Attack on Affordability

Landlord lobby's vacancy reset bill would gut rent stabilization and threaten affordability for more than half of rent-stabilized apartments

A proposed New York State law would imperil more than half a million rent-stabilized apartments currently home to 1.3 million long-term tenants. S6352/A6772 would allow landlords to raise rents to market rates upon vacancy of households who lived in the apartment for 10 years or more. Rent increases in these homes would be determined not by the Rent Guidelines Board (RGB), like all other rent-stabilized apartments, but by federal guidelines for local Fair Market Rents. Rents could easily double. Despite its stated purpose to "preserve and restore" rent-stabilized housing, the bill contains little to ensure that apartments subject to these dramatic rent hikes are in need of or will receive substantial rehabilitation. Allowing such significant rent increases would impose massive displacement pressures on already vulnerable rent-stabilized tenants and diminish New York City's already paltry affordable housing stock.

This brief examines the potential rent increases that would be authorized by this legislation and its impact on the affordable housing stock, the tenants who live in affected apartments, and why this legislation would not preserve but rather undermine rent-stabilized housing.

1. This legislation would enable significant new rent increases on scarce affordable rent-stabilized apartments.

The proposed legislation would allow landlords to increase rents to HUD's local Fair Market Rents (FMR) once a tenant who has lived in a stabilized apartment for ten or more years vacates that unit.[1] This would enable increases significantly greater than those typically authorized by the local RGB under current law, resulting in rents unaffordable to the average New York City renter.

The median rent for rent-stabilized apartments is $1,510 for all rent-stabilized units, and $1,295 for those occupied by the same household since 2014.[2] Fair Market Rents for 2024 are significantly higher. For studio or one-bedroom apartments, for example, the FMR is $2,451—nearly double the median rent of $1,261 among rent-stabilized apartments occupied by the same tenant since 2014. For three-bedroom apartments, the FMR is $3,434, 77% ($1,815) higher than the median rent for a long-occupied rent-stabilized apartment. These increases are significantly larger than those typically allowed on rent-regulated housing.

Rent-Stabilized Apartments with Pre-2014 Tenants

	Median Rent in 2020	Median Rent, adjusted for RGB increases in 2024	Fair Market Rent (2024)	Potential Rent increase under S6352/A6772
Studio/one bedroom	$1,168	$1,261	$2,451	**+$1,190**
Two bedrooms	$1,215	$1,312	$2,752	**+$1,440**
Three bedrooms	$1,500	$1,619	$3,434	**+$1,815**
Four+ bedrooms	$1,800	$1,943	$3,700	**+$1,757**

Source: Community Service Society of New York's analysis of 2021 NYC Housing and Vacancy Survey data

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The Rent Guidelines Board (RGB) approved annual rent increases of 2.75%–3.2% in 2023 and 3.25%–5% the previous year; in the past twenty years, RGB rent increases have been as low as 0% on one-year leases and as high as 8.5% on two-year leases.

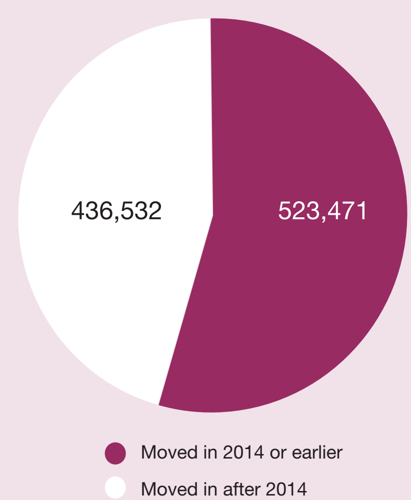
Proposed allowable rent increases would create a strong financial incentive for displacement of long-time tenants. By enabling significant rent increases upon vacancy of a long-occupied apartment, the proposed legislation would exacerbate displacement pressures on existing tenants. Rent-stabilization policy prior to the Housing Stability and Protection Act of 2019 (HSPTA) provides useful precedent. Prior to HSTPA reforms, the law provided a number of mechanisms for landlords to raise rents above RGB increases and even deregulate apartments, including: vacancy bonuses of 20% every time an apartment turned over, increases for capital improvements to the apartment or building, preferential rents, and high-rent and high-income thresholds at which an apartment could be removed from rent-stabilization. Tenant organizers, reporters, and policy researchers documented widespread landlord harassment (from neglect and construction harassment to illegal buyout offers), improper rent increases and capital improvement claims, and evictions in rent-stabilized housing citywide.[3] The displacement pressures and loss of affordable housing correlated with these vacancy incentives led to advocacy for and passage of stronger rent regulations under HSPTA.[4] The rent increases that would be allowable under S6352/A6772 would be even larger, posing threats to rent-stabilized tenants not seen since 1971, when a similar loophole created chaos in the rental market.[5]

