification process annually.

Finally, adoption of these changes will dramatically increase the administrative burden on an Agency already suffering with huge caseloads, at a time when there are insufficient funds to pay for staff enhancements to process additional cases. Many witnesses at the City Council hearings testified or made reference to the long administrative delays associated with processing of tenant complaints over overcharge and service reductions and owner applications for major capital improvements and hardships. Council members also raised the issue of long delays in case processing. Permitting ongoing luxury decontrol would add thousands of additional petitions for deregulation each

year, which, because they need to be processed pursuant to strict deadlines would require further diversion of staff.

In my capacity as State Director of Housing and Commissioner of the Division of Housing and Community Renewal, charged with administering rent regulation, I urge you to refrain, at least for the present time, from tampering with the already cumbersome provisions of the Rent Regulation Reform Act of 1993. I believe the most prudent course of action is to await the results of the Joint Senate and Assembly Study of the laws as mandated in that Act. At this time I hope that you will join Governor Cuomo and me in opposing any amendments to the New York City rent laws which would weaken tenant protections under rent regulation.

If you would like any additional information on our experience with this law, I would be happy to meet with you or provide such information.

Sincerely,

Donald M. Halperin  
Director of Housing

## Tenant Unity Coalition

Contact:

Michael McKee  
NYSTNC  
212/695-8922

Jenny Laurie  
Met Council on Housing  
212/693-0553

### Tenants Support Intro 215 (Michels, Eristoff and others)

Tenants city-wide support the passage of Intro 215 (Sponsored by Stanley Michels and 25 co-sponsors) which is the only bill which would renew rent stabilization for three years without any decontrol.

### Tenants Oppose Intro 220 (Spigner, Ognibene and others)

Intro 220 would renew the rent stabilization law, but would allow decontrol of apartments. This bill contains two decontrol provisions:

1. All apartments renting for \$2,000 or more which become vacant on or after April 1, 1994 would be permanently removed from the rent stabilization system, regardless of the tenants' income. The state law enacted last summer provides that apartments are subject to vacancy decontrol if the rent reached \$2,000 between July 7 and October 1, 1993. Intro 220, if passed, would remove the base date of October 1, 1993 and encourage landlords to try with every vacancy to get rents up to \$2,000. Even if the local market can't support rents of \$2,000 a month, the owner could get the rent above \$2,000 to qualify and then lower the rent and the apartment would be decontrolled forever. Future occupants would have neither rent nor eviction protection.

2. The bill would also provide for immediate decontrol for all apartments renting to households earning \$250,000 per year where the rent is \$2,000 per month. This would work by requiring all tenants paying \$2,000 to report their income every year, certifying that they earned below \$250,000 in the last two years.

In a letter to Speaker Vallone and Mayor Giuliani, New York State Director of Housing, Donald Halperin asks that the city renew the rent laws without making any changes, asking that the Council wait until the Joint Legislative Study of rent regulation is completed. Halperin warns that furthuring the decontrol passed by the state legislature last summer would have a negative impact on the entire regulatory process. Halperin warns that removing the base date, as Intro 220 would do, would be "a great incentive for owners to aggressively encourage vacancies...particularly with rent controlled apartments." In addition, the high rent decontrol has already caused the state great difficulty

because the State Department of Taxation and Finance does not allow the use of social security numbers to verify income. Halperin warns that Intro 220 would, if passed, increase the "administrative burden on an Agency already suffering with huge caseloads, at a time when there are insufficient funds to pay for staff enhancements to process additional cases." Halperin admits that tenants and owners already face long delays in processing; these would only get worse under Intro 220. We urge councilmembers to read Commissioner Halperin's letter.

The decontrol provisions in Intro 220 do not deal with any of the problems or complaints that both tenants and owners have with the rent regulation system. These provisions merely reward the wealthiest owners.

We urge the City Council to oppose Intro 220 and to vote for Intro 215.

940328-2158

# THE Kips Bay Tenants Association

333 East 30 Street (6A) - New York, NY 10016

February 21, 1994

(#33 FYU)

Hon. Antonio Pagan  
City Council Member  
250 Broadway  
New York, NY 10007

5/2/94

Dear Councilmember Pagan:

The NYC Rent Stabilization and Rent Control Laws expire on March 31, 1994. These vital laws must be passed by City Council and signed by the Mayor before the expiration date.

The Kips Bay Tenants Association (KBTA) Steering Committee, and its hundreds of tenant members, are very concerned that the NYS Legislature renewed the state regulations last summer with a number of weakening amendments. We do not want this to happen in City Council.

The tenant protection laws are very important to the tenants at KBTA. These laws protect them from harassment, arbitrary evictions by absentee investment owners, sudden and huge rent increases and withholding of services and repairs.

For all of the above reasons and the fact that HPD's recent study indicates vacancy rates have dropped, rents are higher and tenant incomes are lower, I have been asked by the Steering Committee to request that you take a leadership role in the Housing and Building Committee and in the Council to get the rent laws renewed without amendments that will weaken or dilute them.

There is a great need for affordable housing in all of the neighborhoods that you represent. The rent control and rent stabilization laws preserve the existing affordable housing. City Council must renew the laws without changes before they expire March 31st.

Thank you for taking a leadership role on behalf of KBTA tenants and all tenants in the neighborhoods you represent.

Yours truly,

*Sidney Emerman*

Sidney Emerman, Treasurer

cc: Peter Vallone  
Archie Spigner  
Rudy Giuliani ✓

March 11, 1994

TO: James Chin  
FROM: Jacqueline de Meo  
RE: Bill #220 - Rent Regulation Changes

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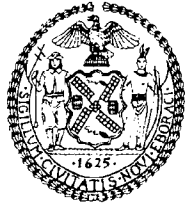
Bill #220 purposes continuing decontrol of rent-controlled and rent-stabilized apartments where family income exceeds \$250,000 and where rents are in excess of \$2,000 per month. The bill also requires vacancy decontrol for units renting over \$2,000 a month and becoming vacant on April 1, 1994. Our analysis shows the total revenue impact to the City is under \$5 million for all Manhattan rent-stabilized dwellings in FY 1997. (There are too few households earning \$250,000 or more among rent-controlled dwellers to have an impact in this analysis.) Because of the way some residential properties are assessed in the City this bill could alter assessments slightly.

Class 2 properties (apartments, condominiums and cooperatives) are assessed as income-producing properties. The assessment of condominiums and cooperatives is generally guided by Section 581 of the Real Property Tax Law which provides that the assessment of a residential condominium or cooperative must be based on the value of a comparable rental building rather than on its sales price. In forecasting assessments for Class 2 properties the outlook for net-operating income is used. This allows for rent increases set by the Rent Guidelines Board for rent-stabilized units and changes in building expenses. Even though assessments for these properties are based heavily on current rent levels, the total number of units affected by this bill is small, yielding a small impact on overall assessments.

The current procedure for vacancy decontrol dictates that owners of units who charge rents over \$2,000 a month are required to send income certification forms to tenants in the beginning of May. Tenants are to return these forms within 30 days so that on June 30th owners are able to send the forms to the appropriate State agency. By July 31st an order of decontrol is issued for June 1st of the following year. Therefore higher building income is not expected to be seen until income and expense filings used for the FY 1997 assessment roll. Given the lags in both processing time and in when DOF publishes assessments, this bill is not expected to impact the property assessment roll until FY 1997 at the earliest.

cc: David Rubenstein





MARTHA K. HIRST

Office of the Mayor  
City Legislative Affairs

Thurs  
9am

JTL

Friendly reminder -  
Pls talk to Eristoff  
about Rent Control/  
Rent Stabilization

Don't we want him  
to take our version  
(we don't know if his  
is identical) & sign on?

Jim took the bill to  
the speaker's office and  
they said his (Eristoff's)  
bill is already M  
in so they can't take ours  
unless we  
work it out.

MEMORANDUM

To: JTL  
Fr: JC  
Date: March 21, 1994  
Re: Council's vote on Intro. 220.

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At today's Stated Meeting, the full Council adopted Intro. 220 by a vote of 28 to 18. Intro. 220 furthers "luxury" decontrol. The Council also adopted unanimously Resolution 144 which provides a straight three-year extension of the current rent control law. (At the Council Housing and Buildings Committee hearing, Intro. 215, a measure providing for a straight three-year extension of the current rent stabilization law, was defeated by a 5 to 3 margin; Council Members Spigner, Pagan, Ognibene and Dilan voted against Intro. 215, while Michels, Marshall and Linares supported it).

Attached is the list of the Council Members who cast their vote on Intro. 220.

Intro 220 was adopted by a vote of 28 to 18\*:

Council Members who  
opposed Intro. 220.

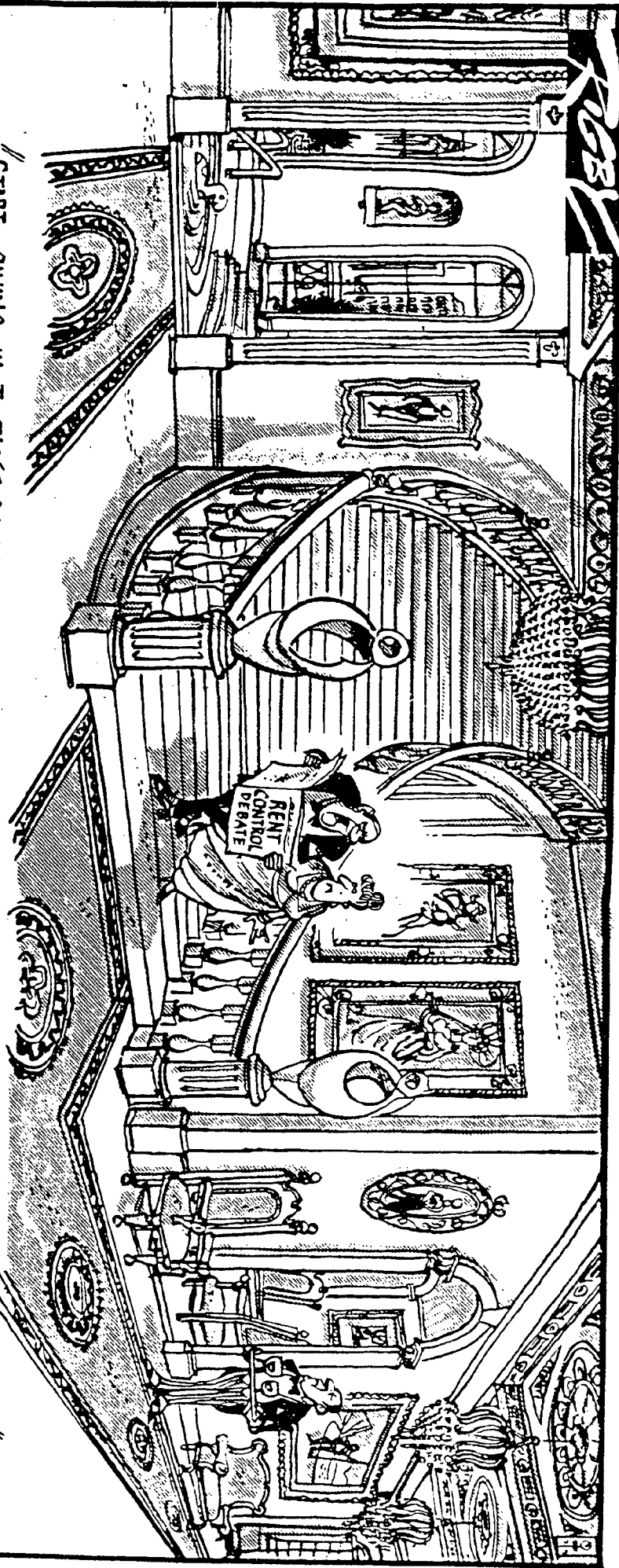
Albanese (D-Bklyn)  
DiBrienza (D-Bklyn)  
Duane (D-Man)  
Eisland (D-Man)  
Eldridge (D-Man)  
Freed (D-Man)  
Koslowitz (D-Qns)  
Lasher (D-Blyn)  
Leffler (D-Qns)  
Linares (D-Man)  
Marshall (D-Qns)  
McCabe (D-Bklyn)  
Michels (D-Man)  
Millard (R-Man)  
Povman (D-Qns)  
Powell (D-Man)  
Ruiz (D-Bx)

Council Members who  
supported Intro. 220.

Berman (D-Blyn)  
Clarke (D-Blyn)  
Cruz (D-Bx)  
DeMarco (D-Bx)  
Dilan (D-Bklyn)  
Fisher (D-Blyn)  
Foster (D-Bx)  
Fusco (R-SI)  
Harrison (D-Qns)  
Henry (D-Bklyn)  
McCaffrey (D-Qns)  
O'Donovan (D-SI)  
Ognibene (R-Qns)  
Pagan (D-Man)  
Pinkett (D-Blyn)  
Rivera (D-Bx)  
Robinson (D-Bklyn)  
Robles (D-Bklyn)  
Spigner (D-Qns)  
Stabile (D-Qns)  
Watkins (D-Qns)  
Warden (D-Bx)  
Weiner (D-Bklyn)  
White (D-Qns)  
Williams (D-Bklyn)  
Wooten (D-Bklyn)  
Abel (R-Qns)  
Vallone (D-Qns)

\* Council Members Fields, Dear, Rosado and Sabini were absent from the meeting.

c. Martha K. Hirst



START GIVING IN TO THOSE DAMN LANDLORDS AND BEFORE YOU KNOW IT WE'LL BE PAYING \$200 A MONTH!

WEDNESDAY, JUNE 23, 1993

# NEW YORK POST

*Founded by Alexander Hamilton in 1801*

RUPERT MURDOCH  
Editor-in-Chief

PATRICK J. PURCELL  
Publisher

KEN CHANDLER  
Editor

ERIC BREINDEL  
Editorial Page Editor

*America's oldest continuously published daily newspaper*

## Let the rent laws lapse

Rent regulations of one sort or another have been in effect in New York since World War II — a circumstance for which the city's housing stock has paid a high price.

Regulated rents, almost by definition, are lower than the free market would prescribe; so potential investors — generally able to earn a better return in something other than residential, rental real estate — take their money elsewhere. Over time, the housing supply suffers.

There are, of course, far more tenants than landlords in the city; the differential translates into political clout and explains the longevity of rent regulation. The power of tenants also explains why the Albany Legislature extended for another week existing rent rules that were to expire tonight.

The rules come up for renewal every two years; and every two years, lobbyists for landlords trek to Albany and make a case for constructive change in the regulations.

This year, a proposal to decontrol

upon vacancy apartments renting for \$2,000 per month or more has an outside chance of becoming law. Vacancy decontrol of luxury apartments makes sense from a fairness standpoint; and it would represent a welcome step in the right direction.

The benefits are plain. Apartment buildings would appreciate in value, creating an increase in the city's property-tax yield. More to the point, even limited vacancy decontrol would stimulate new construction, eventually bringing supply into equilibrium with demand.

Major change won't come quickly. Too many highly placed people — including the speaker of the state Assembly and the minority leader of the state Senate — benefit personally from the status quo.

But it's well to remember that this isn't just a matter of a few high earners taking advantage of the lucky fact that they live in rent-regulated dwellings; it's about whether or not the free market governs fiscal life in New York.

Tuesday, June 22, 1993

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**EDITORIALS**

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**Stupid pol tricks in Albany**

The news from Albany on the rent law stalemate is that there isn't any news. And that's bad. Because chances are a reasonable compromise will get tossed overboard in the drive to strike a deal, any deal, before the laws expire at midnight tomorrow.

The basics are clear — state Senate Republicans are carrying a contract for the real estate industry to end rent restrictions. In a housing version of trickle-down economics, GOP leaders actually have been heard to insist that ending rent protections for 2.5 million New Yorkers will cure all that ails city housing. If widows and orphans can't measure up to the market, that's capitalism. More practically, GOP spear carriers want to lift controls on some apartments, based on tenant income or rent levels, or when vacancies occur.

On the other side are the Assembly Democrats, slavishly adhering to tenant orthodoxy. The gist of their brief is that landlords are bad and housing should be cheap, if not free. Some mindlessly adopt the tenant demand that owners open their books, without conceding that tenants have no more right to see an owner's income than vice versa. Means testing on either side is outrageous, but arguing over it does pass for negotiations.

Hence, gridlock. Time is short, but both sides should be searching for middle ground, such as limited vacancy decontrol. When an apartment became vacant, a landlord would be able to charge whatever the market permitted. Thereafter, the unit would become rent-stabilized again, subject to the increase allowances set by the Rent Guidelines Board. To keep rents from escalating too fast, and to remove incentives for harassment of tenants, an apartment would be eligible for decontrol only periodically, say every five or seven years.

Such a system would not be a panacea, but it has distinct advantages over other options being discussed. It would allow owners to get market rents periodically for vacant apartments, while continuing protections for tenants in place. In short, it's just the kind of compromise the wise heads of Albany ought to be looking for. So why aren't they?

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EDITORIALS

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## The Big Stall

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Living in luxury is fine and dandy, but those who do should pay the going rate. For state legislators at odds on reform, it's time to decontrol rent-stabilized apartments occupied by fat cats. Assembly Speaker Saul Weprin (D-Queens) and other legislators from the city should realize that defending a basic unfairness doesn't help the cause of rent regulation.

The regulations, which were to expire last week, face a new deadline of midnight Wednesday. Senate Majority Leader Ralph Marino (R-Muttontown, L.I.) and Sen. Kemp Hannon (R-Garden City, L.I.) are pushing for luxury decontrol, among other changes.

Opponents of reform say luxury decontrol is more trouble than it's worth, applies only in a small number of cases and poses a thicket of administrative difficulties. While no accurate measure of what constitutes luxury exists, one suggested standard is a rental of \$2,000 or more a month. That fits nearly 11,500 of the 853,400 rent-stabilized apartments. The median rent for rent-stabilized apartments is \$522 per month.

Weprin's proposal — to extend regulations for one year rather than two — is a cop-out. Legislators don't need a year to figure out how to decontrol luxury apartments. They can opt for a means test whereby the apartments of renters earning over a certain income would no longer be regulated. Or come up with a formula — whether it's \$2,000 a month or a multiple of the median rent — that would trigger decontrol.

