

# Rent Regulation in New York: Myths and Facts

By Timothy L. Collins

## Introduction

The first edition of “Rent Regulation in New York: Myths and Facts” was published in 2003. This updated second edition comes as the New York State legislature faces a momentous public policy choice – whether or not to strengthen rent and eviction protections and safeguard them for future tenants.

What is at stake is the economic security of over one million households and the stability of dozens of neighborhoods in New York City and the surrounding counties.

Every tenant in the New York metropolitan area understands that bargaining relations with landlords are one-sided. Because affordable housing is so scarce, landlords hold immense bargaining advantages. Without rent and eviction protections, rents would rise in nearly every neighborhood. Building services would likely decrease, and complaining or “difficult” tenants would find it much harder to fend off evictions. Owners would be able to refuse to renew leases without providing any reason or justification.

In the final analysis, the primary consequence of continuing the present gradual deregulation of the housing stock would be large rent increases. This translates into a multi-billion dollar transfer of wealth from over one million households to some 25,000 landlords. The median income of rent-stabilized households in New York City is only \$36,000 per year.<sup>1</sup> The landlords who would benefit from this windfall already include some of the very wealthiest individuals on the planet.

Of course, our attention is rarely called to this consequence of deregulation. Rather, the arguments against rent regulation are carefully framed as public-spirited efforts to expand and improve the housing stock.

To this end, industry groups have sponsored and supported studies used to build a case against rent regulation. They claim that the shortest path to habitable, affordable, and improved housing is through unfettered markets. Rent regulation, they assert, causes housing shortages, retards new construction, leads to deterioration and abandonment, unfairly reduces owner profits, hurts the local economy, causes declines in tax revenues, results in underutilization of

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<sup>1</sup> U.S. Bureau of the Census, 2008 New York City Housing and Vacancy Survey, as summarized in “Selected Findings of the 2008 New York City Housing and Vacancy Survey,” submitted by the New York City Department of Housing Preservation and Development to the New York City Council, February 10, 2009. Notably, owner-occupied households were reported to have a median income of \$74,400.

existing units, primarily benefits the rich, hurts newcomers and co-op owners, and even leads to homelessness.

There is nothing in the New York experience that convincingly supports any of these claims.

For over seven years I served as Executive Director and Counsel to the New York City Rent Guidelines Board. The primary work of our staff was to examine the effects of New York's rent regulations on tenants, owners, the housing stock, the local economy, and our quality of life. This work was done by direct analysis of data made available from city and state agencies; direct surveys of tenants, landlords and vendors; reviews of studies prepared by industry, academic, and tenant organizations; and various government reports.

Over the years, a wealth of information was examined and a clear picture has emerged: New York's moderate rent regulations have had few, if any, of the negative side effects so confidently predicted by industry advocates. More important, rent regulations have been the single greatest source of affordable housing for middle- and low-income households.

I should note that many of these findings came as a surprise to me. When I first joined the Rent Guidelines Board staff in 1987, I believed that rent regulations in New York City probably did have some long-term harmful effects. I was proven wrong. This occurred not through a change of theory or ideology. It happened because the facts were clear and undeniable. When measured by the best available evidence, New York's modest form of rent regulation provides several public benefits and has had none of the harmful effects attributed to it by the real estate industry.

City and state rent regulation laws provide three major benefits: affordability, habitability, and security of tenure. This system has produced all of these benefits without reducing the quantity or quality of the rental housing stock. It has allowed owners to obtain a fair – indeed a growing – rate of return on their investments. It has not caused underutilization of regulated units. It has not hurt the city's or the downstate region's economy or local tax revenues. It has not harmed newcomers or unregulated households, although strong arguments can be made that existing laws should be expanded to offer greater protection to newcomers and unregulated households.

In the pages that follow, I will present a concise, direct, and substantial foundation for each of these claims. I hope this information will help ensure that the legislature's actions will be informed and fair.

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## Housing supply and rent regulations

**MYTH:** Rent regulation is outmoded.

**FACT:** Rent regulation is a response to a housing crisis that is as severe today as it ever has been. Only 2.88 percent of New York City's rental stock is vacant and available for rent.<sup>2</sup> This compares with a nationwide vacancy rate of 10.1 percent.<sup>3</sup> This shortage of housing creates a severe power imbalance between landlords and tenants that can lead to excessive rents or inadequate building conditions. In 1970 the average renter household in New York City spent 20 percent of its earnings on rent.<sup>4</sup> Today, the average renter household spends 31.5 percent of its earnings on rent.<sup>5</sup> Lower-income tenants now face extreme rent burdens. More than a quarter of renter households in the city pay more than 50 percent of their household income for rent.<sup>6</sup> Nearly half (49 percent) of all tenant households earning less than twice the poverty threshold per year devote more than half of their income to rent.<sup>7</sup>

This growing affordability crisis is beginning to show up in the number of homeless families. Last year witnessed the highest number of people staying in municipal shelters in the city's history, with 36,298 per night as of February 2009. Among them were 15,465 children, also a record.<sup>8</sup> Strong and effective rent regulations are needed now more than ever.

