



Tenant Movement Victory: Strengthened HCR Enforcement and Oversight

January 2014

In January 2014, after a 3-year campaign of community, housing, and legal advocacy organizations, the New York State Homes and Community Renewal put out strong regulations that amend key loopholes in the rent stabilization code. This is an important shift in regulatory policy that will slow the further loss of affordable housing and the displacement of low and moderate income people from their communities through limiting the ability for unscrupulous landlords to violate the rent laws. The amendments to the rules and regulations should greatly help protect tenants by mandating greater transparency from landlords, clarifying questions about rent setting, and expanding tenants' ability to challenge rents they believe to be unlawfully high.

Key Protections:

- *The establishment of the Tenant Protection Units (TPU) as a distinct unit under the Division of Housing and Community Renewal, with the power to investigate and prosecute violations of the ETPA, the Rent Stabilization Law, and the City and State rent laws. We are strongly encouraged by this formalization. Through the establishment of the unit's independence and enumerating its powers, this regulation will further the TPU's work, and enable the Unit to take further action against landlords who violate the rent laws.*
- *Measures related to new tenancies, and preventing rent fraud through increased transparency. Landlords will have to provide to new tenants of rent regulated apartments the following information: they will have to prove exactly how rents were raised using Individual Apartment Improvement rent increases, and, in cases of deregulation, how the rent came to rise over the decontrol threshold. These additional disclosure requirements will go a long way towards preventing rent theft, and will provide tenants with an additional tool to get illegal rents reset to the appropriate amount. This will provide additional security to long-term tenants, as landlords may be less interested in creating frequent turnover.*
- *Protections for renewal leases: This regulation protects the rights of tenants to a renewal lease making clear that the owner is required to enter into a written lease renewal agreement with the tenant, and if the tenant doesn't sign the lease, the tenant becomes a month to month tenant until the dispute about the lease is resolved.*
- *Increases penalties for landlords' failure to register rents. This regulation would deepen the penalties for unregistered apartments by denying Major Capital Improvement (MCI) increases or vacancy bonuses in such apartments. As the TPU has found in their recent investigations, many landlords have simply stopped registering their rent regulated apartments. This can*

cause serious problems for tenants aiming to correct overcharges or illegal deregulations. Increasing penalties for failure to register will help disincentivize such activity.

- *Increases reporting requirements for preferential rents.* The regulations contain several requirements for record keeping, disclosure and registration regarding preferential rents. This will help address the problems preferential rent tenants face, especially when filing overcharge complaints. These regulations will help tenants establish proper rents, and prevent landlords from hiding fraud behind preferential rents.
- *Restrictions against certain MCIs.* The regulations would curtail some erroneous Major Capital Improvement rent increases. Submetering- the highly lucrative process of creating individual electrical use meters for each apartment- will no longer be eligible for a rent increase. When buildings contain immediately hazardous conditions (such as rodents, inadequate heat or hot water, defective plumbing fixtures or faucets), the agency can halt Major Capital Improvement rent increase applications until the problem is fixed. It is vitally important that undeserved MCIs be rejected, particularly as they become permanent burdens on tenants. These two regulatory amendments are important steps towards narrowing the guidelines for these often-severe rent increases.
- *Expands the definition of harassment to include false filings with HCR.* This regulation would address a serious problem facing many tenants: landlord filings with HCR and housing court that are simply untrue, and that force the tenant to endure expensive and time consuming legal procedures without cause. With this new regulation, many more tenants facing harassment may be inclined to take action to end that practice.
- *Prevents landlords from serving SCRIE or DRIE recipients with Income Certification Forms.* While this sounds like a contradiction- no tenant that qualifies for SCRIE or DRIE could possibly be making enough income to worry about High Income/ High Rent Deregulation- it is in fact a common harassment tactic among some landlords, who hope that the tenant will fail to fill out the form correctly and thus be subject to deregulation procedures. While it should not be necessary, this regulation is in fact an important anti-harassment tool for senior and disabled tenants with low incomes and high legal regulated rents.
- *Limits to the four year look-back rule.* Since this rule was created, several court decisions have created notable exceptions to this rule, including allegations of a fraudulent scheme to deregulate the apartment, willful rent overcharges, or vacancies during the four year base date. These regulations would codify these exceptions, which would further strengthen tenants' ability to challenge long-standing illegal rents.
- *Formalizing the "default formula" for rent setting in complex scenarios.* The default formula is one way HCR has determined rents in cases where a legal regulated rent is unclear, such as when an entire building has fraudulent rents, or when a base date rent cannot be determined. While this formula has been in use for some time, it is a positive step forward to write it into the code, and enumerate the kinds of cases in which it will be used.

Interested in getting involved with Tenants & Neighbors to strengthen tenant protections and preserve affordable housing? Contact Teresa Cariño at TCariño@tandn.org.

