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CHAPTER 2

REVIVING NEW YORK CITY'S HOUSING MARKET

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New York City's housing conditions, already inferior to those of most other American cities, are destined to get worse in the decades ahead because there are just not enough new homes or apartments being built to accommodate the housing needs of new families and offset the deterioration of existing housing units. According to the most recent published report on New York City housing conditions, in a *good* year New York's housing stock loses nearly 14,000 dwelling units; in the most recent period, it lost over 18,000 units. At the same time, unlike other large eastern and midwestern cities, New York's household population is actually growing—between 2,500 and 9,000 households per year recently (Blackburn 1995). That means New York needs to add between 12,000 and 17,000 dwellings to its housing stock each year just to stay even. If housing conditions are to be improved and housing prices reduced, twice that number must be added. Why? Because New York has among the nation's oldest and most deteriorated housing stock, and to substantially upgrade its quality, much of it should be replaced. Assuming an average viable dwelling unit life of about sixty-five years, ideally 1.5 percent of New York's housing stock (approximately 42,000 dwelling units) should be retired each year. Could many of these units be substantially renovated instead? Probably not. In the case of most of New York's oldest dwellings—tenements and modest apartment houses built in upper Manhattan and the inner-tier neighborhoods of Brooklyn, Queens, and the Bronx—the cost of renovation is too high, and the likely housing product too inferior, for renovation to be worthwhile.

In the last decade, residential construction in New York City has not even come close to meeting the city's housing needs. Even in the best years for residential construction in the mid-1980s, only 12,000 to

16,000 dwellings were added, many of them developed and subsidized publicly (Blackburn 1995). In 1994, just 4,010 private residential building permits were issued in New York City, a city with nearly three million dwelling units, and 30 percent of these permits were issued in Staten Island, New York's smallest and most uncharacteristic borough (U.S. Department of Commerce 1982–94). Although the city's resurgent economy has led to a doubling in the annual number of building permits issued (see Schill and Scafidi, chapter 1 in this volume), even this level of housing production is significantly below the levels necessary to maintain and expand the city's housing stock.

If low rates of housing development and replacement persist, existing dwellings will inevitably become even more overcrowded, harder to find (which translates to higher rents), and more deteriorated than they are today. While the failure to build new housing hurts all New Yorkers, its greatest hardship is visited on the city's most vulnerable residents, the poor, who must live in the worst of the city's dwellings and neighborhoods.

For a city not experiencing population decline, New York's record of housing production is abysmal, by any possible reckoning. In proportion to its population, economic importance, and grandiose self-image New York builds fewer housing units and maintains its existing housing stock more poorly than all but the most derelict of American cities. When New York is compared with the other central cities of America's ten largest metropolitan areas, as indicated in Table 2.1, only three had a lower rate of new residential construction than New York, and every one of these places—unlike New York—had a declining rate of population growth in the last decade (U.S. Department of Commerce 1995 and 1982–94). Even Boston and Chicago, with declining populations, have seen more housing built than New York. The best explanation for New York's poor showing is that the city is strangling its housing market in a web of regulation and government intervention unmatched in any other large city.

New York is one of only four large cities to retain rent regulation, under rules initially imposed during World War II and never removed. In fact, the scope of regulation was significantly extended in 1969 and 1974. Even compared to the handful of other rent regulated places, New York's regulatory rules are more constraining, and more strictly applied than elsewhere. New York City's Zoning Resolution, accruing special districts, special regulations, certifications, overlays, exceptions, bonuses, and housing quality standards continuously since its adoption in 1961, is the most complex and housing-unfriendly development ordinance of any large city. Since 1975, New York has been the only major city to force most new development—housing and commercial—

TABLE 2.1
Housing Construction Rates, Ten Largest Metropolitan Central Cities

	Housing Permits per 1,000 Dwelling Units					% Pop. Growth
City	1994	1990	1986	1982	1985–94	1980–92
Dallas	9.85	5.91	27.79	26.47	129.99	12.9
Los Angeles	1.78	9.10	19.88	4.40	98.27	17.5
Houston	7.66	2.97	17.70	22.44	92.39	6.0
San Francisco	2.89	3.28	6.21	3.70	40.18	7.3
Boston	1.04	1.11	10.00	1.61	38.55	–2.0
Chicago	2.28	2.86	3.09	3.82	24.75	–7.9
New York	1.34	2.29	3.26	2.50	22.29	3.4
Philadelphia	0.64	1.11	3.05	2.33	15.46	–7.9
Washington	0.75	1.32	2.30	1.55	14.69	–8.3
Detroit	0.94	1.54	0.50	2.58	9.09	–15.9

Source: U.S. Department of Commerce (1982–94).

through a punishing gauntlet of procedural review. Since 1977, New York has been the only place to apply a municipal environmental regulation more stringent than required by its state or the federal government. Since 1985, New York has been the only American city whose government spends its own tax levy resources to compete against the privately owned low cost housing sector as developer and subsidizer. And since 1987, New York has been the only place to institutionalize a discriminatory property tax system that levies higher taxes on apartment houses than any other large American city.

