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Rent stabilization: dysfunctional by design



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Landlords and tenants finally agree on something: Rent stabilization is broken and needs reform. But they are ignoring a larger truth: Price controls for housing haven't worked, aren't working and never will work.

First, a disclaimer. This is not a rant against government programs. Inclusionary housing, where low-rent units are subsidized by market-rate ones, can work. So can publicly subsidized housing.

But permanent rent stabilization in New York is not subsidized. Although supporters treat it like a government program, saying it should make rents affordable to all tenants, it has no public funding, no tax breaks, no nothing.

Whether or not Albany fixes the system, as many demanded this month when rents were raised 2.4 million New York City tenants, it will remain flawed.





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The reason is that capitalism relies on prices set by market forces, not politics. The government can do things to influence rents, but to simply set them and deem the affordability problem solved is like trying to stop sea-level rise with a giant tarp.

Many people believe the only problem with rent control is that it's not universal. In a nation built on a market economy, that's ironic. How did this happen?

New York's rent program was born from panic, then perpetuated by politics and inertia.

The panic was spurred by a spike in rents as soldiers returned from World War II. The explosion of demand for housing sent prices soaring. That typically prompts producers to increase supply. Remember how mask manufacturing ramped up early in the pandemic and prices came down?

Rather than wait for developers to build post-war housing, however, New York enacted rent control as a temporary measure. This was defensible, but eventually the politicians got lazy. Instead of letting developers build to meet demand, the government made rent control permanent.

Well, not exactly permanent. Lawmakers deemed that it can only exist when there is a "housing emergency," defined as a vacancy rate under 5 percent. But because rents for 1 million New York City apartments are set so low that they are always occupied, the housing emergency never ends.

Rent-regulation advocates don't want it to. Either they prefer it to a normal housing market or they don't believe the New York market can ever deliver affordability.

Yet lots of U.S. cities are affordable, even after the pandemic run-up in prices. The unaffordable ones are those where supply is not allowed to meet demand, particularly New York and San Francisco, where job creation is strong but the government makes it hard to build housing.

One could argue that a market-based approach isn't realistic in New York because Nimbys and displacement theorists use zoning and landmarking to limit development. Activists even oppose job creation because new employees would compete for existing homes.

Is that reasonable? In markets where developers can meet demand for housing, they do. Even in a hot market, this Dallas condo listed for \$85,000, and the Texan featured in that article later bought a square-foot Arlington duplex for \$128,000.





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There's no reason affordability can't happen in New York. Developers are not greedier here, nor are people who sell or rent their homes. The market — supply and demand — determines prices.

But not in rent stabilization, which is like patching the Titanic with a million Band-Aids. Not only is it ineffective, it fixates lawmakers on artificially limiting pricing rather than the real answer: increasing supply.

Price limits create winners and losers rather than addressing demand for housing. They keep rents down for the people who happen to lease those units. Everyone else competes for what's left.

Price caps in New York City led to a host of other problems, which lawmakers tried to fix in ways that caused still more problems.

To start, the program was limited to older buildings so as not to discourage developers from constructing new ones. But capping rents incentivized landlords to spend as little as possible on maintenance. They could not increase revenue, so their only alternative was to cut expenses.

Old buildings need more upkeep, not less. The housing stock deteriorated.

Legislators responded by allowing rent increases to pay for improvements. The housing stock improved, but landlords were incentivized to spend more than was necessary. Lo and behold, some did.

Another feature of the law was a vacancy bonus. That is common in rent control programs to limit increases for tenants who stay in place and give landlords a chance to catch up when they move out. But it incentivized New York landlords to push tenants out, and some did.

It's hard to think of another example of government encouraging businesses to treat customers badly and incentivizing customers to accept it. That's what price caps do.

Legislators reacted with a vengeance in 2019, capping renovation-based increases at \$15,000 every 15 years — not enough to bring many units into rentable condition. Improvements became a zero-profit exercise and the 20 percent vacancy bonus was eliminated.

Suddenly, a landlord had two choices when a longtime tenant left a wretched, low-rent unit: spend \$50,000 or more on renovations and add a \$33 monthly rent surcharge for 15 years, or keep the unit vacant.





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Some 42,860 rent-stabilized apartments — enough to house the city's entire homeless population — are now vacant and off the market. Some would cost landlords more to fill than to leave empty, not even counting renovations, because operating costs would exceed the legal rent. Others are kept open so they can be combined with a unit next door that becomes vacant; in that rare circumstance, the owner gets one chance to set a new rent.

No remedy for these vacancies is available under the 2019 rent law. One illegal option is for the tenant to pay for renovations, which some will do to snag a cheap lease that they can renew for life and even bequeath to a relative.

Affordable housing programs typically target people who need help, but rent stabilization is an exception. The state in 2019 also opened it up to wealthy tenants. Ostensibly, the justification was that the income limit (roughly \$225,000 per year for two straight years) had been impossible to enforce, even if landlords knew tenants had second homes in the Hamptons.

But there was another reason. Expanding rent stabilization created more allies for it. For the same reason, Americans earning up to \$400,000 can get a child tax credit and billionaires can get Social Security. Universality strengthens those programs' political constituencies.

The rub is that many well-off New Yorkers get low-rent apartments while poor ones are doubled-up in market-rate units and more than 60,000 are homeless. High-income tenants tend to hold onto rent-stabilized apartments for ages, even as they buy vacation homes. That's indefensible in a city with so many rent-burdened residents.

The final ignominy is the theatrical Rent Guidelines Board process, in which incomplete data of questionable accuracy is presented to board members, who then vote based on gut feelings or instructions from their appointer, the mayor.

This year, with inflation around 8 percent, landlords got a 3.25 percent increase — which tenants promptly declared unaffordable. Surely it's a burden to some, but not to those with weekend homes. The same rent increase applies to all tenants, regardless of their financial circumstances, which are unknown anyway.

In sum, New York rent regulation was born from a war-triggered spike in demand and given de facto permanence; not subsidized; not limited to low-income tenants; loaded up with rules and incentives that ensure decrepit apartments and conflict between landlords and tenants; and managed by a polit-





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But fixing any of those shortcomings would inevitably create others, because the very premise of the program is a lack of market pricing. Pricing is crucial to distributing a limited commodity, in this case housing. Price controls are fools' gold and divert us from the real solution, which is more housing.

Market-based pricing keeps Americans well supplied with just about everything. The belief that it cannot solve New York's housing problem is the reason we still have one.



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