

**SHOULD RENT REGULATION
BE ABOLISHED? ¹**

'AN IMPENETRABLE thicket, confusing not only to laymen but to lawyers.'" La Guardia v. Cavanagh, 53 N.Y.2d 67, 440 N.Y.S.2d 568 (1981). That is how the Court of Appeals characterized the complexity of New York City's rent regulation scheme. Thus, those that support the continuation of the current rent-regulatory system need to examine the historical context of the administration of rent regulation as well as its acknowledged negative impact on the housing market.

If they did so, they would see that the highly scrutinized oversight by government of the housing stock, which is what rent regulation essentially is, has been tried and has failed in many ways and on many levels. In place today is a "supply-side" remedy, where the emphasis is upon reviewing the actions of the suppliers of housing (the landlords).

Begun on the federal level during World War II, the system known today as rent control was adopted by New York City as a response to the perceived continued housing shortage, although the stated rationale for its continuation seems to change with every legislative session. The laws, however, did not extend to "post-war" (1947) buildings, most of which (except those with five or less units) were covered in 1969 by the new, supposedly less restrictive, system of rent stabilization. Both systems were administered on the local (city) level, albeit by two different agencies. In 1984, the state took over administration of both systems under the auspices of the Division of Housing and Community Renewal (DHCR), which introduced rent registration.

Because nearly every decision to be made by a landlord has been determined to be subject to the review of government, a vast bureaucracy has been created. The unmanageable magnitude of this bureaucracy and its effect upon the city cannot be understated. Even with the advice of counsel, parties to a proceeding are impeded in making their own personal or business decisions during the months and years that it takes to obtain a final determination. In fact, a major reason for the state's takeover from the city was the latter's inability to process matters within a reasonable time.

However, despite a budget in excess of \$ 30 million and a vastly increased staff, the DHCR in most cases requires an even longer time to process complaints and applications. Thus, it is simply not a matter of enough money being available, nor does it seem to matter which level of government conducts the oversight. The result is always the same: a bureaucracy that squanders resources because its decisions are often meaningless by the time they are rendered.

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Even more frustrating are the decisions which bear no resemblance to the realities of building ownership and property management. A few examples:

- * Based upon a finding of a cracked sidewalk and a torn lobby couch, the state awarded two controlled tenants a rent reduction of \$ 1.50, but determined that the conditions did not warrant a reduction for stabilized tenants. Based upon this finding, the landlord was denied a rent increase for the \$ 181,000 spent on improving the premises.
- * The state granted a \$ 1 per month increase to a landlord who allowed a tenant's installation of a washing machine. A court then directed the state to give a more reasonable amount. An increase of \$ 7.46 was later awarded, but the state held that it would apply only to that single tenant and that no further increase would be allowed in the future to any other landlord.
- * The state found that the 1984 initial registration was not served because it was sent by certified mail, an "onerous" burden on the tenant. The 1987 Stabilization Code requires that initial registration be served by certified mail, but the state refused to apply the policy retroactively. As a result, the tenant's rent was frozen at the 1984 level, and a large overcharge was found.

Indeed, the most glaring example of the problems of administration can be seen in an examination of rent registration, the linchpin of the 1984 state takeover. In some instances a landlord may be compelled to maintain and produce upon request rent records dating back to 1974, a 23-year period. In 1984, a landlord was only responsible to maintain records for a 10-year period. So much for progress.

Decisions and policies like these are the result of the fact that, for the past 50 years, the focus has been on government attempting to solve the "crisis" on the "supply side." By legislating the things that the landlords "should be doing," the government is micro-managing the decisions of property owners in an incredibly confusing, slow and wasteful process.

The crisis in housing should be addressed by shifting government focus to the marketplace and allowing it and the government to establish rent levels necessary to sustain housing. Additionally, the market should also provide landlords the ability to remove dwellings from the housing market after their value has been lost so that replacement units may be built. As additional housing assistance programs to support the poor will necessarily be a part of any plan to end rent regulation, this shift to a "demand-side" solution to New York City's housing problems is long overdue.