Given the cascading set of new or stricter rules applying to the production or operation of housing in New York City since the 1960s, it should come as no surprise that New York's housing production has fallen steadily over the last three decades, as indicated in Table 2.2. In the early 1960s New York's private developers were building over 45,000 dwellings a year, more than enough to replace housing losses, accommodate population growth, and upgrade housing quality. Thirty years later, housing development (including subsidized dwellings) has slowed to an annual trickle of 7,500 units. Taking into account the flow of annual housing losses and modest population growth, the balance of housing supply and demand has gone from a surplus of 28,500 units in the early 1960s to a shortfall of nearly 17,000 in 1994.

Why should New Yorkers care about the city's housing production shortfall? Because its two most likely consequences are extremely harmful to New York's livability and economic prospects. To the degree that New York's households are captive, as most of the poor are, the failure to build and upgrade housing will make the city's existing housing scarcer,

TABLE 2.2
Annual Change in New York City Housing Stock

Year	Dwelling Unit Additions	Dwelling Unit Losses	Household Gain or Loss	Net Housing Additions
1960–64	45,900	13,300	4,100	28,500
1965–69	27,900	8,600	8,700	10,600
1970–74	19,400	11,200	–19,000	27,200
1975–79	16,500	27,000	–12,000	1,500
1980–84	10,500	23,800	10,100	–23,400
1985–89	11,600	14,800	9,100	–12,300
1990–94	7,500	18,300	3,100	–13,900
1994	4,000	18,300	2,500	–16,800

Source: New York City Housing and Vacancy Surveys (Sternlieb and Hughes 1976; Stegman 1985; Wolkoff 1988; Blackburn 1995).

more expensive, and more deteriorated. On the other hand, if New York's households are able to move away (or choose not to move in), the city's neighborhoods and economy will be further eroded. While a city's demand for housing is largely a product of its economic vitality, the reverse can also be true: a city's economic vitality is enhanced when it possesses a high-quality, reasonably priced housing stock.

Immigrants—especially illegal ones—represent a group uniquely disadvantaged by New York's dearth of housing construction. As the most captive of the city's households, they put up with the worst of its housing conditions so they can gain membership in the bottom of its labor force. But as their squalid living conditions attract public attention, demands for code enforcement rise. Ineligible for rent controlled apartments, and unable to afford decent ones, immigrants will be forced to hide or move out of the city.

The deficiencies of New York's regulatory system and housing policies have long come under critical scrutiny both by economists and in publicly commissioned studies (Rapkin 1966; Mayor's Rent Control Committee 1969; Rand 1970; Sternlieb 1972; Lett 1976; Mayor's Commission 1977; Roistacher 1991; Salins and Mildner 1992; and Urstadt undated). All of the studies have more or less accurately identified the major impacts that rent control has had on New York's housing, but they also varied widely as to the desirable or necessary degree of reform required. The early studies (Rapkin, Rand, Sternlieb) led to limited reforms of New York's oldest and most rigid form of rent regulation: rent control. In 1970 the New York City Council adopted the Maximum Base Rent system, permitting modest annual rent increases for rent controlled apartments until a fair "base rent" was achieved, and in 1974 the New

York State Legislature, as part of the Emergency Tenant Protection Act, moved vacant rent controlled apartments into the Rent Stabilization system. The only major public official sufficiently persuaded by the raft of critical reports and studies to actually propose phasing out rent regulation altogether was Governor Nelson Rockefeller, who persuaded a reluctant State Legislature in 1971 to adopt comprehensive vacancy decontrol—for both controlled and stabilized dwellings. This reform was short-lived, however—its repeal was enacted by the Legislature in 1974 with the support of Rockefeller's successor, Malcolm Wilson.

What has not been sufficiently understood, by either the critics or the politicians, is the way these regulations and policies interact and reinforce each other in a negative way to undermine that incredibly delicate and fragile system that is the New York City housing market. And that—not regulatory nuisances per se—is what New Yorkers are up against: the inexorable decline of the vitality of their city's housing market.