It's time for a little fairness.

## The Courage to Reform Rent Controls

With one bold move, the State Senate's majority leader can force a confrontation on New York City's destructive rent regulations. The leader, Ralph Marino, can couple a two-year extension of New York's rent laws with legislation gradually removing controls on luxury apartments. That would force Assembly Speaker Saul Weprin to let the laws expire or adopt luxury decontrol.

Mr. Marino supports luxury decontrol, as do some other Republican senators from New York City. But two key Senators — Roy Goodman of Manhattan and Frank Padavan of Queens — do not. Neither, disappointingly, does Rudolph Giuliani, the Republican-Liberal candidate for mayor. Given that lineup, it will be difficult for Mr. Marino to take a stand. But it would be worth it to New York City.

To Democrats, including Mayor David Dinkins and Mr. Weprin, rent control and rent stabilization are articles of faith. They say their opposition is based on the need to protect tenants from skyrocketing rent increases. But they must know better. Rent regulations inflate the cost of housing, rob the city of tax revenues, discourage new construction and speed the deterioration of older housing. Nonetheless, few city politicians of either party are willing to take on the powerful tenants' lobby, certainly not in a mayoral election year.

Last week the Legislature extended New York's rent laws until tomorrow at midnight. If they expire then, rent-controlled tenants would be protected until April 1994, as would stabilized tenants who have lived in their apartments since 1971. All others would pay their current rents until the end of their leases. Instead of complicating matters by maintaining the status quo, the Senate could prod the Assembly by approving a measure that would remove controls on apartments that rent for \$2,000 or more a month, or whose tenants earn \$100,000 a year and over.

Many wealthy New Yorkers enjoy artificially depressed rents. Not all rent-controlled and -stabilized tenants are wealthy. That's why luxury decontrol would be the logical first step in a comprehensive reform of New York's rent structure.

Tenants who harbor misplaced fears of rent gouging hold great sway in Albany. But if the Legislature clings to the status quo it will have missed another opportunity to help a city that badly needs rational rent laws, not legislation driven by politically fanned fears.

However improbable it may seem, a Republican from Long Island can do New York City a favor by giving reform the push it needs — a push it will never get from native Democrats.



# VIEWPOINT

10 ■ June 21, 1993

## Revise rent control

Mr. Marino should, however, remain steadfast on the issue of whether to renew the city's onerous rent control laws.

There is little serious debate among economists and other experts that rent controls are the cause of the city's housing crisis. The current recession has sparked another wave of abandonments and foreclosures, many of which can be traced to rent control. Solving the housing shortage in New York will be possible only when rent controls are lifted, if not immediately then over time.

Study after study has shown how most of the benefits of rent control go to those well off individuals who need them the least. Ending the system will spur construction and rehabilitation and boost city property tax revenues.

*Crain's* has long supported efforts to trim controls. Now, if Mr. Marino remains steadfast, the state can be forced to order decontrol on all vacant apartments. It's also possible to free luxury rentals from the law. If Assembly Democrats and the governor won't bend (and we know that in his heart the governor knows the damage this law does), just let controls expire.

TUESDAY, JUNE 15, 1993

EDITORIALS

Lo Rent Rms

Why are we protecting people who can afford to pay the rent? The lucky inhabitants of certain ritzy pads in New York enjoy a special sort of luxury under the city's rent regulation laws — a perk that one Republican state senator fumed



Biennial rite

allows "the Central Park West crowd" to pay artificially low rents. Some GOP senators want to nip this in the bud by decontrolling apartments whose inhabitants earn more than \$100,000 a year. Not a bad idea.

The GOP's cause is just, but the 11th-hour maneuvering by Sen. Kemp Hannon (R-Garden City), backed by Senate Majority Leader Ralph Marino (R-Muttontown), probably means chances of enacting level-headed reform will bite the dust for another two years.

Why? The regs expire today. It's a biennial crisis that ends when the Legislature renews them. According to the state Division of Housing and Community Renewal, there were 858,400 rent-stabilized units in the city in '91.

Any step toward revising rent-stabilization regs usually brings howls of outrage from tenants' groups and quick footwork from city legislators. Yesterday as expected, Gov. Mario Cuomo and city lawmakers did the usual rent-control two-step. With all the low-rent rhetoric, it's easy to forget that the rent regs established at the end of World War II were meant to help those with less, not subsidize the upper middle class.

"Luxury decontrol" is a logical and fair concept. Whether an arbitrary \$100,000-a-year income is the proper ceiling to use is another matter. One housing expert suggests using apartment prices as a gauge rather than renter income: for instance, a two-bedroom apartment priced at double the median rent could not be subject to rent stabilization.

Too bad Albany's last-minute wrangling precludes reasoned debate. Now the pressure is on to prevent, in Cuomo's words, the "catastrophe" of allowing the regs to expire.

Next opportunity for reform? Maybe '95, if everybody in Albany behaves.

# The New York Times

MONDAY, JUNE 14, 1993

## EDITORIAL

### Time to Make Sense on Rent Control

New York City's rent regulations expire tomorrow, as they do every two years. And legislators are again at loggerheads over rent controls that masquerade as boons to the city's poor and middle class, but actually hurt them by inflating the cost of housing and robbing the city of badly needed tax revenues.

There's not much good about rent controls, despite their undeserved popularity among tenants. They reduce property tax revenues, discourage construction of new rental apartments and speed the deterioration of older housing. Controls are making a sick real estate market sicker. Costs are up, the economy is down and owners cannot recoup their losses through rents.

Great, say tenants, many of them wealthy New Yorkers profiting from artificially depressed rents. In fact, the situation is anything but great, with as many as 140,000 apartments on the verge of abandonment. Who will live in them then?

There's a solution to the city's perpetual housing crisis: Lift the rent controls on some tenants in some buildings. A bill pending in the State Senate would decontrol luxury apartments, removing rent controls on apartments whose tenants earn \$100,000 a year or more. Another bill would gradually re-

move controls on all buildings as tenants move out.

Both measures are imperfect but deserve serious debate. The Republican-controlled State Senate held two days of hearings in May, but because rent regulations remain a sacred cow in New York City, Assembly Speaker Saul Weprin, a Queens Democrat, will not consider decontrol. He and Gov. Mario Cuomo prefer the worst possible alternative — making the current laws permanent.

That approach would put an end to Albany's biennial battle over rent regulations. But the costs of carving a bad law into stone are unacceptable. Hastily enacting the Senate's decontrol bills is no answer either. They do not, for example, provide a reliable mechanism for verifying a tenant's income that does not jeopardize privacy on the one hand or permit cheating on the other.

Such controversial legislation needs more extensive debate than it's gotten, and that debate cannot be conducted and concluded by tomorrow at midnight, when the law expires. The best alternative would be for Albany's leaders to buy time by approving a temporary extension of the current law; a month would make sense. Then they can sit down at the negotiating table and revise the law to benefit the city, its tenants and its housing.

Tuesday, June 15, 1993

## DAILY NEWS

220 E. 42d St., New York, N.Y. 10017.

MORTIMER B. ZUCKERMAN, *Chairman & Co-Publisher*

FRED DRASNER, *Chief Executive Officer & Co-Publisher*

LOU COLASUONNO, *Editor*

JAMES C. LYNCH, *Executive Editor*    DEBBY ERENEK, *Managing Editor*

RICHARD ESPOSITO, *Metropolitan Editor*    ARTHUR BROWNE, *Editorial Page Editor*

# Make one big change in rent laws

**O**N THE EVE OF THE expiration of rent laws, the Gods of Albany are locked in stalemate. As usual, each side stands on proposals that are unfair, unworkable or both. The best way to break the logjam is by lifting rent caps on vacant apartments.

Vacancy decontrol will not fix all that's wrong with city housing — what could? — but it does address the central question of fairness for both tenants and landlords. It would allow owners to collect market rents on vacated apartments while protecting in-place tenants from sudden, whopping increases. It also would be easier to manage and have more impact than two other ideas being pushed in the Republican-controlled state Senate — removing controls based on rent levels or tenant income.

Responsible tenant groups always have been most concerned with rent protection for tenants in place. People renewing their leases are the most vulnerable, and offering them protection against back-breaking rent hikes was the reason for the creation of the rent stabilization system, which now covers nearly 1 million city apartments.

**B**UT OVER TIME, THE POLITICS and logistics of setting annual maximum rent increases created another problem: Rents in many apartments, especially in Manhattan, were artificially held down. Thus, landlords can wind up subsidizing tenants who may or may not need help. Ultimately, the city bears the cost because property taxes are based largely on building profits. Depressed profits mean lower tax revenues.

Lifting controls for the initial rent on a vacant apartment would insure that the rent would bear some semblance to free-market conditions. After that first unrestricted rent, increases again would be limited as long as the unit was occupied by the same tenant. To prevent landlords from forcing tenants out to get the market rents, an apartment should qualify for vacancy decontrol only periodically, say once every five or seven years.

Apart from substance, the question in Albany is whether a compromise can be reached before tonight's midnight deadline, when the laws expire and chaos presumably ensues. Probably not. That's why it makes sense to extend the current laws for a week or two so legislators can forge a thoughtful deal. On such a vital issue, the public deserves no less.

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June 13, 1993

Gannett Suburban Newspapers



# Compromise on rents or lose regulations

If rent stabilization and rent control regulations expire in New York state next week, don't place all the blame on the Republican-led state Senate. It's Democratic Gov. Mario Cuomo and the Democratic-led Assembly who are refusing to compromise.

As rent regulations were running out at midnight this past Tuesday, the Legislature, courtesy of Senate Majority Leader Ralph Marino, R-Nassau, voted to extend the laws eight more days—until midnight this coming Wednesday. But unless an accord is reached, all rent protection will end.

So far, words and actions of Cuomo and Assembly Speaker Saul Weprin, D-Queens, make it appear that Democrats are not interested in a meaningful solution. We ask: Are they really interested in protecting tenants, or are they really interested in votes, getting tenants to turn against Republicans?

Take Cuomo. On Monday, he advocated extension of current laws without change for another two years, and promised to study the matter during that time. Does that have a hollow ring? Under Cuomo's time in office, rent laws were extended five times with the same unfulfilled promise. On Wednesday, when talking about the eight-day extension, Cuomo declared: "My opinion? They're not going to get anywhere." They are not going to get anywhere, all right, unless Cuomo himself enters the negotiations. But the only change Cuomo would entertain this year, he said, concerns the provision that requires that there be an apartment vacancy rate of 5 percent or less for the stabilization law to be effective.

Cuomo did not amplify on that suggestion, but certainly the vacancy rate is only a minor issue.

Take Weprin, who, incidentally, is one of the tenants protected by the rent law. He sounds like he has thrown up his hands. He doesn't think an eight-day extension is long enough. He'd prefer one of about four or five months.

Come, come. The only time the Legislature ever moves on any issue, including the budget, is when the clock is ticking down, when its collective back is up against the wall.

Senate Housing Committee Chairman Kemp Hannon, a Nassau County Republican, believes that eight days is enough, and we agree with him.

Senate Republicans are demanding two basic reforms. One would exclude people earning \$100,000 a year or more from paying those lower rents. The other would take apartments off rent stabilization when tenants leave, allowing rents to be set on the open market. That would protect existing tenants forever, as long as they live in their present regulated apartments.

We would add this recommendation—a law that would punish landlords severely if there is evidence they are trying to force existing tenants out of buildings by providing poor services or by intimidation.

Rent control, virtually unheard of elsewhere in this country, is an extension of price controls during World War II. The war has been over for 48 years. It's time to phase out a system that has thwarted rental apartment construction and has eroded tax bases of communities.

*Stop playing politics with rent stabilization.*

Friday, June 11, 1993

## DAILY NEWS

220 E. 42d St., New York, N.Y. 10017

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# A Yeti alert in Albany

**I**S RALPH MARINO Albany's Abominable No-man? Most days it seems that way. The New York Legislature is hurtling toward an early July adjournment. There's a long list of unfinished business. Yet at nearly every turn in the road, Marino bars the way. Consider just a few of the urgent items the Republican leader of the Senate holds up:

- A ban on the sale and ownership of assault weapons.
- Extension of civil rights protections to gays and lesbians.
- Restructuring of New York City's Board of Education.
- Reform of arcane, pro-clubhouse election laws.
- Creation of an environmental trust fund to help pay for waste treatment, recycling and land preservation.

Marino's negativism is partly a conservative affection for the status quo and partly political expedience — a desire to preserve the Senate's GOP majority that leads him into strange bargains with special interests. But sometimes the interests collide, forcing pivotal choices. Two such issues now offer Marino a chance to improve his abysmal batting average.

One concerns school custodians. Frustrated in its efforts to get the custodians union to agree to reforms, the Board of Education has turned to Albany for help. The Assembly came through: it passed a bill giving school principals the right to set performance standards for custodial workers and ending the custodians' ability to rip off their budgets.

**B**UT THE BILL'S FATE in the Senate is uncertain, perhaps because Marino is unwilling to offend a strong union. The inaction is scandalous. Right-wing Washingtonians like Newt Gingrich love to beat up on New York by citing custodians' abuses. Is Marino going to help? Or will he tell the world that it's really conservative Republicans, not liberal Democrats, who defend union gouging?

The second item concerns the city's rent regulations, which expires Tuesday. Here, Marino is caught between city senators, who want to extend the regs unchanged, and his housing chairman, Sen. Kemp Hannon of Long Island, who's pushing reform.

Hannon doesn't want to remove controls on all apartments, just those in the luxury class. That's reasonable and necessary. The current system subsidizes too many well-off tenants. And it's pushing thousands of apartments to the brink of abandonment — landlords' incomes can't keep pace with rising costs.

Marino may be leaning in Hannon's direction, but he's not saying so. Instead, he's letting this complex, sensitive issue go down to the wire cloaked in secrecy. On each and every one of the pressing issues facing the Legislature, Marino has a duty not only to lead but to let the public know where he's going. And the six GOP senators from the city — Roy Goodman, John Marchi, Chris Mega, Serphin Maltese, Frank Padavan and Guy Verella — have an equal duty to do the right thing.

## New York's Socialist Pooch-Bahs

By H. ERICH HEINEMANN

President Clinton says one of his primary goals is to create good jobs at good wages. If he is serious, then he should start by focusing on structural barriers to employment in the nation's major cities. The unemployment rate in 10 large states is close to 8%, almost two percentage points higher than the average in the other 40 states.

The big states are California, Florida, Illinois, Michigan, Massachusetts, New Jersey, New York, Ohio, Pennsylvania and Texas. They all include major cities, which have the usual symptoms of urban rot.

In the recession, employment declined more in the large states than the smaller ones, and subsequently recovered less rapidly. As one example, the employment rate (the number of workers as a percent of the working age population) dropped 2.45 percentage points in the 10 large states, but 1.39 points in the other 40.

New York City, an island of socialist government in a sea of free enterprise, should be Mr. Clinton's priority. The Big Apple is not only the center of the nation's biggest metropolitan area, it is a laboratory experiment in social disintegration.

Only 50.69% of the adult residents of New York City were at work in the regular economy in March. This compares to 61.85% in the rest of New York State and more than 64% in high employment states such as North Carolina. The national employment rate in March was 61.4%,

down 1.8 points from the record posted in May 1990.

The spread between employment in New York City and elsewhere in the state reflects structural barriers to employment. It has persisted over the last decade, through good times and bad times in the city's economy.

Many factors contribute to this pathology. For example, New York City spends hundreds of millions every year to help the homeless, yet the homeless population goes on growing. Over the last seven years, New York City's welfare population has ranged from a low of 818,000 in 1989 to more than 1 million during the second half of 1992.

The key question, never properly answered, is whether the relative generosity of the city's welfare system helps to create the problem it is supposed to solve. A growing number of critics say the answer is "yes."

The city has controlled residential rents for a half century, purportedly to preserve affordable housing. Predictably, rent control cut the supply of housing and drove up housing costs. At the same time, it subsidizes tenants at random. Beneficiaries may just as easily be millionaires as paupers. Rent control also cut the rate of return on real estate investment, and thus put a cap on construction jobs.

The city now spends more than \$7.5 billion a year on primary and secondary education (including capital funds) but only a fraction of the city's 1 million students graduate

from high school. The city spends about \$1.3 billion on health. Yet some of its neighborhoods get medical assistance from international agencies designed to help impoverished nations in the Third World.

Stephen Berger, executive vice president of G.E. Capital Corp. and a former financial watchdog of the city, argues that New York has become "a highly centralized, highly bureaucratized city-state." The city's focus, he says, is on the interest of its army of almost 350,000 employees rather than delivering good service to citizens. For Mr. Berger, the answer lies in breaking New York City government into smaller units, more responsive to public needs.

The real answers are probably much more complicated. Reorganizing city government seems unlikely to strip away barriers to jobs and enterprise that decades of excessive government regulation have created.

To add jobs, Mr. Clinton must also look closely at the sorry record of productivity improvement in the private service sector over the last 20 years. Private service firms created over 70% of the 67 million jobs the United States has added since World War II. During the 1980s, this ratio climbed close to 100%.

However, there has been little or no net change in output per private service worker since the early 1970s, despite massive investment in information processing technology. Service productivity did go up during

and immediately after the recession, but that only brought real output per private service worker back to approximately where it was in 1973.

More recently, gains in service productivity have begun to slow, a classic cyclical pattern. In contrast, the number of production workers in manufacturing did not change significantly from 1946 to 1992, but output rose by roughly 500%.

The slowdown in service productivity is bad news for the economy, for real wages and for inflation in the service sector (55% of the Consumer Price Index). It could be good news for beleaguered commercial real estate operators. Demand for services continues to grow.

Should service productivity continue to slow, companies will hire more service workers. More service workers will help fill the empty office buildings that now dot the urban landscape. This is the basic reason why real estate equities have perked up thus far in 1993 and are likely to keep on doing so.

It is clear that dealing with the core issues of urban rot and low productivity in services is essential for the nation to reach the goal of good jobs at good wages. Simply pouring in more money, on top of the billions already in the budget, will not accomplish that result.