**MYTH:** Developers will not build new housing in New York City and surrounding counties because of rent regulations.

**FACT:** Newly constructed buildings are not subject to rent regulation unless the owner voluntarily opts into the rent stabilization system in exchange for generous property tax abatements. (Most do so, voluntarily placing their buildings under rent stabilization.) Housing construction rates are influenced by a variety of conditions including population changes, interest rates, economic growth and zoning. There is no convincing evidence that moderate rent regulations depress construction rates. As one economist observed:

... many cities in New Jersey enacted some form of moderate rent control during 1973 and 1974. In these cities, apartment construction fell by 52 percent between the periods 1970-1972 (pre-rent control) and 1975-1977. However, apartment

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<sup>2</sup> U.S. Bureau of the Census, "Selected Findings of the 2008 New York City Housing and Vacancy Survey," submitted by the New York City Department of Housing Preservation and Development to the New York City Council, February 10, 2009.

<sup>3</sup> U.S. Bureau of the Census, Housing and Vacancy Survey, News Release, April 27, 2009.

<sup>4</sup> U.S. Bureau of the Census, New York City Housing and Vacancy Survey, 1970.

<sup>5</sup> U.S. Bureau of the Census, 2008 New York City Housing and Vacancy Survey, as summarized in "Selected Findings of the 2008 New York City Housing and Vacancy Survey."

<sup>6</sup> Ibid.

<sup>7</sup> Testimony of policy analysts Victor Bach and Tom Waters before the New York City Rent Guidelines Board, April 30, 2009.

<sup>8</sup> Coalition for the Homeless, "State of the Homeless 2009: A Proven Way to Reduce Family Homelessness During the Economic Recession."

construction in New Jersey cities without rent control dropped by 88 percent over the same period. Moreover, nationwide multifamily housing starts dropped by 77 percent between 1972 and 1975.<sup>9</sup>

In a real estate industry-supported study, examining, in part, the effects of moderate rent regulations on new housing construction, economist Anthony Downs found that “repeated studies of temperate rent controls in the United States provide no persuasive evidence that such controls significantly reduce new construction here.”<sup>10</sup>

**MYTH:** The possibility of new rent regulations deters new housing construction.

**FACT:** Developers who construct new buildings (and choose not to take advantage of special tax abatements) can enter into a contract with the Commissioner of the New York State Division of Housing and Community Renewal that will exempt their buildings from rent regulations for fifty years.<sup>11</sup>

**MYTH:** New York City witnessed higher levels of housing construction during periods without rent regulations.

**FACT:** New York City’s two greatest housing construction booms in the twentieth century occurred during periods when strict rent controls were in effect. During the 1920s, while the Rent Laws of 1920 limited rent increases for existing apartments, the city experienced its first great housing boom, with more than 665,000 units constructed between 1921 and 1928.<sup>12</sup> More than 676,000 new units were added during New York City’s second construction boom from 1947 through 1965, when rent controls for existing units were much more stringent than today.<sup>13</sup> A change in the city zoning laws caused a sharp decline in new construction in the late 1960s. These observations do not suggest that rent controls caused these construction booms. Rather, these examples simply and clearly illustrate that – in the right circumstances – new housing can and will be built in large quantities even when rents are regulated for existing apartments.

**MYTH:** The cost of new construction in New York City is prohibitive because of rent regulations.

**FACT:** A recent study of housing affordability concludes that restrictive zoning is the most significant factor in raising the cost of new housing.<sup>14</sup> While a termination of rent regulations

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<sup>9</sup> Michael Mandel, “Does Rent Control Hurt Tenants?: A Reply to Epstein,” 54 Brooklyn L. Rev. 1267, 1273 (1989); citing John Gilderbloom, *Moderate Rent Control: The Experience of U.S. Cities* (1980).

<sup>10</sup> Anthony Downs, *Residential Rent Controls: An Evaluation*, 4. (Washington, D.C.: Urban Land Institute, 1988.)

<sup>11</sup> See Rent Regulation Reform Act of 1997, section 27.

<sup>12</sup> New York City Department of City Planning, *New Dwelling Units Completed 1921-present*.

<sup>13</sup> *Ibid.*

<sup>14</sup> Glaeser and Gyourko, *The Impact of Zoning on Housing Affordability*, National Bureau of Economic Research Working Paper 8835 (March 2002). The authors of that study concluded: “The bulk of evidence

might permit faster site assemblage (by permitting faster eviction of tenants in structures scheduled to be demolished), most developments require exhaustive land use and environmental reviews, which impose more significant obstacles for developers. Notably, the rent stabilization laws permit demolition and development in an orderly fashion, and include provisions for relocation stipends to tenants.<sup>15</sup>

**MYTH:** Developers prefer to acquire unregulated buildings for demolition and new construction.

**FACT:** This claim belies a more critical question: At what price? Rent-regulated buildings often cost far less to acquire than vacant or unregulated buildings. Although a developer might have to pay a substantial price to evict, relocate, or buy out tenants in rent-regulated buildings, such buildings are typically purchased at lower prices than unregulated buildings. There are no studies that demonstrate that developers prefer high-cost unregulated buildings to low-cost rent-regulated buildings when assembling development sites. This is not to suggest that improvements cannot be made in the demolition and relocation provisions of existing rent laws. It only shows that the impact of rent regulation on the rate of new development is unclear at best.

**MYTH:** Rent regulations dampen demand for newly constructed housing because tenants with regulated apartments have no incentive to shop for new housing.