Housing markets are generally metropolitan in scope. When the housing market is thwarted in one metropolitan jurisdiction, housing demand and supply is simply displaced to neighboring jurisdictions. When the housing market is inhibited in the central city, housing activity is displaced to the suburbs. In many American metropolitan areas central city housing market demand is weak because of declining population and economic activity. New York, however, is a city still experiencing some population growth, and many of its neighborhoods, both in Manhattan and the outer boroughs, are desirable enough to sustain a flourishing housing market if they were permitted to. But because of New York City's regulatory barriers, almost all of the New York region's new housing is now being built in its suburbs.

A housing market is not just a collection of residential buildings; it is a hugely complex process. In a properly functioning urban housing market the rational economic behavior of housing suppliers and consumers operates to assure:

- a continuous stream of additions to the housing stock numerous enough to accommodate new household formation and to replace obsolete or deteriorated dwellings (in New York City, that would mean building about 40,000 new units a year)
- continuous movement of households through the housing stock as their needs, desires, and pocketbooks dictate
- continuous investment in maintaining or enhancing the quality of the existing stock
- a continuous process to remove (or renovate) the deteriorated and obsolete housing stock

Above all, a well-functioning housing market depends on the correct pricing of the housing stock, from the top of the market to the bottom, to send the right signals to all housing market actors, both suppliers and consumers, to make sure that their individual economic rationality is congruent with housing market vitality.

New York's rent, zoning, development, and environmental regulations, and its other housing policies, hobble all four components of a vital housing market—they keep new housing from being built, they provide disincentives to maintenance and reinvestment, they freeze much of the household population in place, and they keep obsolete housing from being removed. The primary mechanism by which public sector intervention curtails the normal operation of the housing market is the aggressive mispricing of much of the housing stock. Out of three million dwellings in New York's housing stock, 53 percent have their prices and operations determined by one or another public agency; and by far the largest component of this publicly priced stock (37 percent) is the 1.1 million apartments subject to rent regulation. The rest comprises 165,000 New York City Housing Authority apartments, 295,000 shallow subsidy units (mainly benefiting from State and federal financing subsidies like those embedded in New York's Mitchell-Lama Program, or rent subsidies available under the federal Section 8 program), and 23,000 apartments operated by the city after tax foreclosure (Schill and Scafidi, chapter 1 in this volume).

In spite of all the government-managed price fixing, New York's housing is no bargain, especially for the poor and near poor. Whether measured by rent-to-income ratios or in comparison with housing prices in other cities, only traditional public housing is cheap. According to the 1993 Housing and Vacancy Survey the poorest rent controlled tenants (those with 1993 household incomes under $10,000) pay 57 percent of their income in rent, other rent regulated (that is, rent stabilized) poor tenants pay 84 percent, and even tenants in city-owned tax foreclosed apartments pay 72 percent. In fact, overall, the 28 percent of all renters not protected by one or another format of public sector rent setting devote exactly the same share of their income to pay for housing as the 72 percent who do benefit: 31 percent (Blackburn 1995). Nevertheless, even absent any aggregate benefit, government intervention in pricing the housing stock causes major distortions in the housing market at the level of individual apartments, buildings, and neighborhoods, creating a random and perverse distribution of household windfalls and hardships.

The best metaphor to characterize a housing market is to liken it to a vast game of musical chairs. Housing developers are the people supplying the chairs; housing consumers occupy the chairs, and housing

prices are akin to the musical signals that make people change seats. New York City's regulatory and other housing policies spoil New York's housing musical chairs game by keeping chairs from being added and taken away, and by not allowing the music to play often enough for people to change their seats.

The granddaddy and archvillain of New York's regulatory ensemble is rent regulation, but not only for the reason most studies usually cite: its impact in accelerating the rate of housing deterioration—an especially acute issue for rent controlled dwellings. Nor is rent regulation's problem that it causes landlords to lose money, the most common complaint of the real estate industry; maybe it does sometimes, but if most landlords lost too much money, there would be no housing. To the degree that New York's public officials worry about rent regulation at all, it is to make property owners whole (with, for example capital improvement rent increases, annual guidelines reflecting the cost of housing operation, and so forth); but that does not get to the heart of rent regulation's negative impacts on the housing market. The real damage of rent regulation is done by the very features that are the most popular: in fact, the entire rationale for having rent regulation at all is keeping the price of rental housing below market levels, and allowing tenants to remain in their apartments as long as they like, regardless of their landlord's wishes.