Fair Market Rents are not affordable[6] to the typical New York City renter. For example, the minimum household income required to afford a studio or 1-bedroom apartment at the FMR of $2,451 without being rent-burdened is $98,040. For a 3-bedroom apartment, a household must earn at least $137,360 to afford the FMR of $3,434. Yet the median household income of New York City renters in 2023 was $70,000, and $60,000 among rent-stabilized tenants. The majority (70%) of rent-stabilized households earned less than $100,000, and 43% earned less than $50,000.

The proposed legislation threatens the affordability of lower-rent apartments amidst historic scarcity. The apartments that would be subject to the proposed legislation, which have an estimated median rent of $1,295, are among the last remaining deeply affordable housing in the city. The 2023 New York City Housing and Vacancy Survey (HVS) shows that the city has already lost a tremendous amount of our most affordable apartments, and the vacancy rate for the remaining low-cost housing is vanishingly small. Between 1993 and 2023, New York City lost more than 600,000 homes that rented for less than $1,500 (accounting for inflation)—those considered affordable to a household earning $60,000. In 2023, the vacancy rate for apartments renting at the bottom quartile (apartments asking less than $1,100) was just 0.39 percent, while the vacancy rate for the next highest quartile (apartments asking between $1,100 and $1,649) was barely higher at 0.91 percent.

The 2023 HVS also shows that when apartments do become vacant, they are more likely to be occupied by high-income residents than low-income New Yorkers. In 2021, 56% of those that moved into homes that were vacant and 44% of those that moved into units that were occupied made more than $100,000. If this law were to pass, it would likely accelerate this trend.

Most rent-stabilized households have lived in their apartments for 10+ years

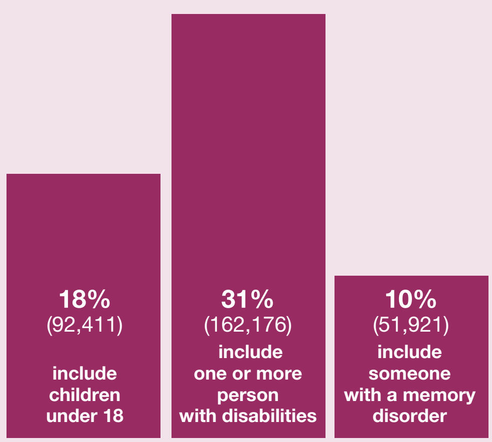


2. This bill would threaten the long-term affordability of the majority of today's rent-stabilized apartments, home to 1.3 million tenants, many of whom are in vulnerable populations.

The majority of the city's rent-stabilized housing stock could be subject to significant rent increases upon vacancy of current tenants under the proposed legislation. Of all rent-stabilized households, 55 percent (523,471 in total, representing 1,298,004 tenants) have lived in their homes since 2014 or longer.[7]

This current population of 1.3 million includes many tenants who are vulnerable because of their age or their health. Nearly one in five (18 percent) long-term rent-stabilized households has children. Nearly a third (31 percent) include at least one person with a disability, and one in ten has a person with a memory disorder like Alzheimer's. These populations face barriers in the housing and labor markets, and are especially vulnerable to the social and economic impacts of displacement.

