by {ga=jlamport}
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Almost two years ago, Mary Zuniga found a two-bedroom rent stabilized apartment for $1,500 near Columbia University. The Texas native had a friend from her home state that wanted to come to New York City and the two agreed to split the rent.

What Zuniga did not know at the time was that the $1,500 rent was apparently illegal, about $600 more than the legally registered rent.

She is hardly alone. Rent overcharges are common in the city and many tenants do not know they are paying too much. But complaints about overcharges are dwindling. Some believe this is a direct indication of the dismantling of rent regulation.

Rent stabilized apartments make up about half of all rental apartments in New York City. A state agency, the Division of Housing and Community Renewal, establishes the legal rents for these apartments and landlords must report any increases.

Rents increase in these apartments in a number of ways.
*The Rent Guidelines Board meets annually to decide whether rent regulated apartment rents should increase to cover landlords' costs.
* If an apartment is vacated and a new tenant moves in, the landlord can increase the rent.
*If the landlord renovates the apartment, she can request an increase of 1/40th the cost of renovations from the state agency or apply it directly if an apartment was vacant.
The cost of building-wide improvements can also be passed on to tenants in rent increases.

In Zuniga's case, the landlord said he had improved the apartment by replacing the appliances and the floor. Although the floor looked new, the appliances were old, Zuniga said. After finding a free attorney through a community organization, Zuniga and her roommate filed a complaint over a year ago with the state housing agency, which is pending.

Sondra Rutherford, a tenant advocate, has helped tenants file thousands of overcharge complaints over the last 20 years. After she helped lead a rent strike in her building in the early 1980s, people sought her assistance with overcharge complaints. In any given year, she had 100 to 125 active cases; for the last few years, she has averaged only 15, she said.

“I developed it into a nice healthy business for 20 years,” Rutherford said. “But with changes in the last five years, I have reached rock bottom. I can’t afford to give it full time focus anymore.”

The heyday of overcharge complaints ks gone, she said. The state housing agency was unable to provide numbers on the cases.

“They’re less and less common because of the phase out of rent regulation laws,” she said. “As soon as a tenant moves out, the landlord renovates the apartmentâ€¦. [The landlords] jack the rent up to market value. They’ll get paperwork from contractors claiming $30,000 to $40,000 in renovations. The agency accepts it without any substantive review.”

Bob Katz, legal counsel to the Queens League of United Tenants, agreed, adding that the state housing agency has changed rules on rent overcharges and other ways for landlords to raise rents.

“All these rules are to maximize rents for landlords â€“ to do away with rent regulation,” he said. “They’re succeeding very nicely.”

One significant change in the way overcharge complaints are judged concerns how far back a review of the apartment’s rent can go. When the state legislature renewed rent regulation laws in 1997, they limited a rent history review to four years. That means if a landlord can get away with an overcharge for four years, challenging it becomes moot.

Other mechanisms to increase rents have also been relaxed, Katz said. “Major capital improvement” increases were once allowed only for improvements that were depreciable according to the Internal Revenue Service. But that rule has been abandoned and now anything goes, he said.

In one large Queens apartment complex, the landlord was allowed to increase rents not only to cover the cost of putting in boilers, but also for the costs of pruning trees and building an office in the basement.

All of these increases simply speed up the deregulation of apartments, a problem that housing advocates say is exacerbating homelessness and forcing middle-income people to leave the city as the stock of affordable housing evaporates. Once a rent stabilized apartment's rent reaches $2,000, a landlord can apply to the state housing agency to deregulate it.

Katz said he is preparing to file a federal lawsuit against the state housing agency for effectively denying tenants their right to due process of law by changing the rules in midstream.

"I'm finding enough of these cases where there is a change of standards by [the state housing agency]," he said. After a tenant files a complaint, he said, the rules are changed and the tenant loses the case as a result.

For Zuniga and her roommate, that possibility exists. Almost two years after filing their complaint with the state housing agency, they have yet to get a decision.

"All they can tell you is that your case is still open," she said. "They don't have much to say to you at all."

Joe Lamport is the assistant director of the City-Wide Task Force on Housing Court, a coalition of community housing organizations.

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