Keeping prices as low as possible doesn't—in the case of rent stabilization—even result in very low prices; New York's stabilized rents are higher than most cities' unregulated ones. But stabilized prices are almost always the wrong prices, prices different from what an unregulated housing market would charge; and rent regulation has its most egregious impact on the middle and upper end of the market, where the price differential between market and regulated rents is greatest. This has two undesirable effects: it reduces the demand for new housing, and it misallocates the existing housing stock. If regulated tenants in Manhattan, Riverdale, or Forest Hills moved to newer, better apartments—or bought them—the increment of additional rent or carrying costs they would have to pay would far exceed the increment of housing improvement. This demand factor is more important than the prospect of future regulated rents in discouraging construction of new mid- and high-priced housing. At the same time, the cessation of movement among the musical chairs exacerbates shortages in the low end of the stock, shortages that cannot be responded to by private housing suppliers because of the costs of regulation and the incomes of the low-end tenants.

While rent regulation's impact on housing demand is to some extent speculative and not easily documented, its misallocation effects are readily apparent in a variety of mismatches between household and apartment characteristics in the regulated stock. Because many small households preempt regulated apartments, overcrowding (as indicated by more than one person per room) is more prevalent in unregulated apartments (9.8 percent) than in rent controlled (3.3 percent) or post-1947 rent stabilized ones (7.5 percent) (Blackburn 1995). Because holding on to a regulated apartment requires skill and the ability to time or defer moves, more privileged demographic groups have a distinct edge, undermining the ostensible equity objective of the regulatory system. As a result, 73 percent of rent controlled and 58 percent of post-1947 rent stabilized apartments are occupied by whites (who comprise only 41 percent of all renter households) and a greater percentage of high income (72 percent) than low income (50 percent) single households occupy regulated apartments (Blackburn 1995).

The other destructive housing market feature of rent regulation is its stringent tenure protection. Tenants have every economic incentive to stay put, and very little incentive to move. Any move by a regulated tenant, even to a smaller or less desirable apartment in the city, will probably result in a higher rent. The longer a tenant has lived in a particular apartment, the more likely this is to be the case. This, as much as below-market rents, keeps housing turnover low. This, as much as below-market rents, gives landlords a disincentive to maintain their properties at optimal levels. And this feature, tenure protection, makes it impossible to remove dwellings from the housing stock after they have lost most or all of their value.

The low turnover rate generated by tenure protection is frequently cited by rent regulation advocates as a distinct benefit, generating allegedly greater socioeconomic integration, neighborhood stability, and apartment maintenance than there might be under conditions of higher turnover. Yet, New York is among the most spatially segregated of large American cities, has seen many of its formerly stable neighborhoods deteriorate, and, as documented by the *American Housing Survey*, has inferior dwelling unit conditions by contemporary American urban standards.

The combined impact of the New York housing market's below-market prices and low turnover is to frustrate the normal dynamics of housing "filtering," the term housing economists use to describe the process by which decent housing is made available to low- and moderate-income households in most urban communities. The filtering model posits that the development of new housing for middle- and upper-income families leads inevitably to lower housing prices and greater housing availability throughout the local housing market through a

TABLE 2.3
Rental Housing Characteristics for Five Large Cities, 1991

City	Median Rent 2 BR Apt ($)	Median Apt. Age (years)	Median Tenure (years)
New York	563	48	5
Los Angeles (1989)	651	31	4
Chicago	538	43	2
Atlanta	539	19	1
Houston	475	15	1

Source: U.S. Department of Housing and Urban Development, American Housing Survey: New York, Chicago, Atlanta, Houston,1991; Los Angeles, 1989.

chain of vacancies. Much like a high rate of new automobile production and purchase leads to an upgrading of the quality of the entire automobile fleet as all motorists trade up to newer and better cars, a high rate of housing production should lead all households to have access to newer and better dwellings. Conversely, a low rate of housing production, by the logic of the filtering model, must result in most households occupying older and inferior dwellings. Unless, that is, households can filter out of the city altogether into newer and better housing in the suburbs. Thus, if New York does not create a housing environment that encourages filtering within the city, it risks both a decline in housing conditions and the outmigration of its most upwardly mobile familes.

But even when and if New York City and State were to end "rent regulation as we know it," an eventuality that was seriously considered by the New York State Legislature in 1997, but put off at least until the year 2003, the rest of New York's regulatory apparatus would come into play. Opponents of rent regulation hope that absent its debilitating impact, more housing would be built, but their optimism may not be warranted. Unless they are reformed, other New York housing interventions might cancel much of the salutary impact of rent deregulation.

