# Rent Regulation

by Robin Reisig
Sunday, March 09, 2003 12:00 AM

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To hear the most adamant landlords and their supporters tell it , rent control has just about destroyed New York City, denying real estate developers the opportunity to build affordable housing for a reasonable profit.

Tenants and their advocates believe just the opposite, that rent regulation has saved the city. It has enabled New York to remain a magnet for the young and the gifted and the hopeful, and protected the average New Yorker from the greed of the real estate industry.

The two sides have been making the same arguments for several generations, in a conflict that has seen many battles. Some New Yorkers wonder if one side has already won. How can anyone say that rents are regulated now, when an apartment can triple in rent when it becomes vacant, and a crummy one-bedroom apartment in Manhattan can go for $2,400 a month?

On the other hand, many New Yorkers who live in rent-regulated apartments — and rent regulation still covers slightly more than a million apartments in New York City, or about half of the city's total number of rental apartments — cannot seem to believe that all regulations might actually come to an end.

But that threat is real, tenant advocates say — Republicans in the New York State Legislature tried to abolish it six years ago — and, with the current rent regulations set to expire in June, they have mobilized their forces to preserve and strengthen the laws. ( See related story .)

**A CITY OF RENTERS**

New Yorkers have a uniquely proprietary attitude toward their apartments. Elsewhere in the country, middle class people buy big houses with lawns. New Yorkers hope for a sunny window to rent. Other Americans live in apartments until they settle down and acquire a spouse, a kid, a dog — and a house. Many New Yorkers do their settling in their apartments; some two-thirds of New Yorkers are renters.

At the same time, housing costs are notoriously high here. The average New Yorker currently spends almost 30 percent of income on rent, including gas and electricity. More than a quarter (27 percent) of renters spend half or more of their income on rent, according to a 1999 census housing and vacancy survey .

It is not surprising, then, that rent regulation remains one of the hottest issues in New York, with people on both sides holding fiercely to their positions. Landlords and advocates of a freer market for housing say rent controls reduce tax rolls and discourage new construction.

"With 1.1 million rent-regulated apartments, the city is a showcase for the distorting effects of controls," wrote Peter Salins of the Manhattan Institute. He cited "a minuscule vacancy rate, middle-class families trapped in apartments too small for their needs, wealthy retirees paying a pittance for three bedrooms and virtually no new construction to relieve the strain and to upgrade the housing stock."

Tenants counter that rent control was instituted to protect renters from being exploited. "The rent laws were enacted to eliminate unfair bargaining advantages that landlords have over all consumers who are forced to shop for apartments in an overheated market," wrote Timothy Collins , a former executive director and counsel for the city

Rent Guidelines Board
. "The law was designed to ensure that a landlord could not charge $1,200 for an apartment that — in a normal market — would rent for only $800."

Collins and other tenant advocates say the drive to loosen rent regulation or to do away with it springs more from the political power of the real estate industry than from the merits of a free market argument.

**A LONG HISTORY**

While rent regulation may have particular immediacy in crowded, expensive 21st century Manhattan, people have sought to regulate the housing market for centuries. The movement gained momentum in the early 1900s. "Because housing markets, like labor markets, are often anarchic and unstable, the trend throughout the century, learned through bitter experience, has been to subject them to government regulation and intervention in order to try to assure some degree of public peace and justice," Ron Lawson wrote in his book, "The Tenant Movement in New York City, 1904-1984."

Faced with a housing shortage and high rents after World War I, the state legislature enacted laws allowing tenants to legally challenge "unjust, unreasonable and oppressive" rent hikes. These laws stayed on the books until 1928.

In 1943, the federal government's World War II Office of Price Administration largely froze rents in New York City. Tenants organized to preserve the protections after the war, and in 1947 New York established a state rent regulation system controlling rents on all residential buildings constructed before 1947. Today, only about 60,000 apartments remain under that old rent-control law.

In the face of rising rents in 1969, New York City enacted rent stabilization, which extended regulations to buildings with six or more units constructed after 1947. This system today covers at least a million apartments. (One result is a confusion over terminology. Some people refer to "rent control" to mean both the earlier rent control system and the later rent stabilization. Others insist that it is important, and more accurate, to make a distinction between the two, and when talking of both of them together, to say "rent regulation.")

