

NINE FACTS NEW YORKERS SHOULD KNOW ABOUT RENT REGULATION

July 2009



Since 1993 New York City's rent regulations have moved toward deregulation. However, there is a possibility that the direction may be changed. In early 2009, the New York State Assembly passed legislation that includes sweeping proposals such as the elimination of high-rent vacancy decontrol and the re-control of most apartments that were deregulated under this provision. The current deep economic recession is viewed by some as a reason to seek protections for more tenants, and by others as an opportunity to lift regulations without fear that market forces will result in burdensome rent increases. Regardless of what may happen in the current legislative session, the state enabling legislation for rent regulation is due to expire in 2011.

Given the legislative interest in rent regulation and its importance to the city's housing market and property tax base, the Citizens Budget Commission (CBC) has begun an analysis of rent regulation in New York City, which includes rent control and rent stabilization. The nine facts that follow are intended to provide baseline information about rent-regulated housing and are the beginning of a more in-depth analysis in anticipation of the discussion that will take place as the 2011 expiration approaches.

The purpose in presenting these facts is not to comment specifically on the Assembly's legislative package or to make policy recommendations now. Proponents and opponents of the current system will discern among these facts support for their positions. The reality is that rent regulation is neither all good nor all bad.

The information CBC has compiled indicates that rent regulation protects many low and moderate income households, but many of

these households still pay a high portion of their income for rent. Moreover, rent regulation is providing valuable benefits to a significant number of higher income households. In addition, the impact of regulation is concentrated in Manhattan. Finally, many households with low incomes are not in the regulated sector or other government housing assistance programs; they face high rent burdens in the unregulated housing market.

At this juncture, CBC believes the Legislature should be cautious about initiatives to extend the reach of rent regulation. Instead, state leaders should think more broadly about ways to better target assistance to lower income households and to allow the market to work in ways that better allocate housing and expand housing choices for all New Yorkers.

Here are nine important facts to keep in mind as the rent laws are considered for modification.¹

1. More than one million occupied housing units are subject to rent regulation. In 2008 the number of occupied, regulated units was 1,045,317. This represents about one-third of the city's total occupied housing inventory and about one-half of all renter-occupied housing in the city. (See Figure 1.)

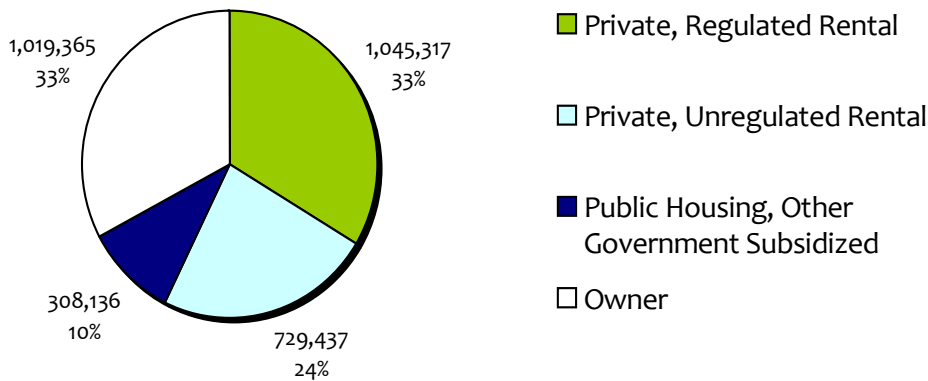
2. New York is the only major city in the country to have continuously maintained rent regulation since World War II, although the system has undergone significant changes. After World War II, rent regulations ended in most other jurisdictions subject to the wartime controls. In the 1970s new, less restrictive forms of rent regulation emerged in a number of places, including Washington, DC, and localities in New Jersey, Massachusetts, and California.

