To be argued by:
MATTHEW W. GRIECO
20 minutes requested

State of New York
Court of Appeals

APL-2023-00147

In the Matter of the Application of

160 EAST 84TH STREET ASSOCIATES, LLC,

Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,

Respondent-Respondent,

For a Judgment Pursuant to Article 78 of the Civil Practice Law & Rules.

Supreme Court, New York County, Index No. 157576/20
First Department No. 2021-00718

(*captions continue inside front cover*)

BRIEF FOR RESPONDENT

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Dated: June 5, 2024

(*captions continue from front cover*)

APL-2023-00148

In the Matter of the Application of
160 EAST 84TH STREET ASSOCIATES, LLC,
Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,
Respondent-Respondent,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law & Rules.

Supreme Court, N.Y. County, Index Nos. 157558/20, 157560/20, 157579/20, 157582/20
First Department Nos. 2021-02603, 2021-02604, 2021-02605, 2021-02606

APL-2023-00149

In the Matter of the Application of
160 EAST 84TH STREET ASSOCIATES, LLC,
Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,
Respondent-Respondent,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law & Rules.

Supreme Court, N.Y. County, Index No. 157557/20
First Department Nos. 2021-02556, 2021-03885, 2021-03891

APL-2023-00150

In the Matter of the Application of
1700 YORK AVENUE ASSOCIATES, LLC,
Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,
Respondent-Respondent,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law & Rules.

Supreme Court, N.Y. County, Index No. 157893/20
First Department No. 2021-03068

APL-2023-00151

In the Matter of the Application of
87TH STREET SHERRY ASSOCIATES, LLC,
Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,
Respondent-Respondent,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law & Rules.

Supreme Court, N.Y. County, Index Nos. 153992/20, 153997/20, 154002/20
First Department Nos. 2021-02679, 2021-02680, 2021-02681

APL-2023-00152

In the Matter of the Application of
87TH STREET SHERRY ASSOCIATES, LLC,
Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,
Respondent-Respondent,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law & Rules.

Supreme Court, N.Y. County, Index No. 153995/20
First Department No. 2021-00655

APL-2023-00153

In the Matter of the Application of
87TH STREET SHERRY ASSOCIATES, LLC,
Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,
Respondent-Respondent,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law & Rules.

Supreme Court, N.Y. County, Index No. 153999/20
First Department No. 2021-00644

APL-2023-00154

In the Matter of the Application of
CLERMONT YORK ASSOCIATES, LLC,
Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,
Respondent-Respondent,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law & Rules.

Supreme Court, N.Y. County, Index No. 157776/20
First Department No. 2021-03069

APL-2024-00003

In the Matter of the Application of
160 EAST 84TH STREET ASSOCIATES, LLC,
Petitioner-Appellant,

v.

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,
Respondent-Respondent,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law & Rules.

Supreme Court, N.Y. County, Index Nos. 157563/20, 157573/20, 157580/20
First Department No. 2021-02599, 2021-02600, 2021-02601

TABLE OF CONTENTS

Page

Page

TABLE OF AUTHORITIES

Cases **Page(s)**

Cases **Page(s)**

Cases **Page(s)**

Cases **Page(s)**

Statutes

Administrative Sources

Administrative Sources **Page(s)**

Miscellaneous Authorities

Miscellaneous Authorities **Page(s)**

PRELIMINARY STATEMENT

In Part D of the Housing Stability and Tenant Protection Act of 2019 (HSTPA), the Legislature repealed the statute that allowed an apartment to be removed from rent stabilization if a tenant's income exceeded a certain threshold. Part D specified that the repeal was effective immediately but did not reverse deregulations completed before June 14, 2019. The Division of Housing and Community Renewal (DHCR) thereafter determined that the HSTPA repealed the sole source of statutory authority for the high-income deregulation of any apartment after June 14, 2019, including apartments that were the subject of prior administrative orders envisioning deregulation upon the future expiration of an existing lease.

Appellants are the owners of sixteen apartments that were the subject of administrative orders issued prior to the HSTPA authorizing deregulation of the units "effective upon the expiration of the existing lease[s]." None of the apartments were subject to leases that expired prior to June 14, 2019, and therefore, none of the units were in fact deregulated as of the effective date of the

HSTPA. Accordingly, DHCR issued explanatory addenda explaining to owners that the units would remain rent-stabilized at the expiration of the current leases because there was no longer statutory authority to permit deregulation. The proceedings below resulted in sixteen trial court decisions and six decisions from the Appellate Division; each one rejected appellants' challenges to the explanatory addenda. This Court should affirm the decisions below.

First, appellants are wrong to argue that the apartments were legally deregulated upon the pre-HSTPA issuance of the administrative orders. The orders authorized the units to become deregulated at a future time, that is, "upon the expiration of the existing lease[s]." The administrative orders did not, and could not, create independent authority for deregulation because New York courts have long recognized that a rent stabilized unit can be deregulated pursuant only to statutory authority. A prospective administrative order that never took effect cannot supersede the Legislature's repeal of high-income deregulation.

Second, appellants are wrong to argue that the explanatory addenda constitute an improperly retroactive application of the

HSTPA. As explained above, the explanatory addenda applied the Part D amendments prospectively to units that were not legally deregulated as of June 14, 2019. Appellants had no vested right in future deregulation, nor did they have a right to expect that provisions of the Rent Stabilization Law authorizing high-income deregulation would stay in effect in perpetuity. Contrary to appellants' argument, this Court's decision in *Matter of Regina Metropolitan Co., LLC v. New York State Division of Housing & Community Renewal*, 35 N.Y.3d 332 (2020) ("*Regina*") does not require a contrary result. In *Regina*, the parties agreed that the challenged application of certain rent overcharge provisions would be retroactive in that it could have increased penalties for past rent overcharges. Here, by contrast, the elimination of high-income deregulation does not impose any penalties or enhance the consequences of past conduct; it merely eliminates a statutorily created benefit on a prospective basis.

Finally, there is no merit to appellants' contention that, in two of the sixteen cases at issue, the explanatory addenda should be annulled because DHCR delayed in adjudicating the underlying

petitions for deregulation. According to appellants, if DHCR had acted more expeditiously on these petitions, the subject apartments would have been deregulated prior to the effective date of the HSTPA. Appellants cannot show that DHCR willfully or negligently failed to process their petitions in a timely manner and cannot meet the high bar of showing that any delay was unreasonable. To the contrary, the record shows that DHCR reasonably required additional time to verify tenant income with the Department of Taxation and Finance, as specifically requested by the appellants.

QUESTIONS PRESENTED

1. Whether DHCR correctly determined that earlier administrative orders could not authorize the high-income deregulation of apartments subject to rent-stabilized leases on or after June 14, 2019, in light of legislative amendments effective that date.

2. Whether the courts below correctly determined that DHCR's purported delay in adjudicating two deregulation petitions does not warrant annulment of the agency's determinations.

STATEMENT OF THE CASE

A. Statutory Background

1. The Rent Stabilization Law

The Rent Stabilization Law (RSL) was enacted in 1969 to address "the intractable housing emergency in the City of New York." *See Manocherian v. Lenox Hill Hosp.*, 84 N.Y.2d 385, 389 (1994).[1] The RSL contains a legislative finding that the housing shortage is "a serious public emergency" involving "an acute shortage of dwellings," and that government intervention is necessary "in order to prevent speculative, unwarranted and abnormal increases in rents."[2] RSL § 26-501.

The RSL operates by authorizing DHCR to promulgate regulations for rent stabilization based on certain statutory criteria,

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[1] The RSL, a state statute, is codified as part of the Administrative Code of the City of New York. *See* Administrative Code of City of N.Y. §§ 26-501 et seq.; *see Manocherian*, 84 N.Y.2d at 389.

[2] Rent stabilization is distinct from rent control, a separate regime that "places stricter price controls on owners." *Manocherian*, 84 N.Y.2d at 389. Rent stabilization allows owners to "apply for regulated rent increases," while at the same time seeking "to protect primary occupants." *Id.* at 389-90.

and by prohibiting owners of regulated units from charging more than the rent allowed by those regulations. *See* RSL §§ 26-511, 26-512. Those regulations are codified as the Rent Stabilization Code (RSC). *See* 9 N.Y.C.R.R. § 2520.1 et seq.

The Legislature has amended and reenacted the RSL many times over the years, and in doing so has repeatedly adjusted the terms under which tenants rent apartments and owners earn revenue from their properties.[3] *See Regina*, 35 N.Y.3d at 369. This Court has consistently held that, given the long history of rent regulation in New York City, neither owners nor tenants "can expect the RSL to remain static." *Id.* at 369 (citing *I. L. F. Y. Co. v. City Rent & Rehabilitation Admin.*, 11 N.Y.2d 480, 492 (1962)). The Court has made clear that although an owner can expect to "earn a reasonable return" on a unit, an owner does not have any right to

[3] In the Emergency Tenant Protection Act (EPTA) of 1974, the Legislature extended rent stabilization to Rockland, Westchester, and Nassau Counties. *See* Ch. 576, § 4, 1974 N.Y. Laws 1510, 1512. The EPTA is substantively similar to the RSL, and DHCR has adopted implementing regulations for the EPTA that are substantively similar to the RSC. *See* 9 N.Y.C.R.R. § 2500.1 et seq.

expect that any particular iteration of the RSL will remain in force. *Id.* at 369 (quotation marks omitted).

2. The regime of high-income deregulation

In 1993, the Legislature amended the law to permit, for the first time, deregulation of units based on the purportedly high income of tenants.[4] *See* Ch. 253, § 7, 1993 N.Y. Laws 2667, 2671-72. Under the 1993 amendments, an owner of a unit subject to the RSL with a legal regulated rent over a certain amount ($2,000 per month as of 1993) could send an income certification form to the tenant or tenants of that unit each year, asking whether the total annual income of the tenant or tenants exceeded a certain amount ($250,000 as of 1993). *Id.* If the tenant or tenants certified an income over the threshold, then the owner could send the certification to DHCR together with a request for an order deregulating the unit "upon the expiration of the existing lease." *Id.* If a tenant or tenants failed to

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[4] The 1993 amendments also authorized deregulation upon vacancy for units where the legal regulated rent exceeded a particular threshold. *See* Ch. 253, § 6, 1993 N.Y. Laws at 2671. The Legislature repealed high-rent vacancy deregulation in 2019, and that repeal is not at issue here.

return the certification, or if the owner disputed the certification, the owner could petition DHCR to verify the tenant or tenants' income with the Department of Taxation and Finance (DTF). *Id.* at 2672.