*H. Erich Heinemann is chief economist of Ladenburg, Thalmann & Co., investment bankers in New York.*



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# EDITORIAL

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## Think twice on rent control

### THE ISSUE

*The state Legislature seems ready to make rent control laws permanent.*

### OUR OPINION

*History shows the free market is the best stabilizer.*

New York's rent control law, which now must be reviewed — and renewed — every two years, seems on its way to receiving permanent status. The Assembly has already approved the bill, and the Senate is lining up its supporters.

One proponent of the change has argued that swift approval is needed in order to reassure tenants who fear that rent controls will soon expire.

That argument betrays what is fundamentally wrong with rent control laws and the Legislature's historical approach to the matter. The majority of lawmakers tend to see the issue as one of tenants vs. landlords — or, more narrowly, as one of poor renters vs. rich landlords. The state, in this picture, then rides to the rescue, forcing landlords to keep their rates down and assuring "affordable housing."

The problems with this approach is manifold.

Foremost, there has never been a rational way to establish prices except by means of a free and open market. Under conditions of monopoly, to be sure, the market mechanism doesn't work. But the actual rental market in New York state is hardly monopolized. Nor is it mostly constituted by huge conglomer-

mates. On the contrary, most landlords own and operate just a handful of rental units.

The result of the state's longstanding reliance on bureaucratically set rates has been, most conspicuously for New York City, a disaster. As the cost of operating a rental property rose relative to established rents, landlords first cut back on improvements and then abandoned their property (New York City is as a consequence the biggest landlord there). Builders and speculators, meanwhile, simply cut back, or stopped building entirely.

The end result, amply documented, is a housing shortage (especially for singles), a reduced tax base, squalor and the crowning injustice of luxury apartments near Central Park renting for \$300 or \$400.

The Legislature is looking at this issue from an exceedingly narrow point of view. They have made landlords out to be enemies of the people. They have made renters out to be another class of victims (or potential victims unless closely protected). Neither of which is true (except in individual cases).

The Legislature should start looking to what is good for the city and state as a whole, and consider what a return to the free market might accomplish. It's working pretty well in Poland.

# The New York Times

SATURDAY, JUNE 27, 1992

## The Enduring Cost of Rent Control

An "enduring monument to economic illiteracy," Vice President Quayle called rent control in his latest speech bashing New York. On this subject, at least, he's got it right. Rent control remains one of New York City's more galling and costly policies.

It has been in effect ever since World War II — and hasn't made sense for most of that time. It purports to help the poor afford housing. Instead, it does serious damage, speeds the destruction of older housing, reduces the city's property tax revenues and discourages the construction of new rental apartments. That *hurts* the poor and middle class by keeping housing at a costly premium.

Moreover, as a study by the Citizens Budget Commission reiterated last year, rent control helps a small number of low-income New Yorkers but mainly benefits wealthier people who pay artificially low rents — rents in effect subsidized by the taxpayer.

Nobody who understands the economic realities of New York City and its housing stock can justify the perpetuation of rent control. It was an emergency measure enacted during World War II. But it has become an icon in New York City,

protected by politicians who should know better.

They do know better. But because real estate is so expensive, rent control has strong support from tenant groups, and no elected official in a position to revise the law will touch it.

Yet there are reasonable ways to release this stranglehold on the housing market. The simplest is called vacancy decontrol, under which apartment rents are freed only when they change hands.

Right now, a reasonable bill to decontrol luxury apartments is stalled in the State Legislature. The measure would decontrol rents of anyone making more than \$100,000 a year, and decontrol apartments renting for more than \$2,000 a month once the current tenant moves out. The Republican State Senate approved the bill, but it can't even get out of committee in the Assembly, where Democrats from New York City are in charge.

The repeated failure of New York City officials to revise a policy that is so fundamentally unfair and damaging remains a disappointment. Now it is also an embarrassment that it should take Dan Quayle, who scorns New York at every opportunity, to speak the truth about rent control.

## N.Y. rent controls for luxury units should be ended

In the coming months, the U.S. Bureau of the Census will report that New York's apartment vacancy rate has reached the highest level since rent controls were imposed almost 50 years ago. City officials should use that announcement as an opportunity to begin dismantling the inequitable and economically stifling regulation by freeing luxury apartments—perhaps those renting for more than \$750—from controls.

The Census Bureau report, as *Crain's New York Business* wrote last week, will show that the apartment vacancy rate is 3.78%. Technically, that allows rent controls to continue because the law requires that the city must be in a housing crisis, defined as a less than 5% vacancy rate, to regulate rents. However, the 3.78% figure is based on a spring 1991 housing survey. The next

survey is likely to show another big increase, possibly exceeding the 5% level and ending rent controls suddenly.

Other reports show that many segments of the rental market already exceed the threshold: the apartment vacancy rate in Queens was higher than 5%, according to the 1990 population survey. Vacancies among apartments renting for more than \$600 a month were more than 5% in 1987. When details of the 1991 survey are released that figure also is likely to grow.

**A** study by the Citizens Budget Commission showed that most benefits of rent control go to high income families

The case against rent control has been made many

times, most recently and authoritatively in a February 1991 report from the Citizens Budget Commission. The CBC showed how most of the benefits of the city's arcane system go to high-income individuals and families. It must be remembered in these times of dire fiscal constraints that ending protection for either higher-income tenants or higher-rent apartments eventually would generate \$30 million to \$100 million in taxes, according to the CBC report.

The debate ought to be how to decontrol. One option is to add an income test to rent control. This would attack the system's most ridiculous feature, that benefits are available on the basis of chance without financial considerations. But it would also be difficult to administer.

The best choice is simply to end controls for apartments renting above a given figure, such as \$750 a month. There is precedent for such a step. Three times—in 1957, 1960 and 1964—high-rent units were decontrolled. And it would be simple to administer.

Opponents, like City Councilman Stanley Michels, say that hard times are the worst possible time to end rent controls. But that's backward. Because the recession has produced a glut of luxury apartments, rents won't rise if there is decontrol. They are more likely to fall.

## New Year's in the City

The new year brings hope and fear to the people of New York City. Hope that after 12 years of neglect, urban America will get new help from Washington. And fear that the campaign for mayor will exacerbate the city's ragged race relations and consume the energies needed for renewal.

The two moods are intimately bound. Without more generous and coordinated assistance from Washington, the quality of urban life will worsen. If it does, so will destructive demagoguery and the search for scapegoats.

Bill Clinton took a conspicuous walking tour through an inner-city neighborhood of Washington after his election. But like George Bush and Ross Perot, he largely ignored the cities' problems during the campaign. Large cities house large concentrations of minorities and the poor that suburban majorities prefer to forget.

But Mr. Clinton showed deep interest in health care insurance, AIDS relief, welfare reform and the plight of children — issues of urgent concern to cities.

Will his Administration bring only incidental benefit to the cities? Or will it address their needs with full Federal weight? Real relief presupposes a healthier economy; reviving urban America will cost plenty. But cities deserve special attention even in tough times. They need social reforms that reduce welfare rolls, create jobs, build homes. Furthermore, urban ills don't stay within neat geographic lines. Eventually they invade suburbia, enlarging destruction and waste.

The number of New Yorkers subsisting on welfare payments has passed one million for the first time in more than 20 years. The costs of Medicaid continue to surge. The waiting lists for public housing have grown to 240,000 families — almost as many as the number of apartments

already occupied. The story is the same in virtually every large city.

Neglect and wrongheaded social policies aggravated by recession leave cities without the resources to pay for their poorhouse functions. But the poor will not go away — until they are less poor. Unless Washington acknowledges the care of the poor as a national moral and financial obligation, urban poverty and misery will bankrupt governments and lay waste to urban infrastructure. The barren center of Detroit and other inner-city neighborhoods should be warning enough.

Bill Clinton has little direct experience with urban blight. As Governor of Arkansas he didn't have to exercise leadership over large cities, the struggling shelters of last resort for the nation's poor. But fortunately he has drawn to his side a number of urbanites who do have such experience. If he listens, and finds the resources, cities might begin their climb back.

Not all the remedies depend on Washington, of course. New York's leaders remain set in old and wasteful ways. Mayor David Dinkins has achieved some modest improvements, but the true innovations, like privatization and holding city workers more accountable, still elude New York. Can it reform wasteful civil service laws, write equitable property taxes, get sanitation workers to work a full day for a day's pay, revise rent control, revamp a petty, meddling Board of Education?

Debating such issues would make for a lively and constructive mayoral contest. But continuing racial tension raises the specter of a polarizing campaign. New York and other cities have a strong claim on the national conscience and pocketbook. Yet city leaders cannot hope to press that claim if they do not themselves practice the reform and demonstrate the responsibility they seek.

# THE BUFFALO NEWS

Sunday, April 12, 1992

## Begin rent control phase-out *A modest bill awaits action by the Assembly*

**R**ENT control is a type of housing assistance that doesn't work very well. It throws a monkey wrench into the housing market without effectively targeting the poor people it ought to be helping. Too often, the benefits fall to those who don't need help.

A bill has passed the State Senate that takes small — but important — steps toward deregulation. It would remove regulations from apartments rented by people making more than \$100,000 annually and remove all controls whenever an apartment renting for more than \$2,000 a month becomes vacant.

A modest reform? You bet. Why, for instance, should a \$95,000-a-year person be able to avoid paying market rents? But sponsors say that the subject is so politically charged that it's the best bill they could get through the Senate this year. Despite its mildness, the bill probably faces a tough time in the Assembly, which is unfortunate. The bill, for the first time, tackles rent control by going after the wealthiest beneficiaries with a means test and a vacancy deregulation system based on rent level. They are correct approaches that can be broadened later.

The bill would result in deregulation of from 30,000 to 50,000 apartments. Presumably, the vast majority are located in New York City where 155,000 units are under rent control and 900,000 are covered by a less restrictive sister program, rent stabilization.

The bill would have no effect in Erie County, where there are 8,274 controlled units but none rented to people with a \$100,000-plus income. Furthermore, Erie County units are decontrolled when they become vacant regardless of the rent level. Last year, 73 were removed from rent control that way. Rent stabilization does not exist here.

Rent control goes back to 1943. It was instituted as an emergency measure to stop rent gouging in a time when housing demand was great and the supply was constrained. Tinkering has made it a complex web of regulations, particularly in the New York City area, where strong political pressures freeze it in place and even extend it.

A 1991 study of New York City rent regulation by the Citizens Budget Commission concludes that it has perpetuated a housing shortage, diminishes incentives for owners to properly maintain units, caused units to be abandoned by owners and wrongly limited housing opportunities for young families and others coming into the housing market.

Even in areas where rent control is not a local issue, there should be support for the Senate's approach. New York City's property tax revenue would rise by an estimated \$80 million to \$100 million a year with deregulation — which ought to reduce the city's persistent pressure for state bailouts. Furthermore, administration of rent control costs state taxpayers \$30 million a year.

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# The New York Times

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TUESDAY, AUGUST 13, 1991

## EDITORIALS

### A Relic Called Rent Control

In the last decade, 155,000 New York City tenants have become homeowners, bringing the proportion of families who own homes to a record 30 percent. That in turn adds a powerful new voice to efforts to revamp the city's destructive and costly rent control laws.

The owners of real property, including co-ops and condominiums, have a natural interest in seeing that renters pay a fair share in real estate taxes — especially now that Mayor David Dinkins has felt obliged to increase those taxes sharply to meet the budget deficit.

The taxable value of rental buildings, however, is artificially depressed because rents are controlled by law. Thus rent-controlled and rent-stabilized buildings pay lower taxes than they would in a free market. That outrageous anomaly depresses the quality of life for everyone.

Though few people know it, rent control is not one of the original laws of nature. New York City apartments have been subject to control for only 48 years. From Peter Minuit until 1943, tenants and landlords negotiated leases without government interference, except for a spell during and after World War I. Without artificially low rents, people had no incentive to cling to one dwelling; they moved freely, and empty apartments abounded.

The rent regulation law expires this year, and owner groups are in court arguing that the 1990 census data prove that at least 5 percent of the city's rental apartments are vacant. A vacancy rate of 5 percent or more meets the legal standard for declaring that the World War II housing shortage is over, and that rent control is no longer required to protect renters from gouging by their landlords.

New York households not subject to rent control or rent stabilization have a vital interest in the outcome. Indeed, the unregulated are now a majority: About 1.7 million families are not covered by rent control or rent stabilization laws; about 1.1 million families are. This unregulated silent majority is being asked to assume \$100 million in real estate taxes that might be collected if regulated high-rent apartment houses were allowed to charge market rents.

The plaintiffs are not seeking deregulation of all housing units, only those in high-rent buildings where vacancies are concentrated. A shortage remains in low-rent apartments because so many low-rent units have been lost by deterioration or abandonment. The plaintiffs' mission is controversial, their goal laudable: to reform an outdated system that's not only unfair but fiscally unacceptable.



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## N.Y. wrong on rent control

**ISSUE:** New York officials suspect the Bush administration is trying to sabotage rent control laws.

**OUR OPINION:** Rent control should be abolished.

Some in New York are complaining that the Bush administration is underhandedly trying to undermine the state's rent control laws.

The Bush administration, however, isn't really trying to repeal rent control. It's merely trying to nullify it when the interests of the federal government are at stake.

It works this way: The Resolution Trust Corp., which was set up to oversee the S&L bailout, has taken over certain rental properties in New York as a consequence of default. In order to meet its inherited mortgage bills, the RTC is trying to increase the rents. To do that, however, means that renters protected from rent increases by the state's rent control laws will have to go. Hence the RTC is seeking the evictions of rent-stabilized clients.

The New York state attorney general's office, meanwhile, wonders why the federal corporation would go after such a small number of tenants when it has so many problems to deal with. One assistant attorney general suspects that one possible motivation is the administration's hostility to rent control.

At any rate, New York is suing the federal government to prevent the evictions.

We hate to see the federal government run roughshod over the state. But in this

case we hope that the federal government's action might underscore the baneful effects of rent control.

It is not surprising, first, that owners of rent-controlled property would lose those properties to the mortgage lender. Nor is it surprising that the RTC, after taking over those properties, would find that the limited rents made mandatory by rent control would be inadequate to meet the mortgage payments.

That's the way rent control works. It limits return on investment, but in no way limits the cost of investment. The result, in a city like New York where an estimated half of the existing apartments are rent controlled, is that investors don't invest in and builders don't build apartment units. The subsequent scarcity of apartments then works to justify a continuation of rent-control laws.

The answer is the complete abolition of rent control. That would restore the incentive to build and maintain rental units. Many fewer units would be abandoned by their owners and, in short order, the housing stock would be significantly replenished.

The federal government's action in one building won't threaten rent control in the state. The entire state, however, would be better off if it did.



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## Let's end rent control

Once again the state Legislature has faced the daunting task of amending the state's rent control laws. The problems engendered by rent control never go away and our lawmakers so far haven't figured out what to do about them.

The answer, ultimately, is to do away with rent control. What has largely prevented that has been an assortment of special interests that claim, among other things, that rent control is good for poor- and lower-income residents.

While the motive for rent control might be lofty enough, the consequences have been a scandal and a disaster. In New York City, extremely rich denizens live in rent-controlled apartments for a pittance, as do thousands of other persons who are only slightly less than rich.

The most noticeable effect of rent control in the city, however, is not to provide good housing at cheap prices for rich people. The biggest effect has been to run investors out of the housing market entirely. Unable to make a fair return on their investment, apartment house owners have let their buildings deteriorate, failed to pay taxes and, ultimately, abandoned the worthless property.

If there is a housing shortage in New York City, it is mostly the result of that city's irrational system of rent control.

Some might counter that provision should be made to help the poor find adequate housing. To which one could answer, first, if there had not been rent control, housing would be more plentiful and, given adequate demand, less expensive. Second, provision can be made to help the poor in the form of a direct housing allowance. There is not and never has been a need for rent control — if the purpose was simply to insure that the poor had a place to live.

The idea of rent control was to force property owners, out of their own pockets, to directly subsidize the housing costs of the poor. That confiscatory policy is probably to blame, as William Tucker, a long-time student of rent control, and others have argued, for most of the housing and financial difficulties New York City now finds itself in.

If New York City or New York state wants to help poor people make their rent payments, subsidize them. At the same time, quit interfering with the normal market system that, left alone, usually provides more than enough housing.



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# The New York Times

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FRIDAY, JUNE 21, 1991

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## EDITORIALS

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### New York's Pain After the Pain

After all the anguish, lost jobs and political posturing, New York City is likely to muddle through to a balanced budget for the fiscal year that starts July 1. Because it is in nobody's interest for the city to falter, the state, the Municipal Assistance Corporation and municipal unions are likely to come up with contributions worth more or less \$250 million each. On top of the Dinkins administration's sobering service cuts, layoffs and tax increases, that should balance the budget.

But then what?

Balancing the new budget is the easy part. The hard part is to avoid putting the city through such a wringer next year, and the year after. That means making long-term changes in the way it operates. "Structural reform" has become the mantra of the year, but it's not just a catch phrase. The city has to find ways to do business smarter and leaner.

New York City is already pursuing some reforms proposed by a mayoral advisory committee, including managed Medicaid and an early retirement program. The committee also recommends thinking about imposing tolls on East River bridges and privatizing certain services, proposals that are worth investigating. So are many others.

The Op-Ed page Sunday offered ideas from various fields. Robert Linn, the city's former labor negotiator, asks why three agencies — police, fire and the Emergency Medical Services — all deliver emergency services. Charles Brecher and Raymond Horton of the Citizens Budget Commission recommend state takeover of welfare and restruc-

turing state taxes. Edward Sadowsky, former chairman of the City Council's Finance Committee, proposes re-examining rent control and raising the low property taxes on one- and two-family homes.

Some novel approaches are already succeeding in cities around the country. At a hearing conducted last week by City Council President Andrew Stein, experts from as far away as Phoenix described techniques for improving services, including privatization and reforming civil service rules.