Exemption of new construction and vacancy decontrol were either initially or subsequently aspects of many of these newer regulatory systems. Some jurisdictions outside of New York State still impose rent regulations. San Francisco and Los Angeles maintain systems of rent resetting: Rents on units are regulated while a tenant is in occupancy, but the rent is permitted to go to market upon vacancy, and then is subject to regulation during the next tenancy. New York City’s current system includes two different regulation regimes, rent control and rent stabilization. While housing built after 1946 was exempt from rent control, in 1969 rent stabilization was introduced and applied to apartment buildings constructed after 1946. Since 1974, however, new construction has been free of regulation unless developers voluntarily opt to have their property put under rent stabilization in

exchange for certain property tax benefits. Rent increases on rent-stabilized units are permitted in accordance with annual rent guidelines; rent-controlled units receive biennial increases in accordance with the Maximum Base Rent program. As of 2008, over 96 percent of New York City’s regulated units are under rent stabilization, and about 40,000 units are subject to rent control. About 42,000 rent-regulated units exist elsewhere in New York State.

3. The number of units subject to rent regulation has been declining slowly. (See Table 1.) In recent years the best available data indicate a net decline in the number of regulated units ranging between about 5,500 and 9,000 annually, or less than 1 percent per year. The leading source of deregulation is vacancy decontrol of units renting for \$2,000 per month or more.

Figure 1
New York City Occupied Housing Inventory, 2008



3,102,255 total occupied housing units

Note: In addition to the 3,102,255 occupied housing units, New York City has 22,002 vacant and available regulated rental units, 26,588 vacant and available owner units, and 39,760 vacant and available other rental units. New York City also has 138,043 units that are vacant and not available for a variety of reasons. For example, some units have been rented or sold but not yet occupied, some units are being held for planned demolition and some units are being held by the owner for personal reasons.

Source: 2008 New York City Housing and Vacancy Survey.



Table 1
Changes to the New York City Regulated Housing Stock, 1994-2008*

| | 1994-2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 1994-2008 |
|---|-----------------|----------------|----------------|----------------|----------------|----------------|----------------|-----------------|
| Losses from the Regulated Stock | | | | | | | | |
| Co-op/Condo conversion | -32,660 | -1,474 | -1,564 | -1,692 | -1,567 | -1,455 | -1,405 | -41,817 |
| High-rent vacancy decontrol | -24,370 | -8,204 | -8,856 | -9,272 | -9,983 | -10,342 | -12,800 | -83,827 |
| High-rent/high-income decontrol | -2,956 | -198 | -194 | -265 | -301 | -309 | -278 | -4,501 |
| Expiration of tax benefits | -26,476 | -1,505 | -1,102 | -996 | -499 | -431 | -552 | -31,561 |
| Other | -18,959 | -1,311 | -1,301 | -1,820 | -1,624 | -1,667 | -1,798 | -28,480 |
| Total Losses | -105,421 | -12,692 | -13,017 | -14,045 | -13,974 | -14,204 | -16,833 | -190,186 |
| Additions to the Regulated Stock | | | | | | | | |
| Voluntary regulation with tax benefits | 27,999 | 3,922 | 7,244 | 5,148 | 4,197 | 5,972 | 7,543 | 62,025 |
| Mitchell-Lama buy-outs | 2,984 | 279 | 229 | 732 | 3,040 | 2,517 | 101 | 9,882 |
| Other | 303 | 20 | 129 | 66 | 81 | 35 | 35 | 669 |
| Total Additions | 31,286 | 4,221 | 7,602 | 5,946 | 7,318 | 8,524 | 7,679 | 72,576 |
| Estimated Net Loss | -74,135 | -8,471 | -5,415 | -8,099 | -6,656 | -5,680 | -9,154 | -117,610 |

* 35,615 units passed from rent control to rent stabilization from 1994 through 2008.

Source: New York City Rent Guidelines Board, "Changes to the Rent Stabilized Housing Stock in New York City in 2008," June 4, 2009.