Tenants who moved in 10+ years ago include households with vulnerabilities



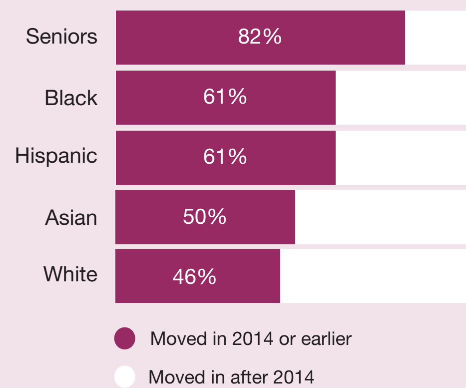
People of color and older adults living in rent-stabilized apartments are likely to have moved in at least ten years ago. Among all seniors living in rent-stabilized apartments, for instance, more than four out of five (82 percent) have lived in their homes since 2014 or longer. Nearly two-thirds of Black and Hispanic rent-stabilized tenants (61 percent) and half of Asian rent-stabilized tenants have lived in their apartments for 10 or more years. By targeting apartments with long-time tenants, the proposed legislation would disproportionately apply to the rent-stabilized population's people of color and seniors.

Of those who have lived in their homes since at least 2014, the plurality (46 percent) were born in New York City. Another 25 percent were born in Latin America or The Caribbean, 11 percent are from elsewhere in the United States, and the remainder are from elsewhere in the world.

Long-term tenants represent more than half of rent-stabilized households, located in every Community District in New York City.[8]

In addition to long-time rent-stabilized tenants, this legislation would also hurt prospective low-income tenants by increasing formerly lower-rent apartments to unaffordable rates.

Most people of color and seniors living in rent stabilized units are long-term tenants



3. Proposed rent hikes will not "restore" rent-stabilized housing.

This legislation is not needed for the "restoration" or maintenance of rent-stabilized apartments, and would instead threaten this affordable housing. S6352/A6772 responds to claims from real estate lobby groups, such as the Community Housing Improvement Program (CHIP)[9] and the Real Estate Board of New York (REBNY),[10] that a significant number of rent-stabilized apartments are being held off-market because legal rents would not cover the costs of necessary renovations, and that as such, long-occupied apartments should be brought up to market rents upon turnover.[11] Yet the latest Housing and Vacancy Survey shows a reduction in vacancies and unavailable apartments, undermining claims that this is a widespread problem. For truly distressed rent-stabilized housing, other resources are available to support their presevation. Further, the legislation does not require that apartments be rehabilitated, and history indicates that many landlords would not reinvest rent increases into the building.

There are fewer vacant apartments and fewer units being held off the market than before the pandemic and before the 2019 Housing Stability and Tenant Protection Act. Overall vacancy rates for rent stabilized apartments plunged from 4.57 percent in 2021 to just 0.98 percent in 2023, suggesting both that landlords are currently collecting rent on more rent stabilized apartments than they were a couple years ago, and that there are fewer and fewer available rent-stabilized options at any price point. The number of units classified as "vacant, unavailable" has also fallen significantly.

Units are classified as "vacant, unavailable" in the HVS whether a new tenant is moving in next week or the apartment has been dilapidated and off the market for years. There was a 35 percent decrease in "vacant, unavailable units" between 2021 and 2023, from 353,400 to 230,200 units.[12] At the same time, the total number of housing units in NYC increased by 9 percent, to 3.43 million. The 2023 number of "vacant, unavailable units" is lower than it was in 2017 (247,977), before the 2019 Housing Stability and Tenant Protection Act (HSTPA). In 2023, 26,310 "vacant, unavailable" were rent-stabilized, down from 42,860 in 2021—a 39 percent decline.[13] These trends challenge landlord groups' claims that HSTPA reforms like the end of vacancy bonuses are forcing more apartments offline.

A significant share of vacant and unavailable apartments—30%, or over 52,000 units, per the 2023 HVS—were undergoing renovations, suggesting that investment in the housing stock is ongoing.