There are only three possible places where new housing can be built: on vacant or underutilized land, in established neighborhoods by infill or replacing existing structures, or in areas where obsolete housing is removed. Among the most logical sites for new residential development would appear to be somewhere in the 15,000 acres of land (7 percent of New York's land area) that New York's planners have designated for manufacturing, especially considering that manufacturing employment has declined by 160,000 jobs per decade since the end of World War II and shows no sign of reversing course anytime soon. But before building can take place on underutilized manufacturing sites (many of them along the waterfront, in choice Manhattan locations, or in vast open tracts in Queens, Brooklyn, and Staten Island), each manufacturing area where new housing might be developed has to be rezoned for residential development, because New York is one of the few places in the country that reserves manufacturing zones exclusively for industry. The city's planning leadership today actually wants to do this. But it is no easy task.

To begin with, each affected area needs a separate environmental impact assessment which can be a costly proposition. Sometimes such assessments are paid for by potential developers, but only in contemplation of the most desirable sites. Then the proposed rezoning must wend its way through New York's Uniform Land Use Review Process (ULURP), where it is almost certain to trigger objections by development opponents. ULURP is a review protocol, mandated by New York City's charter, that gives local communities and other affected interests the power to scrutinize and make recommendations regarding land use and development proposals needing dispensation from zoning or other regulations. In the unlikely event that the rezoning emerges unscathed from ULURP and doesn't become bogged down in court challenges (usually justified by some defect in the environmental and ULURP protocols), each change must be approved by the City Planning Commission and the City Council, where political mobilization can derail the proposal. The present planning administration has, with dogged persistence, managed to rezone five districts from manufacturing or restrictive mixed-use to residential or commercial (which allows for residential)—two in Manhattan, and one each in Brooklyn, Queens, and Staten Island. Each rezoning took more than two years and millions of taxpayer and developer dollars to consummate (according to information supplied by the New York City Planning Department). Although the city's planners are continuing their piecemeal rezoning efforts, wresting housing sites wholesale from New York's obsolete industrial landscape would be an enormously costly and time-consuming undertaking.

There are also substantial obstacles to housing development in established neighborhoods. There is a better than even chance that any potential site is in one of the city's thirty-eight special zoning districts—districts designed to preserve or promote particular building types, activities, and amenities—or in one of the city's forty-four historic districts, or near a wetland (New York has 580 miles of shoreline, not to mention countless streams, ponds, marshes, and springs), or on a brownfield (in addition to industrial areas this can apply to any former gas station site or drycleaning establishment), or on a lot with one or another restrictive quirk. Even when it lies in Staten Island, that quintessentially suburban

part of New York, the place where one-fifth of all private housing was built between 1991 and 1995, a housing site may need a "school seat certification," a requirement in South Richmond that makes developers prove that the schools have enough room for the additional students that new housing might bring. In almost any New York neighborhood, developers have to negotiate with city officials and the site-specific opponent du jour on a site-by-site basis. Like rezoning, each development proposal, even after negotiation, needs an environmental assessment and has to undergo review in the Uniform Land Use Review Process. Obviously, housing development does take place—4,000 dwellings worth in 1994—but only by the hardiest of developers, pitching to the most affluent of market segments. Given the obstacles, the pace of development quickens only in the most robust of economic times.

Some of the most obvious and desirable of potential housing development sites are in the wastelands of housing devastation, where the city has acquired thousands of structures on hundreds of acres through tax foreclosure, the locations of the city's voluminous *in rem* portfolio, now comprising nearly 30,000 apartments. As things stand, private developers of market-priced housing often find it harder to build there than in established neighborhoods. If they purchased properties with partially occupied buildings, they would be barred from tearing down the structures or massively renovating them because tenure protection rules prevent them from relocating the remaining tenants. But the issue is moot, in any case. New York City has long been reluctant to sell its tax-foreclosed properties to the highest bidder, and since the early 1980s has implemented a policy of turning over city-owned residential property—vacant or occupied—to selected private owners and developers only with stringent restrictions and targeted subsidies, setting aside all *in rem* properties as "community" housing resources. Thus, in the short run, New York spends hundreds of millions of dollars each year to operate *in rem* housing at a loss—and in the long run, *billions*—subsidizing nonprofit and private developers, under several city-sponsored and funded programs, to redevelop these properties with expensively renovated apartments offered to eligible tenants at below-market rents.