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Both rent control and rent stabilization officially exist in response to a housing shortage, and would terminate if the number of vacant apartments in New York City ever rose above five percent of the total housing in the city, which has never happened, according to the official survey.

Concern about housing abandonment, a growing problem at the time, prompted the city to weaken rent regulation in 1971, permitting larger rent hikes. The state legislature also instituted so-called vacancy decontrol, which removed vacant apartments from rent regulation.

Rent regulations for all apartments thus seemed doomed. Tenants and their supporters contended that the changes sent rents skyrocketing and were driving people out of the city. In response, the legislature ended vacancy decontrol in 1974.

Observers differ over how much effect the regulations actually have on rents. Barbara Elstein Katz, a retired analyst with the Department of Housing, Preservation and Development, has calculated on behalf of the New York State Tenants & Neighbors Coalition that the median monthly amount that tenants pay to landlords for rent-regulated apartments in the city is $640, while for unregulated it is $1,090 — 70 percent more.

Landlord advocates say this is not true, that there is less than a $150 difference. According to Dan Margulies, executive director of Community Housing Improvement Program (CHIP), a trade association for apartment building owners, the median unregulated rent in 2002 was around $850.

The discrepancy is because Marguilies includes the small mom-and-pop buildings (buildings with fewer than six apartments) in his calculation, and Katz does not.

## CHANGES IN THE SYSTEM

**CHALLENGING RENT HIKES**

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Under rent regulations, tenants can appeal to the state Division of Housing and Community Development, claiming that their rent is too high. But such a cha

Vivian Dee, head of the Park West Village Tenants' Association in Manhattan Valley, has become an expert. Last year, for example, she helped two tenants

"The date of the check was the same. . . . The amount of the check was the same. The number of the check was the same," she recalled. "I was overjoyed."

Dee was delighted because the identical $14,550 checks bolstered the tenants' call for a rent reduction. The owners had claimed that the full amount of the

A quick look at other checks revealed that this was not the only time the same check had been used as alleged proof of work for more than one apartment.

"It was a mistake," said Santo Golino, a lawyer for the landlords, P.W.V. Acquisition. "I think we've fully explained it satisfactorily" for the state. Golino declin

Park West Village, huge high-rise buildings, between West 97th and 100th Streets, near public housing projects, was built with government help as affordab

The tenants' association advises new tenants to check to see if their rents are legal. The new Park West Village tenants have won a number of their cases a

Linda Anderson, a college professor and single parent of a 6-year-old son, had been paying more than half of her net salary for her $2,400-a-month apartme

While the landlord claimed $50,000 in work had been done on the apartment, the cabinets do not align, and the paint and plaster are uneven. In the bathroo

She now pays less than $1,200. Anderson said, "I felt like I had really once tested out the system and challenged it and heard that my voice was heard"

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While rent control survives, the state has whittled away at it over the last decade.

Rent controls are "almost like a drug. We all grew up in that kind of environment," said Joseph Strasburg, president of the Rent Stabilization Association , which represents property owners. "We cannot end it overnight."

But tenants see an effort to phase it out. A law passed in 1993 allowed landlords to add one-fortieth of the costs of any improvement they made to a vacant apartment to the rent charged the next tenant. In 1993 the City Council and in 1994 the State Legislature decontrolled rents on vacant apartments renting at $2,000 a month or more if the new occupants' household income was $250,000 for two consecutive years.

In 1997, the New York State Legislature extended the rent stabilization law for another six years — or at least that is what many New Yorkers believed. From the apartment owners' point of view, the 1997 law fixed a flawed system. From the tenant point of view, it created injustices ( pdf file ) and threatened the very existence of rent regulation. Republicans such as Senate Majority Leader Joseph Bruno now are willing to let the current law stand — testimony, some observers say, to just how weak that legislation is.

The 1997 law included vacancy decontrol for so-called luxury apartments, costing $2,000 or more a month, regardless of the new tenants' income. Landlords discovered all they need to decontrol the rent on an apartment is for it to become vacant.