**FACT:** Rent-regulated tenants are generally not affluent and very few can afford to purchase or rent newly constructed apartments. The median income for rent-stabilized households in 2007 was \$36,000 per year.<sup>16</sup> Just 2 percent of rent-stabilized households make more than \$200,000 per year and 13 percent make more than \$100,000 per year.<sup>17</sup> Consequently, this group is unlikely to form a substantial pool of customers for newly constructed housing. Moreover, any substantial increases in rent for middle-income tenants would impede their ability to build up a sufficient down payment to purchase a new home or co-op and thereby depress demand for new housing. Finally, there is no guarantee that tenants who leave their apartments due to deregulation would remain in the city. If they shop for new housing in New Jersey or Long Island, this could actually have an adverse effect on housing development in the city.

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marshaled in this paper suggests that zoning, and other land use controls, are more responsible for high prices where we see them... Measures of zoning strictness are highly correlated with high prices."

<sup>15</sup> Rent Stabilization Code sec. 2524.5(a)(2). See also, New York State Division of Housing and Community Renewal, Operational Bulletin 96-1, Procedures Pursuant to Rent Stabilization Code for Filing an Owner's Application to Refuse to Renew Leases on Grounds of Demolition.

<sup>16</sup> U.S. Bureau of the Census, 2008 New York City Housing and Vacancy Survey, as summarized in "Selected Findings of the 2008 New York City Housing and Vacancy Survey."

<sup>17</sup> Analysis of the 2008 HVS provided by the Community Service Society.

**MYTH:** In cities where rents are deregulated vacancy rates invariably rise.

**FACT:** We are regularly informed by industry experts that an end to rent regulation will inevitably result in an end to “housing gridlock” and the freeing up of thousands of apartments for new tenants. The most recent case available to evaluate this claim is Boston. Boston maintained rent regulations for many years and had a 4 percent vacancy rate when regulations were phased out between 1994 and 1997. By 2001 – after four years of deregulation – Boston’s vacancy rate fell to 2.9 percent.<sup>18</sup> Median rent for a two-bedroom apartment advertised in the Boston Globe more than doubled from \$740 in the early 1990s to \$1,700 by 2001.<sup>19</sup> Boston’s homeless population doubled over the same period.<sup>20</sup> By 2002, rents in Boston climbed so high that Mayor Thomas Menino called on Boston’s City Council to restore rent controls.

**MYTH:** Rent regulations cause housing abandonment.

**FACT:** Peter Marcuse of Columbia University undertook the most thorough investigation of the relationship between rent control and housing abandonment. Marcuse concluded that “[t]he substantial evidence available from national as well as local studies suggests that there is no correlation between rent control and abandonment. Rent control is neither a necessary nor a sufficient explanation of abandonment. Abandonment takes place, and as severely, in cities without rent control as in cities with it.”<sup>21</sup>

Very few housing experts who have studied the New York City metropolitan region’s housing markets have asserted that rent regulations reduce new construction or cause abandonment. Anyone familiar with the sources of housing distress readily understands this. Poverty, joblessness, crime, redlining by lending institutions, and excessive property taxation in low-income areas are the primary factors that cause abandonment.

The staff of the New York City Rent Guidelines Board has tracked distressed housing for many years. One finding from a 1994 survey of 300 owners of properties with serious tax arrears (three or more quarters) is particularly telling. When asked “what single city initiative would most improve building profitability?” 40 percent favored lower property taxes and lower water and sewer charges; 30 percent favored establishing a more efficient housing court; and only 25 percent favored higher rents.<sup>22</sup>

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<sup>18</sup> U.S. Bureau of the Census, Housing Vacancies and Homeownership, 2001, Table 5, “Rental Vacancy Rates for the 75 Largest Metropolitan Areas: 1986 to 2001.”

<sup>19</sup> Greenberger, “Menino Offers Rent Control Plan,” Boston Globe, 22 October 2002.

<sup>20</sup> Ibid.

<sup>21</sup> Peter Marcuse, Housing Abandonment: Does Rent Control Make a Difference? Policy Report, No. 4. (Washington, D.C.: Conference on Alternative State and Local Policies, 1981.)

<sup>22</sup> New York City Rent Guidelines Board, Housing NYC: Rents, Markets and Trends 1994, “Tax Arrears in Rent Stabilized Buildings,” 48-58.

## Fair returns for owners

**MYTH:** Rent regulation destroys owner profits.

**FACT:** There is a fundamental flaw with this statement. Rent regulations do not control the rate of real profits for the vast majority of landlords – those who purchased their buildings after the imposition of rent regulations. This is because prudent investors buy buildings at prices that are determined by the buildings' income potential. Buildings are bought and sold at open market prices, and investors will only pay what they think a building's rent roll warrants. As a result, those who buy rent-regulated buildings actually experience market returns on the capital they place at risk (i.e, their equity). Because rent rolls are lower in rent-regulated buildings, such buildings are purchased for less than unregulated buildings.

From an investor's perspective, the only important difference between buying a rent-regulated building and buying an unregulated building lies in the investor's assumptions about expected returns. In making a decision to purchase a rent-regulated building, investors must hedge their bets against what regulatory authorities can be expected to do with future rent adjustments. In buying an unregulated building, investors must anticipate what the vagaries of the market may bring.

Steady and predictable rent adjustments will substantially reward prudent investors who buy regulated buildings. Unwarranted rent freezes would defeat those expectations – just as deregulation would result in unexpected windfalls. As is discussed below, rent increases for rent-stabilized apartments have been so generous that owners have actually experienced substantial increases in relative net operating incomes over time.

**MYTH:** Owners who purchased apartment buildings before rent regulation have been deprived of a fair return on investment.