During the period that high-income deregulation was a feature of the RSL—from 1993 until 2019—the Legislature amended the RSL several times. In 1997, for example, the Legislature cut the annual income threshold for high-income deregulation by thirty percent, changing the threshold from $250,000 to $175,000. *See* Ch. 116, § 16, 1997 N.Y. Laws 1814, 1821. In 2011, the Legislature reversed direction, raising the threshold to $200,000. *See* Ch. 97, pt. B, § 36, 2011 N.Y. Laws 752, 781.

During the same years, the Legislature also considered bills that would have abolished high-income deregulation, or alternatively expanded the scope of high-income deregulation. For example, in 2015, the Assembly passed a bill that would have abolished high-rent deregulation and raised the rent and income thresholds for high-income deregulation to $3,500 and $225,000, respectively. *See* Mireya Navarro, *Uncertainty Mounting as Little Progress Is Seen in*

Albany on Rent Regulations, N.Y. Times (June 19, 2015).[5] In the end, the 2015 legislative session concluded with a compromise that changed many other sections of the RSL but left the high-income deregulation provisions largely unchanged. *See* Ch. 20, pt. A, § 16, 2015 N.Y. Laws 34, 42.

The minor 2015 amendments were the final changes to the high-income deregulation statute prior to the 2019 repeal.[6] *See McKinney's Cons. Laws of N.Y. Annotated*, Book 65, New York City Rent Stabilization § 26-504.3, *2024 Cumulative Pocket Part* at 74 (full amendment history of RSL § 26-504.3). From 2015 through 2019, the RSL set a deregulation income threshold of $200,000, using the federal adjusted gross income on the New York state income tax return. *See McKinney's Cons. Laws of N.Y. Annotated*, Book 65, New York City Rent Stabilization § 26-504.3, *2019 Cumulative Pocket Part* at 72. The total annual income for a unit was calculated by adding the annual incomes of all persons listed as a tenant or

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[5] For all sources available online, full URLs appear in the Table of Authorities. All websites were last visited June 5, 2024.

[6] All of the deregulation petitions before the Court today were filed after 2015. See *infra* at 16, 22.

cotenant who occupied the unit, as well as any other persons who used the unit as their primary residence. *Id.*

When the legal regulated rent for a unit exceeded a particular threshold,[7] an owner could provide the tenant or tenants therein with an income certification form by May 1 of any calendar year. *Id.* at 73. If the tenant or tenants certified that their total annual income had exceeded $200,000 for each of the two preceding calendar years, the owner could file the certification with DHCR by June 30. *Id.* The statute provided that DHCR "shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of [the RSL] upon the expiration of the existing lease." *Id.*

If the tenant or tenants failed to return the certification on time, or if the owner disputed the certification, the owner could petition DHCR by June 30 to verify the total annual income of the

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[7] The deregulation rent threshold was $2,700 in 2015, and increased each year from 2016 through 2019 based on a statutory formula. *See McKinney's Cons. Laws of N.Y. Annotated*, Book 65, New York City Rent Stabilization § 26-504.3*, 2019 Cumulative Pocket Part* at 73.

tenant or tenants. *Id.* Within twenty days of the request, DHCR was to notify the tenant or tenants that they must provide DHCR with the information necessary for DTF to verify their total annual income. *Id.* at 74. The tenant or tenants then had sixty days to respond. *Id.*

If DTF determined that the total annual income exceeded the income deregulation threshold for each of the preceding two years, DHCR was to notify the owner and tenants of the verification by November 15. *Id.* The owner and tenants then each had thirty days to comment on the verification results. *Id.* "Within forty-five days after the expiration of the comment period," DHCR was to, "where appropriate, issue an order providing that such housing accommodation shall not be subject to the provisions of [the RSL] upon the expiration of the existing lease." *Id.* If the tenant or tenants failed to respond to the notice from DHCR, then DHCR was to issue by December 1 "an order providing that such housing accommodation shall not be subject to the provisions of [the RSL] upon the expiration of the existing lease." *Id.*

The RSC regulations in effect at the time, like the relevant provisions of the RSL, similarly provided that any deregulation order became effective "upon the expiration of the existing lease." 9 N.Y.C.R.R. § 2531.3 (eff. until Nov. 7, 2023). The RSC also provided that if an owner had a petition to deregulate an apartment pending before DHCR, and the time came to renew the lease for that apartment, the owner was permitted to include a rider in the offered renewal lease stating that the lease would cease to be in effect after sixty days from any DHCR order deregulating the apartment. 9 N.Y.C.R.R. § 2522.5(g)(2) (eff. until Nov. 7, 2023).

3. The repeal of high-income deregulation

In 2019, the Legislature enacted major changes to the RSL in the HSTPA. *See* Ch. 36, 2019 N.Y. Laws 154. As relevant here, Part D of the HSTPA repealed the provisions of the RSL authorizing high-income and high-rent vacancy deregulation. *See id.*, pt. D, § 5, 2019 N.Y. Laws at 158. The Legislature expressly found deregulation "has permitted speculative and profiteering practices and has brought about the loss of vital and irreplaceable affordable housing for working persons and families." *Id.*, §1, 2019 N.Y. Laws at 158.

The Legislature's finding was based on extensive evidence presented at public hearings and during debates on the bill. For example, a Senate sponsor of the bill stated during debate that about 6,500 units had been removed from rent stabilization via high-income deregulation. *See* Senate Debate on S. 6458 (June 14, 2019) at 5,487-88.[8] The sponsor pointed out that when a tenant's income causes deregulation of a unit, "it is not the case that the rent goes down to a more affordable level that somebody with a lower income could afford." *Id.* at 5,490. Instead, high-income deregulation "takes the apartment entirely out of the rent-regulated system," thereby "making it available for someone with an even higher income." *Id.* at 5,491. Another Senate supporter of repeal argued that allowing deregulation undermines "the paramount purpose of rent regulation," which "is to give tenants the security of knowing that they can continue to live in their homes." *Id.* at 5,551-52.

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[8] *See also* New York City Rent Guidelines Board, *Changes to the Rent Stabilized Housing Stock in NYC in 2022* at 6, 15 (May 25, 2023) (showing that 6,662 units were removed from rent-stabilization via high-income deregulation between 1994 and 2020).

According to a housing policy analyst for an affordable housing advocacy group who testified at a hearing held by the Assembly, it undermines the purpose of rent stabilization to apply a means test because "rent stabilization isn't a subsidy, it's a consumer protection." N.Y. State Assembly Standing Comm. on Hous., *Public Hearing on Rent-Regulated Housing* (May 2, 2019) at 163-64. The analyst argued that high-income deregulation incentivizes owners to find high-income renters so that units can be deregulated, "to the great detriment of people with incomes much lower than the cutoff." *Id.* at 164. Attorney General Letitia James, in a written statement read into the record at the hearing, expressed concern that families were frequently displaced because of provisions in the rent stabilization law that drive speculation and incentivize vacancies. *Id.* at 16-17.

The repeal provision stated that it "shall take effect immediately." Ch. 36, pt. D, § 8, 2019 N.Y. Laws at 158. In a cleanup bill passed a few days after the HSTPA, the Legislature clarified that "any unit that was lawfully deregulated prior to June 14, 2019 shall remain deregulated." Ch. 39, pt. Q, § 10, 2019 N.Y. Laws 220, 241.

B. Factual Background

These consolidated appeals arise from six substantially similar decisions of the Appellate Division, First Department, each of which in turn had considered several consolidated appeals from C.P.L.R. article 78 proceedings in Supreme Court, New York County. (Record on Appeal (R.) 1-31). In total, the appeals today involve sixteen different administrative proceedings and article 78 actions. (R. 1, 7, 12, 16, 22, 26, 30.)

In accordance with the Court's direction to "avoid[] undue repetition" in this consolidated briefing, *see* Briefing Letter at 1 (Oct. 6, 2023), parts B(1) through B(3) of this factual recitation set forth facts common to all proceedings that are relevant to question of whether DHCR has properly interpreted Part D of the HSTPA. Part B(4) provides additional case-specific facts as to the two proceedings where appellants have raised distinct arguments about agency delay.

1. Administrative proceedings

Appellants are four limited liability companies—160 East 84th Street Associates LLC, 87th Street Sherry Associates LLC, 1700 York Avenue Associates LLC, and Clermont York Associates LLC—that own residential apartment buildings in Manhattan. Prior to the HSTPA, appellants sought and received orders from DHCR's rent administrator stating that sixteen different apartments would be deregulated "effective upon the expiration of the existing lease" based on a tenant's high income. (R. 93, 259, 386, 517, 648, 797, 1135, 1445, 1579, 1713, 1878, 2009, 2158, 2350, 2485, 2629.) It is undisputed that in each case, the expiration date of the then-current lease was after June 14, 2019, the date on which the HSTPA took effect. *See* Br. for Appellants (Br.) at 2.

In September 2019, DHCR sent the appellants and their tenants explanatory addenda explaining "the impact of a new law upon an order previously issued" by the rent administrator. (*E.g.,* R. 96-97.) The addenda explained that the HSTPA had repealed the statutory authority for deregulation and made such a repeal effective immediately to units that had not been deregulated as of June 14,

2019. The addenda further explained that deregulation under the prior orders could occur only after "*the expiration of the existing lease*." (*E.g.,* R. 96) (emphasis in original). Accordingly, the addenda concluded that, "[i]f the lease in effect on the day the Rent Administrator's deregulation order was issued expired before June 14, 2019 the housing accommodation is deregulated," but if the lease "expires on or after June 14, 2019, the housing accommodation remains regulated." (*E.g.,* R. 96.)

Appellants responded by filing a Petition for Administrative Review (PAR) challenging the explanatory addenda in each of the sixteen cases. (R. 108-120, 278-290, 399-411, 531-543, 662-674, 840-854, 1148-1168, 1508-1524, 1622-1657, 1756-1771, 1905-1922, 2071-2087, 2188-2202, 2369-2386, 2500-2519, 2649-2660.) Each PAR argued that the prior deregulation orders were final and could not be modified by DHCR through an explanatory addendum, and further contended that the addenda represented an improper retroactive application of the HSTPA. (*See, e.g.,* R. 111-114.)

DHCR denied the PARs. (R. 85-92, 251-258, 378-385, 510-516, 640-647, 788-796, 1126-1134, 1436-1444, 1571-1578, 1705-1712,

1844-1850, 2000-2008, 2150-2157, 2342-2349, 2477-2484, 2621-2628.) DHCR concluded that the addenda did not represent a new finding or determination by the agency but had merely informed the parties of the effect that the HSTPA had on the orders of deregulation. Because the addenda did not represent a modification or revocation of a prior order, and instead stated the effect of a new statute, DHCR rejected the appellants' contentions that the addenda had been procedurally improper. (*See, e.g.,* R. 88.)