Reaching the \$2,000 threshold is facilitated by an automatic 20 percent vacancy increase as well as additional increases for apartment improvements. In 2008, 12,800 units were reported to have been decontrolled under this provision, and the number likely will grow if the \$2,000 ceiling remains in effect. However, these deregulated units are offset to some degree by new units becoming voluntarily subject to regulation in exchange for property tax benefits; in recent years such additions ranged from about 4,000 to 7,500 units annually. It is hard to predict accurately the magnitude of these different factors and the degree of underreporting, particularly for high-rent vacancy decontrol, but a likely scenario is a future decline in regulated housing averaging about 10,000 to 15,000 units, or 1.0 to 1.5 percent, annually.

4. For about 28 percent of the households in regulated units, or more than 290,000 households, the legal regulations do not substantially lower the rent they pay. For this group, the regulated rents paid are not significantly lower than they would be if the

apartments were unregulated. (See Table 2.) This estimate relies on a statistical model that predicts a market rent for a regulated apartment based on its location, size, and other characteristics.² By these calculations, about 18 percent of the regulated units have actual rents above predicted market rents, and another 10 percent have predicted market rents that are less than 10 percent above the current regulated rent.

A variety of circumstances creates situations in which rent regulation has no substantial impact. First, some newly constructed units voluntarily enter into rent regulation at market level rents, and the subsequent allowable increases may not keep rents far from market levels. Second, allowable increases for older units in less desirable neighborhoods may permit rents to reach levels comparable to those of unregulated units in the same area. In this context, it is worth noting that only about 46,000 of the more than 290,000 units for which regulation has no substantial impact on rent are located in Manhattan.

Table 2
Percent Difference Between Predicted Market Rent and Actual Rent for Occupied Regulated Units by Borough, 2008
 (percent of units in each category)

| Borough | Predicted Rent Less than Actual Rent | Predicted Rent at Least Equal to but Less than 10% Above Actual Rent | Predicted Rent at Least 10% but Less than 25% Above Actual Rent | Predicted Rent at Least 25% but Less than 50% Above Actual Rent | Predicted Rent at Least 50% Above Actual Rent | Total | Number of Regulated Units* |
|-----------------|--------------------------------------|--|---|---|---|---------------|----------------------------|
| Bronx | 25.6% | 13.6% | 20.0% | 17.2% | 23.5% | 100.0% | 218,962 |
| Brooklyn | 20.2% | 12.1% | 17.9% | 17.7% | 32.1% | 100.0% | 282,943 |
| Manhattan | 9.5% | 5.2% | 8.6% | 14.2% | 62.5% | 100.0% | 313,409 |
| Queens | 19.6% | 12.4% | 17.6% | 22.8% | 27.5% | 100.0% | 207,284 |
| Staten Island | NA | NA | NA | NA | NA | NA | 8,478 |
| Citywide | 17.9% | 10.5% | 15.4% | 17.5% | 38.6% | 100.0% | 1,031,076 |

NA = Not Available. Too few observations.

*Excludes 14,241 units that are occupied rent free.

Source: 2008 New York City Housing and Vacancy Survey.