Ideas are only a start. Most restructuring must come from the inside, after exhaustive, line-by-line, agency-by-agency analysis, conducted with the cooperation of the people working in each agency. Only insiders can distinguish real savings from illusory ones. How best to redeploy underworked sanitation workers? How best to get police officers to work in one-officer patrol cars?

To force answers requires a leader willing to take advantage of lean times. But Mayor David Dinkins seems reluctant to follow strong words with strong action, and Gov. Mario Cuomo remains aloof or diffident. Witness the current foot-dragging in Albany. With the July 1 deadline just 10 days away, the Mayor still has no assurances from state leaders that they will approve the city's aid package. That approval, soon, is critical.

The larger need is not as urgent but just as critical. New York's government requires radical reform. The relentless fiscal emergency provides the painful discipline needed to get people to listen. What discipline is required to get leaders to lead?

# The New York Times

TUESDAY, MAY 14, 1991

## EDITORIALS

### New York's Pain: Deeper, Longer

The more one studies Mayor David Dinkins's new budget proposal the worse New York's fiscal crisis looks. The budget confirms that, even assuming some exaggeration for bargaining purposes, the crisis is real and it is deep. What's worse is how long it is projected to last.

Even if New Yorkers learn to do without services like clean streets and libraries while paying higher taxes for the privilege, the problems will not disappear. Unless the economy makes a startling comeback, and nobody can responsibly predict that, the pain will last.

Retrenchment, service cuts and tax increases are necessary in the crisis budget for the fiscal year that begins in July. But all this will be perpetuated in future years as well, unless the city and state, itself burdened, can promptly join in deep, difficult reforms that would benefit both.

The Mayor's proposed cuts will hurt just about every aspect of city life. Thanks to the Safe City, Safe Streets plan, law enforcement is the only area for which Mr. Dinkins proposes real growth. The city would hire 1,800 new police officers. Meanwhile, it would eliminate 500,000 vision and hearing screenings for schoolchildren . . . add to the garbage mountain at the Staten Island landfill by suspending recycling for a year . . . cut library funding so much that some branches would probably close . . . cut cultural affairs by 44 percent . . . and cut education so deeply that school officials anticipate losing perhaps 6,500 teachers and 3,500 aides.

The mix of cuts and taxes will change as the Mayor negotiates with the City Council, and the gap may be narrowed if the city gets more revenue from the state and the Municipal Assistance Corporation. But the recession, magnified by policy mistakes the Mayor made in the fall, leaves so serious a problem that deep cuts cannot be avoided in the fiscal year beginning July 1.

So much pain does not have to endure, however, if the city and state will join in fundamental fiscal, tax and management reforms. The Dinkins administration is already pursuing some of those changes and the Citizens Budget Commission urges even more far-reaching reforms. But the city cannot do it without its unofficial partner, the state — particularly Gov. Mario Cuomo, who has yet to involve himself energetically.

The Mayor supports state takeover of local Medicaid costs, for instance, which would be more equitable for all cities and counties because it would spread the tax burden more evenly. The same is true of welfare. If city and state could work together to lift some forms of rent control, most New Yorkers would benefit, as they would if the city conceded that it undertaxes residential properties and pursued reform legislation.

Those are just a few potential reforms. They would not substitute for a thriving economy, but would at least ease the long-term burden. New Yorkers will have to tighten their belts in the coming year. Joint action now to make the city better run and more competitive can spare them municipal starvation in the future.

# The New York Times

TUESDAY, APRIL 9, 1991

## EDITORIAL

### Tap the Treasure in Rent Control

While New Yorkers ponder emergency measures to repair their city's deteriorating financial condition, a hoard of taxable value remains untapped under the welter of rent control regulations that keep the rents for many apartments unjustifiably low.

The potential to generate new income for the city increases the need to mitigate rent regulations that have destroyed older housing and discouraged new rental construction for half a century.

A civic group, the Citizens Budget Commission, recently produced yet another study showing that while rent control assists a small number of low-income families, its main beneficiaries have been families in above-average income brackets, which have received an unparalleled housing bargain at taxpayer expense.

According to the commission and Prof. Elizabeth Roistacher of Queens College, who conducted a survey for the commission, tenants in apartments renting for \$750 a month or higher receive on the average a gift of \$4,140 a year. That's how much more rent other people would be willing to pay for the same apartments in a free market.

The apartments under regulation in New York City are relatively cheap compared with apartments of similar quality in other cities without rent regulation. The cost of this hidden subsidy is borne partly by the owners of the buildings, who receive

less rent than in a free market, and partly by the city, which collects less in taxes than if the apartments rented at market rates.

The tax charges on such buildings would, by Professor Roistacher's findings, be about \$100 million a year higher if rents were allowed to rise to market levels and the assessed valuation of the buildings were adjusted accordingly.

There is an easy fix for this injustice. The Emergency Tenant Protection Act, the state's basic rent regulation statute, provides that when 5 percent of the apartments in any price class are vacant, the class must be decontrolled and de-regulated. Unfortunately, state and city governments, fearful of a backlash from tenants, refuse to press for an official study testing the vacancy rate at different price levels.

If a survey indicated that, as many people suspect, vacancies now exceed the limit, the law should be allowed to run its course, subject to existing leases.

With the city cutting vital services and flirting with new taxes that could stifle the economy, rent control can no longer be viewed as a politically benign way to do a favor for tenants at the expense of everyone else in New York. Ignoring the economics of such unjustified subsidies has become political treason to the city and particularly to those in its population who depend most on public services.

MONDAY, APRIL 1, 1991

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EDITORIALS

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## Raise the Roof?

Yes, lift city rental ceilings,  
but only with more U.S. aid

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Finally, after years of opinion-page polemics and demonstrations at the Rent Guidelines Board, there's an analysis of city rent regulations that's provocative *and* balanced — a solid foundation from which to debate this most complex and inequitable of systems. It's the Citizens Budget Commission's "Reforming Residential Rent Regulations," written by CUNY economist Elizabeth Roistacher.

One needn't recite the list of wealthy celebrities in regulated apartments to establish CBC's basic point: Although scarce government housing aid should go only to those who truly need it, only half of the total subsidy derived from rent regulations in 1987 went to the 612,000 rent-regulated households that make under \$20,000. Those making under \$10,000 saved an average of \$2,300 each through rent regulation, while the 27,267 rent-regulated households making over \$75,000 got \$4,200 a year each. What a waste of precious subsidies in a city deluged with the homeless.

But isn't it landlords — not government — who subsidize rent-regulated tenants? Actually, both do: CBC estimates that if rent ceilings were lifted only from upper-income

tenants, and if the city tried vacancy decontrol (ending rent regs on units as current tenants move out or die), property values would rise, boosting city property-tax collections by \$80 million to \$100 million annually.

The CBC study acknowledges the problem with its own recommendations: Without enough rental-voucher, public-housing or other government aid — which only the federal government can and should provide — vacancy decontrol would shrink the supply of affordable housing.

Even a robust free market wouldn't replace it; think of the slums portrayed by photographer Jacob Riis at the turn of the century, when the market reigned supreme. And vacancy decontrol and income-pegged surcharges might tempt some owners to drive poor tenants away.

Still, the CBC study shows that rent regulation is a complex, unfair and fiscally dubious housing program. It shouldn't be dismantled until strong federal housing subsidies can replace it; but it's never too soon to plan.

Thursday, February 11, 1993



PUTNAM REPORTER DISPATCH, THE STAR, THE CITIZEN REGISTER, THE DAILY NEWS, THE REPORTER DISPATCH, THE DAILY ITEM, THE STANDARD-STAR, THE DAILY ARGUS, THE HERALD STATESMAN, THE DAILY TIMES

## Change rent laws, don't extend them

The state Assembly's passage of a bill to make rent stabilization permanent in Westchester, Rockland and Nassau counties, as well as in New York City, is nothing more than a blatant exercise in political pandering.

We hope the Senate uses better sense and works to improve rent regulation rather than permanently etch into stone a law that has outlived its usefulness.

If that antiquated law is allowed to continue in its present form after the June 15 expiration, shortages of rental apartments will continue in this area just as they have for the last 19 years, ever since the Temporary Emergency Tenant Protection Act of 1974 was passed. That law made sense then; it no longer does. In recent years, the temporary law has been extended for two years at a time.

The best thing that could happen is the termination of a law never intended to be permanent. In the real political world, that won't happen, because renters outvote landlords, and homeowners haven't figured out that they pay higher property taxes because ETPA apartment buildings have won lower assessments.

A more realistic approach is a compromise. One suggestion is imposition of a means test for all rent-stabilized tenants. Those who could prove a financial need based on their income and the rent would continue under ETPA. Good suggestion, but so far no one has been able to sell it to all sides.

Absent a better suggestion, we recommend vacancy decontrol.

Under the vacancy decontrol proposal, an apartment would be removed from rent stabilization once

the occupants die or move. The landlord would be permitted to charge market rates. Some mechanism would have to be left in place to make sure landlords don't gouge on rents for those newly vacated apartments or don't force existing tenants out through bad service or similar tricks. That's what prompted passage of ETPA in the first place.

ETPA covers apartments of six or more units in 18 Westchester communities that have elected to join the process. Fewer than 5 percent of all rental apartments have to be vacant in those communities. Each year, the county ETPA sets rent maximums on new and renewed

*ETPA harmful to those who want to rent apartments.*

leases.

Since enactment of the law, construction of rental apartments has dried up in Westchester as investors don't want to take a chance that their buildings would fall under ETPA, just like those built before 1974. Another shortcoming of the law: many existing tenants who could afford to move into more expensive apartments don't do so. Some even use the below-market-rate apartment as a second home. Those practices prevent young marrieds and single people from starting their adult lives in apartments as their parents did. Those young folks often are forced to move outside this area.

Vacancy decontrol eventually would remove all apartments from controls, permitting a free-market economy to return. That would encourage builders to return to the rental housing field and help those who cannot find apartments now. And those who are now in apartments will be able to stay there under ETPA as long as they live.

# Editorial Page

## Rent stabilization outlives usefulness

The Emergency Tenant Protection Act long ceased dealing with an emergency. The act itself should cease.

Tenants and landlords have made their annual pilgrimage to the Westchester Rent Guidelines Board, each with far different requests, and now the board will act.

The board will complete the process by examining economic indicators and will most likely grant rent hikes of a few percentage points on one- and two-year leases effective Oct. 1.

This annual rite of summer has been going on since 1974, when the state Legislature approved and Gov. Malcolm Wilson signed into law the Emergency Tenant Protection Act covering Westchester, Rockland and Nassau counties. New York City was given its own rent-stabilization law. At the time, the law made sense as some landlords tried in many cases to gouge rent increases of 200 percent and 300 percent when old rent-control laws from the World War II era were eased.

In calling once again for the end of a law that no longer serves the greater public need, we emphasize the word "emergency" in its title. The emergency that existed in 1974 is no longer a factor today as mechanisms are in place to deal with gougers.

Rent stabilization either should be eliminated altogether when its latest extension expires next June, or a form of vacancy decontrol should be put into force. Under vacancy decontrol, an apartment would be returned to the free market once the current tenant moves out.

The only winners in rent stabilization have been the tenants and the landlords. Everyone else in Westchester has been hurt in the process, particularly young people who can't land apartments because longtime tenants hog them and refuse to move, even though they can afford more expensive housing. Taxpayers in general have been hurt because landlords of rent-stabilized apartments have gone to court and won

reductions in their tax assessments, citing reduced profits. Builders are disinclined to build new rental apartments for fear that someday those apartments will be placed under stabilization, just as those built before 1974 were.

There is a connection between rent stabilization and the fact that Westchester long has suffered from a

shortage of affordable housing. And because housing needs are not being met in the marketplace, Westchester County Executive Andrew P. O'Rourke and some local leaders have been compelled to step in and do the home building themselves. Government has had to use its own resources, either surplus land or money, to create affordable homes. That is another way the taxpayer is subsidizing those covered by the Emergency Tenant Protection Act.

Our state legislators have been afraid to end rent stabilization because they fear the power of the tenant organizations. If they looked closely, legislators would see that the tenant organizations are potentially less powerful today than they may have been in the past. For one, the number of people in rental apartments has shrunk, mostly because landlords converted many apartments to cooperatives or condominiums.

Also, legislators should recognize that tenant organizations are interested in preserving only their own good deals and they have never shown any interest in solving the shortages of affordable housing in Westchester. When, for instance, has a tenant group appeared at a public hearing where affordable housing was an issue? Representatives should have been there, because the only way to ensure a supply of affordable housing is to add to the stock.

Rent stabilization has contributed to a shortage of rental apartments. It has driven younger people away from Westchester. It has added to the tax burden. It is no longer needed for the overall public good.

Time to repeal emergency act enacted for tenants in 1974.

## REVIEW & OUTLOOK

### Red-Taped Housing

Owning a home is part of the American dream, but for most people today it has become a mirage. The Census Bureau reports that 57% of American families can't afford a median-priced home near where they live. HUD Secretary Jack Kemp thinks many more people could afford to buy homes if the federal government used its leverage and withheld housing subsidies from communities with exclusionary zoning laws, gold-plated construction requirements and exorbitant development fees.

A special HUD commission on barriers to affordable housing recently reported that the cost of that kind of bureaucracy and red tape has added \$15,000 to \$30,000 to the cost of houses in many markets. It shouldn't surprise anyone then that nine out of 10 renters and three-quarters of Hispanic and black families are frozen out of the housing market.

The commission's members represented a wide variety of views. They included builders, local government officials and advocates for low-income housing. Yet they all agreed on the need to cut red tape and housing costs. Their recommendations include: more exemptions from federal Davis-Bacon laws that require union-scale labor on federal housing projects, placing time limits on building-permit reviews, and an overhaul of the Endangered Species Act.

The Stevens kangaroo rat recently became one of the largest "land-owners" in California when a 30-square-mile stretch of land worth \$100 million was declared off-limits to development in order to protect the rat. Nancy Kaufman, a Fish and Wildlife Service official, defended the move by saying that humans have reached the limit on how far they can intrude on the environment. We guess that means a lot of people in the future will have to double up in apartments Soviet-style. Ms. Kaufman isn't all that concerned about human habitats: "I'm not required by law to analyze the housing-price aspect for the average Californian."

Secretary Kemp says that if local governments "want to preserve the spotted owl at the expense of prospective home buyers, they can. But they should do it without federal subsidies." He wants federal housing money withheld from communities that refuse to come up with a plan to remove all manner of regulatory barriers to affordable housing.

Those barriers come in many shapes and sizes. Some Ohio towns require that cul-de-sacs be wide enough to accommodate the most modern fire equipment, even though such trucks are never used in residential areas. Other cities outlaw prefab housing, mobile homes or the renting out of single rooms in houses. Still others charge exorbitant development fees that represent nothing more than a backdoor way of raising taxes. Areas near Chicago and Seattle bar new homes on lots of less than five acres.

Many strict zoning laws grow out of a natural concern that new development will lower property values and increase congestion. But property values have held up well in cities that have liberalized their zoning. As for congestion, exclusionary zoning often forces development into outlying regions. The results: suburban sprawl that leads to longer commutes, more traffic and an effective bar to any form of mass transit.

The artificially high cost of housing also has broader social consequences. Police officers, firefighters and teachers often can't live in the community in which they work; studies show that can contribute to poor morale. The elderly often can't afford housing near their children. Regulations that add \$40,000 to the cost of an average home in Orange County, California, mean that many local workers can't live closer than a 70-mile congested commute from their jobs.

Curiously, the commission is largely silent on the impact of rent control on the supply of affordable housing. Rent control, now in effect in more than 200 American cities, has been called the most effective way to destroy cities short of carpet bombing. It discourages both the building of new housing and the rehabilitation of old buildings. The Department of Housing and Urban Development has a task force examining the impact of rent control but it hasn't issued its report, even though it was formed nearly two years ago.

Still, the Kemp commission's report is a start toward developing a strategy to sweep away the bureaucratic underbrush that is choking off the supply of decently priced housing. If nothing is done, the children of today will be the first generation of Americans who won't be able to afford to live in the communities they grew up in.

Saturday, June 15, 1991

## DAILY NEWS

220 E. 42d St., New York, N.Y. 10017

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### Rent control: It's killing you

**C**HANCES ARE THAT YOU SUPPORT New York's rent law. Most New Yorkers do — eight out of ten, according to a recent poll. The reason is obvious: They think rent control saves them money.

With that kind of popular support, it's no surprise that Gov. Cuomo and state lawmakers just renewed the rent law for yet another two years. But appearances are often deceiving when it comes to matters of public policy, and rent control is a prime example. It has wrecked New York's housing stock. It puts people out on the street. It takes money out of middle-class bank accounts and uses it to line the pockets of the rich and famous.

It cheats the city of badly needed real estate taxes.

The bottom line: New York's rent law doesn't work. Hasn't for years. With real estate values down, vacancies up and city government strapped for cash, this would have been an ideal time to scrap the laws once and for all. Or at least relax them.

New York's rent regulations are rooted in World War II efforts to ease a severe local housing shortage and to control inflation. Today, these rules, which were never intended to become a permanent policy, force landlords to rent out apartments for less than they're worth. That makes tenants happy — in the short run.

But there's more to rent control than the size of your monthly rent check. Plenty more.

**B**ECAUSE OF RENT CONTROL, many small, struggling landlords go broke. Or become strapped financially and skip repairs. Abandon buildings. Lose them in tax foreclosures. Meanwhile, developers are discouraged from building new housing.

The results? Read 'em and weep:

■ **Declining housing stock.** Healthy buildings turn into boarded-up shells. Homelessness mushrooms. Tenants who'd rather move are held hostage to their low rents, while needier families scramble for affordable places.

■ **Vanishing tax dollars.** In a study for a leading group of landlords, the accounting firm of Peat, Marwick estimated that some \$370 million in real estate tax revenues were foregone because of rent control. That's because controls drive down building values — keeping tax assessments artificially low. Revenues are also lost when abatements are granted to landlords who agree to rent controls.