**FACT:** Landlords' returns on investment have held steady under rent regulation. In the period between 1967 and 1970 the average owner of a rent regulated building spent 62 cents of each rent dollar that was collected on operating and maintenance costs – leaving some 38 cents for net operating income.<sup>23</sup> According to the most recent report on landlords' rental income and operating expenses from the New York City Rent Guidelines Board staff, average net operating income was again 38 cents on the dollar in 2007. This demonstrates that landlords' returns remain stable under the rent stabilization system.

What about the owners of small buildings in distressed areas? Housing abandonment and distress are at historically low levels, with only 10 percent of property owners reporting operating losses as of last count.<sup>24</sup> There is good evidence to suggest that even these reported

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<sup>23</sup> "Staff Report to the New York City Rent Guidelines Board Comparing the Economic Condition of the Stabilized Stock, 1967 to 1997," dated 13 May 1999.

<sup>24</sup> NYC Rent Guidelines Board, 2009 Income and Expense Study, 7.

losses are overstated. A 1992 audit of a sampling of rent-stabilized buildings by the New York City Department of Finance found that landlords tend to overstate operating costs by an average of 8 percent on city tax filings, and that owners of small buildings tend to exaggerate their costs the most.<sup>25</sup>

In sum, there is no evidence that owners of rent-regulated buildings – whether they purchased before or after rent regulation went into effect – have received less than fair returns on their properties. Overwhelming evidence suggests that responsible building managers and prudent investors are capable of ensuring that rent-regulated buildings remain very profitable.

**MYTH:** Rent regulations cause many buildings to operate at a loss.

**FACT:** New York city and state rent stabilization laws contain hardship provisions to ensure that no building operates at a loss because of rent regulations.<sup>26</sup> Many owners have complained that this mechanism is inadequate. However, as long as this provision exists, it appears that the reasons for operating losses, where they do occur, lie outside of rent regulations.

It is worth highlighting the most common reasons why a small number of buildings do periodically suffer net operating losses.

One significant problem has to do with economic distress experienced by many tenants. Poverty, unemployment, and declining state and federal subsidies translate into nonpayment problems. A few chronically delinquent non-paying tenants will kill a small building's profitability. This occurs not only because of lost rental income, but also because of the cost of legal work to evict non-paying tenants. Non-payment situations may develop in any building, but are most critical in low-income neighborhoods where joblessness and poverty are prevalent. If owners were able to collect all the rents they are legally entitled to, their buildings would be quite profitable.

Another common reason for operating losses is poor management. Owners who fail to offer timely renewal leases, or fail to maintain services may find themselves unable to increase rents. In the case of buildings with rent-controlled apartments, some owners fail to file necessary forms or fail to clear violations, both necessary to obtain authorized rent increases. Such neglect may keep rents frozen at low levels for years.

It is also worth noting that many investors – novices and those with an appetite for speculation – pay more for their buildings than the rent rolls warrant. This is particularly true where

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<sup>25</sup> In 1992 the New York City Department of Finance conducted audits on 46 randomly selected rent stabilized properties to determine if the income and expense filings accurately reflected actual costs and expenses. The audits disclosed that the operating costs stated in the filings were overstated by 8 percent on average, and the level of mis-reporting was greatest in small buildings with 11-19 units. See New York City Rent Guidelines Board, Housing NYC: Rents, Markets and Trends 2000, "Income and Expense Study," 28, summarizing the findings of these audits.

<sup>26</sup> See Rent Stabilization Law 26-511(c)(6) and (6a) and Rent Stabilization Code 2522.4(b) and (c).

investors have unrealistic expectations about obtaining vacancies. When this happens, the cost of debt service places the building in a constant state of instability.

The two most effective solutions for distressed properties in these neighborhoods are living-wage jobs for those who can work, and adequate shelter allowances for those who cannot. One of the biggest long-term threats to the housing stock in low-income areas has been the stagnation of wage earnings over the past thirty years. According to an analysis by the Fiscal Policy Institute, New York ranks first among the states in the growing gap between high and low-income earners. From 1987 through 2006, the income of the lowest fifth of New York households rose by only 5.4 percent after inflation, and their share of the total income fell from 5.8 to 5.2 percent. During the same period, the income of the highest fifth of New Yorkers rose by 69.9 percent.<sup>27</sup> The very slow increase experienced by the lowest fifth was not nearly enough to keep pace with housing costs. This means that tenant incomes are more likely to become a limiting factor for landlords' rental income.

While upper income households have, no doubt, lost income in the present economy, there is no evidence that lower income families have experienced any improvement. With over one quarter of rent-stabilized households spending more than half of their earnings on rent, the prevalence of non-payment problems is not surprising.

Another serious threat to the economic stability of low rent housing is the profound inadequacy of shelter allowances for families on public assistance. Shelter allowances for a four-person household remained at \$312 per month from 1988 until 2003, prompting courts to order the state to cover additional rents where evictions are threatened.<sup>28</sup> In 2003, the shelter allowance was raised for households with children only, so that a four-person household with children now receives \$450.<sup>29</sup> Even with supplemental payments for families with threatened evictions, total shelter assistance payments remain completely inadequate.

Chronic affordability problems translate into evictions. Over 250,000 tenant households in New York City experienced an eviction between 1991 and 2001.<sup>30</sup>

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<sup>27</sup> Fiscal Policy Institute, "Pilling Apart: An Analysis of Income Trends in New York State." Available at [www.fiscalpolicy.org](http://www.fiscalpolicy.org).

