

Op-Ed

Memo to Mamdani: To Improve Housing Affordability, Rein In Rent Control

By Howard Husock

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Here's a version of American free enterprise with which you may not be familiar. It's one in which the owner of a business is free to choose between two options: operate at a loss or don't operate at all. This "heads I lose, tails I lose" business model is not, to be sure, one any business owner would voluntarily choose. Yet it's the reality of the New York City housing market for hundreds of small, residential property owners.

At a time when housing "affordability" helped send an avowed socialist to the New York City mayor's office, the city's complex and intrusive system of rent price regulation, or "stabilization," governing nearly 1 million apartments is leading building owners to keep at least 26,000 units vacant and off the market—because their potential rent revenue would be such that their owners would run in the red. They'd lose money on each apartment.

Call it capitalism with New York characteristics — which turns out not to be capitalism at all. And it's facing a legal challenge which could be the first blow against a system that lets affluent tenants avail themselves of artificially cheap apartments and even lets their children inherit them, at the same time putting a tourniquet on the income of immigrant owners of property they'd hoped would allow them to realize the American dream.

A lawsuit asserting the right of owners to set a market rent on a vacant apartment—common sense in most of America—puts it this way. Attorneys for the Institute for Justice, the Washington-based libertarian public interest nonprofit law firm, argue that vacant apartments "typically require repairs and renovations after long-term tenancies before they can be rented again. Indeed, regulations mandate updates."

Yet, the attorneys add, “after over fifty years of rent stabilization, the regulated rents on some apartments have become so low (in some cases, just hundreds of dollars per month) that it makes no economic sense to incur the expense associated with putting units on the market.”

They’ve been, per the Institute for Justice, “regulated off the market”, even as New York struggles with an alleged housing shortage. Because the property can’t bring in revenue — even as owners face tax, mortgage and insurance bills — it’s been effectively and unconstitutionally been legally “taken.”

It’s important to note that this lawsuit, brought on behalf of the members of the Small Property Owners of New York, is not challenging rent controls broadly. As recently as November, 2024, the United States Supreme Court refused to hear such a challenge. The Small Property Owners hope this time is different — by focusing narrowly on vacant apartments they hope to start restoring the idea of property rights to the New York housing market.

Those challenging the rent regulations are not big time landlords. They include two Albanian immigrant brothers, Pashko and Tony Lulgjuraj, who own a 60-unit prewar building not far from the George Washington Bridge. The former has worked as a building doorman, the latter as a building superintendent. They bought the building with their late father.

The lawsuit brought on their behalf notes that the legal rent for the two, two-bedroom units they are leaving vacant are \$710 and \$860 respectively — and would cost more than \$100,000 each to bring up to code to be legally rented. There was a period in which owners could raise rents based on such capital repairs —but a 2019 state law turning the screws even more tightly on rent-stabilized units sharply limited such increases, to just 6 percent.

The vagaries of the system are difficult to exaggerate. Some of the Lulgjurats’ apartments have much higher rents thanks to the fact that at times, since passage of the 1974 rent law, some units were allowed to set market rents when vacant. What’s more, the law applies mainly to pre-1974 buildings, exactly the older structures lower-income owners have been likely, and able, to buy.

Of course, the owners are not the only victims. As the Institute of Justice puts it: “The (rent stabilization law) doesn’t just hurt Tony and Pashko. It hurts anyone who might want to rent these vacant apartments.”

That's generally true of the rent law — which creates a sort of musical chairs version of a housing market. Those lucky enough to land a good deal have every incentive to stay put — and pass their unit on to family members. The unlucky, including the young voters who elected Zohran Mamdani, are left standing, bitter about “affordability.” The mayor-elect’s promised rent freeze would drive even more owners to take apartments off the market to avoid losing money.

New York desperately needs a housing market undistorted by regulation. The simple expedient of allowing owners to charge enough to bring vacant apartments back on the market would be a small but significant step.