



Good Cause Eviction

Eviction without just cause, or “good cause eviction”, is a misnomer used to camouflage a significant change in property rights. There are categorically no legal evictions in New York without just cause – in this sense, New York has always had good cause evictions. An eviction of a residential tenant is governed by a statutory process, which requires an order of the court to proceed. There are procedures built into the judicial eviction process to ensure tenant rights are protected. It is unlawful to evict a tenant without an order from a court of competent jurisdiction. It is a class A misdemeanor to evict an occupant from their home without a court order. Law enforcement is able to intervene in an unlawful eviction as a crime.

A good cause eviction bill would create a new system of rent controls that creates a permanent tenancy for almost every tenant in the state. An owner must renew a tenant’s lease and is limited to minimal rent increases set by the government when the lease expires. It provides a rental tenant with a life tenancy, allowing them to rent an apartment or home until they die or determine that they don’t want to continue to lease the property barring any lease violations. A lease term is no longer effective or legally significant. An owner no longer would be able to lease a property for a prescribed period of time. A tenant would not be required to vacate after their lease has expired, nor could they be removed for holding over. An owner would lose control of their property under this new regulatory scheme, while retaining all the obligations under the lease. There is no reciprocal benefit to the owner for the loss of their property right. The tenant is not required to accept any additional responsibilities, and a property owner is further burdened by a one-sided relationship that, once commenced, can only be terminated by the tenant.

Adding economic insult to property rights injury, this permanent tenancy also comes with a limitation on the amount an owner is able to increase the rent, i.e. rent control. There is a rebuttable presumption that a rent increase is unreasonable if an annual increase exceeds 3% or 1 ½ times the annual percentage of change in the consumer price index. The issue of an unreasonable rent increase would be raised in the context of a failure to pay rent by the tenant or an objection by the tenant to any increase in an offered lease renewal. This would put property owners at a significant economic disadvantage with each passing year, as they not only fail to realize economic return from their property, but also struggle to meet operational costs such as property taxes, heating, oil, and water bills, which are not limited by an annual cap. It would deter renovation of the property, both internally and externally, leading to dilapidation of housing and neighborhoods in a way that has already been seen with rent regulated buildings in New York City.

Proponents of eviction without just cause argue that it provides housing stability by combatting gentrification since tenants are not subject to lease non-renewal, and that

lease non-renewal together with a cap on rent increases provides rent regulation protections for tenants, resulting in a decline in eviction and eviction filings. These objectives come at great costs however to society as a whole.

Any positive outcomes for tenants come at the expense of the owner. The costs of protecting tenants from market rents is transferred to owners. This is rent control. If the state and the municipalities want to provide rental subsidies to support tenants who are unable to afford market rents then they should do so. However, by choosing instead to limit fair market rents, the government removes the responsibility to subsidize housing from itself and places that burden squarely on the private sector. It purposefully applies a sledge hammer to the private rental market where a gavel would work. Rental subsidies provide housing stability for those that need the assistance, but this policy would punish property owners merely for owning property, decrease the housing stock, and disincentivize renovation and revitalization – the opposite of what the bill purports to do.

The erosion of the owner's property rights has consequences. The value of the owner's rental property is negatively impacted. Owners are not able to sell the property for its true rental value or to convert the property to another commercial use including to condominium or cooperative forms of ownership. This impacts not only development opportunities but also financing options and opportunities for sale of the property. The limitation on lease renewal also impacts the ability to repair or rehabilitate units. Tenants are incentivized to hold on to their units because of the cap on rents. The housing stock in general will suffer from disinvestment and not be upgraded.

Permanent tenancies a/k/a eviction without just cause creates a significant imbalance in the landlord-tenant relationship. In order to recover a rental unit for improvement or development, an owner will be required to pay a tenant to obtain a voluntary surrender of a unit. Eviction without just cause ignores the current legal and procedural protections available to tenants in terms of notice, discovery and right to a jury trial. In addition, tenants have defenses for eviction including warranty of habitability, retaliation, unconscionable lease clauses, and harassment. Tenants also have a reciprocal right to attorneys' fees if they prevail in any action. The eviction without just cause only increases tenants' arsenal by enabling a tenant to bring an action for monetary damages.

These rent controls and permanent tenancies negatively impacts the viability of small owners, who are the major providers of rental housing. The inability to not renew an expired lease will effectively prevent an owner from selling their property to access capital for retirement or unforeseen circumstances. Small owners need flexibility with their properties to respond to monetary needs. The lack of control over their rental properties will limit small owner's ability to provide affordable housing in their communities throughout the state.

IMPACTS:

- 1. Decrease in tax revenues as property values will decrease and there will be fewer sales transactions**
- 2. Stifle development of rental properties as market-rate housing will cease to exist and investment returns are severely curtailed**
- 3. Market shift from small to large owners who, due to scale, may be able to operate with income limits**
- 4. Deterioration of housing stock. Reduced income will result in decreased maintenance.**
- 5. Decrease of available units. Permitting tenants to stay in perpetuity will result in fewer availability for new/incoming tenants.**
- 6. Neighborhood stagnation. Limiting the flow of new tenants into a neighborhood and disincentivizing sales as well as renovation of properties will lead to neighborhood stagnation.**
- 7. Curtail an owners ability to create more housing units by limiting the ability to redevelop existing residential sites.**
- 8. This bill provides protection to tenants of vacation rentals, tenants who are not primary residing in such accommodations, and to subletters who never entered into a lease or contract with the property owner.**
- 9. The bill applies to cooperative and condominium buildings, and would limit the ability of boards or management companies to raise maintenance fees as necessary to otherwise terminate leases/subleases in furtherance of their appropriate business judgment**