The thousands of dwellings already developed under this program have unquestionably revitalized sections of East New York, the South Bronx, and Harlem. But even this impressive accomplishment further destabilizes New York's housing market because the new housing raises the "wrong price" problem again. Subsidized development competes with low-end private apartment buildings in attracting the limited number of responsible, working, moderate-income families willing to live in these neighborhoods. Thus, the unsubsidized stock becomes the housing resource of last resort, mainly occupied by the poorest and most irresponsible households, hastening its demise. The city can, of course, then add this new increment of failed housing to its costly development portfolio, but if someday the city tires of or can no longer afford this role, it will once again be faced with housing wastelands orphaned by both the private and public sectors. In any case, experience shows that the kinds of subsidies New York uses to underwrite redeveloped *in rem* housing are unsustainable over the long haul, making it likely that much of this redeveloped stock will also fail. It is certainly premature to conclude that the city-subsidized revitalization of New York's worst neighborhoods has been a mistake, but the effort should be viewed as at best a limited—and not necessarily durable—substitute for a vigorous unsubsidized housing market.

In addition to the housing development hurdles posed by New York's zoning, environmental, procedural, and public development policies, prospective developers of new housing continue to face construction costs from 5 to 15 percent higher than those prevailing in other parts of the region imposed by building codes riddled with numerous outdated or unreasonable requirements and unnecessary disabled access and seismic provisions. New York City's construction and fire safety standards, for example, are far more stringent than those in New York State's model building code. The requirements for making residences accessible for the physically handicapped (who constitute a minuscule fraction of all households), which are applicable to every single home or apartment, are stricter than the federal government's. And the code's earthquake-proofing provisions make no sense in a city that has never experienced a serious earthquake.

If that were not enough, prospective developers, landlords, even homeowners who propose to renovate the older stock, continue to face the prospect of complying with punishing asbestos and lead paint abatement requirements, and a whopping increase in their property taxes. Owners of unprofitable rental buildings who think they can save them by selling their apartments as co-ops or condos continue to face a restrictive New York State co-op and condominium conversion law.

Those developers undaunted by the city's regulatory exactions must market their newly constructed dwellings burdened by a property tax system that discriminates against co-ops, condos, and new owner-occupied housing, and even more, against rental housing, regardless of vintage, as well as exorbitant water/sewer assessments. While the effective property tax rate for older one- and two-family homes in New York is under 1 percent of their market value, the rate for newer homes

approaches 2 percent (the average suburban rate), the rate for co-ops and condos is around 4 percent, and the effective tax rate for multifamily rental properties is 5 percent. By comparison, apartments in Chicago pay property taxes under 3 percent of their market value; apartments in Houston, Washington, Seattle, Dallas, and Boston pay around 1.5 percent; and taxes on apartments in California cities are under 1 percent (Mildner 1991)

New York's discriminatory property tax classification scheme is driven by two unworthy notions: a willingness to exploit the city's ostensibly "captive" property owners, and a belief that New York must bribe middle-class homeowners in the outer boroughs to stay in the city. Unfortunately, multifamily housing is not really captive. The tax structure assumes that, with their tenants protected by rent regulation, multifamily rental property owners must "eat" the high taxes. What happens, instead, is that current tenants "eat" the high taxes in deferred maintenance, and future tenants "eat" them when they confront the limited and unsatisfactory housing choices of New York's crippled housing market. New York's answer to extortionately high taxes on multifamily housing has been to offer tax abatements to new apartment houses. But these abatements merely postpone the economic pain because they expire gradually over ten years. These abatements, incidentally, are conditioned on having the buildings that benefit submit to rent stabilization, effectively canceling the exemption from rent regulation available to new rental developments.

As things stand, rational housing actors in the city's housing market find themselves trapped in a regulatory and policy maze where every contemplated avenue of escape leads to a dead end or subjects them to another economic penalty. In the end, however, the system harms New York's residents more than its property owners and developers. Rent regulation induces owners of existing rental housing to undermaintain or abandon their properties, and developers of new housing to build in other places. Other costly and time-consuming regulations and high property taxes only make these problems worse. This causes a housing shortage that makes ending rent regulation unthinkable, and it also tempts the municipal government to become the houser of last resort. As the city goes into the housing business, more private competitors abandon their buildings, more residential property stays off the tax rolls, and low-income tenants not lucky enough to qualify for a subsidized apartment face a tighter and costlier housing market, which reinforces the cycle of public intervention.