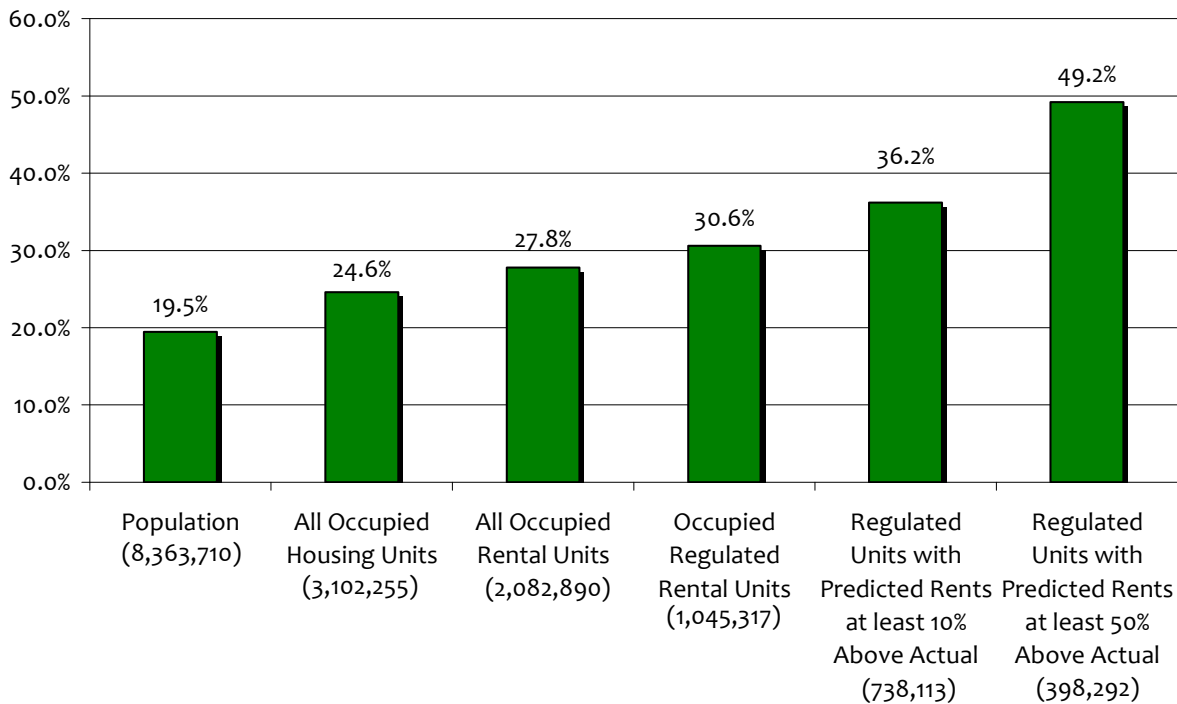
5. Rent regulation has a disproportionately strong impact on households in Manhattan. Manhattan accounts for less than 20 percent of the city’s population and less than 25 percent of the city’s households, but it contains 31 percent of occupied regulated housing units and 36 percent of occupied regulated units for which regulation has a significant impact on the rent actually paid; that is, the predicted rent is at least 10 percent above the actual rent. (See Figure 2.)

Not only does Manhattan have a disproportionately large share of regulated housing, but the benefits of regulation for tenants also are greatest there. Based on

the statistical model described earlier, Manhattan is home to nearly half the households in regulated units who would experience rent increases of at least 50 percent if they were not protected by rent regulation. In Manhattan, 63 percent of the households in regulated units fall into this highly benefited category compared to 28 percent in the other boroughs. (Refer to Table 2.)

Less sophisticated calculations point to the same pattern. In Manhattan, the median monthly rent for all regulated units is just 40 percent of that for unregulated rental units; the citywide figure is a much higher 76 percent. (See Table 3.) Adjusting for

Figure 2
Manhattan as a Percent of New York City for Selected Indicators, 2008
 (numbers in parentheses below represent citywide totals)



Sources: 2008 New York City Housing and Vacancy Survey and the U.S. Census Bureau, 2008 Population Estimates.