■ **Cheap penthouses.** Under the law, rich or poor, you can stay in your low-rent unit for as long as you like. But studies have found that in poor neighborhoods, controlled rents are not much lower than market rents, while in wealthier areas, residents save a bundle on regulated housing. Fatcats like Mia Farrow, Carly Simon, art appraiser Sigmund Rothschild, Metropolitan Opera conductor James Levine, even Mayor Ed Koch have reaped bonanzas by paying peanuts to live in urban luxury.

Why would Gov. Cuomo, the Legislature, Mayor Dinkins and others who cringe at policies that protect the rich continue to support rent controls? Emotion, for one thing. Feelings run strong about rent control. Landlords are considered the bad guys. (Some, of course, are.) And nearly half the city's residents live in controlled or stabilized units. That's a big bloc of votes.

**B**UT EMOTIONS CAN CHANGE. And they must. Though the law has been extended another two years, rent control is currently facing one of its stiffest legal challenges ever. Landlords are suing, claiming the glut of apartments effectively voids the law. Lawmakers should start now on repealing — or, at least, relaxing — it. Why not avoid costly litigation?

No one suggests dumping the law overnight, putting rent-controlled tenants on the street or slapping the poor with steep rent hikes. The rules could be phased out gradually, with current tenants exempted. Or they could be applied selectively, to those who really need low rents.

But one way or another, rent control has got to go. It has hacked the heart out of New York's housing stock for too long. And there's no better time to restore it than now.



PERSEPCTIVES

# *PERSEPCTIVES; The New Approach on Tax-Delinquent Property*

By Alan S. Oser

March 3, 1996

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FROM his office in Bordentown, N.J., J. Douglas Breen runs a tax collection operation. He collects delinquent taxes from Jersey City property owners, but not as a public employee. He's a principal in the Breen Capital Group, a servicing company for the First Boston Corporation, the winning bidder in 1993 when Jersey City farmed out the task of collecting \$43.7 million in unpaid property taxes. The city was paid \$25 million for the privilege, and hopes to get more eventually. Meanwhile, the collections rate since 1993 has risen.

"Generally, these are people who forgot to pay, or people who are down on their luck and want to make a partial payment, or refinance, or sell," Mr. Breen said. "Based on our calculations, every one of these owners should have enough equity in their property so that redemption should occur without the trust having to take over ownership."

Now New York City is setting out on the road Jersey City and a handful of other municipalities have traveled -- the sale of tax liens, or claims for unpaid taxes, which are used as collateral to back securities that are sold to an investment trust set up by the successful bidder. A vote in the New York City Council is expected this week on the Giuliani administration's plan to sell \$250 million to \$300 million in liens to raise an immediate \$147 million to plug into the budget for fiscal 1997, which begins July 1. Late last month the bill was approved by the Council's Finance Committee.

But there is a second phase to come in the city's new approach to dealing with tax-delinquent property. A second piece of legislation, under consideration by the Council's Housing and Building Committee, would empower the city to seek a court judgment deeding a tax-delinquent parcel to a third party after four quarters of tax arrearage.

For the first time, the two departments would work collaboratively to short-circuit the long familiar "in rem" process of city takeover, which leads to interim management by the housing agency or an alternative entity -- a private company, community group or tenant organization -- and ultimately, years later, resale.

The owner would be selected from a list of qualified buyers, who would normally get the benefit of the usual city subsidies that come into play in the recycling process -- a public-private loan for buildingwide improvements, rent restructuring and lowered, or wiped-out, property taxes. Owners wishing to hold their property could still do so by entering into an installment schedule on repayment of back taxes, broadened to allow lower interest payments after an initial 25 percent or 50 percent payment.

The goal is to tailor a housing preservation approach to buildings before they are abandoned -- and save the time and cost of interim city operation of innumerable properties.

Deborah C. Wright, the Commissioner of Housing Preservation and Development, hailed it as a "revolutionary" approach, permitting greater flexibility in rescuing distressed building. "You can't expect that one strategy will fit all properties," said Commissioner Wright. Ms. Wright is leaving city government to become president of the recently formed Upper Manhattan Empowerment Zone Corporation in May. The corporation will oversee the spending of Federal money in the Harlem enterprise zone established by Congress; a separate corporation will oversee spending in a South Bronx zone.

Small owners may well wonder whether property experiencing perhaps temporary leasing or rent-collection problems will be wrenched from them prematurely and deeded to third parties before they can work out the problems themselves. Successful for-profit and nonprofit housing operators may wonder whether sufficient and prompt public subsidies will be provided to allow them as chosen third-party owners to revive failing buildings.

And will the "early warning" system that the city hopes to have in place in prototype form by May work successfully to draw responsible private owners of rental property in for housing assistance before their property is deeded away. As for ownerships that have a bad record on housing violations and tax delinquencies, the new legislation would make it easier for the city to wrest control sooner and place it in new hands.

The tax-lien sales are to include only properties with a relatively low ratio of liens outstanding to market value of the property. The gap is what gives investors confidence liens will be repaid, either by owners or mortgagees.

A substantial fraction of delinquent properties have high ratios, although the number that are headed to abandonment by their owners and lenders is impossible to calculate. The recycling of abandoned residential property has been the principal business of the city's Department of Housing Preservation and

Development for years. Over the last nine years the capital cost has been about \$2.9 billion. As of last month, the housing agency was holding 4,700 buildings, of which 3,200, with 34,800 dwelling units, are occupied. The rest -- 1,500 buildings with 11,000 units -- are vacant.

THE Jersey City experience with the tax-lien law is especially timely for New Yorkers, although there are contrasts with the New York approach. Mr. Breen said that the Jersey City sale included almost all the outstanding tax liens. In New York, the plan is to sell about 25 percent of the liens. In Jersey City, prior to 1993, the overall collection rate was 78 percent. It rose to 93 percent after the new policy went into effect. In New York the overall collection rate is 95 percent. Officials say that for every 1 percent the lien-sale threat raises collections, the city will realize \$80 million.

In Jersey City, foreclosure actions have begun against 700 of 2,517 properties. So far there have been no completed foreclosures. Workout arrangements have been started in 300 cases. In New York, houses, co-ops and condominiums are excluded from the sale. These properties must be in arrears at least three years before their liens could be sold. No specific property types were excluded in the Jersey City sale.

The average lien-to-market-value ratio in the Jersey City sale was 25 percent to 30 percent, Mr. Breen said. In New York, the average is also to be under 30 percent, with perhaps exceptions where liens may be as much as half the property's market value. But a high ratio is not necessarily a sign that a property no longer has market value. Partnership disputes, managerial disruption or rent strikes can lead to nonpayment of taxes; so can the loss of a major commercial tenant in a well-located building.

Mr. Breen said that one one occasion a delinquent Jersey City taxpayer paid off a \$50,000 lien on a property that had a market value of \$10,000. He said he could give no explanation for it.

He also said that "widows and orphans" are rarely the owners of tax-delinquent property. "They have usually made the decision to take care of their property," he said. "It's the scofflaws that cause the greatest damage, because they're recurring delinquents and they use tax money to buy other properties." These recurring delinquents account for about half the pool, Mr. Breen said.

Tax payments collected by Breen Capital are used to pay off notes issued by FBTLT Trust II, an investment vehicle that issued the notes with which to pay Jersey City \$25 million for the \$43.7 million in liens. Once the noteholders are repaid \$31 million, retiring the notes, Jersey City will collect any additional payments.

In New York City, according to the Finance Department, at least two-thirds of the 5,000 parcels in the lien sale are commercial properties. The other third are high-value rental buildings with a low lien-to-value ratio. It is unlikely that industrial properties will be included in the sale.

As testimony before the City Council Finance Committee on Feb. 23 made clear, the lien-sale procedure is looked on skeptically by various housing organizations. "It gives the Finance Commissioner too much discretion on how to treat housing," said Jay Small, executive director of the Association for Neighborhood Housing Developers, an advocacy organization for nonprofit developers.

And David R. Jones, president of the Community Service Society of New York, expressed the fear that in a lien sale, a property might become current in tax payments while tenant interests suffered. "Lien holders may neglect properties as much as the worst owners," he said.

They might also cause moderate-income people who own and live in small multifamily buildings to lose their property, according to Edward Korman, vice president of Small Property Owners of New York. Many owners of 5- 10- or 14-family buildings are already under pressure because of low rents or inadequate collections, the small owners say. Tightening the screws on taxes can only make matters worse, he said.

But other owner organizations have been generally quiet about the new approach, perhaps calculating that it is the method of implementation, rather than the law itself, that will be the true test of success.

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A version of this article appears in print on , Section 9, Page 7 of the National edition with the headline: PERSEPCTIVES;The New Approach on Tax-Delinquent Property

## THE RENT RACKET

# The Fateful Vote That Made New York City Rents So High

A 1994 City Council vote enabling landlords to dodge limits on rent increases has had a profound impact on the lives of New Yorkers.

by Marcelo Rochabrun and Cezary Podkul, Dec. 15, 2016, 9 a.m. EST



At the end of a pedestrian tunnel, down a flight of stairs from street level, a plush bar with a Prohibition motif caters to wealthy newcomers who have gentrified Manhattan's Lower East Side, displacing immigrants and blue-

The surge in rents from that neighborhood above the bar also profits from the neighborhood's transformation. In 1994, a typical apartment in the 25-unit Norfolk Street building cost \$552 a month. Today, it rents for \$4,800.

This almost nine-fold increase reflects the gradual dismantling of New York's system of rent stabilization. That system is supposed to protect renters, who occupy almost two-thirds of New York's housing stock, by limiting annual rent increases to modest amounts set by the city. Instead, it's become so easy and lucrative for landlords to circumvent these





deputy commissioner for the city housing agency. “Back in 1994 I wished that would happen. Did I believe it could happen? Not on your life.”

In a city where haves and have-nots have battled over affordable housing since the Civil War, the Council vote tilted the balance. Vacancy decontrol expanded the city’s tax base, and likely helped revive decaying neighborhoods, but at the cost of driving out longtime residents. Those dislodged had few other options, especially since New York’s population, which fell sharply in the 1970s, began to climb. For every rental unit added to the housing stock between 1993 and 2014, nine people moved into New York, according to a ProPublica analysis of city and census data.

Back in 1994, hardly any tenants outside Manhattan’s toniest neighborhoods were paying \$2,000 a month or more. The median rent across the city was under \$600. Since then, of the 860,000 apartments that were stabilized, almost 250,000 have become free-market units, diminishing New York City’s largest source of affordable housing. Most of the decrease came from vacancy decontrol.

A third of New York households now pay at least half of their income in rent, and homelessness in the city is at its highest level since the Great Depression, having more than doubled since 1994. Between January 2013 and June 2015, owners of private properties filed more than 450,000 eviction cases citywide, data from the New York City Public Advocate’s Office showed. Less than 10 percent of all identified landlords were responsible for 80 percent of the cases.

“Vacancy decontrol is such a key player in why apartments are unaffordable for the average renter in New York,” said Jenny Laurie, a tenant advocate who lobbied against the 1994 measure. “It gave the landlords a bull’s eye to aim for. They did everything possible to raise the rent.”

The standard economic argument for decontrol — that raising rents to market rates spurs construction of new apartments — was less persuasive in New York, where housing built after 1974 was already exempt from caps on rent increases. Instead, supporters of vacancy decontrol framed it as an egalitarian reform, a way to force rich renters to cough up their fair share. “There is no way that the Council members ... would permit affordable housing to be taken away from low income people,” John Fusco, who represented Staten Island, said during the Council’s 1994 deliberations. The Rent Stabilization Association (RSA), the city’s biggest landlord group, which pressed for the 1994 law, still takes the same stance today.

New York’s rent regulation “protects the wealthy to a far greater extent than the people most in need of rent protections — the poor,” Mitchell Posilkin, the RSA’s general counsel, said in a statement. “Historically, these

higher rent apartments are occupied by higher income tenants, who are not in need of rent protections.”

But, by setting a threshold, the Council gave landlords an incentive to hike rents in traditionally inexpensive apartments above \$2,000 and displace older, poorer tenants. Many landlords have done so, taking advantage of a variety of loopholes created by the state legislature and the courts.

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The March 1994 vote reflected the political muscle of two men: Peter F. Vallone, then Council speaker, and Joseph Strasburg, his former chief of staff, who had become president of the city’s most powerful landlord group only a month before. No fewer than 11 Council members who had co-sponsored a bill to continue existing rent regulations changed positions at the last minute and backed vacancy decontrol. Virginia Fields, a member from Manhattan who was absent for the vote, said in an interview that the number of switchers was “huge” and unprecedented in her experience.

Among them was Anthony Weiner, who represented Brooklyn. He defends his vote to this day on the grounds that it was needed to block a total gutting of rent regulation. “Posturing was easy that year,” he told ProPublica in an email. “Trying to save the program was much tougher.”



*Anthony Weiner at a campaign event during his unsuccessful mayoral bid in 2013 (AP Photo/Bebeto Matthews)*

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The vote came up when Weiner sought the Democratic nomination for mayor in 2013. Another candidate, Bill de Blasio, attacked Weiner during a

mayoral debate for having supported vacancy decontrol. “It’s absolute bull to say you had no other choice,” de Blasio, now mayor, told Weiner.

Martin Malavé Dilan switched positions in 1994, too. “I will also vote today to end subsidies for those people who need it the least,” he said at the time. Then a freshman member from Bushwick, where the median rent was about \$500 a month, Dilan thought vacancy decontrol would never affect his constituents.

But it has. Two Bushwick landlords recently pleaded guilty to using intimidation tactics, from pit bulls to sledgehammers, to drive tenants out of stabilized units. Dilan’s old Council district has lost one in five of its rent-stabilized apartments since 2007, tax records show.

Dilan has moved up to the State Senate, but he can’t shed his 1994 City Council vote for vacancy decontrol, which became an issue in his re-election campaign this year. “If I had known that this would have such an impact on my district, I definitely would have voted against it,” he said in an interview. “Knowing what I know now, yes, it’s a vote that I regret.”

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In the early 1990s, New York City was struggling. It was running annual budget deficits of more than \$2 billion. The number of murders each year was almost six times higher than it is today. And thousands of buildings had been foreclosed because owners failed to pay their taxes, costing the city hundreds of millions of dollars.

The real-estate industry blamed the foreclosures on rent regulation. Its solution was higher rents. They would enable landlords and developers to make a decent return that they could reinvest in maintaining buildings and constructing new ones, lifting the city’s depressed housing values.

A barrier stood in the way: The city’s longstanding housing shortage had spawned protections for tenants, shielding them from rent increases and evictions that could strand them with nowhere to live. Even with vacancy decontrol, New York still “stands out far ahead of every other American city in terms of the scope of the programs and the percentage of units that are protected from the unregulated market,” said historian Thomas Mellins, who recently curated “Affordable New York: A Housing Legacy,” an exhibition at the Museum of the City of New York.

Introduced in 1969, New York’s rent stabilization system was technically a temporary measure whose ultimate goal was the return to a free market. Yet it was repeatedly renewed, and generations of New Yorkers came to depend on it. The Real Estate Board of New York (REBNY), which represents developers, and the RSA, the landlord group, have never been able to muster support for a full repeal of rent stabilization, which a 1992

New York Times editorial described as “an icon in New York City, protected by politicians” who dared not offend their tenant constituents.

To the real-estate industry, the argument for rent control was circular. “Rent regulations have been maintained continuously based on continuing housing shortages,” then-RSA president John Gilbert III told the City Council in 1988, “despite the fact that these housing shortages have largely been induced by the very existence of rent regulations.”

Acknowledging that the regulations were unlikely to disappear overnight, the industry pushed for a more modest goal. “Vacancy decontrol was the next best thing,” said Dennis Keating, an urban-studies professor at Cleveland State University who has studied rent regulation across the country.

In 1971, the New York state legislature enacted vacancy decontrol for all apartments, regardless of the rent. The measure was repealed three years later after a state commission found soaring rents in decontrolled apartments.

The industry pushed to restore decontrol. In December 1992, the RSA demonstrated its clout by bringing then-Mayor David Dinkins and other top city and state officials to a full day of discussions at a Sheraton hotel in midtown Manhattan. The subject: the survival of the rental market in the city.

Toward the end of the event, then-RSA president Gilbert looked to the future. He stood at a podium, flanked by the chairs of the State Senate and Assembly housing committees.

“The next legislative session in Albany is key,” Gilbert said. Gilbert didn’t respond to a request for comment.

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Gilbert was anticipating 1993, when the legislature would consider New York’s rent laws once again. While both the state and the city must renew these laws periodically, the state has primary responsibility. Under a 1971 law, the city can weaken tenant protections, but cannot strengthen them.

The rent stabilization laws were due to expire on June 15. In late May, the landlord association mailed a video to Gov. Mario Cuomo’s office that included excerpts of the Sheraton Hotel discussion. Toward the end of Gilbert’s remarks, a message appeared on the screen in white letters: “Enact Vacancy Decontrol.” The camera then panned to an audience clapping.

The RSA took a now-or-never tone with Republican legislators who depended on campaign contributions from the real-estate industry. The association told Guy Vellela, a Republican senator from New York City, “that if you renew the rent laws again without weakening amendments, we’re not going to give you any money,” according to tenant lobbyist Mike McKee. McKee said that Vellela, who died in 2011, told him about the threat.

Over the past few decades, the Senate and the Assembly had never reached a deal on rent laws before the very day they were supposed to expire. In 1993, the brinksmanship lasted beyond the deadline. The laws were set to expire on a Tuesday. With no deal in sight, the state legislature extended the laws for a few days at a time as negotiations continued.

Finally, over a weekend, a deal was reached, giving landlords the escape route that they had coveted for decades, but only for a three-month window. The landlords gained vacancy decontrol of apartments with rents over \$2,000 if a tenant moved out between July 7th and October 1st of that year. Few leases expired in that period. The landlords also won a separate form of decontrol enabling them to boost rents without a vacancy if the monthly rent exceeded \$2,000 and the tenants’ household income in the two preceding years surpassed \$250,000.

That measure affected only a relative handful of tenants, including Manfred Ohrenstein, a successful lawyer and the Senate minority leader, who helped orchestrate the agreement. He lived in a palatial 10-room apartment on the Upper West Side. The apartment was rent-stabilized.