<sup>28</sup> See *Jiggetts v. Dowling*, 261 AD2d 144, 689 NYS2d 482(1st Dept. 1999), leave to appeal denied, 94 NY2d 796, 700 NYS2d 428 (1999).

<sup>29</sup> New York Codes, Rules and Regulations, 18 NYCRR 352.3.

<sup>30</sup> New York City Rent Guidelines Board, *Housing NYC: Rents, Markets and Trends 2002*, Table F.7, 118.

## The views of economists

**MYTH:** Professional economists are uniformly opposed to rent regulations.

**FACT:** The views of professional economists on this subject are often distorted. The common misconception that economists universally oppose rent controls appears to find its source in a survey where economists were asked, among other things, if they agreed with the proposition that “a ceiling on rents reduces the quantity and quality of housing available.”<sup>31</sup> Of the American economists responding, 77 percent “generally agreed” and 19 percent “agreed with provisions.” One has to wonder how anyone could reasonably disagree with such a statement: a rent “ceiling” would be a drastic measure that would certainly have dramatic market consequences. New York’s moderate rent regulations do not impose a ceiling on rents.

The consensus on the effects of a rent ceiling hardly proves that economists are united in opposition to moderate rent regulations. These allow adjustments in rents to compensate for increases in operating costs and exempt new construction from coverage. Economists who have directly examined the impact of New York’s moderate rent laws have thoroughly questioned and criticized the conclusions of those who have considered only abstract models or only the effects of strict rent control laws.

As Michael Mandel, currently *Business Week*’s chief economist, has explained:

[E]conomics textbooks, like introductory books in other fields, often engage in oversimplification to make a pedagogical point. In this case, the textbook authors needed a way of illustrating the effects of imposing a price ceiling on a market, and rent control provided a vivid example to liven up the usual dry supply and demand diagram. But good examples make bad economics. A price ceiling, as defined by economists, is a uniform ban on selling a product above a certain price.... It is clear that such a policy inevitably leads to shortages.

However, rent control laws in the United States are not price ceilings in this sense. Under all existing laws, rent control regulates the rent on most apartments built before a particular date, but new construction is exempted from any rent regulation. In New York City, for example, the rent laws do not cover apartment buildings constructed after 1974. This apparently small difference makes a tremendous difference in the effects of rent control. We teach in first-year economics courses that the supply of a good is determined by the price at which it can be sold. In the case of housing supply, the construction of new apartments is determined by their rent, which under existing rent laws is unregulated. This

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<sup>31</sup> Frey, Pommerehne, Schnieder and Gilbert, “Consensus and Dissension Among Economists: An Empirical Inquiry,” 74 *Am. Econ. Rev.* 986 (1984).

suggests that these laws will not suppress the supply of new apartments (and ... may even increase supply).<sup>32</sup>

According to economist Phillip Weitzman, a former director of research and policy with the New York City Department of Housing Preservation and Development:

The existing empirical literature does not take into account the rise of second generation [moderate] rent controls, nor does it attempt to respond to the concerns expressed by tenants and neighborhood leaders for preservation of their homes and communities. It is also not clear that enlightened public intervention necessarily has all the adverse effects so confidently predicted by economists.<sup>33</sup>

Finally, consider the observations of Michael B. Teitz, Director of Research at the Public Policy Institute of California, professor emeritus at the University of California, Berkeley, and a former project leader for the Rand Corporation's studies of housing and rent control in New York City:

The most important reason for rent regulation is created by the large swings in demand that take place in many housing markets over relatively short periods of time, in contrast to the length of the process by which competitive markets increase the supply of low-priced housing. The high cost of finding new accommodation, the municipal restrictions on development and on minimum unit sizes, and the multidimensional attributes of the housing service that make it particularly important to consumers may justify the regulation of rent cycles.

This brief review of economic theory shows how recent advances have made contemporary economists recognize the value of mild second-generation rent controls.<sup>34</sup>

In New York, the city and state rent stabilization system is generally regarded as a mild second-generation form of rent regulation. In fact, given the scope and frequency of rent increases permitted, New York's rent stabilization system is very mild indeed.

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<sup>32</sup> Michael Mandel, Does Rent Control Hurt Tenants?: A Reply to Epstein, *Brooklyn L. Rev.*, vol. 54, 1267, 1268 (1989).

<sup>33</sup> Phillip Weitzman, Economics and Rent Regulation: A Call for a New Perspective, *New York University Review of Law and Social Change*, vol. 13, pages 975-988 (1985).

<sup>34</sup> W. Dennis Keating, Michael B. Teitz, and Andrejs Skaburskis, Rent Control: Regulation and the Rental Housing Market, chap. 4, *The Economics of Rent Regulation*, Center for Urban Policy Research (1998), 57.

## Housing quality

**MYTH:** Rent regulations lead to declines in housing quality.

**FACT:** New York's rent laws allow very generous increases for building improvements. One fortieth of the cost of improvements made to individual apartments (usually done after a vacancy occurs) may be passed on in monthly rent increases. That increase stays with the apartment forever. Consequently, an owner who invests \$400 in a refrigerator is entitled to a \$10 per month rent increase forever. By the eighth year the refrigerator is in use the tenant will have paid the owner \$960 for it. Owners are allowed to charge 1/84th the cost of major capital improvements. Thus, an investment of \$10,000 in a new boiler will yield twice that much over a 14-year period. These incentives supported the massive upgrading in heating systems and weatherproofing (such as double pane windows) that began in the 1980s and continues to this day.