Second, DHCR explained that the dispositions set forth in the addenda were required by the HSTPA's plain text. The subject apartments were not, and could not, have been deregulated under the prior orders before the expiration of the existing leases. And because no statutory authority for deregulation existed at the time when the existing leases expired, the prior orders could not legally authorize deregulation to be effective at time when the leases expired. (*See, e.g.,* R. 88-89.)

2. C.P.L.R. article 78 proceedings

Appellants brought sixteen separate article 78 proceedings seeking judicial review of DHCR's determinations. (*See* R. 57-84, 223-250, 350-377, 482-509, 612-639, 754-787, 1097-1125, 1407-1435, 1541-1570, 1676-1704, 1815-1843, 1971-1999, 2116-2149, 2313-2341, 2449-2476, 2593-2620.) In relevant part, appellants argued that: (1) the addenda had improperly applied the HSTPA retroactively; (2) the HSTPA prohibited DHCR from annulling previously issued deregulation orders; (3) DHCR had denied the appellants due process; (4) no statutory provision authorized the addenda; and (5) the PAR determinations were arbitrary, capricious, and contrary to law. (*See, e.g.,* R. 59-84.)

Each petition was denied by a justice of Supreme Court, New York County. (R. 37-56, 184-192, 194-202, 204-212, 214-222, 745-753, 1095-1096, 1376-1384, 1387-1395, 1398-1406, 1794-1814, 1950-1970, 2113-2115, 2302-2304, 2306-2308, 2310-2312.) Although the decisions were variously worded, the courts all reached the same conclusion on the substantive legal questions. Specifically, the courts held that DHCR had reasonably interpreted Part D of the HSTPA

to conclude that an apartment did not become deregulated under the terms of a deregulation order until the current lease expired, and thus could not become deregulated if its lease expired after June 14, 2019. (*E.g.,* R. 48.) The courts also recognized that DHCR had not improperly applied the HSTPA retroactively. (*E.g.,* R. 49.)

3. Appellate Division decisions

The Appellate Division, First Department affirmed the decisions below in six different decisions, most of which involved consolidated appeals. (See R. 7-9, 12-13, 16-18, 22-23, 26-27, 30-31.) In its first decision on the issue, the First Department rejected appellants' contention that the addenda had given improper effect to the HSTPA. (R. 8.) The court found that each deregulation order had "stated prospectively that the subject apartment units would become deregulated '[u]pon the expiration of the existing lease.'" (R. 9.) Thus, the court held, the provision in the cleanup bill providing that apartments "deregulated prior to June 14, 2019 shall remain deregulated" was not applicable here because the leases expired after that date. (R. 8-9.)

The First Department rejected the appellants' argument that DHCR's decision contravened this Court's decision in *Regina*, which had considered the retroactivity of a different part of the HSTPA. (R. 9.) The court held that DHCR's addenda here had "simply noted the prospective effect of the June 14, 2019 statute on subsequently expiring leases," and thus, unlike in *Regina*, there was "'no potentially problematic retroactive effect.'" (R. 9 (quoting *Regina*, 35 N.Y.3d at 365).)

In a subsequent decision, the First Department noted that, "[a]s petitioner concedes, under pre-HSTPA law, an apartment's deregulated status officially occurred at the expiration of the lease in effect at the time the deregulation order issued." (R. 13.) As a result, the court held, the apartments at issue here were not "lawfully deregulated prior to June 14, 2019" within the meaning of the cleanup bill. (R. 13 (quoting Ch. 39, pt. Q, § 10, 2019 N.Y. Laws at 241.) The First Department's remaining decisions relied on that court's earlier decisions as precedent. (R. 17, 23, 26-27, 31.)

4. Proceedings involving alleged agency delay

Fourteen of the sixteen administrative proceedings at issue in this case involved deregulation petitions filed in 2018. The leases in effect at the time those petitions were filed would not have expired prior to the HSTPA's effective date of June 14, 2019, and the appellants in those cases do not allege that their legal position was adversely affected by the time it took DHCR to respond to their petitions.

In two of the cases, however, appellants filed deregulation petitions in 2016. (*See* R. 742-1089 (Sup. Ct. Index No. 157557/20) and R. 2109-2297 (Sup. Ct. Index No. 157776/20).) The owners in these two cases contend that the agency's purported delay in adjudicating the petitions resulted in an improper delay of deregulation, and that timely action would have resulted in deregulation prior to the effective date of the HSTPA, no matter how the dispute between the parties over the interpretation of Part D is resolved. The relevant facts in those two cases are set forth below.

a. Case No. 157776/20

The owner in Case No. 157776/20 filed a deregulation petition on June 22, 2016. (R. 2170.) The tenant did not verify his income, and the owner's petition requested DHCR to perform an independent verification. (R. 2239.) In January 2018, DHCR served the tenant with a notice to provide information for verification, to which the tenant responded the following month. (R. 2239.) In January 2019, DHCR informed the owner and tenant that the state Department of Taxation and Finance had confirmed that the tenant's income exceeded the threshold for two consecutive years. (R. 2239.) On April 5, 2019, DHCR issued an order stating that the apartment "is deregulated, effective upon the expiration of the existing lease," (R. 2158), which was scheduled to occur on July 31, 2019 (R. 2241).

Meanwhile, on June 14, 2019, the Legislature passed the HSTPA, and the Governor signed it into law. In September 2019, DHCR issued an explanatory addendum to the tenants and owner explaining that the unit would remain rent stabilized. (R. 2161-2163.) The owner did not raise delay as a basis for appeal in its

PAR. (*See* R. 2191-2194.) In the article 78 proceeding, the owner raised delay for the first time, contending that if DHCR had followed the statutory timeline, it would have issued a deregulation order by March 1, 2017, and that DHCR should therefore be prohibited from applying the HSTPA to bar deregulation. (R. 2127-2128.) Supreme Court (Engoron, J.), rejected the undue delay argument on the merits (R. 2115), and the Appellate Division affirmed (R. 27.)

b. Case No. 157557/20

The owner in Case No. 157557/20 filed a deregulation petition on May 5, 2016, based on a tenant certification of income. (R. 809-812.) In January 2017, the agency sent the owner and tenant a request for a copy of the vacancy lease and subsequent leases and riders for the apartment. (*See* R. 791.) DHCR sent follow-up requests for the leases and riders in March 2017 and again in June 2017. (R. 791, 911.) In November 2017, DHCR served the tenant with a notice to provide information for verification of the income. (R. 813-820.)

After receiving the tenant's response, the owner "request[ed] DHCR [to] make an independent investigation to the Tenant's income." (R. 823.) In April 2018, DHCR informed the owner and tenant that the state Department of Taxation and Finance had confirmed that the tenant's income had indeed exceeded the threshold for two consecutive years. (R. 919.) On May 23, 2018, DHCR issued an order stating that the apartment "is deregulated, effective upon the expiration of the existing lease," (R. 896) which was on August 31, 2019 (R. 745, 757, 843).

On September 6, 2019, DHCR issued an explanatory addendum to the tenant and owner explaining that the unit would remain rent stabilized. (R. 800-801.) The owner argued, in his PAR and in the article 78 proceeding, a deregulation order should have issued by June 5, 2016. (R. 765-767, 844.) The agency denied the owner's PAR, finding, as relevant here, that "the expiration of the time periods asserted by the owner for processing its deregulation petition did not divest the agency from issuing the underlying order in 2018" and that "remedies for processing delays are only available where such delay is deliberate or negligent," and no such evidence

existed here. (R. 791.) In the article 78 proceeding, Supreme Court (Engoron, J.) likewise rejected the owner's undue delay arguments, holding that "there was no showing that DHCR deliberately or negligently delayed processing the application." (R. 746, *see also* R. 749 (denying motion for leave to reargue on the same grounds).) The Appellate Division affirmed. (R. 17.)

ARGUMENT

POINT I

DHCR CORRECTLY DETERMINED THAT THE SUBJECT APARTMENTS COULD NO LONGER BE DEREGULATED

During the period from 1993 through 2019 when high-income deregulation was available, an apartment became deregulated only upon the expiration of the lease in effect at the time a deregulation order was issued. Applying that principle to these proceedings, DHCR determined that none of the sixteen apartments at issue was deregulated prior to the HSTPA because each existing lease expired after June 14, 2019, the effective date of the statutory amendments. In addition, DHCR found that none of the sixteen apartments could become deregulated upon expiration of the leases because there was

no longer statutory authority to deregulate an apartment based on a tenant's income. This Court should confirm DHCR's determinations and affirm the well-reasoned judgments of the courts below.

A. DHCR's Interpretation Adheres to the Statutory Language.

Statutory interpretation "begin[s] with the statutory text, which is the clearest indicator of legislative purpose." *People v. Talluto*, 39 N.Y.3d 306, 310 (2022) (quotation marks omitted). Statutory text must be construed contextually, with related provisions understood in reference to one another. *James B. Nutter & Co. v. County of Saratoga*, 39 N.Y.3d 350, 355 (2023). This Court will "construe words of ordinary import with their usual and commonly understood meaning." *Matter of Walsh v. New York State Comptroller*, 34 N.Y.3d 520, 524 (2019) (quotation marks omitted). "Where the language of a statute is clear and unambiguous, courts must give effect to its plain meaning." *Talluto*, 39 N.Y.3d at 311 (quotation marks omitted). Here, both the text of pre-HSTPA provisions governing deregulation and the HSTPA itself support DHCR's interpretation.

First, the pre-HSTPA version of the rent stabilization laws specified that when the conditions for deregulation of a particular apartment are met, DHCR shall issue "an order providing that such housing accommodation shall not be subject to the provisions of [the RSL] upon the expiration of the existing lease." RSL § 26-504.3(b), (c)(2), (c)(3) (eff. until June 14, 2019). The plain meaning of these words was that the apartment would be subject to the provisions of the RSL—that is to say, regulated—until the end of the existing lease, at which point the apartment would cease to be subject to rent regulation.

"[W]here a law expressly describes a particular act, thing or person to which it shall apply, an irrefutable inference must be drawn that what is omitted or not included was intended to be omitted or excluded." *Town of Aurora v. Village of E. Aurora*, 32 N.Y.3d 366, 372-73 (2018) (brackets in original and quotation marks omitted). By providing that an apartment would cease to be subject to the RSL "upon the expiration of the existing lease," the Legislature necessarily also provided that the apartment *would* be subject to the RSL until that event occurred.

Moreover, when a statute specifies when a particular legal effect will occur, that language is dispositive as to the Legislature's intent on timing because it demonstrates that "the legislature considered the temporal scope" of the provision. *See Regina*, 35 N.Y.3d at 373. Here, the pre-HSTPA high-income deregulation statute was unambiguous as to when an apartment ceased to be subject to the rent stabilization laws: "upon the expiration of the existing lease." Appellants are therefore mistaken to say (*see* Br. at 4) that an apartment became deregulated upon the issuance of a deregulation order.

