

Rent Control Takes a Bite out of the "Big Apple"

The following article was written by Maria L. Sachs, Attorney and was originally published in the New York Times.

In what has become an annual ritual, tenants of many of New York City's 60,000 rent-controlled apartments berated the state officials responsible for computing their rent increases at a recent hearing.. Tenants were understandably upset - they face 7.5 percent rent increases in each of the next two years. But their landlords, whose operating costs increased more than 17 percent this year, did not have much to celebrate either. The hearing provided yet another vivid illustration of how dysfunctional the city's rent regulation system is, and how it worsens the very problems it was created to solve.

Virtually every New Yorker has heard stories about the wealthy widow living alone in a spacious apartment with Central Park views for \$400 a month. While some of these tales are apocryphal, many are true. Indeed, when Ed Koch was mayor, he kept his rent-controlled apartment in Greenwich Village for less than \$300 a month while he was living (rent free) in Gracie Mansion.

Of course, underlying these tales is a combination of jealousy toward the lucky tenants and anger at the arbitrary nature of the city's rent regulation laws, which apply to about one million units defined as "rent stabilized" as well as to the much cheaper rent-controlled apartments.

In the last few years, the State Legislature has taken small steps to move some of the rent-stabilized apartments back onto the open market: in June, it passed a rule that allows vacated apartments to be phased out of the system once the rent hits \$2,000 a month. The change, however, did not affect rent-controlled apartments. These incremental reforms show that creating a truly fair system can occur only if the current laws are phased out altogether.

Rent regulations, which were established in the post-World War II era, are intended to preserve neighborhood diversity and stability, and to ensure that rents do not jump to levels that only the wealthy can afford, forcing lower-income residents to cheaper areas. But in practice, such laws do not really serve diversity well; they simply freeze the status quo, so neighborhoods remain only as diverse as they are now, which isn't very diverse at all.

In New York City, an apartment can only be rent-controlled if it is in a building constructed before 1947 and if its current tenant (or his family) has occupied it since 1971. Such an apartment becomes "decontrolled" only when those tenants leave and no relative assumes the lease. Then, it enters the rent stabilization system. Likewise, rent increases for rent-stabilized apartments are limited until the tenant moves out, when the "legal rent" (a fiction that has nothing to do with market value) can be raised about 17 percent to 20 percent. Tenants in these apartments have a strong interest in staying put, since they can't take their rent subsidy with them.

Part of the problem is that rent laws are only loosely tied to income, and where they are, the ceiling is far too high: households with incomes up to \$175,000 a year are eligible for stabilized apartments, and there are no income limits on tenants of rent-controlled apartments. And while rent-controlled tenants claim to be the most vulnerable city residents, 13 percent have incomes greater than \$70,000 per year (as do more than 19 percent of rent-stabilized tenants), according to a 2002 census housing survey.

Furthermore, because the laws make no effort to match the least well-off with the cheapest apartments, studies have found that households with incomes greater than \$75,000 receive twice as much subsidy as households with incomes less than \$10,000.

Nor do the laws aid diversity. Contrary to popular belief, most city neighborhoods are not that diverse. Data from the 2000 census reveal a sharp disparity in Manhattan, where most rent-regulated apartments are. For example, one tract on the Upper East Side is more than 95 percent white, while a tract around West 125th Street is 97 percent black. Rent regulation, which rewards people who stay in their apartments for a long time, has done little to increase diversity in those tracts. And, of course, the system does nothing to protect a truly needy person not fortunate enough to occupy a regulated apartment already.

The rent regulation scheme is no more precise in distributing its costs than it is in bestowing its benefits. While tenants are protected, landlords have to pay market rates for all of their expenses, including real estate taxes, insurance, water and fuel oil, all of which have risen steeply in recent years. Real estate taxes rose in New York 18.5 percent this year, and insurance costs for many owners have jumped 50 percent since 9/11. Yet rents on stabilized apartments went up this year just 4.5 percent for a one-year lease or 7.5 percent for a two-year lease. Why should landlords, unlike purveyors of virtually every other commodity in New York, be prohibited from setting their own prices?

Moreover, by distorting the relationship between property income and expenses, rent regulation depresses the returns on property, which in turn causes landlords to under-invest. My family, which owned more than 1,000 units of residential housing in the Bronx and Manhattan for 80 years, experienced this firsthand. When ownership costs skyrocketed, as they did during the 1970's oil crises, we watched other landlords simply abandon hundreds of buildings. In addition, for decades there was no incentive to build new units since they would have been subjected to the same system. To this day, these dynamics continue to contribute to the crisis in the availability of moderate income housing.

A better way to create more affordable housing and to diversify neighborhoods would be to replace the current system of rent regulation with a subsidy system similar to the federal Section 8 housing program. Vouchers would be distributed to those who qualified based on explicit criteria defined by state and city lawmakers. The costs would be borne in the same manner as other government programs - through a progressive tax system. If preserving affordable housing is a virtue, then society as a whole should bear its costs.

Maria L. Sachs is an attorney who owns rental properties in New York. For questions or comments, please contact her at mhsachs@earthlink.com