A study of the Major Capital Improvement Program done for the New York State Division of Housing and Community Renewal in 1989 concluded that the estimated rate of return for the 1,003 MCI applications studied was 18.2 percent. The estimated return on the rent increases derived from individual apartment improvements was 33.9 percent if the improvements were not financed and 68.5 percent if 60 percent of the improvements were financed.<sup>35</sup> In sum, under the current system, owners are generously rewarded for improvements made to their rent-regulated properties.

Buildings that suffer from chronic neglect are typically located in poorer communities where tenants' incomes simply cannot support rent increases for major improvements. In these buildings, the struggle is for day-to-day minimal maintenance, and the rent laws have little impact on building conditions. Such buildings would suffer from deterioration and economic instability even in an unregulated market.

Analysts who claim rent regulations cause a decline in housing quality fail to examine the fact that most regulatory systems allow generous rent adjustments for building-wide capital improvements and for improvements to individual apartments. Moreover, tenants very often will undertake their own repairs and improvements. Below is an abstract of an article by economist Edgar Olsen, addressing this oversight:

Economists' views concerning the effect of rent control on the maintenance of controlled apartments are based on extremely simple models of housing markets and rent control ordinances and on causal empiricism. This paper shows that the models are seriously deficient in that they ignore essential features of actual rent

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<sup>35</sup> Ernst & Whinney and Speedwell, Inc., "Review of the Major Capital Improvement Program," 1989. When this study was undertaken, the amortization period for major capital improvements was 60 months. Despite a DHCR initiative to increase the amortization period for both programs (and thereby reduce the rates of return) only the amortization period for major capital improvements was increased – to 84 months, where it stands today. The amortization period for individual apartment improvements remains at 40 months.

control ordinances and important responses to them. When these features and responses are taken into account, the effect of rent control on housing maintenance of the controlled stock is theoretically ambiguous. The paper also shows that the few systemic empirical studies have serious flaws. Therefore, there is no basis for some economists' strongly-held belief that rent control leads to worse maintenance.<sup>36</sup>

**MYTH:** Sixty years of rent regulations have caused a decline in the quality of New York's housing stock.

**FACT:** According to the most recent census data:

- In 2008, housing conditions in the City are as good as they have ever been since the Housing and Vacancy Survey started measuring them in 1965. Almost all housing units in the City were in structurally good buildings. Of all occupied units, only 0.5 percent were in dilapidated buildings in 2008. The dilapidation has never been lower in the 43-year period since 1965.
- Neighborhood quality is also the best it has ever been. The proportion of renter households near buildings with broken or boarded-up windows on the street was 5.1 percent in 2008 – the best since the Housing and Vacancy Survey began tracking it.
- The proportion of renter households that rated the quality of their neighborhood residential structures as “good” or “excellent” was 71.8 percent in 2008.<sup>37</sup>

## Rent regulations and the local economy

**MYTH:** Rent regulations hurt the local economy.

**FACT:** To be sure, increased rents would cause a flood of billions of dollars into the hands of landlords, and a portion of that increase would go to municipal property tax collectors. But every dollar that goes to a landlord is a dollar that a tenant will not be able to spend in the local economy or to place into a savings account. Thus, while landlords might reap the gains of rent increases, local merchants and service providers would experience a corresponding loss of income as consumer spending by tenants declines. Sales taxes and other local tax revenues would suffer, local jobs might be lost, and the character of our neighborhoods would change.

There is a good deal of evidence indicating that new businesses already shy away from the New York City metropolitan area because the region's high rents produce high wage demands. On

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<sup>36</sup> Edgar Olsen, What do Economists Know About the Effect of Rent Control on Housing Maintenance?, *Journal of Real Estate and Finance Economics*, vol. 1, No. 3 Article 5.

<sup>37</sup> U.S. Bureau of the Census, 2008 New York City Housing and Vacancy Survey, as summarized in “Selected Findings of the 2008 New York City Housing and Vacancy Survey.”

balance, there is no credible evidence that a dollar in a landlord's pocket produces a greater economic benefit for the community than a dollar in a tenant's pocket.

It is simply myopic to assume that a transfer of wealth from tenants to owners will increase the overall wealth of the city or surrounding counties. All of the studies sponsored by landlord organizations fail to credibly analyze the impact of rent increases on the disposable incomes of tenants and the implications this has for the economy at large.

## Underutilization

**MYTH:** Rent stabilization causes misallocation and underutilization of housing resources.

**FACT:** Strikingly, there is strong evidence indicating that rent-stabilized units are more heavily utilized than unregulated units. Indeed, rent-stabilized units are consistently found to be more overcrowded than unregulated apartments.<sup>38</sup> According to the New York City Housing and Vacancy Surveys of 1991, 1993, and 1996, overcrowding (defined as more than one person per room) in unregulated units ranged from 9.7 to 10.0 percent and severe overcrowding (defined as more than 1.5 persons per room) ranged from 2.8 to 3.2 percent. By contrast, rent-stabilized units were found to have overcrowding rates ranging from 11.8 to 12.4 percent and severe overcrowding rates ranging from 4.4 to 4.8 percent.