How did New York ever build so much housing in the past, when the city added anywhere from 20,000 to 100,000 dwellings a year to the stock? The city certainly did not accumulate three million housing units by building 4,000 units a year. Much of the present stock, of course, was publicly developed or subsidized, more than anywhere else in America. But the private sector had a much easier time not so long ago. Rent regulation may date back to the World War II, but its scope was substantially expanded in the 1970s. The city's environmental rubric is just a few decades old, and is more strictly interpreted now than originally. The zoning ordinance keeps adding districts, and conditions, to the fairly basic 1961 resolution. Landmark districts have been added over the years. ULURP is a product of a 1975 Charter revision. The city's *in rem* housing policies, and capital program, are only a decade old.

TABLE 2.4
Selected Landmarks of New York Housing Market Intervention

Year	Policy
1942	Rent Control introduced as part of U.S. Emergency Price Control Act
1947	National rent controls lifted—New York's retained for all apartments occupied before 1947
1961	Passage of major revision to the 1916 Zoning Resolution
1965	Creation of Landmarks Preservation Commission with power to designate historic districts
1967	Introduction of first special zoning district
1969	Rent Stabilization introduced to regulate rents on all apartments not under Rent Control
1971	New York State legislates "vacancy decontrol" for all controlled and stabilized apartments
1971	National wage, price, and rent controls imposed under President Nixon
1974	Emergency Tenant Protection Act repeals vacancy decontrol
1975	1975 Charter reform mandates Uniform Land Use Review Process (ULURP)
1976	Passage of (New York) State Environmental Review Act (SEQRA) mandating environmental review of all discretionary zoning changes
1976	Introduction of New York City Housing Quality Program setting housing design standards
1977	City Environmental Quality Review (CEQR) introduced by mayoral executive order
1981	Introduction of zoning rules for residential loft conversions
1985	Koch Administration introduces "Housing New York" plan to rehabilitate *in rem* housing
1987	Assessment Act of 1987 introduces property tax classification system
1987	New York City Local Law 58 mandates apartment design standards for the disabled
1993	New York State passage of "luxury decontrol" for apartments with rents exceeding $2,000 and tenant incomes exceeding $250,000
1997	New York State passage of the Rent Regulation Reform Act of 1997 reducing income threshold of luxury decontrol to $175,000, enacting more generous vacancy bonuses and requiring tenants to deposit rents in court after second adjournment of a holdover action.

The time has come for New Yorkers to revive their housing market by ending this counterproductive set of interlocking regulations and policies, an imperative if they want New York to retain its place as America's premier metropolis. To do so they must embrace at least five fundamental changes in the city's housing regulations and related policies.

1. *Deregulate all rents.* A half-century of rent regulation is more than enough. The deregulation proposals that the New York State Legislature seriously considered—and rejected—in 1997 might have proven an effective way of ending rent controls painlessly. The transition would have been managed through a policy of "vacancy decontrol plus." The "plus" describes provisos that immediately deregulated all luxury apartments, "luxury" encompassing much lower rents and incomes than the current luxury decontrol policy; that transitional regulatory protection be restricted to current leaseholders with absolutely no succession rights, even for close relatives; that no apartments retain regulatory protection after ten years. Rent deregulation by itself may not be enough to revive New York's housing market, but it would go a long way toward making the revival possible. Deregulation would stimulate new housing demand and competition among housing suppliers, triggering enhanced maintenance, lower rents, and rising vacancy rates. An open, market-priced rental housing stock would also obviate the need for other market-inhibiting regulations and the restriction on co-op and condo conversion, and might increase the appeal of homeownership.
2. *Scale back the procedural gauntlets* through which much new housing development—especially new development involving large or unusually configured projects—must navigate to get approval. A good place to begin would be to scrap the city's own environmental regulation overlay, the City Environmental Quality Review (CEQR), which is both redundant with, and more restrictive than, the State's environmental review procedure, the State Environmental Quality Review Act (SEQRA), especially since CEQR is legitimated only by mayoral order. Just as CEQR magnifies and exceeds the development obstacles of state environmental rules, so do the city's building codes; and the city's disabled access requirements are more unreasonable than recently enacted federal ones. As a general policy, New York City should eliminate all housing regulations that go beyond state and federal standards that are more than adequate to protect New Yorkers. That still leaves ULURP, another unique New York City development hurdle. Because it is embedded in the charter, its elimination cannot be envisioned any time soon. But ULURP only af-

fects projects that require special permits because they depart from the regular terms of the zoning resolution; the easiest way to end ULURP's jurisdiction is to liberalize the city's zoning. Therefore, New York should enact a comprehensive rezoning as described below.