The small elite of wealthy Manhattanites paying tiny rents for prime apartments—including actress Mia Farrow and Ohrenstein—became a staple of the landlords’ counter-offensive. One New York Post cartoon featured a tuxedo-clad tenant who commented to his wife from a grand staircase beneath a chandelier: “Start giving in to those damn landlords and before you know it we’ll be paying \$200 a month!”

Ohrenstein became a target of criticism thanks to Charles Urstadt, a former head of the state housing agency, for whom the 1971 law giving Albany control over rent rules is named. “I found out [Ohrenstein] had a big apartment on Central Park West,” Urstadt, now 88, recalled in a recent interview. “And I leaked that to the press.”

As a result of the 1993 deal, Ohrenstein’s rent quadrupled. He moved to a smaller place.

“I was the only jerk in town who just voted to raise my rent,” Ohrenstein said during an interview at his 37th floor office in the Chrysler building in midtown Manhattan.

Four months after the legislature approved decontrol, The Buffalo News reported that the Senate Republican Campaign Committee had to give back \$27,500 of \$90,000 in campaign contributions from a political action committee controlled by the Rent Stabilization Association because they exceeded the legal limit. A Republican Party spokesman said at the time that there was no connection between the landlords' contributions and the Senate's support for changes in rent regulation.

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One influential politician featured at the RSA's 1992 Sheraton Hotel event was City Council speaker Peter Vallone. "Let me tell you, what you are doing makes a real difference, it really does," he told the audience of more than 1,200 people from the real-estate industry. "This is what changes government."

Vallone, a Democrat, had led the Council since 1986 and cosponsored two renewals of the rent stabilization laws without weakening them. After the state legislature dipped its toe in the water of vacancy decontrol in 1993, the Council was to address the regulations again in 1994.

A devout Catholic, Vallone considered becoming a priest, and goes to Mass regularly. His father was a judge, and his mother a teacher. He grew up in the middle-class Queens neighborhood of Astoria, and earned bachelor's and law degrees from Fordham University. Friendly and amiable in public, he ruled the Council like a Tammany Hall boss. From his office below the Council Chambers in City Hall, he and his staff would listen via microphones to meetings above and call down legislators for scoldings.

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*Then-Council Speaker Peter Vallone, left, and New York City Mayor Rudolph Giuliani during a bill signing in 2001 (AP Photo/Diane Bondareff)*

“I distinctly remember a few votes when Peter was the speaker where he would literally raise hell,” said Sheldon Leffler, who, like Vallone, represented Queens. “I almost had the impression he was going to collapse in front of me. His face would turn so red I wouldn’t be surprised if he was about to drop dead and I was going to be blamed for it.”

Vallone “tried to be a person who could call on you for a key vote that he wanted regardless of your convictions,” Leffler said. “He would tell you what he wanted you to do, but any actual discussion on the merits would be very brief. Then he would say, ‘You have to do this.’”

Vallone controlled committee appointments and a \$4 million discretionary fund that members used to carry out projects in their districts or to back community organizations. Those who opposed his agenda could lose funding.

“Once you take that money it’s like organized crime,” said Sal Albanese, an independent-minded Council member who often defied Vallone, and was never given a committee chairmanship. “Either you do as you are told or you lose a committee.”

“Peter just became obsessed with what he thought was his job: to keep people in line,” Leffler added.

To do so, Vallone depended on his chief of staff, Joseph Strasburg. The son of a baker, Strasburg moved to New York City at age 6 from Israel. Raised in the Bronx, he later lived in a regulated apartment in Stuyvesant Town, the

city's biggest rental complex, where he participated in the tenants association. But the gregarious attorney crossed over to the landlord side in January 1994 when he accepted the RSA presidency, which he had turned down the previous summer. It was a lucrative position. By 2014, he was making almost \$800,000, tax records show.

John Gilbert, RSA's former president who had predicted that the legislature's 1993 session would be key, showed similar foresight about his successor: "If anybody could put together the coalition necessary to implement vacancy decontrol, Joe Strasburg's the guy," Gilbert told a business publication when Strasburg was hired two months before the Council was to conduct its triennial review of the rent laws.

Strasburg was prohibited from lobbying the City Council for a year. Nevertheless, at least three former Council members said that his fingerprints were on the vacancy decontrol campaign.

"He set it all up," Albanese said. "[Strasburg] was the most influential member of Vallone's staff. He literally ran the Council." McKee, the tenant lobbyist, recalled Strasburg as a daily presence in the Council chambers in the weeks before the vote.

Kathleen Cudahy, then Vallone's legislative counsel, said Strasburg abided by the lobbying ban. "There is nothing wrong with somebody who leaves government, comes back to visit colleagues, even talk to them for informational purposes, but lobbying as it's defined is a real no-no," she said in an interview. "He was quite aware of it, and there is no way he would have lobbied on it."

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Early in February 1994, three days after Strasburg began his new job at the RSA, Mike McKee and other tenant advocates met with Vallone. Stung by Albany's weakening of rent regulations, they wanted assurances that the Council would leave the laws alone. The assurances were not forthcoming. Vallone was "noncommittal," according to McKee.

McKee and Jenny Laurie, then the director of the Metropolitan Council on Housing, a tenant group, followed up with Vallone's legislative counsel, Cudahy.

"That's when [Cudahy] told us" that Vallone, exercising the Council's authority to lighten rent regulations, planned to extend vacancy decontrol for three years, McKee recalled. The decision surprised them and they tried to sound the alarm. "People were just asleep at the wheel, it was really very frustrating."



Cudahy said she didn't recall the meeting but "it sounds consistent with the events, certainly." She added with a chuckle, "It wouldn't be unusual that I'd be the bearer of bad news."

On February 28, twobills were formally introduced into the Council. One of them had 25 sponsors, just one name shy of a simple majority out of the 51-member body. With Albany's window for decontrol now expired, the bill proposed keeping it closed and continuing rent regulations as they were.

The other bill proposed decontrolling vacant apartments that rented for over \$2,000 for three years, from 1994 to 1997. That bill had only four sponsors. But one of them was the housing chair, Archie Spigner, a Democrat from a Queens district largely populated by homeowners rather than tenants.

It soon became clear that Vallone favored Spigner's bill. One of Vallone's aides summoned Leffler and asked him to vote for decontrol. It wasn't a political risk for Leffler because most of his constituents were homeowners. When Leffler refused, the aide tried to stop him from leaving the room, according to McKee. Leffler said he didn't specifically recall the incident, but it would have been typical of Vallone's leadership style.

The Housing Committee met on Thursday, March 10, for nine hours, hearing testimony from both sides.

One landlord representative downplayed the effect the bill could have on tenants. Because of a sluggish economy, "the unregulated market and the regulated market rents have come so close, the impact of decontrol now will be as minimum as it could ever be," Dan Margulies, a property owner's representative, told the committee. "The political time is now."

Following the hearing, tenants held a press conference at City Hall. Una Clarke, a Council member from Brooklyn, delivered what a tenants' newsletter described as a "fiery speech in support of rent regulation."

Tenants lobbied members, but made little headway. "Everyone outside of Manhattan said, 'This will not affect my district because no one in my district pays \$2,000 a month,'" Laurie recalled.

Donald Halperin, the state's housing czar, proved prophetic. He wrote to Vallone a week before the vote, expressing concern about the Speaker's support for expanding vacancy decontrol beyond the three-month period negotiated in Albany.

"The State Legislature's action was intended to provide a window of opportunity ... not to permit the practice to continue in perpetuity," he wrote. "Furthermore," he warned, the measure would provide "a great incentive for owners to aggressively encourage vacancies."

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The City Council usually votes on Wednesdays, and Vallone scheduled a vote on the rent regulations for Wednesday, March 16. Then it was suddenly postponed until the following Monday. McKee believes Vallone delayed it because he wasn't sure he had the 26 votes needed for passage.

Vallone and Strasburg were also bucking the new mayor, Rudy Giuliani. He had defeated Dinkins on a platform that promised to end the city's fiscal deficit and sell off the thousands of properties it had accumulated through foreclosure. He opposed vacancy decontrol, but didn't want to risk political capital against it.

"This is not the fight to have," noted an aide to Giuliani, citing "the politics of it for the mayor."

Giuliani likely sensed that the tide was shifting toward the landlords. "Organizations representing building owners are mounting a last-minute lobbying effort," Andrew Eristoff, a Republican and a Council member from Manhattan, warned the mayor.

Still, decontrol opponents saw Giuliani as their best hope. Three days before the vote, Stanley Michels, who represented Harlem and was among the most vocal supporters of rent regulation, gave Giuliani a list of Council members who could potentially help him sustain a veto, according to handwritten notes taken by Jack Linn, then a lobbyist for City Hall. That same day, when Deputy Mayor Peter Powers met with his staff, they discussed whether to veto the decontrol bill if it passed the Council.

Marc Mukasey, an attorney and spokesman for Giuliani, did not respond to a request for comment.

There were 17 names on the list, representing one-third of Council members, the minimum needed to uphold a veto. Four of them would vote in favor of decontrol.

The late Antonio Pagán represented the Lower East Side, including the tenement on Norfolk Street. On March 18, his chief of staff, Anne Hayes, wrote to tenant advocates, promising that Pagán would oppose decontrol. She hadn't cleared that stance with her boss, who was out of town, Hayes said in an email. On his return, Pagán startled tenant advocates by backing decontrol. He told the housing committee at the March 21 meeting to ignore opponents' doomsday warnings. "The enemies of decontrol today are asking for your strong lobby to protect God knows what," Pagan said. "It's a lie. It's a lie. It's a lie. It's a lie."

The committee approved decontrol 5-3, and members then hastily assembled for a floor vote. Agendas were distributed so quickly at the

general Council meeting that followed that Eristoff suspected they had actually been printed before the committee voted to approve the bill.

“Let me just be frank with you. The committee process is pro forma at best,” Eristoff said in an interview. “Nothing gets passed out of committee without the speaker’s office approving it first.”

Michels made a last-minute appeal to Council members. He argued the decontrol bill contained the “poisoned seeds of destruction of all rent control, all rent stabilization in the city.”

Una Clarke did not say anything at the meeting, transcripts show. But after standing with tenants at the March 10 press conference, she voted for vacancy decontrol. She declined repeated requests for comment.

Two days after the vote, Giuliani announced he would sign the bill into law, without mentioning he had considered a veto. “The Mayor was playing games here,” Albanese recalled. “He really did not exert any pressure. Giuliani could have stopped vacancy decontrol if he really didn’t want it.”

At the signing, Giuliani lamented that the bill he preferred had lost, but called the result a “fair compromise.”

Spigner, the housing chair and sponsor of the decontrol bill, prepared a short speech for the signing, which he apparently softened at the last minute.

“Tenants are more concerned that [this bill] presents a slow but sure dwindling of rent regulations,” Spigner said, before deviating off script. He had planned to say, “Yes, [this bill] is a step but unfortunately it’s only a small step, and my only regret is that it is such a small step.” But he skipped the potentially inflammatory remark, and resumed in a less controversial vein.

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Vacancy decontrol had little immediate effect. In 1994, 544 units were deregulated in Manhattan, but only three in the Bronx, nine in Brooklyn, and nine in Queens.

The pace accelerated as landlords learned how to exploit regulatory gaps to hike rents above the \$2,000 threshold. The most important loophole allowed them to pass on a small percentage of apartment renovation costs to tenants. Whenever renters paying less than \$2,000 per month moved out, savvy owners claimed expensive renovations, and then charged new tenants whatever the market would bear.

“That is the number one tool for gentrification and the number one tool for fraud,” said Aaron Carr, head of the nonprofit Housing Rights Initiative, which recently organized a lawsuit against one of the city’s biggest landlords over the tactic.

The renovation ruse alarmed Speaker Vallone, who in 1997 complained that “decontrol could take place for apartments that became vacant with rents less than \$2,000. That was not the intent of the Council.” At his prodding, the Council banned the practice.

But later that year, the legislature struck down the prohibition and allowed landlords to increase rents by 20 percent whenever a stabilized apartment fell vacant, even without renovations. Tenant groups called it the “eviction bonus,” because of the incentive it gave owners to expel residents.

Under state and city law, buildings that collected certain property tax breaks were supposed to limit rent increases in return. But soon they, too, were removed from regulation. First, in 1995, Giuliani and Senate Majority Leader Joe Bruno reached a deal to extend decontrol to downtown Manhattan office buildings that had been converted into apartments. The following January, a top lawyer for the real-estate industry persuaded the state housing agency to allow landlords to deregulate thousands of apartments in renovated older buildings. Both types of buildings enjoyed tax subsidies.

In 2003, landlords obtained the right to collect rent increases retroactively. This policy allowed owners who had increased rents each year below the maximum amount set by the city to make up the difference whenever a lease came up for renewal. Currently, tenants in nearly one-third of rent-stabilized units pay these below-maximum “preferential rents.” As a result, when their leases expire, their landlords can jack up rents on these apartments by more than is otherwise allowed.

Increases in the decontrol threshold lagged behind inflation. In real terms, the \$2,000 bar set in 1994 is equivalent to \$3,260 today. But lawmakers waited until 2011 to raise it, lifting more apartments over the dividing line with each passing year. Today, it’s \$2,700.

As the toll of its 1994 vote on tenants was becoming apparent, the City Council lost the power to reverse its decision. In 1997, the legislature stripped the Council’s authority to repeal vacancy decontrol, which it enshrined in state law. In the next decade, tenant lawyer Sam Himmelstein told ProPublica, the surge in evictions helped his business grow eightfold.

“I personally was in court every day with three to four cases,” he said.

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A grateful real-estate industry rewarded the architects of vacancy decontrol. When Peter Vallone ran unsuccessfully for mayor in 2001, his offices were located in the same building as the RSA, and two of his key backers were the industry's largest interest groups. Spinola, REBNY's president, raised slightly over \$175,000 for Vallone. Strasburg, RSA president and Vallone's former chief of staff, raised just under \$110,000, according to The New York Times.

Spinola retired in 2015 and was replaced by John Banks III, also a former chief of staff to Vallone. Strasburg still heads the RSA, which declined to make him available for comment.

Kathleen Cudahy, who advised McKee and other tenant advocates of the council's intentions to enact vacancy decontrol back in 1994, works now for a lobbying firm headquartered just across from City Hall. She heads up the firm's real-estate practice.

Vallone defended the 1994 vote in his 2005 autobiography, "Learning to Govern: My Life in New York Politics, From Hell Gate to City Hall." The Council "moved to break the stranglehold on the city's housing supply by passing a law decontrolling apartments," he wrote. "... Even this small effort to modify incongruous aspects of our rent laws that were mostly hurting the middle class and the poor was interpreted by some tenant interest groups as the opening salvo in a conspiracy to destroy rent stabilization."

Today Vallone, who just turned 82, divides his time between Constantinople & Vallone, a lobbying firm at the same address as the RSA, and Vallone & Vallone, a family-law firm just off the last stop on the elevated subway route to Astoria. A sign in the firm's window reads, "Keep Christ in Christmas."

Vallone wasn't in when reporters visited his wood-paneled third-floor office, which is lined with photos and plaques from his years on the Council. At his modest, two-story home nearby, Vallone autographed a copy of his memoir before begging off an interview, saying he had to catch a plane.

"Some other day," he said. His assistant at the family-law firm then said there would be no interview.

The City Council has passed four motions asking the legislature to undo vacancy decontrol. Three Council members who supported decontrol in 1994 and have moved on to the legislature — Dilan, Annette Robinson and Jose Rivera — have tacitly admitted their mistake by endorsing repeal bills. Dilan sponsored two repeal bills in the 2015-16 session alone. The

Assembly, with a Democratic majority, has approved five such measures. But the Republican-controlled Senate has ignored them all.

The next generation of politicians inherited the controversy. Peter Vallone Jr., who replaced his father on the Council before becoming a judge, voted once for and twice against vacancy decontrol. Another son, Paul Vallone, has supported repeal. So have Dilan's son, Eric, and Clarke's daughter, Yvette, now a member of Congress.

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On the Lower East Side, median rents have tripled since 1995, while they have doubled citywide. Shortly before the Norfolk Street building went up for sale in December of 2013, the rents there illuminated the "tremendous upside" for a buyer who would drive out existing tenants. Of the building's 25 units, the few free-market apartments were collecting almost as much rent as another 18 units — all regulated — put together, according to tax records compiled by Property Shark, a real-estate website.

Investor Samy Mahfar bought the building for \$11 million in March 2014. He describes himself on his web site as a preservationist who specializes in restoring tenements that housed immigrants. But tenant advocates say he exploits the rent stabilization laws to displace long-term tenants and gentrify buildings.

Within a week of taking over the building, Mahfar had spoken with all the tenants, offering buyouts and warning that conditions in the building would become dangerous. He was planning building-wide renovations, which can help boost rents above the decontrol threshold.

A month later, in April, a city health inspector found levels of lead in the air 2,750 times the legal limit, the byproduct of Mahfar's removal of paint and plaster from the common areas to expose the brick walls. By July 2014, tenants encountered water shut-offs, stray wires, dust and debris.

In 2015, seven tenants sued Mahfar in housing court. They settled in February 2016. Mahfar promised not to harass them and agreed to waive their rent for a year.

One of the plaintiffs, Brian Clark, a risk-management analyst, said he feels sorry for longtime residents who moved out of

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### **Are You Paying Too Much Rent? What You Need to Know About Rent Limits**

Tens of thousands of New Yorkers are moving into newer rent-stabilized apartments. Many are paying 'preferential' rents that tenant advocates say invite abuse by landlords. **Read the FAQ.**

their rent-stabilized apartments under pressure. “It’s a losing system,” he said.

## **Help Us Investigate New York City Rents**

Is your rent legal? It might not be. Your landlord might be charging you too much, and **we want your help** figuring that out.

Clark said ten of his rent-stabilized neighbors moved out. Apartments have been converted into luxury rentals, with Caesarstone counters and Carrera marble bathrooms.

Mahfar denied that his business model was to drive out rent-stabilized tenants and raise rents to market rates. “We ... demonstrably improve the living conditions of our tenants,” he wrote in a response to questions. “... I am not denying mistakes were made but we quickly worked to correct them and we actively took measures” to ensure they were not repeated.