Indeed, the plain language of DHCR's deregulation orders further confirms that, in accordance with the governing statute, the orders would become effective only upon lease expiration, and not before. Each order stated "that the subject housing accommodation is deregulated, effective upon the expiration of the existing lease." (*E.g.,* R. 93.) The ordinary meaning of the word "effective," when used in reference to either a statute or an order, is to denote that it is "in operation at a given time." *Black's Law Dictionary* (11th ed. 2019) (Westlaw); *see also id.* ("A statute, order, or contract is often

said to be effective beginning (and perhaps ending) at a designated time.").[9]

Giving the word "effective" that ordinary meaning here, the deregulation of the apartments would have occurred when the existing leases expired—an event that did not occur before the HSTPA eliminated statutory authority for deregulation. DHCR's orders thus properly respected the language of the statute that they implemented, and placed both owners and tenants on notice of the date on which deregulation would occur. As the First Department rightly recognized, DHCR's orders "stated prospectively that the subject units *would become* deregulated" when the leases expired—not that the units were deregulated on the date of the order. (R. 9.)

Second, the language of the HSTPA, in repealing high-income deregulation, confirms that an apartment could not become deregulated if the existing lease expired after June 14, 2019. Part D stated that RSL § 26-504.3, the sole statutory authority for high-

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[9] An "effective date" is the date on which a written instrument "becomes enforceable or otherwise takes effect," which "sometimes differs from the date on which the instrument was enacted or signed." *Black's Law Dictionary*, *supra* (see "date").

income deregulation, was "repealed," Ch. 36, pt. D, § 5, 2019 N.Y. Laws at 158, and that the repeal "shall take effect immediately," *see id.* § 8, 2019 N.Y. Laws at 159. The HSTPA took effect on June 14, 2019, and therefore as of that date there ceased to be any provision in New York law for an apartment to become deregulated based on the tenant's income.

As this Court has explained, an apartment can be removed from rent stabilization only "through regular, officially authorized means." *Draper v. Georgia Props.*, 94 N.Y.2d 809, 811 (1999). Once deregulation ceased to be available by statute immediately upon the HSTPA's passage, there was no longer any "officially authorized means" for DHCR to deregulate apartments based on tenant income. DHCR thus correctly informed parties that although the agency's prior order "may have appeared to grant the deregulation" of an apartment "contingent upon the expiration of the lease in effect" at the time, no such order could become operative after June 14, 2019 because the HSTPA had repealed the "provisions under which the above order was issued." (*E.g.,* R. 96.) In other words, DHCR properly clarified for all stakeholders that its prior orders, though

lawful when they were issued, could no longer prospectively deregulate the apartments in question.

Several days after the HSTPA's enactment, the Legislature amended the HSTPA in a cleanup bill that further reinforced DHCR's interpretation. The cleanup bill amended the "take effect immediately" provision of Part D by adding the words: "provided however, that . . . any unit that was lawfully deregulated prior to June 14, 2019 shall remain deregulated." Ch. 39, pt. Q, § 10, 2019 N.Y. Laws at 241. Something can only "remain" in a particular status after it has attained that status in the first place. An apartment whose lease had not yet expired by June 14, 2019, never became deregulated, and thus could not "remain deregulated."

As the First Department correctly explained below, the apartments at issue could not have been "lawfully deregulated prior to June 14, 2019" because "an apartment's deregulated status officially occurred at the expiration of the lease in effect at the time the deregulation order issued." (R. 13 (quotation marks omitted).) Indeed, DHCR's understanding of deregulation as a prospective event occurring upon lease expiration long predates the current

litigation. *See, e.g., Matter of Lacher v. New York State Div. of Hous. & Community Renewal*, 25 A.D.3d 415, 417 (1st Dep't 2006).[10]

The effect of the cleanup bill thus is to clarify that the HSTPA did not retroactively re-regulate apartments that had attained deregulated status before the HSTPA's enactment. It does not mean that the apartments at issue here—which had not yet reached that status under the terms of DHCR's prospective orders—could still become deregulated under those orders. (*See* R. 9.)

B. Appellants' Contrary Arguments Are Unpersuasive.

1. Appellants' statutory interpretation arguments lack merit.

Appellants contend that, under the pre-HSTPA version of the rent stabilization laws and the regulations implementing the prior statute, DHCR was "statutorily mandated to issue an order of

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[10] DHCR's approach is also consistent with the judgment of other courts in post-HSTPA cases. As one trial court rightly held (in a litigation where the State filed an amicus brief supporting tenants), "[d]eregulation simply ceased to be *permissible* on June 14, 2019 and the statutory mechanism for deregulation has never been revived." *Stuyvesant Town–Peter Cooper Vil. Tenants' Assn. v. BPP ST Owner LLC*, 2023 N.Y. Slip Op. 23003, at 6 (Sup. Ct. N.Y. County 2023) (emphasis added).

deregulation" once the tenant income and rent of a particular apartment crossed the required thresholds. Br. at 29-30. According to appellants, once those two conditions were satisfied, "the apartment became exempt from rent regulation." Br. at 32.

Appellants are wrong as a matter of law because the criteria that appellants have attempted to characterize as conditions requiring *deregulation* were, in fact, conditions requiring issuance of an *order* with specific provisions specified in the statute—and those provisions did not include immediate deregulation. DHCR's verification of the statutory criteria was the prerequisite to "an order providing that such housing accommodation shall not be subject to the provisions of [the RSL] upon the expiration of the existing lease." RSL § 26-504.3(b) (eff. until June 14, 2019). Appellants' argument elides an essential distinction between an order prospectively deregulating the apartment after lease expiration (which is what the statute contemplates) and an order of immediate deregulation (which is not).

Appellants raise a variety of arguments centering on the purported finality of the deregulation orders, contending that

DHCR improperly changed the orders after the fact. These arguments fail as well. For example, appellants contend (Br. at 29) that DHCR was obligated to issue deregulation orders once the conditions were met—but there is no dispute that DHCR did issue the orders. And DHCR agrees with appellants that the orders were lawful at the time they were issued. But the legal effect of the orders changed when the Legislature eliminated DHCR's authority to remove any apartment from RSL regulation that had not already been removed from regulation before June 14, 2019.

Because the orders had been written prospectively, to take effect upon the occurrence of a future event, DHCR was bound to notify the parties that the orders were no longer authorized and could not take effect as scheduled. Although appellants allege that DHCR engaged in an "egregious abuse of authority" (Br. at 28) or attempted "to expand its authority" (Br. at 44), the opposite is true: the agency action that appellants challenge was a responsible acknowledgment that the Legislature had stripped DHCR of any

authority to remove units from rent regulation based on a tenant's income after June 14, 2019.[11]

Contrary to appellants contention (Br. at 30-31, 60-63), it is irrelevant whether, at the time DHCR issued the explanatory addenda, the tenants could have challenged the original deregulation orders. Independent of any petition for review filed by tenants (*cf.* Br. at 31), the apartments had not yet become deregulated under the terms of the orders' own express language. After the HSTPA, the agency and its prospective orders had no power to deregulate the apartments regardless of whether the tenants could file PARs, because a tenant cannot by waiver accede to deregulation of an apartment where there is no statutory authority for deregulation. *See Draper*, 94 N.Y.2d at 810-11.

Appellants are also wrong to rely on RSL § 26-504.3(e) (eff. until June 14, 2019), another prior provision of the law. Under

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[11] Had DHCR not clarified that deregulation orders could not take effect after the HSTPA, tenants might well have sued DHCR for a declaratory judgment that deregulations could no longer occur. *See Stuyvesant Town-Peter Cooper Vil. Tenants' Assn.*, 2023 N.Y. Slip Op. 23003, at 6.

subsection (e), issuance of a deregulation order required an apartment owner to offer the tenant a renewal lease for the apartment at market rent, and the tenant was required to respond within ten days of receiving the offer. *Id.* As appellants acknowledge (Br. at 34), the purpose of this provision was to grant the existing tenant a right of first refusal to the apartment at unregulated rent. But nothing in the provision suggests that the deregulation itself would occur prior to the expiration of the current lease.

Appellants' argument about subsection (e) focuses on its final sentence, which allows the owner to seek eviction if the tenant does not accept or respond to the offer. But appellants do not appear to suggest that this provision would have allowed a landlord to evict the tenant prior to the expiration of the current lease, without regard to the time remaining on that lease. That interpretation not only would have been hugely disruptive to tenants' expectations based on signed leases, but would also be in direct conflict with the preceding subsections' provision that RSL regulation would end only upon the expiration of the current lease. *See* RSL § 26-504.3(b), (c)(1)-(3) (eff. until June 14, 2019).

This Court has long understood that a tenant must be able to complete a current lease before an owner may change the status of an apartment subject to the RSL. *See, e.g., Crow v. 83rd St. Assocs.*, 68 N.Y.2d 796, 797 (1986); *Golub v. Frank*, 65 N.Y.2d 900, 901 (1985). Subsection (e) merely ensured that if a tenant chose not to renew at market rent within the allotted time, the owner would be able to bring a holdover proceeding in due course. *See, e.g., Rhinelander Props., LLC v. Sokolow*, 2009 N.Y. Slip Op. 52552(U), at *1 (Civ. Ct. N.Y. County 2009).

To be sure, an owner who wished to preserve the possibility to speedily re-let a stabilized apartment at market rent upon the issuance of an anticipated deregulation order—and make the tenant aware of that possibility—had a means to do so. DHCR regulations gave an owner the option of including a clause in the lease of a rent-stabilized apartment once an application is pending stating that, notwithstanding the lease's otherwise stated duration, the lease would terminate sixty days after any deregulation order. *See* 9 N.Y.C.R.R. § 2522.5(g)(2) (eff. until Nov. 7, 2023); see *supra* at 12. The availability of that provision both confirms that appellants

here had a means to protect their interests and demonstrates that DHCR has long understood deregulation to occur upon lease expiration.

2. There Is No Merit to Appellants' Retroactivity Challenge.

In the alternative, appellants contend that DHCR's explanatory addenda give impermissible retroactive effect to the Part D of the HSTPA. Appellants are correct (*see* Br. at 47) that that the Legislature intended Part D to apply prospectively, not retroactively. But contrary to appellants' allegations, DHCR's application of Part D is purely prospective.