Landlords can immediately increase the rent on a vacant apartment by at least 20 percent—more if the departing tenant had lived in the apartment for more than eight years. The landlord can also add to the monthly rent one-fortieth of the cost of any repairs made to the home.

If the rent was $1,000 when the tenant moved out, "the rent immediately goes to $1,200. The landlord gets that without a lick of work," explained Michael McKee, associate director of New York State Tenants & Neighbors Coalition .

Then, McKee continued, "The landlord asks himself, 'How much do I have to spend to get the rent up to $2,000?' The answer in this case would be $32,000, because the landlord can add one-fortieth of the costs of improvements to each month's rent — forever."

So, McKee said, the landlord puts in new floors, wiring and other things, and "the apartment is forever de-regulated."

Landlords don't even need to document that they have actually done the work unless a tenant challenges the rental price.

Landlords say these rent hikes are fair. "I don't think landlords generally are responsible for what somebody will pay if they want to live in a particular area," said Margulies of the Community Housing Improvement Program. "I used to live on Upper West Side, and I couldn't afford it so I moved. This is apparently a foreign notion to most New Yorkers: There is no God-given right to live where you want to live."

Owners and tenants dispute how many apartments have been deregulated to vacancy decontrol. Owners say no more than 50,000 or 55,000 units. Tenants say 99,000.

When a building becomes a co-op, rental units in the building are decontrolled as soon as the current tenant leaves.

"We calculated that at the present rate of deregulation, half the universe will be deregulated in seven to nine years," said McKee. "In 10 to 15 years, if we don't get vacancy decontrol repealed, there will be no rent regulations at all. There will be so few [rent-regulated] tenants [that they] will no longer have the political ability to get the laws renewed for another period of time, which is clearly the real estate strategy."

As tenant advocates see it, the 1997 law has resulted in tens of thousands of high-rent tenants living without right of tenure and without even a right to renew their leases. "Taking steps

against the landlord for code violations and repairs could result in the anomalous situation of people moving into high-rent apartments and being afraid" to complain, McKee said.

Suspecting that they might be paying illegal overcharges, hundreds of tenants call Tenants & Neighbors, McKee said, but often tenants in de-regulated apartments are not willing to take action. "People say, 'If I file and lose, he won't renew my lease.'"

The 1997 law also requires that tenants seeking to challenge rents do so within four years of the hike. This four-year statute of limitations is "one of the greatest reforms" of the 1997 law, said Strasburg. Otherwise, he said, new owners could be penalized and forced to pay huge amounts in back rent and damages. "We're not talking about sophisticated owners," he said. "We are talking small property, not deep pockets."

Tenants, however, say the four-year limit can reward landlords who commit deliberate fraud.

Despite the 1997 laws, tenants still have the right to challenge rent hikes—and some succeed.

McKee advises new tenants not to question the status of the apartment before they move in. But immediately after that, the tenant should check the apartment's rent history with the borough office of the state Division of Housing and Community Renewal . If the rent skyrocketed but it looks like extensive renovations have not been done on the apartment, the tenant might have grounds for a rent reduction. Tenant organizations say they often need to hire an engineer to estimate the actual costs of the work and to document that claimed improvements were not made.

**THE REVISED CODE**

Other state actions have further eroded tenant protections. In December 2000, the state Division of Housing and Community Renewal revised the rent Stabilization Code. Advocates for both tenants and owners agree it helps owners.

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One of the most widely publicized provisions could allow owners to evict tenants who charge roommates more than a "proportionate share" — usually half the rent. The code, which has many provisions, also lets landlords increase the rent when a tenant moves out, even if the tenant was there for less than a year. Owners can collect a rent surcharge from tenants who installed their own washing machines, dryers or dishwashers. Owners who want to evict a tenant so they can use his or her apartment for their immediate family can now consider in-laws immediate family.

With these changes, "the executive branch, meaning [Governor George] Pataki, turned the state housing division from an incompetent but fair agency to an incompetent pro-landlord agency," said Sam Himmelstein, a lawyer who represents tenants. "I've seen apartments go overnight from $1500 to $10,000. Who's that helping?"

The answer to that question depends on where you stand in the rent battles of New York.

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