“Most tenants seem to be happy these days,” Mahfar added. To illustrate the turnaround, he quoted a tenant in a rent-stabilized unit as telling him, “The transition to your ownership was very much like giving birth, painful at inception, but very enjoyable now.”

Such turmoil has given Archie Spigner second thoughts. Like many other Council members, the former housing committee chair from Queens who championed the 1994 decontrol bill had believed that rents in the outer boroughs would never reach the \$2,000 threshold.

Contacted by a reporter recently, the 88-year-old Spigner said he hoped he had taken the right position, and lamented the rise in the city’s homeless population. “I wish a home and a warm place to sleep for everybody in the world,” he said.

When informed of ProPublica’s finding that the Council’s 1994 law removed tens of thousands of apartments from regulation, Spigner paused and said: “That is true, that is true, that is true, that is true.”

**Correction, Dec. 15, 2016:** *This story incorrectly described Andrew Puzder as Trump’s nominee for labor secretary. Like all of his Cabinet picks, Puzder hasn’t been formally nominated yet.*

**Correction, Dec. 15, 2016:** *This story originally misidentified former New York City councilman Jose Rivera as Gustavo Rivera, and former deputy mayor Peter Powers as Peter Powell.*

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# THE DAY EVERYTHING CHANGED

Modern New York, with its safe streets, its gentrified Brooklyn, and booming tourist economy, was born on January 1, 1994. And, love him or hate him, it was Rudolph Giuliani who made the city what it is.

By **MICHAEL TOMASKY**

THE VERSION OF HISTORY that goes down as conventional wisdom rarely reflects the complexity of what actually happened. As the years pass, the newspapers condense the narrative into digestible shorthand. The winners get to keep repeating their version on television and in books, while the losers have no forum. Our memories play tricks on us. The recent, lived past is a palimpsest—the older memories remain partly visible but are obscured and changed by fresher ones.

So, when we think of Rudy Giuliani taking over New York City in January 1994, I suspect that many of us tend to think: a city starving for change; a populace placing great faith in the confident, adamant new mayor as the agent of that change. But actually, neither of these things was quite true.

The city was not starving for change. Bad as the previous four years were—



## Martin Scorsese

Filmmaker



### First apartment:

Elizabeth Street and the Bowery, which sometimes went by the more exciting name of Skid Row. We chose to live there because there was too much fresh air in Corona.

### First job:

Stacking boxes in a vitamin factory (now Barneys).

### Current neighborhood:

The East Side.

### Where else in the city you'd like to live:

I don't believe you're actually free to choose your neighborhood here. The neighborhood chooses you.

### New Yorker who'd make the best president:

George Washington Plunkitt, a state senator during the Tammany Hall days who coined the term "honest graft," had a, shall we say, refreshingly candid view of politics.

### Biggest New York fear:

The sound of my assistant's voice as she gently says, "There's a call for you."

### What makes someone a New Yorker:

When you measure distances in blocks.

about 1,700 private-sector jobs lost every week on average, homicides surpassing 2,000 per year, more than 1 million residents on welfare—just about half the city was reluctant to give up on its first black mayor, and the voters in November 1993 ratified change only grudgingly. Incumbent David Dinkins was widely seen as ineffectual, but out of 1.75 million votes cast, in so heavily Democratic a town, Giuliani won by just 50,000. If not for the presence on the ballot of a Staten Island secession referendum, which brought the Rudy-friendly voters of Richmond County to the polls in large numbers, he would have lost.

Second, and this is something that's harder to imagine today, a fair number of people thought: so what? The city was, in the oft-used word of the day, ungovernable. Unsalvageable. The economy was a wreck. Nothing the city did seemed to work. Social indicators were uniformly bleak. In 1993, for the first time, a majority of births in the city were delivered to unmarried mothers. A majority! Also: the drug dealers in the parks. The squeegee men. The homeless. Larry Hogue (no, Google him yourself).

Identity politics run amok. Crown Heights. The Korean-deli boycott. The Rainbow Curriculum (Google it too while you're at it). You know what I still have on my bookshelf? The first-edition printings of *Heather Has Two Mommies* and its much less famous companion piece (at least until word surfaced that Sarah Palin had found it unsuitable for the shelves of Wasilla's library, vastly increasing its eBay value), *Daddy's Roommate*. I always thought they'd retain currency value, like records of a lost civilization, written on a faded codex.

No less a savant of urbanism than Daniel Patrick Moynihan, that great liberal and occasional neoconservative who never abandoned his nostalgia for Tammany's no-nonsense efficiency ("We built the entire Bronx-Whitestone Bridge in 31 months!" he once barked to me), saw nothing but discouraging signs. I remember with crystal clarity the speech he gave to Lew Rudin's Association for a Better New York in the spring of the 1993 election year. New Yorkers, he said, had withdrawn into "a narcoleptic state of acceptance" of a host of quality-of-life ills and annoyances. The following year, shortly after Giuliani had taken office, Moynihan told a city hearing on juvenile violence that the rate of out-of-wedlock births essentially ensured that the city's youth was lost for years to come: "The next two decades are spoken for ... There

is nothing you'll do of any consequence, except start the process of change. Don't expect it to take less than 30 years."

No one quite understood the force of the tornado that had just hit town. By the end of Giuliani's first year, the city was a visibly different place—made safe, Toronto-ized, starting down the road toward being Olive Garden-ized (yes, there were downsides!); a place that suddenly was no longer the city where Travis Bickle prayed to God for the rain to wash the trash off the sidewalk and where—in real life, not the movies—display ads for porn films actually ran in the *Post* right alongside the display ads for *Smokey*

## HERE WAS THE NEW WHITE MAYOR, PRESENTED IN ALMOST HIS FIRST WEEK WITH THE PERFECT DILEMMA: A RACIAL MÊLÉE.

and the Bandit (it's true; a few years ago I went to the *Post*'s morgue and looked through old issues and saw the ads, and their blurbs screaming "Full Erection!," with my own disbelieving eyes). That is inconceivable to us now. But it, and a score of cankers like it, used to be the reality in New York. Lots of forces combined to change that, but the biggest force of all was Rudy.

In the intervening years, Giuliani has had his ups and downs. Arguably more downs, at least numerically. Yes, there was the leadership and staggering humanity on display in his response to the September 11 attacks, which counts for a lot. But there was the train wreck of his presidential candidacy. And the train wreck of his Senate candidacy in 2000, which was headed in the wrong direction before his prostate-cancer diagnosis gave him a reason to drop out and focus on his health. The marriages. Judi—yikes! The sometimes unhinged at-



**SQUEEGEE MAN JEFF WILLIAMSON** on the Cross Bronx Expressway. Police determined that there were only about 75 in the whole city.

tacks on victims of police shootings. Do you recall the name of Patrick Dorismond, whose sealed juvenile record the mayor ordered released? He was, Rudy said, “no altar boy”—except that he had been, literally. The second-term jihad against hot-dog vendors and jaywalkers.

Six weeks before 9/11, despite all his administration’s accomplishments, his approval rating was just 50 percent, almost exactly the same as his share of the vote eight years previous.

But that number inaccurately suggests stasis, as if nothing had changed from the 50 percent of 1993 to the 50 percent of 2001. And of course that was not the case. If you were here then, you know what I mean. Giuliani represented a completely new model of urban governance. He was not someone who came up through the local Democratic clubs, amassing and owing favors and adjusting himself to the status quo. He was an outsider, a prosecutor, and a hard-ass.

He was lucky too: The local Democratic Party, long ago the pride of Democrats nationally, was sclerotic beyond belief (it mattered that he came to power owing all the local fiefs and mandarins nothing—it allowed him to bang some heads on matters, like the insane cost overruns at Kings County Hospital, which a Democratic mayor, seeking to keep the local peace, would have pussyfooted around). The crack epidemic was, wouldn’t you know it, subsiding. So he had some breaks. But

the combination of circumstance and will enabled him to shake up the city like it hadn’t been shaken in years.

It wasn’t all good. Oh, no. His main legacy may always be saving the city, but his secondary legacy will also, always, be that he divided it. Confrontations with black political leaders, sometimes totally unnecessary, antagonized huge chunks of the populace. He wanted, and deserved, the credit for the crime reduction. But that also meant he got, and deserved, the blame for creating the climate that led to what happened to Amadou Diallo (shot 41 times for no crime) and Abner Louima (sodomized with a plunger, for maybe getting into a scuffle with cops when he tried to break up a fight). Diallo, a poor guy from Guinea who was planning to go to computer-science school. Louima, who must have thought he’d successfully gotten out of hell when he left Haiti, and worked in Flatlands as a security guard. We will remember Giuliani on 9/11, absolutely. His name, though, will always be linked to those two names and the divisive legacy they and others represent.

But the Rudy Giuliani of that first year ... yes, a definite hard-ass. No doubt of that. But he was a hard-ass about the right things then, when a hard-ass was what the city needed. And then occasionally, when you least expected it, he wasn’t a hard-ass, but a creative chief executive, not firing thousands of city workers in the face of a deep fiscal crisis. I remember going to the may-

or’s holiday party that December—my first and last invitation to Rudy’s Gracie Mansion. Donna, then, was the beaming wife, standing before the Christmas tree, bragging about her husband’s accomplishments. There was a lot for her to talk about.

THINGS DID BEGIN a little strangely. As the new mayor gave his inaugural address on January 2, 1994, his son, Andrew, then a pudgy little 7-year-old, many years and much muscle development away from being the Titleist-crushing young man he is now, stood at the podium with his father. (Rudy, Donna, Andrew, and Caroline were a family then.) He tugged at his father’s pant legs. He squirmed around. He mugged for the cameras. Giuliani’s catchphrase for that speech was “It should be so, and it will be so.” By about the third time, Andrew started repeating it. Rudy laughed. It wasn’t quite as embarrassing as taking a call on his cell from his wife mid-speech. But it was weird. Check it out. It’s on YouTube.

I followed Giuliani around incessantly on the campaign trail in ’93, from Marine Park to Fordham Road. Everywhere he went, he said things were going to be different. Within days, they were.

The immediate task was to handle snowstorms that hit just as he took office. Every New Yorker with a historical memory knows that mishandling snowstorms, failing to sweep the streets of Queens, did in John Lindsay, became the symbol of his lassitude when it came to looking out for the

average outer-borough homeowner. Aided by the fine Sanitation commissioner, Emily Lloyd, the new administration dodged that bullet. Then, immediately—something far more totemic.

Giuliani was just nine days into his mayoralty when a call came in to 911 reporting a holdup at 125th Street and Fifth Avenue. The dispatcher's call didn't mention it, and one wouldn't have noticed from the outside, but the third floor of the building housed Mosque No. 7 of the Nation of Islam. When the cops arrived, about a dozen members of the Fruit of Islam met the officers, blocked their entrance to the mosque, pushed officers back down the stairs, and took a gun and a police radio.

Dick Wolf himself could not have invented a more TV-ready scenario. Here was the new white mayor—the avatar of Archie Bunker's New York to his critics, the man who had campaigned against Dinkins's capitulations to African-American rioters in Crown Heights and boisterous boycotters of the Korean deli on Church Avenue, the man who fomented a veritable police riot at City Hall Park back in 1992 when he twice shouted the word *bullshit* into a megaphone as some white cops referred to Mayor Dinkins as “the washroom attendant”—presented in almost his first week in office with the perfect dilemma: a racial mêlée that had the potential to turn into something far larger. The officers made no arrests—they feared a riot. They did work out a deal with the Muslim leaders by which they recovered the radio and gun.

Onto the scene came Al Sharpton and his then-consigliere, C. Vernon Mason, who denounced the police for conducting a “siege” against a place of worship. The story whipped its way through the papers for the next few days, building and building. Sharpton, Mason, and other black leaders kept up the vitriol on their end, demanding an audience. Giuliani and Police Commissioner William Bratton weren't exactly shrinking violets either, with Giuliani chiding Room 9 reporters for paying too much attention to Sharpton.

Behind the rhetoric, the mayor and police commissioner agreed to have meetings with the mosque's leaders. Things were, maybe, calming down. But when the NOI leaders showed up with Sharpton and Mason in tow, Giuliani and Bratton abruptly canceled the meetings. “I remember the moment very well,” says Randy Mastro, the deputy mayor for operations at the time. “Rudy said, ‘No, I'm not going to meet with

Al Sharpton, and my police commissioner is not going to meet with Al Sharpton.” The NOI leaders came back the next day. They got their meetings. Don Muhammad, a mosque leader, sounded placated. “We do not wish to be seen as persons disrespectful of the law,” he told the *Times*.

Next up, the squeegee men. Considering that most city residents didn't drive, sure, maybe they became a somewhat outside symbol. Giuliani mentioned them constantly during his campaign appearances

## HIS GREAT DESTINY WAS TO BE MAYOR AND MAYOR ONLY—AND AT A SPECIFIC MOMENT WHEN THE CITY NEEDED SOMEONE LIKE HIM.

in 1993 as an emblem of the narcolepsy of acceptance that Moynihan had spoken about. It was difficult to defend a group of men who, no matter how down on their luck, forced their services (which as often as not made car windshields dirtier rather than cleaner) on captive motorists.

But it wasn't so much that people defended them—although a handful of civil libertarians did, of course. It was more that most people didn't think the city could really get rid of them. We knew how this worked. They'd just hide for a few days, go somewhere else; if the heat was on at the Triboro ramp, they'd relocate to the 59th Street Bridge. When it hit 59th Street, there was always the Williamsburg. And so on, and so on. It was one of those games of urban whack-a-mole to which there was no end. Just another part of the cover charge of living in New York.

But it turned out there was an end, and,

incredibly, a pretty quick one. Once the police finally dug into the matter, they figured out that there were only about 75 or so squeegee men. As Peter Powers, Giuliani's old friend and first deputy mayor during those early years, joked to me recently, “We found out they were a pretty small union.” They were gone in about a month's time. Something had gone strangely right. People, however tentatively, started whispering that maybe New York was governable, at least around the edges. “It was very visible,” says Powers, “and it didn't cost us a lot.”

ALL RIGHT, symbolic measures are one thing. Even first-term governors of Alaska can be adept at those. But governing means, well, governing—digging in to policy, mastering the details, and making sound decisions. Sharpton and squeegees aside, the big bear that Giuliani's team had to wrestle to the ground in those first weeks was fiscal: a \$2.3 billion budget deficit, out of an operating budget that was at the time around \$31 billion. More than half of that \$31 billion was untouchable—either mandated by lawsuit to be spent on the poor and other services, or city contributions to federal and state programs that couldn't be cut without risking the matching funding. You see the problem.

“We had found out the size of the deficit during transition,” Powers says. “And we had a month to get a budget in.” So here was a brand-new government, with brand-new commissioners and agency heads, just learning about their departments even as they had to decide how to cut them. The city, of course, has to balance its budget by law. The monitors put in place after the seventies fiscal crisis, and the bond raters, waited like high priests to pass judgment.

The Dinkins administration had balanced four budgets, to its credit, including a \$1.8 billion deficit in its first year. But tensions were heightened as Giuliani took office by the presence of something called the Kummerfeld Report, a study Dinkins had commissioned to assess ways out of the crisis. The report, which came out during transition, suggested higher taxes, layoffs, canceling a police class—Dinkins and Albany had just passed legislation expanding the force by a head count of 8,000 in 1991—and putting tolls on the East River bridges. Giuliani rejected every one of these (“Old thinking”), which sounded

## Martha Stewart

Television host



### First apartment:

On 114th Street between Broadway and West End Avenue. It was a dump.

### Current apartment:

72nd and Fifth.

### Where else in the world you'd like to live:

I already have a home on an island off the coast of Maine and a farm in Bedford, but I wouldn't mind a real getaway, like a hut in Beijing.

### Biggest New York fear:

Things dropping from great heights.

### New York's best decade:

Every year pre-9/11.

tough but rather limited his options.

Here, the Giuliani administration made three crucial decisions. First, it would cut department budgets, in some cases painfully; but it wouldn't touch police, fire, or the number of teachers (the Board of Ed bureaucracy was a different matter). The NYPD was the controversial untouchable, because of longtime battles over police spending versus social-service spending. "But Rudy called everybody in," Powers says, "and he said, 'Look, I was elected to cut crime, and I have a plan to do it, and I know it's going to work. So just get used to it. We're gonna take the heat.'"

Second, the administration worked with Albany to cut a few taxes, most notably the hotel-occupancy tax. That tax, at the time, was 21.5 percent. The city portion was 7 percent. It was lowered by one point. Symbolic, maybe. But still a tax cut. By 2001, hotel tax revenues had nearly doubled from 1994, to \$243 million.

Third, the *pièce de résistance*. Budget-cutting as severe as the kind the Giuliani team faced always involves layoffs. The public-employee unions had all, of course, backed Dinkins. To say they were suspicious of Giuliani would be like saying Jewish voters had a few qualms about Pat Buchanan. "The unions thought this was Darth Vader coming in," recalls Randy Levine, who was the mayor's chief labor negotiator in those days. I remember it well: Everyone expected, by the time Rudy and the unions were done waging war, to see the public-employee blood being mopped off the floor.

Abe Lackman, Giuliani's budget director, had different ideas. As Fred Siegel tells it in his book *Prince of the City*, "Lackman reasoned that the city needed to do more than just cut workers; it needed union cooperation to change some of the work and staffing rules to make city government more flexible." Lackman was looking for savings, and Levine wanted a whole new approach to the city's workforce problems. The plan the administration worked out was this: The city would lay off, *per se*, no workers. Instead it would offer severance packages—a lump-sum payment and health-care benefits for one year—encouraging employees to leave the public sector and seek private-sector jobs. In return, the unions would agree to greater flexibility in hiring rules. For example, the city could transfer employees from Department A to Department B based on need, rather than having to continually go through an entire hiring procedure when a Depart-

ment B vacancy popped up.