A statute is retroactive only if "it would impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed." *Regina*, 35 N.Y.3d at 365 (quoting *Landgraf v. USI Film Prods.*, 511 U.S. 244, 273 (1994)). By contrast, a statute affecting only prospective relief, or the adjudication of future claims "has no potentially problematic retroactive effect," even if the statute takes past events into account. *Id.*

There is nothing retroactive about DHCR's determination that the subject apartments were not deregulated as of the HSTPA's effective date, and could not be deregulated thereafter. Appellants are incorrect to say that the appellants "possessed deregulated apartments under the RSL in effect in 2016 and 2018" and therefore DHCR interfered with vested rights. Br. at 49. Any expectation that the apartments would have become deregulated upon the expiration of a lease, absent a change in the law, was not a vested right, because neither owners nor tenants have a legal entitlement to the continuation of beneficial rent stabilization laws. *See Matter of IG Second Generation Partners L.P. v. New York State Div. of Hous. & Community Renewal, Off. of Rent Admin.*, 10 N.Y.3d 474, 482 (2008) ("*IG Second Generation*"); *I. L. F. Y. Co. v. Temporary State Hous. Rent Commn.*, 10 N.Y.2d 263, 270 (1961).

In challenging DHCR's application of HSTPA Part D here, appellants misplace their reliance (Br. at 45-47) on this Court's decision in *Regina*. There, the Court held that a different part of the HSTPA—Part F—would have improper retroactive effect if applied as written because it would have increased property owners' rent-

overcharge liability "for conduct that occurred, in some cases, many years or even decades before the HSTPA was enacted." *Regina*, 35 N.Y.3d at 349. Similarly, in the federal precedent this Court cited in *Regina*, the U.S. Supreme Court was concerned about "[r]etroactive imposition of punitive damages." *Landgraf*, 511 U.S. at 281. There is no effect comparable to either *Regina* or *Landgraf* here. No conduct is penalized; no liability is imposed; no penalties are enlarged.

Unlike the owners in *Regina*, appellants are not exposed to financial loss for rent collected before the HSTPA's enactment. Appellants do not argue that on the date the HSTPA became law they already had begun to collect higher, market rents on the apartments—nor could appellants have done so without violating the RSL. See RSL § 26-504.3(b), (c)(1)-(3) (eff. until June 14, 2019). On June 14, 2019, the status of the apartments, and the owners' and tenants' relationship to the apartments, remained as it had always been. Applying Part D to these cases thus did not "undermine considerable reliance interests concerning income owners already derived," *Regina*, 35 N.Y.3d at 369-70, but merely altered appellants'

expectations of the income they would be able to obtain after the HSTPA became law. As *Regina* recognized, a statute that diminishes only an owner's future income is not retroactive—even if the statute "upset expectations" about favorable future events. *See* 35 N.Y.3d at 369; *see also id.* at 382 (distinguishing applications that diminish past returns on investment from those that impose a new burden going forward).

Regina itself acknowledged that most of the HSTPA is unlike Part F, the part at issue there. *See* 35 N.Y.3d at 373-74. "The legislation is almost entirely forward-looking," the Court noted, with only Part F containing "language referring to prior claims." *Id.* at 373. Moreover, it was Part F's substantive effect—not just its effective date provision—that caused it to be retroactive. *Id.* at 374. Because Part F changed the substantive formula for calculating overcharge penalties, applying it to claims pending on the HSTPA's effective date would have "necessarily" increased penalties for "conduct that occurred prior to the statute's enactment." *Id.* Part D presents no such difficulty.

Moreover, as *Regina* recognized, preserving the number of rent-stabilized apartments is a valid policy goal of the overall rent-stabilization statutory scheme. *See id.* at 383-84. In enacting Part D, the Legislature's purpose was to halt the ongoing loss of rent-stabilized housing stock. The Senate sponsor of the HSTPA has explained that the bill sought to end high-income deregulation because the practice permanently removed apartments from rent-stabilization—even when the income threshold was satisfied only because of multiple tenants' combined incomes, and without a way to keep the apartment stabilized after high-income tenants departed. N.Y. State Senate, Standing Comm. on Hous., Constr., and Community Dev., *Public Hearing: Rent Regulation and Tenant Protection Legislation* (May 23, 2019), at 110. When an apartment became deregulated because of the income of the tenants, the result was not that a lower-income tenant would then move in—that result would require evicting the higher-income tenant, not deregulating the apartment. The result of deregulation was that higher-income tenants (whether the present occupants or others) would rent the apartment at market rates, and the apartment would be

permanently removed from the stock of rent-stabilized apartments available to lower-income tenants.

Appellants are thus wrong to say (Br. at 51) that there is no rational justification for the Legislature's choices here. As a housing policy analyst argued at a public hearing held by the Assembly for comment on the HSTPA bill, allowing high-income deregulation created a risk of "income targeting," in which owners had an incentive to find high-income tenants in the hope of permanently deregulating apartments—a perverse incentive that ran counter to the RSL's core purposes. N.Y. State Assembly Standing Comm. on Hous., *Public Hearing: Rent-Regulated Housing*, *supra*, at 164. Ending deregulation immediately for any apartments still regulated was within the Legislature's range of rational choices to protect the RSL's goals.[12]

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[12] Because deregulations are permanent, appellants are wrong to say (Br. at 35) that it is somehow irrational for apartments in which leases expired on June 14, 2019 to remain permanently regulated, while apartments in which leases expired on June 13, 2019 remain deregulated. Using the HSTPA's enactment date as the cutoff both ensured an immediate halt to any further losses and avoided retroactively re-regulating apartments that had already attained deregulated status by that date.

Finally, unlike in *Regina*, the application of the HSTPA at issue here is cabined to a finite universe of cases in which existing leases had not yet run on the HSTPA's effective date. In assessing whether a statute's application is improperly retroactive, "the relationship between the length of the retroactivity period and its purpose is critical." *Regina*, 35 N.Y.3d at 376; *see id.* at 386 ("[A] rational justification is one commensurate with the degree of disruption to settled, substantial rights.") Thus, even if the application of Part D to appellants' apartments were viewed as a form of retroactivity—and it is not, for the reasons above—it would be at most a brief period of retroactivity that served the purposes of the HSTPA and the overall statutory scheme.

Appellants' reliance on several other cases from this Court (Br. at 52) is similarly misplaced. Several of the cases merely interpreted the unique texts of the specific statutes before the Court. For example, when the Legislature created a new subdivision and made a new limitations period applicable to complaints filed "pursuant to this subdivision," this Court naturally concluded that a complaint filed before the subdivision existed was not a complaint

filed pursuant to the subdivision. *Matter of Mengoni v. New York State Div. of Hous. & Community Renewal*, 97 N.Y.2d 630, 633 (2001). That statute-specific principle has no application here.

In other cases appellants cite, this Court merely affirmed DHCR's own determination as to which law should apply under a particular statutory scheme, without expressing any general principles as to retroactivity. *See Matter of Century Tower Assoc. v. State of N.Y. Div. of Hous. & Community Renewal*, 83 N.Y.2d 819, 823 (1994); *Matter of Shafer v. Gabel*, 16 N.Y.2d 513, 515 (1965). Nobody disputes that sometimes the Legislature intends a new enactment to apply to pending proceedings, and sometimes the Legislature does not so intend. Contrary to appellants' implication, *this Court* has not imposed a hard-and-fast rule.

To the contrary, when the Legislature has directed that an amendment should apply to proceedings that were already pending at the time of enactment, and doing so would not implicate the harms the retroactivity doctrine is meant to avoid, this Court has accepted the Legislature's judgment. *See, e.g., Matter of Partnership 92 LP v. State of N.Y. Div. of Hous. & Community Renewal*, 11

N.Y.3d 859, 860 (2008). As the U.S. Supreme Court observed in *Landgraf*, a court reviewing a retroactivity challenge should apply "ordinary judicial principles concerning the application of new rules to pending cases and preenactment conduct," and there is "no special reason to think that all the diverse provisions of [an] Act must be treated uniformly for such purposes." 511 U.S. at 280.

Appellants also rely on a lower-court decision holding that Part I of the HSTPA, which limits an owner's ability to recover an apartment for personal use, could not be applied retroactively. *See Matter of Harris v. Israel*, 191 A.D.3d 468 (1st Dep't), *lv. dismissed*, 37 N.Y.3d 1011 (2021). Assuming *Harris* was correctly decided, it has no application here.[13] The owner in *Harris* had already obtained not only a judgment of possession prior to the HSTPA's enactment, *see* 191 A.D.3d at 470, but had also obtained a warrant of eviction in August 2018, nearly a year before the HSTPA's

[13] Although the tenant sought to appeal, this Court found itself unable to review *Harris* because the Court cannot grant leave in a case originating from New York City Civil Court. *See* 37 N.Y.3d at 1011 (citing N.Y. Const., art VI, § 3(b)(7)). As an unreviewable lower-court case in which DHCR was not a litigant, *Harris* is not persuasive authority here.

enactment, *see* Br. for Pet'r-Appellant at 5, *Matter of Harris v. Israel*, No. 2020-03408, 2020 WL 8371146 (1st Dep't Nov. 6, 2020). An eviction warrant immediately terminates a landlord-tenant relationship. *Holy Props. v. Cole Prods.*, 87 N.Y.2d 130, 134 (1995). *Harris* is therefore inapposite to the present cases, where the tenants unquestionably had the right to remain in their rent-stabilized apartments for a period of time beyond the HSTPA's effective date.

C. The Explanatory Addenda Were Procedurally Proper.

Appellants are mistaken to argue (Br. at 37-41) that DHCR was required to amend the RSC before issuing the explanatory addenda. Part D of the HSTPA took effect immediately. See *supra* at 14, 30-31. Under longstanding principles of administrative law, an agency that administers a statute need not promulgate implementing regulations before enforcing the plain text of that statute directly in individual cases. *See American Power & Light Co. v. Securities & Exch. Commn.*, 329 U.S. 90, 106 (1946); *Village of Herkimer v. Axelrod*, 88 A.D.2d 704, 706 (3d Dep't 1982), *aff'd*, 58

N.Y.2d 1069 (1983). Because the plain text of Part D eliminated statutory authorization for high-income deregulation effective immediately, DHCR was not only permitted but required to enforce that change immediately.

Moreover, DHCR is not limited to acting through the final regulations in the RSC, but may "take such other required and appropriate action as it deems necessary for the timely implementation of the RSL," which "may include . . . official interpretative opinions and explanatory statements of general policy of the commissioner, including operational bulletins." 9 N.Y.C.R.R. § 2527.11(b). The explanatory addenda issued here fall comfortably within that authority, as the addenda informed relevant stakeholders of the effect of the HSTPA's immediate repeal of high-income deregulation.

