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Landlords Challenge New York's Rent-Control Law in Federal Court

Suit seeks to demonstrate that rent laws are 'arbitrary and irrational'; tenants vow to fight back

By Josh Barbanel and Will Parker
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Landlord groups on Monday filed a U.S. constitutional challenge to New York's rent regulations, alleging that state and city governments had, in effect, taken over nearly a million rent-regulated apartments with its new law.

The suit seeks to upend New York's system of rent regulation that dates back to federal price controls during World War II. The [new rent law](#) makes it more difficult for apartment owners to increase rents and eliminates rules that allowed them to free up thousands of apartments from rent regulations.

Courts have dismissed similar challenges in New York and other states, but building owners say that their prospects in court have improved since then, in part because of the severity of new restrictions on rental properties.

The lawsuit doesn't seek compensation for property owners, but rather asks that the courts find that the law violates constitutional protections and direct the New York legislature "go back to the drawing board and come up with something else," said Andrew Pincus, attorney for the landlords.

“The new law is devastating to the value of property and the rights of owners to use their property,” said Jay Martin, the executive director for the Community Housing Improvement Program, a group known as CHIP, that represents small building owners, and is a plaintiff in the suit.

Tenant leaders vowed to mobilize against the new challenge. Mike McKee, a tenant organizer and treasurer of TenantsPAC, said landlord assertions about lost profits have been greatly exaggerated. “They won’t make as much or as fast, but it will still be profitable,” he said.

His group and other tenant groups plan to help defend the state and city by offering testimony in the case, Mr. McKee added.

The suit, filed in federal district court in Brooklyn, targeted both the state’s Division of Housing and Community Renewal, which administers rent laws, and the New York City Rent Guidelines Board, which sets regulated rent levels.

City and state officials didn’t respond to requests for comment.

The plaintiffs include two landlord groups, CHIP and the Rent Stabilization Association, and three individual landlords.

The complaint seeks to demonstrate that the rent laws are “arbitrary and irrational” and violate constitutional protections against government actions without due process of law. It argues, for example, that the law doesn’t promote more housing, and provides strong protections to affluent renters.

It also argues that through rent regulation, the state and city government are violating constitutional protections against the taking of private property without just compensation.

Legal scholars and tenant leaders said the courts have rejected [similar challenges](#) over the years, and the latest suit faces a high burden.

“I think they are doomed to the same failure that they’ve received every single time they’ve made challenges to this law,” said Ellen Davidson, staff attorney at the Legal Aid Society.

However, building owners say that their prospects have improved. Landlords point to a federal Appeals Court ruling in 2015 that found that rent regulation was a “public assistance benefit” for tenants. They said landlords paid for the benefit through lower rent without compensation from the government.

James S. Burling, vice president of legal affairs at the conservative Pacific Legal Foundation, which often represents property owners against governments, said the Supreme Court was shifting.

He cited [a 5-4 decision in June](#) that expanded the rights of property owners to sue in federal court to demand compensation for government seizures of property.

“Just because challenges to rent control have been unsuccessful in getting up to the Supreme Court doesn’t mean that is always going to be the way,” he said.

In a 2010 case in which a landlord challenged New York rent law, a federal appeals court found that landlords retained some rights over the apartment. The current suit argues that the new law takes away those rights.

“The problem with property owners like landlords in this context is they want to argue that they’ve lost control of their property, but they’ve really lost regulatory control,” said Mark Fenster, a law professor at the University of Florida. “They can still use it for the purpose they purchased it. They can still get revenue.”

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