With new laws now in place to curb "Frankensteining"—or the practice of combining rent stabilized apartments in order to reset rents to market-rates—the number of rent-stabilized apartments held off the market is likely to continue falling.

Public resources are available to preserve apartments in distressed buildings. While the HVS shows that vacancies have declined and more rent-stabilized apartments are being rented out citywide, some rent-stabilized landlords may face obstacles bringing vacant and poorly maintained apartments back into use. Viable options are available to bring these apartments up to habitability standards and preserve affordability.

Unlocking Doors, an Adams administration program launched in 2023 to offer capital grants to landlords of low-rent, vacant rent stabilized apartments in need of repairs. The program would provide up to $25,000 for capital improvements. In exchange, the landlord would have to rent the improved apartment to a CityFHEPS voucher holder at the legal regulated rent. In exchange for accepting a vouchered tenant, the landlord could receive an additional rent bonus of $4,500, and can legally raise the rent in order to recoup up to $15,000 in Individual Apartment Increases over 30 years. All in all, then, this program is worth $44,500 per unit, plus city-guaranteed rent going forward.

The State could also provide funding and enact legislation like the Tenant Opportunity to Purchase Act (S221/A3353) to enable tenants and nonprofit organizations to acquire rent-stabilized housing from distressed landlords and maintain it as permanently affordable housing under Community Land Trusts or other models. At the City level, the Community Opportunity to Purchase Act (Int 1977) would provide similar opportunities. The City could also revive Neighborhood Pillars, a de Blasio-era program that would provide financing to qualified non-profit housing providers to purchase distressed rent stabilized apartments and run them as permanently affordable housing.

Legislation does not require that apartments be rehabilitated, and history indicates that many landlords would not reinvest rent increases into the building. The legislation would not require landlords to prove that apartments need substantial rehabilitation or that they are in financial distress. The documentation required to demonstrate improvements is insufficient, and the State does not have adequate resources for enforcement (as demonstrated by challenges with regulating Individual Apartment Improvements and Major Capital Improvements claims). While landlord lobby groups claim that stronger rent regulations have created hardships for landlords, data show that Net Operating Income has increased in rent-stabilized housing by nearly 50% over the past three decades.[14] As the Community Service Society has found, many landlords overleveraged their rent stabilized portfolios in the lead up to, and immediately after, the mortgage crisis in 2008. Further, it is widespread practice for rent-stabilized landlords to leverage rising property values and net operating income to take on new debt, not to reinvest in their buildings but to pull out equity.

Conclusion

Risky speculation and bad financial practices, not strong renter protections, are what is driving the distress of some properties. Providing a legal mechanism for rent-stabilized rents to skyrocket to market rates would increase landlords' revenues with no guarantee and little likelihood of improved conditions for tenants, and certainly not for current low-income tenants.

By allowing rents to be increased to Fair Market Rent after long-term tenancies, S6352/A6672 would both create strong financial incentives to displace current vulnerable tenants and remove affordable housing from the market for future tenants. If the legislature and the governor turn S6352/A6772 into law, they will be signing off on the loss of some of the last remaining deeply affordable housing in the city. Policymakers should prioritize preserving our affordable housing stock, not creating loopholes to erode it.