Appellants are mistaken in suggesting (Br. at 42-43) that the agency must act through a document that is designated a "bulletin" or takes a particular form. The grant of DHCR's authority in the RSC—which states that the agency may take "other required and appropriate action" that "may include" certain types of publications,

see § 2527.11(b)—is representative rather than exclusive. *See Matter of Cahill v. Rosa*, 89 N.Y.2d 14, 21 (1996) (terms like "include" or "such as" introduce a list that is "illustrative, not specific"). The explanatory addenda issued here were an "appropriate action" because the addenda were necessary to timely implement Part D's immediate repeal of high-income deregulation. In rejecting appellants' administrative appeals, DHCR made clear that the explanatory addenda did not express a policy judgment by DHCR or an exercise of agency discretion. (*See, e.g.,* R. 89.) Rather, the purpose of the explanatory addenda was, as the term states, explanatory: to inform tenants and owners of a mandatory and automatic result of the plain text of a new legislative enactment. (*See, e.g.,* R. 89.)

Because the HSTPA itself prevented deregulation of appellants' apartments, appellants miss the mark in suggesting (Br. at 37-39) that DHCR's recent adoption of an RSC amendment regarding deregulation means that the agency thought it lacked authority to issue the explanatory addenda. *See* 9 N.Y.C.R.R.

§ 2520.11(s).[14] Contrary to appellants' contention (Br. at 40), DHCR has never relied on that RSC amendment in these cases as authority for issuance of the explanatory addenda, which were issued well before the regulation's adoption.[15]

The rulemaking that appellants discuss merely reflects that DHCR appropriately updated the RSC to bring it in line with statutory changes; in general the changes were not needed prior to enforcing the HSTPA. In 2022, DHCR proposed an extensive package of RSC revisions to account for many changes that the HSTPA had made to the rent stabilization laws, and the high-income deregulation repeal was just one of many topics addressed in that comprehensive revision. *See* Rent Stabilization Code Regu-

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[14] Consistent with DHCR's longstanding interpretation of the RSL, the regulation states that an apartment was lawfully deregulated prior to the HSTPA's adoption if (i) DHCR issued an order under RSL § 26-504.3 before June 14, 2019, and (ii) the lease in effect at the time of that order expired before June 14, 2019. *See* 9 N.Y.C.R.R. § 2520.11(s)(1).

[15] Because DHCR did not rely on the regulation during agency proceedings and does not rely on the regulation on article 78 review, including before this Court, appellants' arguments regarding the State Administrative Procedure Act are beside the point. *Cf.* Br. at 40-41.

lating Residential Rents and Evictions, 44 N.Y. Reg. 29, 29-32 (Aug. 31, 2022). This revision was consistent with DHCR's longstanding practice of periodically making comprehensive revisions to the RSC, particularly after the Legislature makes substantial amendments to the RSL; the previous round of significant revision occurred in 2014. *See id.* at 30.

In the current round of revisions following the HSTPA, the agency emphasized that in general the changes were based on "statutory interpretation rather than policy choices," and that in most cases plain statutory text foreclosed alternatives. *Id.* at 32. DHCR specifically determined that the RSC revisions regarding high-income and high-rent deregulation were required by statute and thus the agency could not consider an alternative to updating the RSC as proposed. *Id.* at 32; *see also* DHCR, *Regulatory Impact Statement: Rent Stabilization Code* (Aug. 16, 2022) at 23.[16] DHCR's adoption of the final rule in November 2023 reiterated that the

[16] The full regulatory impact statement is posted online for space reasons and incorporated into the New York State Register by reference. *See* 44 N.Y. Reg. at 29.

revision to 9 N.Y.C.R.R. § 2520.11(s) was merely "to comply with HSTPA." Rent Stabilization Code Regulating Residential Rents and Evictions, 45 N.Y. Reg. 14, 14 (Nov. 8, 2023).[17] To the extent that the recent amendments to the RSC have any significance here at all, it is simply as corroboration that DHCR has consistently understood the HSTPA itself to prohibit deregulation of apartments in the circumstances presented here.

Appellants also misplace their reliance (Br. at 43-44) on cases in which DHCR sought to reconsider or annul its past orders. Those cases involved situations where DHCR changed its policy judgment or revisited a determination after discovering irregularities. *See Matter of Peckham v. Calogero*, 12 N.Y.3d 424, 432 (2009); *Matter of Laub v. New York State Div. of Hous. & Community Renewal*, 176 A.D.2d 560, 561 (1st Dep't 1991). The cases presented here involve the very different circumstance, where the Legislature changed the

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[17] Relatedly, although appellants argue (Br. at 63-65) that DHCR is not entitled to deference, the First Department did not rely on deference to agency interpretation in deciding these cases (*see* R. 4-32). DHCR has consistently taken the position that the addenda were issued based on "plain text in HSTPA," not DHCR's "independent judgment." (R. 89.)

underlying statute and thus prevented DHCR's orders from effecting deregulation of the apartments. As DHCR pointed out in rejecting appellants' administrative appeals, the explanatory addenda did not change the terms of the original orders, because the condition of lease expiration prior to deregulation had been expressly written into the original orders. (*E.g.,* R. 89-90.)

POINT II

THERE IS NO BASIS TO FIND UNDUE DELAY IN CASES INVOLVING DEREGULATION PETITIONS FILED IN 2016

Appellants raise an additional undue delay argument with respect to two of the sixteen cases before this Court, both of which involved petitions for deregulation filed in 2016. See *supra* at 22-26. For the reasons explained below, this argument is meritless.

First, the appellant in Case No. 157776/20 is procedurally barred from arguing agency delay. A party challenging a DHCR determination via article 78 cannot seek judicial review of an issue the party failed to present to the agency during administrative proceedings. *See Matter of Yonkers Gardens Co. v. State of N.Y. Div. of Hous. & Community Renewal*, 51 N.Y.2d 966, 967-68 (1980).

Although Supreme Court and the Appellate Division both reached the issue on the merits (R. 27, 2115), the owner in No. 157776/20 in fact never argued in its PAR that DHCR had failed to timely determine its deregulation petition (R. 2188-2194.). DHCR argued in the article 78 proceeding that the owner failed to make any arguments about delay in front of the agency. (*See* R. 2234; Mem. of Law for Resp't N.Y. DHCR at 22, *Matter of Clermont York Assoc., LLC v. DHCR*, No. 157776/20 (Sup Ct. N.Y. County Dec. 22, 2020), at NYSCEF No. 22.) Accordingly, this Court should not consider the delay argument raised in No. 157776/20.

Second, this Court has repeatedly rejected the idea that DHCR should (or even may) disregard amendments to statutes or regulations on the ground that the agency ought to have determined a matter more quickly. *See IG Second Generation*, 10 N.Y.3d at 482-83; *Matter of St. Vincent's Hosp. & Med. Ctr. of N.Y. v. New York State Div. of Hous. & Community Renewal*, 109 A.D.2d 711, 712 (1st Dep't), *aff'd*, 66 N.Y.2d 959, 961 (1985) (affirming for reasons stated in Appellate Division opinion). Because "neither a property owner nor a tenant has a vested interest in beneficial regulations," even

delay that prejudiced the tenant or the owner is generally not a basis to fail to apply the current law. *IG Second Generation*, 10 N.Y.3d at 482. There is no basis to apply older law unless the party demanding application of the older law can demonstrate that the opposing party caused improper delay, or that DHCR "deliberately or negligently delayed processing the applications before it." *Matter of St. Vincent's Hosp. & Med. Ctr. of N.Y.*, 109 A.D.2d at 712 (quotation marks omitted), *aff'd*, 66 N.Y.2d at 961; *see also IG Second Generation*, 10 N.Y.3d at 483 (citing the affirmance in *St. Vincent's* as controlling precedent).

This Court's reasoning in *IG Second Generation* applies even more strongly here, because that case involved DHCR's application of changes to its own regulations, *see* 10 N.Y.3d at 481, whereas the present cases involve the Legislature's policy prerogative to abolish high-income deregulation by statute. Not only is DHCR obligated to respect the Legislature's decision to repeal the statutory authority for high-income deregulation, but the fact that the change in law was made by the Legislature cuts firmly against any inference that DHCR delayed processing petitions in anticipation of eventu-

ally denying them. As the record in these cases shows, DHCR issued deregulation orders on a rolling basis, and continued to do so until the statute changed. (*See, e.g.,* R. 1445 (Order of Deregulation dated May 3, 2019).)

Appellants ask that the Court infer negligence from the fact that the deregulation orders were issued about two years after the petitions were filed in No. 157557/20 (*see* Br. at 55), and about two years and ten months in No. 157776/20 (*see* Br. 56; R. 2150). But both this Court and the Appellate Divisions have declined to infer willfulness or negligence by DHCR from nothing more than lengthy processing time. *See IG Second Generation*, 10 N.Y.3d at 482; *Matter of Schutt v. New York State Div. of Hous. & Community Renewal*, 278 A.D.2d 58, 58 (1st Dep't 2000). Indeed, even "inordinate delay" by the agency is not a basis for declining to apply current law, absent some affirmative showing of negligence or willfulness. *IG Second Generation*, 10 N.Y.3d at 482-83.

In fact, it would damage the public interest to automatically infer negligence or willfulness from a processing delay absent indicia that the agency acted with intent to prejudice a party. To reverse

agency decisions based on delay or missed deadlines "would not only be impractical but would also fail to recognize the degree to which broader public concerns, not merely the interests of the parties, are affected by administrative proceedings." *Matter of Dickinson v. Daines*, 15 N.Y.3d 571, 575 (2010) (quotation marks omitted).

Third, there is no basis for this Court to conclude that DHCR acted so deliberately or negligently as to require annulment of the agency decisions at issue. In both cases, the owner had specifically asked DHCR to verify the tenants' income through an independent investigation with DTF. (R. 922, 2150.) As this Court has previously observed, cases involving DTF verification require interagency coordination, and in some cases this process may require "a more involved assessment." *See Matter of Brookford, LLC v. New York State Div. of Hous. & Community Renewal*, 31 N.Y.3d 679, 686 (2018); Tax Law § 171-b. Moreover, the record shows that DHCR made diligent efforts at obtaining not only income information, but also additional evidence from the parties regarding the underlying leases. See *supra* at 23-25.

Finally, appellants cannot overcome the absence of willful or negligent delay by arguing (Br. at 54-60) that DHCR was negligent or willful merely because it failed to meet certain statutory timetables for processing deregulation applications. The ordinary and default rule is that statutory time limits for the conduct of government business are directory, not mandatory. *See Dickinson*, 15 N.Y.3d at 574-75; *Matter of Grossman v. Rankin*, 43 N.Y.2d 493, 501 (1977). While an agency "should seek to comply in a timely fashion with the guidelines of the statute, it is recognized that delays may occur." *Grossman*, 43 N.Y.2d at 501. A statutory deadline for government action "is directory rather than mandatory" unless the statutory text contains some clear indication "that the designation of time was intended as a limitation on the power of the body or officer." *Dickinson*, 15 N.Y.3d at 574 (quoting *Grossman*, 43 N.Y.2d at 501).