3. *Comprehensively rezone.* The best place to begin would be to rezone for residential development all appropriately situated manufacturing areas free of serious environmental hazards. Many manufacturing zones are unlikely to attract residential development, but waterfront areas in and around Manhattan would be appealing, along with large open, but underutilized, tracts in the further reaches of the other boroughs. In existing residential zones, density and other restrictions should be replaced with simple aesthetic standards (like height restrictions) that protect neighborhood scale and character. Most special district designations and rules should be eliminated, especially when they constrain new housing development as in Manhattan's East Side and Staten Island's South Richmond. Whatever the details, the objectives of rezoning should be to make more sites available for residential development, and to make most residential development "as-of-right."
4. *Get the city out of the real estate business.* All new tax-foreclosed properties should be auctioned, or their tax liens sold; all existing *in rem* properties should be transferred to private ownership—with few if any strings—as expeditiously as possible. With the elimination of rent regulation, purchasers of structures—even partially occupied ones—could tear them down and build new housing (as well as commercial structures) in their place. With the city no longer offering subsidized low-rent apartments in competition with privately owned ones next door, and with the demise of rent regulation leaving private landlords free to choose their tenants and charge market rents (but also feeling real competition from other nearby private housing entrepreneurs), many of New York's badly rundown neighborhoods might be revived.
5. *End property tax discrimination.* The system of property classification that discriminates against multifamily housing should be scrapped, and all properties made subject to the same effective tax rate. Given current property values and revenues, that would require a uniform rate of around 2 percent of market value. The greatest winners would be commercial properties in Manhattan (which might stimulate the commercial office market, and the economy generally), but right behind them would be multifamily residential properties, both owner occupied and rental. This would, in conjunction with the other proposed policy changes, stimulate a housing boom in the city's more attractive apartment house precincts. Lower tax rates on new luxury apartments would also make tax abatements unnecessary; abatements represent another kind of tax discrimination, and they expire after a decade, making tax abated apartments less marketable over time. In the city's poorer neighborhoods, lower property taxes would make economically marginal properties more viable, reduce abandonment, and make redevelopment of already abandoned properties more attractive. The losers, obviously, would be owners of existing one- to three-family houses in the outer boroughs. But even they may gain in the long run. The city's liberalized regulatory environment should loosen the housing market across the board, offering present and potential homeowners wider selection and higher quality, perhaps even lower prices in some cases. And by ending the long-running contract between the city and its homeowners whereby the city stints on municipal services in exchange for letting homeowners stint on property taxes, homeowners might demand—and get—decent schools and other services for their appreciated tax dollars.

New York City today is at a critical housing policy crossroads. For the first time in decades, an agenda of comprehensive reform might actually be feasible because of fresh political and economic forces in play in New York and elsewhere in the United States. Reform-minded administrations now govern City Hall and Albany; there is a new appreciation of free markets and governmental reinvention from coast to coast; and New Yorkers might be ready to take drastic measures to revive their city's stagnant economy. But housing reform cannot be enacted piecemeal. As the debate surrounding the recent failed legislative attempt at ending rent controls proved, the city cannot end rent regulation until developers build more new housing. Developers will not build more new housing until the city ends rent regulation, lowers property taxes, and changes its zoning laws. The city will not lower property taxes until its tax base grows, and it cannot change the zoning laws until it changes its environmental laws. It cannot change the environmental laws without angering environmental advocates and securing state approval. At the end of the housing market day it does not really pay to change anything at all unless everything changes. The alternative to changing everything is to change nothing. And if nothing changes, the city government of New York is left with the punishingly costly role of being the developer and housing subsidizer of last resort, and the people of New York are left living in America's oldest and shabbiest housing. On the other hand, if New York's politicians exhibit the courage and foresight to dismantle the city's oppressive housing policies, all New Yorkers will benefit. Middle- and high-income New Yorkers will soon be able to live as comfortably as their peers in Seattle or Chicago. Poorer New Yorkers will, at a minimum, inherit some decent, inexpensive apartments vacated by families above them on the income ladder. But also, they may be surprised to find that, as the current housing regime's high costs and restrictive rules are curtailed, some builders will come forward and build unsubsidized new housing for low- and moderate-income families.

Can we be sure that dismantling New York City's housing regulations will motivate developers to build more, or enough more to make a difference? Maybe not, but we do know that in the past, a regime of fewer and less onerous housing regulations resulted in more housing being built. And there is little downside risk in any case. A lighter regulatory burden can, at a minimum, make New York's housing less expensive, can motivate New York's landlords to better maintain their rental properties, can guide New York's tenants and owners to make more economically rational discretionary housing decisions, and can more fairly allocate New York's existing housing stock.

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