Table 3
Regulated and Unregulated Median Rents by Borough, 2008

| Borough | Regulated | Unregulated | Regulated Rent as % of Unregulated Rent |
|---------------------------------|------------------|--------------------|--|
| Bronx, All Units | \$825 | \$1,100 | 75.0% |
| 1-Bedroom | \$800 | \$900 | 88.9% |
| 2-Bedroom | \$896 | \$1,100 | 81.5% |
| 3 or More Bedrooms | \$963 | \$1,350 | 71.3% |
| Brooklyn, All Units | \$900 | \$1,100 | 81.8% |
| 1-Bedroom | \$875 | \$950 | 92.1% |
| 2-Bedroom | \$950 | \$1,100 | 86.4% |
| 3 or More Bedrooms | \$1,000 | \$1,350 | 74.1% |
| Manhattan, All Units | \$1,000 | \$2,500 | 40.0% |
| 1-Bedroom | \$1,100 | \$2,500 | 44.0% |
| 2-Bedroom | \$950 | \$2,700 | 35.2% |
| 3 or More Bedrooms | \$859 | \$3,000 | 28.6% |
| Queens, All Units | \$1,000 | \$1,200 | 83.3% |
| 1-Bedroom | \$978 | \$1,000 | 97.8% |
| 2-Bedroom | \$1,100 | \$1,200 | 91.7% |
| 3 or More Bedrooms | \$1,377 | \$1,400 | 98.4% |
| Staten Island, All Units | NA | \$950 | NA |
| 1-Bedroom | NA | \$800 | NA |
| 2-Bedroom | NA | NA | NA |
| 3 or More Bedrooms | NA | NA | NA |
| Citywide, All Units | \$916 | \$1,200 | 76.3% |
| 1-Bedroom | \$900 | \$1,100 | 81.8% |
| 2-Bedroom | \$955 | \$1,200 | 79.6% |
| 3 or More Bedrooms | \$1,000 | \$1,400 | 71.4% |

NA = Not Available. Too few observations.

Source: 2008 New York City Housing and Vacancy Survey.

size magnifies the Manhattan effect: For two-bedroom apartments the median regulated rent in Manhattan is 35 percent of the unregulated rent; citywide, the median rent is 80 percent of the median unregulated rent. For units with three bedrooms or more, the respective figures are 29 percent for Manhattan versus 71 percent citywide.

It is important to keep in mind that Manhattan is a diverse borough, and not all its residents have high incomes. Of the 320,000 households in regulated units in Manhattan, nearly 130,000 have annual incomes below \$35,000.

6. The income distribution of households in regulated units is lower than that of households citywide, but many higher income households occupy regulated units. The median income of households in

regulated housing in 2007 was \$35,297 compared to a citywide figure of \$45,000. The share of households in regulated units with incomes below \$35,000 was 48 percent compared to 40 percent citywide. (See Table 4.)

Nonetheless, a substantial number of households in regulated housing have relatively high incomes. An annual income of \$100,000 or more puts a household in the top 20 percent citywide, with an income more than twice the median. About 125,000 households in regulated housing fall into this fortunate category; they comprise about one of every eight households in regulated units.

In an effort to reduce benefits to high income households, the state in 1993 introduced a provision that currently allows owners to deregulate units occupied by

Table 4
Number of Households by Household Income, New York City, 2007

| Household Income | Regulated Rental | | Unregulated Rental | | All Households | |
|------------------------|------------------|---------------|--------------------|---------------|------------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Below \$20,000 | 313,729 | 30.0% | 138,404 | 19.0% | 787,489 | 25.4% |
| \$20,000 to \$34,999 | 191,505 | 18.3% | 113,883 | 15.6% | 468,771 | 15.1% |
| \$35,000 to \$49,999 | 150,519 | 14.4% | 110,092 | 15.1% | 388,448 | 12.5% |
| \$50,000 to \$74,999 | 174,315 | 16.7% | 138,311 | 19.0% | 509,955 | 16.4% |
| \$75,000 to \$99,999 | 89,872 | 8.6% | 80,005 | 11.0% | 314,114 | 10.1% |
| \$100,000 to \$124,999 | 54,576 | 5.2% | 52,936 | 7.3% | 218,139 | 7.0% |
| \$125,000 to \$174,999 | 38,718 | 3.7% | 42,851 | 5.9% | 208,228 | 6.7% |
| \$175,000 and above | 32,083 | 3.1% | 52,956 | 7.3% | 207,110 | 6.7% |
| Total | 1,045,317 | 100.0% | 729,437 | 100.0% | 3,102,255 | 100.0% |
| Median Income | \$35,297 | NAP | \$50,000 | NAP | \$45,000 | NAP |

NAP = Not Applicable.