One of the most common criticisms of rent regulation is that it allegedly forces long-term tenants or empty nesters to hold onto their units much longer than they would otherwise. In a review of data from the 1999 Housing and Vacancy Survey, the staff of the New York City Rent Guidelines Board analyzed the relative size of apartments occupied by single seniors by regulatory status. Their findings are clear:

The largest shares of single elderly tenants in apartments with two or more bedrooms occur within non-regulated apartments (43.5%), public housing (39%) and rent controlled housing (34%). In rent-stabilized apartments, 24% live in apartments with two or more bedrooms...<sup>39</sup>

Thus, after over thirty years of rent stabilization, there is no empirical evidence to support the claim that stabilization has caused apartments to be underutilized. Notably, under New York's older rent control system, legal mechanisms exist to permit subdivision of certain "under-occupied" apartments so long as the tenant is allowed to remain in one of the newly created "self-contained family units."<sup>40</sup>

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<sup>38</sup> See U.S. Bureau of the Census, 1996 Housing and Vacancy Survey, Table 7.39, comparing overcrowding rates by regulatory status in 1991, 1993 and 1996.

<sup>39</sup> New York City Rent Guidelines Board, Housing NYC: Rents, Markets and Trends 2002, 73.

<sup>40</sup> See New York City Rent and Eviction Regulations. Section 2204.7.

## Rent skewing

**MYTH:** Rent regulations lead to unfair rent skewing, which pits tenants against one another.

**FACT:** A common criticism of rent regulation is that it increases rent inequities among tenants leading to a sense of unfairness. In fact, such inequities exist in both rent-regulated and unregulated buildings. Several studies show that rent “skewing” occurs wherever long-term tenancies exist.<sup>41</sup> Naturally landlords often give preferable treatment to long-term stable rent payers over more transient tenants. There is strong evidence that rent regulation promotes long-term tenancies and this explains much of the rent skewing that occurs in rent-regulated buildings.

One study by the Rent Guidelines Board in 1994 found that the annual “discount” given for long-term tenants is virtually identical in both rent-regulated and unregulated buildings.<sup>42</sup> Only the fact that rent-protected households typically occupy units about three to four years longer than unregulated households accounts for the deeper overall discount they receive. In short, except for promoting long-term tenancies, New York’s rent regulation system mimics open market patterns of longevity discounts quite effectively.

Deregulation will not cure these inequities in a way that satisfies those who now feel that they unfairly pay more than their neighbors. If rent regulation ends, rents are likely to go up for nearly everyone. The fact that your neighbor’s rent goes up 50 percent while your rent goes up only 25 percent is not likely to provide much comfort.

Critics of rent regulation have referred to the lengthy tenure of rent-regulated tenants as “housing gridlock.” Tenant advocates see long-term tenancies as providing neighborhood stability. In a city where more than two out of three households are renters and families have fewer home ownership options, the presence of long-term tenancies is neither surprising nor undesirable.

## Unfairness to co-op shareholders

**MYTH:** Rent stabilized tenants in co-op buildings pay such low rents that it is unfair to coop shareholders.

**FACT:** Some shareholders in co-ops resent the fact that some – though hardly a majority – of rent-regulated tenants in their buildings pay less rent than they pay in maintenance charges. The comparison between rents and maintenance can be misleading. First, most coops have sizable underlying mortgages which reflect the ownership interest of the shareholders. Those

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<sup>41</sup> New York City Rent Guidelines Board, Rent Stabilized Housing in New York City 1994, “Rent Skewing in Rent Stabilized Buildings,” 62-65.

<sup>42</sup> Ibid.

mortgages are paid off by rents and maintenance charges. While the co-op corporation gains a larger equity interest in the property as such mortgages are retired – adding to the value of each share held by co-op shareholder – tenants do not benefit from this. Second, shareholders are permitted to take income tax deductions for that part of their maintenance charges which goes to mortgage interest and property taxes. This means that co-op shareholders see a good portion (often 10 to 20 percent) of their maintenance returned at tax time. Tenants get no such discount.

Rent increases for regulated tenants generally exceed increases in annual co-op maintenance charges. Also, as tenants vacate their apartments those units may be rented at market rent or sold.

## Rent regulation and homelessness

**MYTH:** Rent regulations cause homelessness.

**FACT:** In 1987, William Tucker, a prolific critic of rent regulations, authored an article in the *National Review* arguing that “[t]ruly widespread homelessness does not occur ... until a city imposes rent control.”<sup>43</sup> The article concluded that “[u]nless ... cities can be persuaded to give up rent control, the ranks of this minority – the homeless – will continue to grow.”<sup>44</sup>

In 1989 four sociologists undertook a detailed review of Tucker’s claims and found them to be “spurious.”<sup>45</sup> Their review found that the author utilized unreliable data about the number of homeless persons; that among the cities reviewed, one city (Hartford) was categorized as having rent controls when it did not have rent controls; that homeless estimates for fifteen of the fifty cities examined were based upon the author’s “own homeless estimates” derived by his “making telephone calls to unspecified informants;” and finally, that the author failed “to consider the possibility that high rents might themselves be a chief cause of homelessness...”<sup>46</sup>

Perhaps the best way to consider this question is to look at the recent experience with deregulation in Boston. Between 1994 and 1997 rent regulations in Boston were eliminated. Between 1991 (just before deregulation) and 2001 (four years after deregulation) Boston’s homeless population doubled.<sup>47</sup>

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<sup>43</sup> William Tucker, “Where Do the Homeless Come From,” *National Review*, 25 September 1987, 32-43.