Consistent with that general rule, this Court has held that the "timetables for income verification and deregulation" that were set forth in prior versions of the RSL did not deprive DHCR of jurisdiction to determine deregulation proceedings correctly on the merits

where the deadlines were missed. *Matter of Dworman v. New York State Div. of Hous. & Community Renewal*, 94 N.Y.2d 359, 371-74 (1999). Although the timetables were an important expression of legislative policy against undue delay, *id.* at 374, the Legislature "intended for deregulation proceedings to be decided on the merits," *id.* at 372. The RSC, moreover, codified at the time of the proceedings here that "[t]he expiration of the time periods prescribed . . . for action by the DHCR" does not divest DHCR of authority to process petitions and issue determinations. 9 N.Y.C.R.R. § 2531.9 (eff. until Nov. 7, 2023). Accordingly, absent a delay "so unreasonable as to constitute 'extraordinary circumstances,'" the Court will not override DHCR's discretion over administrative proceedings. *Dworman*, 94 N.Y.2d at 372-73 (quotation marks omitted).[18] Appellants offer no reason to depart from these principles here.

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[18] The trial court decisions attached in appellants' compendium simply assumed incorrectly that the timelines in the former version of the RSL § 26-504.3 were mandatory, without considering this Court's relevant precedents, including *Dickinson*, *Grossman*, and *Dworman*; and further assumed incorrectly that the remedy for any delay was to compel deregulation even after the HSTPA's enactment. *See* Appellants' Compendium at 4-5, 10-13. Those trial court cases therefore are unpersuasive.

CONCLUSION

This Court should affirm the First Department's decisions and orders in these consolidated appeals.

Dated: New York, New York
June 5, 2024

Respectfully submitted,

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AFFIRMATION OF COMPLIANCE

Pursuant to the Rules of Practice of the New York Court of Appeals (22 N.Y.C.R.R.) § 500.13(c)(1), Matthew W. Grieco, an attorney in the Office of the Attorney General of the State of New York, hereby affirms that according to the word count feature of the word processing program used to prepare this brief, the brief contains 11,134 words, which complies with the limitations stated in § 500.13(c)(1).

/s/ Matthew W. Grieco
Matthew W. Grieco

Authorities Addendum

TABLE OF CONTENTS

Page

McKINNEY'S

CONSOLIDATED LAWS OF NEW YORK ANNOTATED

Book 65
Unconsolidated Laws
§§ 8601 to 8620

2019
Cumulative Pocket Part

Mat #42500898

modation became exempt from the provisions of this law or the city rent and rehabilitation law, which form shall include the last regulated rent, and shall be sent to the tenant within thirty days after the tenancy commences or the filing of such registration, whichever occurs later.

(Added L.1993, c. 253, § 6. Amended Loc.L.1994, No. 4, § 4; Loc.L.1997, No. 13, § 3; L.1997, c. 116, § 15, eff. June 19, 1997; Loc.L.2000, No. 12, § 2, eff. March 28, 2000; L.2003, c. 82, § 4, eff. June 20, 2003; L.2011, c. 97, pt. B, § 12, eff. June 24, 2011; L.2015, c. 20, pt. A, § 10, eff. June 26, 2015, deemed eff. June 15, 2015.)

[1] L.1997, c. 116.

[2] Multiple Dwelling Law § 280 et seq.

Historical and Statutory Notes

L.2015, c. 20 legislation

L.2015, c. 20, pt. A, § 66, in part, provides:

"§ 66. This act shall take effect immediately; and shall be deemed to have been in full force and effect on and after June 15, 2015; provided, however, that:"

"(a) the amendments to chapter 4 of title 26 of the administrative code of the city of New York made by sections ten, twelve, sixteen, sixteen-a, twenty-three, twenty-four and twenty-nine of this act shall expire on the same date as such chapter expires and shall not affect the expiration of such chapter as provided under section 26–520 of such law;".

§ 26–504.3. High income rent deregulation

[Eff. until April 1, 2021, pursuant to McK. Unconsol. Laws § 26–520.]

(a) 1. For purposes of this section, annual income shall mean the federal adjusted gross income as reported on the New York state income tax return. Total annual income means the sum of the annual incomes of all persons whose names are recited as the tenant or co-tenant on a lease who occupy the housing accommodation and all other persons that occupy the housing accommodation as their primary residence on other than a temporary basis, excluding bona fide employees of such occupants residing therein in connection with such employment and excluding bona fide subtenants in occupancy pursuant to the provisions of section two hundred twenty-six-b of the real property law. In the case where a housing accommodation is sublet, the annual income of the tenant or co-tenant recited on the lease who will reoccupy the housing accommodation upon the expiration of the sublease shall be considered.

2. Deregulation income threshold means total annual income equal to one hundred seventy-five thousand dollars in each of the two preceding calendar years for proceedings commenced before July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation income threshold means the total annual income equal to two hundred thousand dollars in each of the two preceding calendar years.

3. Deregulation rent threshold means two thousand dollars for proceedings commenced before July first, two thousand eleven. For

npt from the provisions of this law or the city law, which form shall include the last regulated nt to the tenant within thirty days after the the filing of such registration, whichever occurs

6. Amended Loc.L.1994, No. 4, § 4; Loc.L.1997, No. 15, eff. June 19, 1997; Loc.L.2000, No. 12, § 2, eff. c. 82, § 4, eff. June 20, 2003; L.2011, c. 97, pt. B, L.2015, c. 20, pt. A, § 10, eff. June 26, 2015, deemed

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of the city of New York made by sections ten, twelve, sixteen, sixteen-a, twenty-three, twenty-four and twenty-nine of this act shall expire on the same date as such chapter expires and shall not affect the expiration of such chapter as provided under section 26–520 of such law;".

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s of this section, annual income shall mean the income as reported on the New York state tal annual income means the sum of the annual whose names are recited as the tenant or co-occupy the housing accommodation and all other the housing accommodation as their primary in a temporary basis, excluding bona fide emants residing therein in connection with such ling bona fide subtenants in occupancy pursuant section two hundred twenty-six-b of the real case where a housing accommodation is sublet, ne tenant or co-tenant recited on the lease who ing accommodation upon the expiration of the lered.

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proceedings commenced on or after July first, two thousand eleven, the deregulation rent threshold means two thousand five hundred dollars. For proceedings commenced on or after July first, two thousand fifteen, the deregulation rent threshold means two thousand seven hundred dollars, provided, however, that on January first, two thousand sixteen, and annually thereafter, such deregulation rent threshold shall be adjusted by the same percentage as the most recent one year renewal adjustment adopted by the relevant guidelines board.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated rent equals or exceeds the deregulation rent threshold may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of the deregulation income threshold in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a legal regulated monthly rent, that equals or exceeds the deregulation rent threshold are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of the deregulation income threshold in each of the two preceding calendar years, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds the deregulation income threshold in each of the two preceding calendar

years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants named on the lease that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total annual income exceeds the deregulation income threshold in each of the two preceding calendar years. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order being issued by the division providing that such housing accommodation shall not be subject to the provisions of this law.

2. If the department of taxation and finance determines that the total annual income is in excess of the deregulation income threshold in each of the two preceding calendar years, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the current lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

4. The provisions of the state freedom of information act shall not apply to any income information obtained by the division pursuant to this section.

(d) This section shall apply only to section 26–504.1 of this chapter.

(e) Upon receipt of such order of deregulation pursuant to this section, an owner shall offer the housing accommodation subject to such order to the tenant at a rent not in excess of the market rent, which for the purposes of this section means a rent obtainable in an arm's length transaction. Such rental offer shall be made by the owner in writing to the tenant by certified and regular mail and shall inform the tenant that such offer must be accepted in writing within ten days of receipt. The tenant shall respond within ten days after receipt of such offer. If the tenant declines the offer or fails to respond within such period, the owner may commence an action or proceeding for the eviction of such tenant.

(Added L.1993, c. 253, § 7. Amended Loc.L.1994, No. 4, § 5; L.1997, c. 116, § 16, eff. Jan. 1, 1998, § 17–b, eff. June 19, 1997; L.2011, c. 97, pt. B, § 36, eff. June 24, 2011; L.2015, c. 20, pt. A, § 16, eff. June 26, 2015, deemed eff. June 15, 2015.)

McKINNEY'S

CONSOLIDATED LAWS OF NEW YORK ANNOTATED

Book 65
Unconsolidated Laws
§§ 8601 to 8620

2024
Cumulative Pocket Part

THOMSON REUTERS®

Mat #43219010 381

to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and provided further that any housing accommodations exempted by this paragraph shall be subject to this law to the extent provided in subdivision b of this section; or (2) were decontrolled by the city rent agency pursuant to section 26–414 of this title; or (3) are exempt from control by virtue of item one, two, six or seven of subparagraph (i) of paragraph two of subdivision e of section 26–403 of this title;[3] and

b. Other housing accommodations in class A or class B multiple dwellings made subject to this law pursuant to the emergency tenant protection act of nineteen seventy-four.[4]

c. Dwelling units in a building or structure receiving the benefits of section 11–243 or section 11–244 of the code or article eighteen of the private housing finance law, not owned as a cooperative or as a condominium, except as provided in section three hundred fifty-two-eeee of the general business law and not subject to chapter three of this title.[5] Upon the expiration or termination for any reason of the benefits of section 11–243 or section 11–244 of the code or article eighteen of the private housing finance law any such dwelling unit shall be subject to this chapter until the occurrence of the first vacancy of such unit after such benefits are no longer being received or if each lease and renewal thereof for such unit for the tenant in residence at the time of the expiration of the tax benefit period has included a notice in at least twelve point type informing such tenant that the unit shall become subject to deregulation upon the expiration of such tax benefit period and states the approximate date on which such tax benefit period is scheduled to expire, such dwelling unit shall be deregulated as of the end of the tax benefit period; provided, however, that if such dwelling unit would have been subject to this chapter [2] or the emergency tenant protection act of nineteen seventy-four [4] in the absence of this subdivision, such dwelling unit shall, upon the expiration of such benefits, continue to be subject to this chapter or the emergency tenant protection act of nineteen seventy-four to the same extent and in the same manner as if this subdivision had never applied thereto.

(L.1985, c. 907, § 1. Amended L.1985, c. 67, § 4; L.1985, c. 288, § 7; L.1985, c. 289, § 3; L.2010, c. 422, § 2, eff. Aug. 30, 2010.)

[1] 12 USCA § 1701 et seq.

[2] Chapter 4 of Title 26 of the Administrative Code of the City of New York.

[3] Title 26 of the Administrative Code of the City of New York.

[4] McK. Unconsol. Laws § 8621 et seq.

[5] Chapter 3 of Title 26 of the Administrative Code of the City of New York.