Source: 2008 New York City Housing and Vacancy Survey.

households with an income of \$175,000 or more for two consecutive years and a rent of at least \$2,000 per month. While only 4,500 units have been directly deregulated through 2008 in accordance with this provision, this number likely understates the provision’s impact because higher income households may vacate their units in anticipation of landlord action. (Refer to Table 1.)

7. Rent regulation does not make rents affordable for most low income households occupying regulated units. The most common approach to judging the affordability of housing relies on a rent-income ratio. The federal Section 8 Rental Voucher Program sets a standard for affordable housing as a rent-income ratio of no more than 30 percent.³ If the 30 percent standard is applied to total household income, then approximately 440,000 or 88 percent of the households with annual incomes below \$35,000 and living in regulated units do not have affordable housing. While nearly half the households in regulated housing have incomes at this relatively low level, most are paying rents equal to a large share of their income despite the protection of regulation.

Among households in this income group the median rent-income ratio was 62 percent for households in regulated units and 69 percent for those in unregulated units. (See Table 5.) This suggests rent regulation has some impact in lowering rents, but it does not make housing affordable for most lower income households.⁴

The more than 125,000 households with relatively high incomes (at least \$100,000 annually) in regulated housing do not need

rent regulation to make their housing affordable. Their median rent-income ratio is 10 percent, and less than 1 percent of this group has a ratio above 30 percent; the median ratio for the comparable income group in unregulated housing is a still-affordable 16 percent, and 8.5 percent have a ratio above 30 percent.

Table 5
Median Rent-Income Ratio by Household Income, New York City, 2007

| Income | Regulated | Unregulated |
|-----------------------|--------------|--------------|
| Below \$35,000 | 61.5% | 69.3% |
| \$35,000 to \$49,999 | 26.7% | 31.3% |
| \$50,000 to \$99,999 | 18.0% | 22.3% |
| \$100,000 and above | 10.4% | 15.5% |
| All Households | 29.9% | 29.5% |

Source: 2008 New York City Housing and Vacancy Survey.

8. Many lower income households are not housed within the regulated sector, nor do they benefit from any government housing programs. A quarter of a million households with incomes below \$35,000 reside in the unregulated rental sector. (Refer to Table 4.) Of these, 10 percent receive some sort of government housing support such as Section 8 vouchers. Among the households with no rent protections, 90 percent have rent-income ratios in excess of 30 percent, and 80 percent have ratios in excess of 40 percent.

9. Vacancy rates among regulated units are unusually low due to the tendency for tenants receiving the benefits to stay longer and for any vacant units to rent quickly. In New York City’s regulated rental sector, the vacancy rate in 2008 was only 2.1

percent compared to 4.7 percent in the unregulated sector. New York City's overall rental vacancy rate of 2.9 percent was well below the 9.9 percent reported for all central cities in the 2007 American Housing Survey.⁵

¹ On July 9, 2009, the Census Bureau revised the weighting of the 2008 New York City Housing and Vacancy Survey, the primary data source for this report. The report uses the survey prior to these revisions. The revisions are unlikely to have any significant impact on our findings.

² The model used is an updated version of the model described in Elizabeth A. Roistacher, "Rent Regulation in New York City: Simulating Decontrol Options," *Journal of Housing Economics*, Volume 2, 1992.

³ The federal program's definition of income allows for some adjustments that are not reflected in the definition of income used in the survey data cited in this paragraph. The difference in definitions is unlikely to alter substantially the magnitude of the estimates presented.

⁴ Some of these households with low incomes may receive assistance from family members or may have significant assets. In addition, the income component of the rent-income ratios may not include some forms of government assistance.

⁵ Differences in methodology between the New York City Housing and Vacancy Survey and the American Housing Survey may render these net rental vacancy rates not precise comparables.