ENDNOTES

1. The bill, as written, refers to "Small Area FMR (SA-FMR)" rather than FMR. Small Area FMR is calculated based on zip-code level rents, and varies across geographies. This brief uses regional FMRs rather than SA-FMRs in comparison to rent-stabilized rents because the 2021 NYCHVS (the most recent year for which microdata is available) does not allow for analysis at any geographic scale smaller than the borough. We note that in high-rent areas, SA-FMR can be quite higher than the regional FMRs analyzed here. In several Manhattan, Brooklyn and Queens zip codes, for example, the Small Area FMR is over $4,000 for a 1-bedroom apartment (compared to $2,451 regional FMR). Even in zip codes with the lowest SA-FMRs, including 11224 (Coney Island), 11212 (Brownsville), 10452 (Highbridge), and 10472 and 10473 (Soundview), SA-FMRs are higher than the median rent for rent-stabilized apartments ($1,960 for a studio or one-bed-room, as compared to the median of $1,261for an apartment of that size occupied by a long-term tenant).
2. This figure is based on 2020 data, so it has been adjusted for inflation to its value in 2024.
3. Among many influential reports during this period, examples include:
   - Association for Neighborhood and Housing Development, "The $20,000 Stove: How Fraudulent Rent Increases Undermine New York's Affordable Housing," January 2009
   - Make The Road New York, "RENT FRAUD Illegal Rent Increases and the Loss of Affordable Housing in New York City,"August 2011
   - Michael Greenberg, "Tenants Under Siege: Inside New York City's Housing Crisis," The New York Review of Books, August, 17, 2017
   - Cezary Podkul, "Many 'Rent-Stabilized' NYC Apartments Are Not Really Stabilized. See Where They Are," ProPublica, June 22, 2017
   - Association for Neighborhood and Housing Development, Predatory Equity: Evolution of a Crisis, November 2009
4. For example, more than 170,000 units were deregulated under High-Rent Vacancy Deregulation from 1994 through 2019. Rent Guidelines Board, "Changes to the Rent Stabilized Housing Stock in NYC in 2022,"May 2023
5. Within less than three years of vacancy decontrols being enacted in 1971, "300,000 rent-controlled units and approximately 88,000 rent-stabilized units lost their protections through deregulation." Justin R. LaMort, "The Theft of Affordable Housing: How Rent-Stabilized Apartments are Disappearing from Fraudulent Individual Apartment Improvements and What Can be Done to Save Them," *NYU Review of Law & Social Change*, Volume 40, Issue 2, 2016
6. "Affordable" rent here is defined as 30% or less of gross household income; households spending more than 30% of their income on rent are considered rent-burdened in the NYC HVS.
7. Community Service Society of New York's analysis of 2021 NYC Housing and Vacancy Survey data, the most recent year for which microdata is available. (2023 Housing and Vacancy Survey Selected Initial Findings were recently released, but microdata is not yet available.)
8. Given that the most recent Housing and Vacancy Surveys do not currently allow for neighborhood-level analysis, this brief does not include a geographic analysis of the location of long-time rent-stabilized tenants. However, an internal analysis of 2017 HVS data indicates that the largest number of tenants living in their apartments for 10 or more years at that time (since 2007 or earlier) were located in Northern Manhattan and the adjacent Bronx neigh-borhoods of Highbridge, Morris Heights and Kingsbridge. Other neighborhoods with large numbers of long-time rent-stabilized tenants in 2017 included highly-gentrified areas including Hell's Kitchen and the Upper West Side, the Lower East Side and Chinatown, Bedford Stuyvesant, and Crown Heights.
9. Suznnah Cavanaugh, "Landlords rebrand rent-reset bill. Will legislators buy it?," The Real Deal, February 9, 2023
10. Janaki Chadha, "New York real estate lobby pushes to roll back 2019 rent changes with new data," POLITICO New York, February 29, 2024
11. https://vacancynyc.org/
12. From 2014 to 2021, *pied-a-terre* and short-term rentals made up a significant share of "vacant, unavailable units," reaching a peak in 2021 with 102,900 units. However, in 2023, their count fell by 43 percent, reflecting both the tight housing market and perhaps the early impacts of the city's crackdown on illegal short-term rentals (i.e. apartments unlawfully converted into full-time hotels using sites like Airbnb).
13. With these 26,310 units, we don't know if they are vacant and unavailable because someone is moving in tomorrow or because they are off the market because of conditions issues. The HVS does include a couple of "vacant, unavailable" categories that could be proxies for units held off the market for a long time because of conditions issues. These include "held vacant," "dilapidated", and "vacant for other reasons." All three categories saw significant declines since 2021: -48%, -74%, -93% respectively. It is worth noting that these three categories are quite marginal, with small numbers of apartments attached to each.
14. Rent Guidelines Board, Income and Expenses Study. 2023

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