<sup>44</sup> *Ibid.*

<sup>45</sup> Appelbaum, Dolny, Dreier, and Gilderbloom, *Scapegoating Rent Control: Masking the Causes of Homelessness*, Economic Policy Institute Briefing Paper, October 1989.

<sup>46</sup> *Ibid.*

<sup>47</sup> Greenberger, “Menino Offers Rent Control Plan,” *Boston Globe*, 22 October 2002, B1.

## Rents after deregulation

**MYTH:** Following deregulation, rents can be expected to remain stable and even decline in many neighborhoods.

**FACT:** Unregulated rents in New York City are currently, on average, 52 percent higher than regulated rents. In Manhattan, where the most apartments have been decontrolled since 1993, unregulated rents are 127 percent higher than regulated rents. In every one of the city's 55 sub-borough areas, unregulated rents are higher than regulated rents. The differences range from 5 percent in the Rockaways to 162 percent on Manhattan's lower East Side. In the gentrifying neighborhoods of Williamsburg, Washington Heights, Harlem, and East Harlem, the differences were in the 60 percent range. In Park Slope, the difference was 81 percent.<sup>48</sup>

These findings suggest that deregulation will lead to substantial rent increases in every borough and in almost every neighborhood.

**MYTH:** Rent regulations lead to increased tensions and violence between tenants and landlords.

**FACT:** There is no question that some landlords will occasionally engage in violent behavior to rid themselves of rent-regulated tenants. But violence and social unrest have been most severe during periods when the city lacked rent and eviction protections. The tenement population of the 1800s experienced three major riots in mid-century – all of which have been connected with distressed housing conditions and oppressive rents.<sup>49</sup> Major rent strikes and protests involving thousands of apartments erupted in 1904, 1908, and 1919, before the adoption of rent laws of the 1920s.<sup>50</sup>

Three years after the 1920s rent laws expired, the city witnessed the “Great Rent Strike War” of 1932, involving thousands of tenants in rent strikes, protests, and riots.<sup>51</sup> In 1943, riots and threats of rent strikes in Harlem prompted the imposition of federal rent controls in New York

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<sup>48</sup> Analysis of the 2008 HVS by the Community Service Society.

<sup>49</sup> Richard Plunz, *A History of Housing in New York City*, 21 (observing that “[m]ajor riots in 1849 and 1857 pointed towards the increasing pathological state of the tenement population. The most traumatic civil disturbance, however, was the ‘draft riots’ of 1863. On the surface they were a reaction to newly imposed involuntary conscription during the Civil War. But the violence was also the product of the intolerable conditions of the city’s poor. The wretched and diseased population of the tenements...poured into the city streets. They demonstrated beyond question the connection between the housing problem and the threat of civil disturbance.”); and Jacob Riis, *How the Other Half Lives*, chap. 1, at 4 (noting that in 1855, in “the worst slums of the lower wards,” rents were “from twenty-five to thirty percent higher” than in the better uptown areas).

<sup>50</sup> Ronald Lawson, *The Tenant Movement in New York City, 1904 -1984*, 39-63.

<sup>51</sup> *Ibid*, 102-112.

City.<sup>52</sup> In sum, the history of housing in New York clearly instructs that rent and eviction protections are conducive to social stability.

## Conclusion

The primary effect of deregulation would be to cause a massive shift of billions of dollars from largely middle-income tenants to landlords. There is no evidence that deregulation would have any measurable benefit for the economy of New York City or its suburbs, or to the housing stock. Deregulation would result in severe economic distress for hundreds of thousands of working families, and would likely lead to a sharp rise in homelessness and social unrest.

In visiting this issue twelve years ago, the late John Cardinal O'Connor of the Archdiocese of New York, called for the formation of a "broadly representative body" to review New York's rent laws. "Their mandate? To ask themselves if they agree on the 'worth and dignity of the human rights of every individual in society.' Ask themselves if they believe affordable housing is a human right for everyone. Ask themselves how affordable housing can be achieved, sustained and fostered workably within our political and economic system. Ask themselves what sacrifices they are prepared to make, what compromises they are willing to share. Ask themselves how we can live together as a people."<sup>53</sup> These remain defining questions.

Former Labor Secretary Robert Reich once wrote: "It has never been economics alone that defines America. If we choose as a culture to push back against economic forces that would otherwise divide us, it is within our ability to do so. And the consequences of choosing otherwise – by pretending that the choice is not ours to make – is to cease being a society."<sup>54</sup>

Under New York's rent regulations, the interests of all parties have been respected: owners have fared well and tenants have received protections in a volatile market. Over the past sixty years, this system has helped stabilize our neighborhoods and permitted millions of tenants to live with dignity. Our common experience provides good reason to preserve our rent regulation laws.

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<sup>52</sup> Keating, Teitz, and Skaburskis, *Rent Control: Regulation and the Rental Housing Market*, 154 (noting that "[i]n the wake of an August 1943 Harlem riot and threatened rent strikes if landlords did not exercise voluntary restraints...[the federal Office of Price Administration] ...imposed a wartime rent freeze...").

<sup>53</sup> John Cardinal O'Connor, "A Moral Reflection on Rent Control" (often referred to as his "Mother's Day Homily"), May 1997.

<sup>54</sup> Robert Reich, *New York Times*, Op-Ed, 9 January 1997.