
REMAPPING DEBATE

Asking "Why" and "Why Not"

Gov. Cuomo's faux victory on behalf of NYC renters

Commentary | By Craig Gurian | Housing, NYC, Politics

June 22, 2011 — New York Governor Andrew Cuomo may describe a tentative deal on extending rent regulation for millions of New York City tenants as one [representing "significant progress."](#) but the reality is that he has left the trigger points at which apartments are deregulated somewhat worse for tenants than they were 14 years ago, when then-Governor George Pataki first orchestrated legislative changes designed to destroy rent regulation. The fundamental levers of deregulation that Pataki put in place are untouched by Cuomo's paltry efforts.

Pataki achieved substantial weakening of rent regulations back in 1997, at a moment when market the-
ology was in full flower. If only landlords could do exactly what they want, tenants would magically do better. Never mind that it was only rent regulation that had protected tenants from high rents and had provided them the security that comes from knowing that their leases had to be renewed so long as they paid the rent and met their other obligations.

A system premised on taking units out of regulation is a system set on self-destruct. But the Governor wasn't interested in spending political capital on this issue.

Though the New York press swallowed the line wholesale, [Pataki's rationale was a fraud from the outset](#). Shock of shocks, New York landlords did not turn out to be soft-hearted quasi-philanthropists eager to build affordable apartments, but rather the conventional businesspeople everyone knew they would be, interested only in developing apartments to put on the market at the highest rent to yield the maximum profit possible.

At the heart of the Pataki system was "vacancy decontrol" and "luxury decontrol," two devices explicitly intended to bring apartments out of regulation over time. Pataki's "orderly" transition away from rent regulation had a central political goal which will sound familiar to anyone who has heard recent Republican and "bipartisan" assurances that current beneficiaries of Social Security and Medicare wouldn't be hurt by benefit cuts to those systems.

As Crain's New York Business wrote in 1997, a core benefit of vacancy decontrol was that it would "help undermine the political support for rent regulations."

The magic number to get to vacancy decontrol was \$2,000. Even if an apartment had been renting for less than \$2,000 when a tenant vacated it, the apartment would be taken out of rent regulation (decontrolled) if the landlord, through a system of generous vacancy and capital improvement increases, could show that the next tenant could legally be made to pay \$2,000 or more.

Once that happened, no tenant of such an apartment would ever get the protections of rent regulation — those providing cost control or those providing security of tenure — ever again.

This system has worked very well for landlords, with large numbers of apartments becoming decontrolled over time.

So, in what will undoubtedly be described in some media quarters as a “compromise,” Cuomo will tout the fact that the trigger point for vacancy decontrol is being raised to \$2,500.

Do a little math, though, and it is clear that what may seem at first blush to be up, is actually down. Adjusting only for inflation (though New York City landlords have actually been able to claim a variety of rent increases, including capital improvement increases, that have far exceeded inflation), it turns out that 1997’s \$2,000 would be \$2,815 in 2011 dollars. The Cuomo solve, in other words, is 12 percent better for landlords than Pataki’s original scheme.

A similar effect occurs with “luxury decontrol.” This feature of the rent deregulating blueprint — a favorite of the media class — is premised on the ultimate in intellectual dishonesty. The claim was that luxury decontrol was a *populist* measure: higher-earning New Yorkers in higher-rent apartments should not enjoy rent regulation designed to help poor and middle class New Yorkers.

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The income level at which a family would be subject to luxury decontrol was set at \$175,000.

Leave aside the fact that many of those mouthing the rationale blanch at the thought of the most modest income tax increase, and warn of mass flight from the city were there to be tax increases a fraction of the size of the rent increases that can be imposed in a deregulated apartment.

If there were actually any interest in preventing a “windfall” to wealthier New Yorkers, some of those making the argument would have proposed a rent surcharge to be dedicated to an affordable housing development fund. No one did, instead preferring a system that would take a regulated apartment and make sure that no poor or middle class person would ever be able to afford it again.

Gov. Cuomo’s great success? Getting that \$175,000 trigger raised to \$200,000. Oops. That \$175,000 is actually \$246,378 in 2011 dollars. So this bit of progress means luxury decontrol 23 percent better for landlords than Pataki’s original framework.

And the scam of “major capital improvements” is allowed to continue. When any landlord makes a capital improvement (replacing windows or putting in new appliances, for example), that landlord can deduct those costs as capital expenses on its taxes. Under New York’s rent regulation system, the landlord is also able to raise the affected tenants’ rents to pay for the improvements over time. What

happens after the tenants have paid for the improvements and the landlord has taken advantage of tax deductions as well? The landlord gets to continue to charge the tenants the increased rent forever.

Gov. Cuomo didn't get this changed either.

The battle lines on this issue have been clear for many, many years. A system premised on taking units out of regulation is a system set on self-destruct. But the Governor wasn't interested in spending political capital on this issue. Instead, [he left his position ill-defined all spring, and didn't use the budget negotiating leverage he had to try to win a real victory for tenants.](#)

But, then again, why should one be surprised? Why would anything be more important to Gov. Cuomo than burnishing his "centrist" credentials and preparing for 2016?

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