The task of negotiating the deal fell to Levine, a lawyer who'd been a labor negotiator on the management side. "I took it to Rudy, 'In the private sector, this is the way you do it, so why don't we do it this way in the public sector,'" Levine recalls. He went to the unions with the plan and one reassuring statement: "I never in my fourteen years [of doing this] tried to break a union." The labor leaders were taken aback. The plan sailed through. Savings. No blood.

It would be three or four years before Giuliani really got the budget under control. But I've always thought that the severance deal was one of Giuliani's great accomplishments. It placed on display not his bullheadedness, but another leadership quality that we never saw quite enough of, one that was important to his success: his iconoclasm and willingness to depart from received wisdom. It played against type. Unlike a lot of things he subsequently did, it cooled heads and fostered community.

WHEN GIULIANI said to Powers et al. that he had a plan for reducing crime and knew it would work, he wasn't actually talking about his plan. And that's okay. Mayors administer lots of things other people conceive, and ultimately they get the blame or the credit, and deservedly so.

The first revolutionary idea—simple, like most revolutionary ideas—was Jack Maple's, and it hit him one night in early 1994 while he was sitting in Elaine's.

The story has been amply and ably chronicled in this magazine's pages and elsewhere, but quickly, two points: First, for years, or decades, the various bureaus of the NYPD had worked as separate fiefdoms. There were nineteen separate data-reporting systems within the NYPD, and virtually no one had access to all of them. Second, incredibly enough, the NYPD was not in 1994 chiefly a crook-catching enterprise. Years of internal restructurings had made the department reactive rather than proactive. In 1993, the average cop made fewer than a dozen arrests.

Maple, that night, wondered what things would be like if he could get all the crime data for a particular precinct—he conjured East New York, one of the city's roughest neighborhoods—and send the cops of that precinct out to ... make arrests! The crime and arrest data brought together.

This was the germ of what would become known as CompStat, the computerized crime-tracking system the NYPD insti-

tuted under Maple and Bratton. CompStat was used throughout the city. If you lived here then, you may remember reading the stories about Giuliani and Bratton's weekly meetings with precinct commanders, raking them over the coals if they didn't get results. (The famous Giuliani-Bratton fallout, when the thin-skinned mayor fired America's best police commissioner for the sin of appearing on a *Time* cover without him, didn't happen until 1996.)

The other idea, of course, was the "broken windows" theory, for which chief credit goes to criminologist George Kelling. A few broken windows will lead to a few more broken windows, which will lead to larger blights; so fix the problems when they're small. When the transit cops started arresting people for fare-jumping, previously considered too penny-ante to worry about, they found that fare-jumpers often had rap sheets including more serious crimes. When street cops started busting people for selling dime bags, they found the same thing.

Crime had dropped by 7 percent in 1993, under Dinkins. In 1994, it dropped by 12 percent. Then 16 percent in 1995 and another 16 percent in 1996. Homicides—2,262 in 1992—went below 1,000 for the first time in decades in 1996, then down to 746 the year Giuliani sought reelection. Now we're back to pre-Beatles numbers, and New Yorkers take it as a given. But I remember very clearly: The drops in '94 and '95 were so astoundingly steep that it was downright confusing. It just didn't seem possible. Something had to be wrong with the numbers.

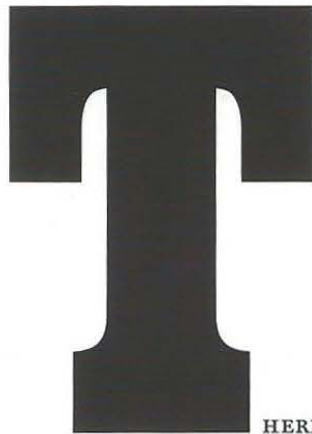
But people had started to believe. "We were always thinking about, 'We've got to show that the city is governable,'" Powers says. "That was always the most important thing."

THERE WAS MORE on the way. The slashing of the welfare rolls, under top adviser Richard Schwartz, was planned in the latter half of 1994, but it wasn't really implemented until 1995, when Giuliani highlighted it in his second State of the City address. But by the end of 1996, the city's welfare rolls had declined from nearly 1.2 million to 950,000, and they kept declining thereafter. Some aspects of the workfare program were more punitive than perhaps they needed to be—over time, the city loosened regulations to include more education and job training as acceptable substitutes for work, which was not the case at first. But this, too, was clearly

something that needed to be done, and the critics' most cataclysmic predictions did not, somehow, materialize.

Cleaning up the Fulton Fish Market was another project that had its origins in late 1994 but didn't really come to a head until the following year. By early 1995, the administration had crafted legislation giving the city the power to take "good character, integrity, and honesty" into account when granting licenses to do business there. There was an arson fire. The city got the market reopened within 24 hours. The mob helped initiate a wildcat strike. Giuliani said to the strikers if you don't come back to work, we'll reopen it with all new people. "I mean, that's what you call guts," says Randy Mastro, who was in charge of the fish-market operation.

What else? Remember Giuliani's endorsement, in his first year, of Mario Cuomo? Now, that was guts, too. Giuliani did it partly because he hated D'Amato and knew that if Pataki became governor, he'd have a competitor for biggest dog in the GOP (a competition that Pataki ending up winning, I'd say, in some ways, except for the fact that Rudy is much the more memorable figure), and partly because he needed Cuomo's help with the city's finances and on Medicaid formulas. Then he barnstormed the state on Cuomo's behalf, warning about the plague of corruption that would descend on us if Pataki were elected. That turned out to be sort of true, though not quite to the extent that average people really noticed.



HERE'S ONE WAY of measuring a politician's success. The things he did in his day that were controversial—are they accepted wisdom now? One can't say "yes" to that question about everything Rudy did, by a long shot. But as far as that first year is concerned, this is true: No person could run for mayor and be taken seriously by saying or suggesting

that he or she would depart radically from the basic path Giuliani set in 1994–95. Bring in more accountability, apply a new and needed standard of civic behavior, be forceful but fair with the unions, get the cops out on the street, prove that things that were broken could be fixed. It couldn't be done. The local Democratic Party, which I scolded eleven years ago in the pages of this magazine ("Four Candidates and a Funeral," May 12, 1997) for its tectonic adaptation to the new rules, has learned this lesson too slowly.

Or has it even learned it yet? Bloomberg learned it—and proved, by the by, that you don't have to behave like an ogre to get results. That combination, success and civility, is why they tell me he's probably on his way to getting the term limits undone, something Rudy could never do.

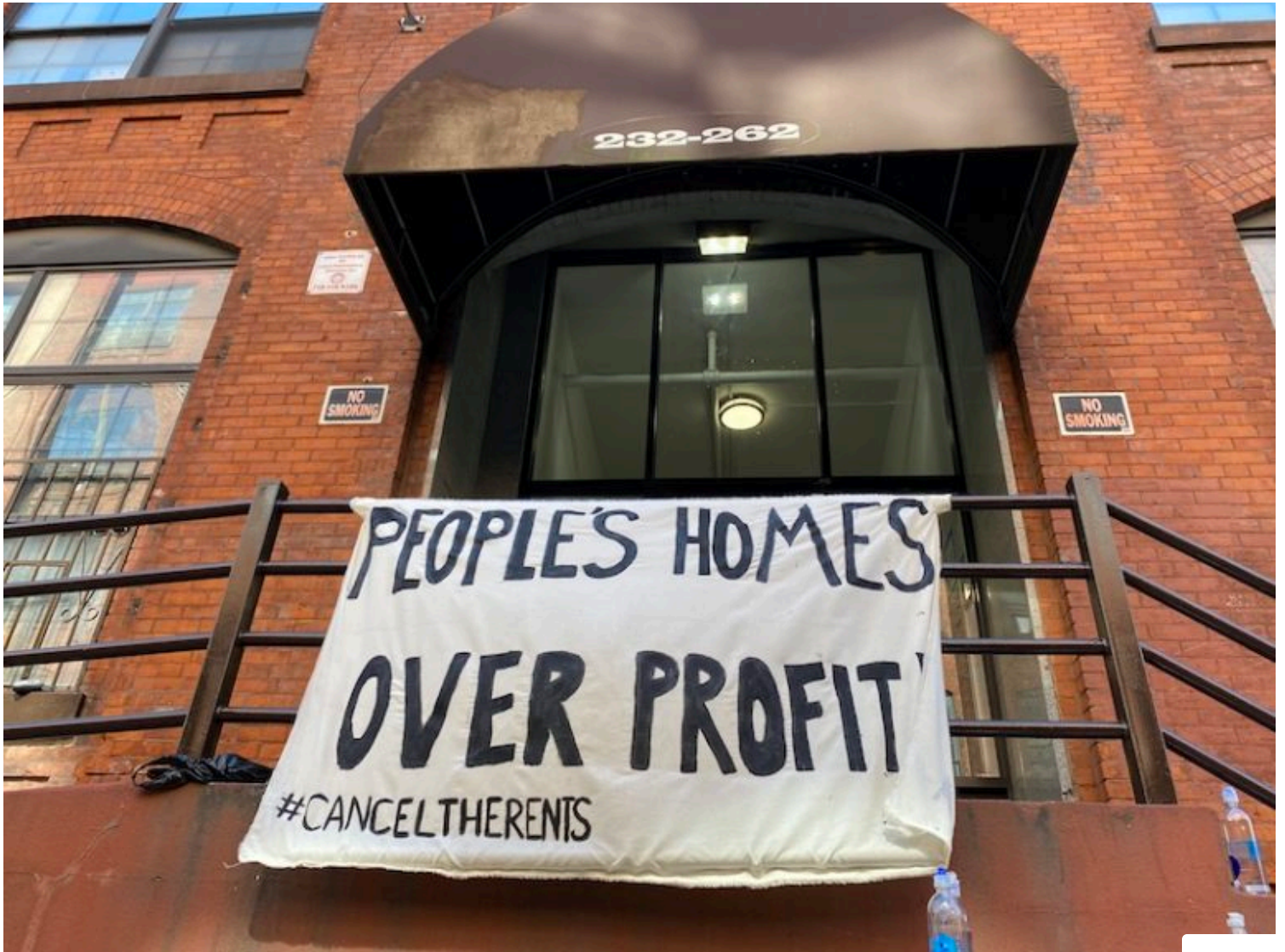
You noticed, recently, something else Rudy couldn't do: get himself elected president. Long ago, A.J. Liebling wrote a wonderful book on Earl Long called *The Earl of Louisiana*. The first sentences of the book are pricelessly memorable: "Southern political personalities, like sweet corn, travel badly. They lose flavor with every hundred yards away from the patch." Great stuff. But these days, the opposite is true: We're up to our non-red necks in Southerners, God help us, and it's the New Yorkers who don't travel well. Giuliani trying to seem like a right-wing nut just didn't fly. Watching him defend Wasilla, Alaska, in his convention speech was a hoot. This is a man who hates leaving the Upper East Side for more than a few hours at a time. That's why this governor talk doesn't really make any sense to me. He could barely drag himself to Westchester in 2000, let alone the Western Tier.

No—his great destiny was to be mayor, and mayor only. And I might even say: at that moment only, when the city needed someone like him. Remember how often people talked in 1992 and 1993 about giving up on the place. Within one short year, or even less, people weren't saying that very much anymore. For all the Rudy-craziness that later ensued and that darkened his legacy—the bashing of police-shooting victims and Brooklyn Museum artists and ferret lovers and his second ex-wife and of course Hillary—it has to be acknowledged that he was the man for the moment. There probably won't be a moment in New York quite that desperate again in our lifetimes. He helped make sure of it. ■

## HOUSING AND HOMELESSNESS

What the Supreme Court Decision Means for NY's Eviction Moratorium

By David Brand . Published August 13, 2021



*(Sadeef Ali Kully)* A sign protesting rent collections in Brooklyn during the height of the Coronavirus epidemic





The U.S. Supreme Court on Thursday struck down a key piece of New York’s eviction moratorium, blocking a provision that allowed tenants to fend off Housing Court proceedings by swearing they had experienced a COVID-related financial hardship.

In an unsigned decision, the country’s highest court sided with a group of New York property owners who challenged the state’s COVID Emergency Eviction and Foreclosure Prevention Act (CEEFPFA), which has frozen nearly all evictions in the state since December 2020. The legislation, set to expire Aug. 31, has enabled tenants to effectively halt eviction proceedings by submitting a hardship declaration form—a newly created document attesting to the economic impact of the pandemic on the applicant’s ability to pay rent.

The court’s conservative justices ruled that the “scheme violates the Court’s longstanding teaching that ordinarily ‘no man can be a judge in his own case’ consistent with the Due Process Clause.”

The decision specifically applies to tenants who’ve submitted that hardship declaration form to stay out of housing court, allowing them to self-certify financial hardship and which “generally precludes a landlord from contesting that certification and denies the landlord a hearing,” the court’s order explains. The ruling leaves in place the state’s Tenant Safe Harbor Act, which allows tenants to use a COVID-19 hardship defense in housing court and temporarily prevents evictions for tenants whose landlords commenced nonpayment proceedings during the pandemic.



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The court’s three liberal justices dissented from the majority opinion, with Justice Stephen Breyer writing that the decision puts New Yorkers at risk of “unnecessary evictions” and citing the slow rollout of the state’s Emergency Rental Assistance Program (ERAP). The state’s Office of Temporary and Disability Assistance (OTDA) has so far issued less than 5 percent of the state’s roughly \$2.2 billion ERAP relief fund to landlords whose low-income tenants could not pay rent during the pandemic.

“While applicants correctly point out that there are landlords who suffer hardship, we must balance against the landlords’ hardship the hardship to New York tenants who have relied on CEEFPA’s protections and will now be forced to face eviction proceedings earlier than expected,” wrote Breyer, who was joined by Justices Sonia Sotomayor and Elena Kagan. “This is troubling because, as noted, New York is in the process of distributing over \$2 billion in federal assistance that will help tenants affected by the pandemic

avoid eviction.”

Breyer also said the court was interfering with the powers of the state’s legislative branch to set policy. “The New York Legislature is responsible for responding to a grave and unpredictable public health crisis,” he wrote.

More than 830,000 New Yorkers owe back rent, according to researchers at National Atlas Equity, a policy group affiliated with the University of Southern California. In a statement, incoming Gov. Kathy Hochul—set to take over the governorship at the end of the month following Andrew Cuomo’s resignation—said she would work with the legislature to shore up the current moratorium.

“No New Yorker who has been financially hit or displaced by the pandemic should be forced out of their home,” Hochul said.

Tenant advocates say the ruling is a crushing blow to renters and will force thousands of New Yorkers to head to housing court to try to combat eviction proceedings. Advocates and several lawmakers have been urging the state to extend current eviction protections until ERAP money reaches more landlords. “We’re going to see massive evictions,” said Ellen Davidson, a staff attorney in Legal Aid’s housing division.

“There are cases that are keyed up and just waiting for the end of the eviction moratorium,” she said Thursday evening. “I think those notices could go out tomorrow, which means tenants who want to stop the evictions have to rush to court tomorrow.”

New eviction cases typically take months to resolve, but tenants who faced eviction just prior to the pandemic moratorium are at particular risk of losing their homes. Many landlords will likely seek to renew eviction orders that have expired.

Davidson urged tenants facing eviction to secure an attorney under the city law that gives renters the right to a lawyer in housing court. Renters represented by a lawyer in housing court are far more likely to prevent an eviction than clients without counsel, numerous studies have shown. Tenants who receive an eviction notice can call 311 and ask to connect with a lawyer, she said.

In a statement, Legal Aid said tenants “have suffered immensely during COVID-19 [and] will have no trouble proving hardship and satisfying the supreme courts’ mandate.”

The property owners who challenged the state law were represented by the landlord group Rent Stabilization Association, which hired attorney Randy Mastro, a former deputy mayor, to argue their case. Mastro praised the court’s decision in a statement Thursday.

“New York recently reopened in all other respects, yet its eviction moratorium remained in place, barring the courthouse door to landowners unable to gain access to their own properties from holdover tenants, many of whom haven’t paid rent for the past 17 months,” Mastro said.

But Jay Martin, the executive director of the rent stabilized landlord group Community Housing Improvement Program, said he did

not consider the ruling a “victory.” The decision simply means property owners will have a chance to have their cases heard in court and gain leverage in nonpayment or other tenant disputes, he said.

“It’s what we always said from day one: The eviction moratorium helps no one pay their rent, pay their mortgage, or pay their property taxes and what we need to focus on is get rent relief out the door,” Martin said. “We stand ready to work with tenants, property owners and government officials to make sure there isn’t a wave of evictions.”

Martin said he is advising landlords not to rush to file evictions and instead wait for the state to release more ERAP money—though he has pressed New York officials to distribute the money much faster.

“I tell them that if someone didn’t have money to pay rent yesterday, they’re not going to have money to pay rent tomorrow,” Martin said. “You’re going to be left with an empty apartment and you’re not going to get the back rent.”

Two lawmakers have introduced a bill to extend the state’s eviction moratorium, and advocates are now urging the legislature to reconvene and adjust the hardship form rules to fit the Supreme Court’s ruling.

Manhattan State Sen. Brian Kavanagh, who sponsored CEEFPA last year, told City Limits that lawmakers would “see if there’s a way to shore up the moratorium by taking action consistent with what the Supreme Court has said.”

He criticized the justices for potentially exposing potentially hundreds of thousands of New Yorkers to the close confines of housing courts amid a surge in COVID cases.

“It’s a basic public health measure and we think it was in the powers of the legislature given the pandemic. It’s disappointing that a majority of the Supreme Court disagreed with us,” he said. “There are hundreds of thousands of households that are now in danger. And it’s not just a danger to those households. It’s a danger to all of us.”

Kavanagh said state lawmakers would work with OTDA to streamline ERAP payments.

“It needs to be making payments at a much larger scale and more rapidly than it has been,” he said. “The ultimate protection for a tenant is going to be having their rent paid.”

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City Limits uses investigative journalism through the prism of New York City to identify urban problems, examine their causes, explore solutions, and equip communities to take action.

Founded in 1976 in the midst of New York's fiscal crisis, City Limits exists to inform democracy and equip citizens to create a more just city. The organization is a 501(c)(3) nonprofit funded by foundation support, ad sponsorship and donations from readers.

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