§§ 26–504.1 to 26–504.3. Repealed by L.2019, c. 36, pt. D, § 4, eff. June 14, 2019

Historical and Statutory Notes

Repealed § 26–504.1, relating to the exclusion of accommodations of high income renters, was added by L.1993, c. 253, § 6, was amended by Loc.L.1994, No. 4, § 3; L.1997, c.

116, § 14, eff. Jan. 1, 1998; L.2011, c. 97, pt. B, § 35, eff. June 24, 2011.

Repealed § 26–504.2, relating to the exclusion of high rent accommodations, was added L.1993, c. 253, § 6, amended by Loc.L.1994, No. 4, § 4; Loc.L.1997, No. 13, § 3; L.1997, c. 116, § 15, eff. June 19, 1997; Loc. L.2000, No. 12, § 2, eff. March 28, 2000; L.2003, c. 82, § 4, eff. June 20, 2003; L.2011, c. 97, pt. B, § 12, eff. June 24, 2011; L.2015, c. 20, pt. A, § 10, eff. June 26, 2015, deemed eff. June 15, 2015.

Repealed § 26–504.3, relating to high income rent deregulation, was added by L.1993, c. 253, § 7, amended by Loc.L.1994, No. 4, § 5; L.1997, c. 116, § 16, eff. Jan. 1, 1998, § 17–b, eff. June 19, 1997; L.2011, c. 97, pt. B, § 36, eff. June 24, 2011; L.2015, c. 20, pt. A, § 16, eff. June 26, 2015, deemed eff. June 15, 2015.

§ 26–505. Application to multiple family complex

[Eff. until April 1, 2024, pursuant to McK. Unconsol. Laws § 26–520.]

For purposes of this chapter [1] a class A multiple dwelling shall be deemed to include a multiple family garden-type maisonette dwelling complex containing six or more dwelling units having common facilities such as sewer line, water main, and heating plant, and operated as a unit under a single ownership on May sixth, nineteen hundred sixty-nine, notwithstanding that certificates of occupancy were issued for portions thereof as one- or two-family dwellings.

(L.1985, c. 907, § 1.)

[1] Chapter 4 of Title 26 of the Administrative Code of the City of New York.

§ 26–506. Application to hotels

[Eff. until April 1, 2024, pursuant to McK. Unconsol. Laws § 26–520.]

a. Notwithstanding the provisions of section 26–504 of this chapter [1] to the contrary, and irrespective of any decontrol pursuant to subparagraph (c) of paragraph two of subdivision e of section 26–403 of the city rent and rehabilitation law, this law shall apply to dwelling units in all hotels except hotels erected after July first, nineteen hundred sixty-nine, whether classified as a class A or a class B multiple dwelling, containing six or more dwelling units, provided that the rent charged for the individual dwelling units on May thirty-first, nineteen hundred sixty-eight was not more than three hundred fifty dollars per month or eighty-eight dollars per week; and further provided that, notwithstanding the foregoing, this law shall apply to dwelling units in any hotel, whether classified as a class A or a class B multiple dwelling, eligible for benefits pursuant to the provisions of section 11–244 of the code.[2]

b. Upon application by a tenant or owner, the division of housing and community renewal, shall determine if such building is a hotel covered by this law, based upon the services provided and other relevant factors. If it is determined that such building is not a hotel, it shall thereafter be subject to this law pursuant to subdivision b of section 26–504 of this chapter.

(L.1985, c. 907, § 1.)

NEW YORK STATE ASSEMBLY

ASSEMBLY STANDING COMMITTEE ON HOUSING

PUBLIC HEARING

RENT-REGULATED HOUSING

Room 1923, 19th Floor

250 Broadway

New York, NY

May 2, 2019

11:00 a.m. - 8:00 p.m.

rent protections around the state, the city, it's becoming that every day that passes, more and more, unaffordable and difficult for people to maintain staying here in New York. And those are some of the things that hope to address.

So I want to thank everybody for coming. I want you to really give a, I'd say, the chair of the committee, Steve Cymbrowitz, we joked all along that he should have brought a bed because he's going to stay here overnight, even if it takes to get to hear every person who feels they want to tell how their story of how their lives are affected by the rent laws here in the state. So, happy hearing, thank you, everybody for coming.

ASSEMBLY MEMBER CYMBROWITZ: Thank you, Mr. Speaker. Thank you very much. Our first witness today will be Jarret Hova, Senior Policy Counsel will be reading the testimony of Attorney General Letitia James.

MR. JARRET HOVA, SENIOR POLICY COUNSEL, NEW YORK STATE OFFICE OF THE ATTORNEY GENERAL: Good morning, Chair Cymbrowitz, Speaker Heastie

and members of the Committee. My name is Jarrett Hova and I'm a senior policy counsel in the office Attorney General Letitia James. Thank you for giving our office the opportunity to share input on these vitally important issues. The Office of Attorney General takes an active role in protecting the right of tenants against landlords that engage in harassment, and intimidation and fraud.

We would like to thank the Assembly for your assistance in these efforts by passing the Tenant Protection Act of 2019, an AG program bill, which will give our office more tools to hold landlords accountable for harassment. Through the course of several investigations, our office has gained firsthand knowledge of the ways in which landlords abuse the laws governing rent regulation. The people of New York living here in New York City and throughout the state face significant challenges in finding safe, stable, affordable housing. Rent regulation is meant to alleviate this pressure, not only to provide for housing that's affordable but also to ensure

long-term stability for families and neighborhoods.

But New York's rent regulation laws are not serving their intended purpose of providing affordability and stability. In fact, they are in part responsible for the exact opposite outcome. We know that we are losing rent regulated housing at an alarming rate. It is no coincidence that as more apartments become deregulated, homelessness has increased. The waves of displacement we've seen in neighborhoods throughout New York City and across the state have been fueled by provisions in the law that drive speculation and harassment.

We have seen landlords whose business model is based on buying rent regulated buildings and quickly turning out as many tenants as possible. Sometimes, this is done legally, but often it is accomplished but unscrupulous immoral and illegal activity on the part of landlords, motivated by profit and greed and enabled by a set of laws that provide little protection for tenants and less oversight of landlords.

This committee knows well the provisions that allow for rent increases and ultimately, deregulation. Aside from the allowable rent increases set by the rent guidelines board, landlords may raise rent, may raise apartment rents when there is a vacancy or when they renovate individual apartments, through individual apartment improvements, AIAs or when they perform major capital improvements, MCIs. If rents are raised above the vacancy decontrol threshold, an apartment exits the rent regulated system and landlords can then charge market rate.

We have seen in our investigations how landlords abuse this system to push rents higher in order to deregulate their buildings. For example, Steve Croman, who was convicted on criminal charges and sentenced to a year in jail engaged in tenant harassment in order to get rent regulated tenants out of their apartments. Croman pressured tenants into surrendering their aments through intimidation and disruptive construction. In addition, Croman repeatedly filed baseless lawsuits against his tenants as the way to

pressure them to accept buyout offers, refusing to acknowledge receipt of tenants' rent checks and suing them for unpaid rent.

But it is instructive that in spite of the truly awful conduct in which Croman engaged, his conviction had nothing to do with the tenant harassment and ultimately came about because he lied to banks about the number of rent regulated tenants that he had forced out of apartments in order to obtain a higher mortgage.

Other landlords who use abusive tactics, like Daniel Melamed have put tenants in mortal danger in the name of profit by doing things like cutting off heat when temperatures outside were below freezing. Once the tenants are out, the landlord can increase rent by 20 percent or more. This vacancy bonus provides a strong incentive to push out tenants, which results in harassment.

In addition to incentivizing vacancy, the laws do not require very much evidence that landlords actually make the improvements necessary to raise rents. Currently, the State Department of Housing and Community Renewal

Assembly Standing Committee Housing, 5/2/2019

this is a defense. And so there are many people for whom we have to say, look, start looking for another place to live. We can delay your case if the landlord made mistakes, but that's about it. So it's like a terminal diagnosis.

ASSEMBLY MEMBER TAYLOR: So ultimately, the end result is -- so this is a game changer?

MR. NORI: It could be, yes.

ASSEMBLY MEMBER TAYLOR: This is a game changer. You, you have to go packing in or you need something to stand your ground, if you would. Thank you so much.

MR. NORI: Correct.

ASSEMBLY MEMBER CYMBROWITZ: Okay. Assemblyman Fitzpatrick.

ASSEMBLY MEMBER FITZPATRICK: Thank you, Mr. Chairman. Quick question, what would be the position of your organizations about the idea of requiring some sort of means testing to get the benefit of rent stabilization? Do you have a position on that?

MR. WATERS: That would completely undermine the purpose of rent stabilization.

First of all, rent stabilization isn't a subsidy, it's a consumer protection. Rich people aren't deprived of the benefits of other consumer protections, or for that matter the protection of the law in general. Just because Michael Bloomberg could hire his own private police force, if I punched him in the nose, it would still be a public matter. That's the philosophical reason I guess.

But more importantly, if a landlord could deregulate an apartment by finding a high income person to live there, they would de regulate a ton of apartments that way to the great detriment of people with incomes much lower than the cutoff. I mean we've had a form of income targeting through a high income decontrol for the past, I forget how many years. That hasn't made any more apartments available to low-income people. All it's done, if anything, it's done the opposite.

ASSEMBLY MEMBER FITZPATRICK: Okay. Legal Aid?

MR. NORI: Well, you know, I would

question the premise of the question, which is that there are, you know, I think you're assuming that there are many people who are of high income who are benefiting from rent regulation. And I think that CSS has done numerous studies which disproves that premise.

MR. WATERS: Yeah, rent regulated tenants have much lower incomes than unregulated tenants, let alone owners.

ASSEMBLY MEMBER FITZPATRICK: We do have some that are relatively high income that are enjoying the benefits of rent regulation and therefore preventing people who really need that housing at an affordable level from accessing it.

MR. WATERS: But there are not, I mean the alternative I think would be to deregulate them, in which case, that would not direct an apartment to a lower-income person. It would simply have another high-income person paying a very high rent.

ASSEMBLY MEMBER FITZPATRICK: Very well, thank you.

MR. WATERS: I mean unless you're going

Assembly Standing Committee Housing, 5/2/2019

to kick them out and then actually make the landlord take the low-income person at the same rent as before, but I don't think that's the proposal.

ASSEMBLY MEMBER CYMBROWITZ: All right. Thank you very much, appreciate your time. [applause] Our next witness is the Honorable Corey Johnson, Speaker New York City Council. Thank you for joining us today.

THE HONORABLE COREY JOHNSON, SPEAKER, NEW YORK CITY COUNCIL: Chairman, good morning.

ASSEMBLY MEMBER CYMBROWITZ: Welcome, Mr. Speaker.

HONORABLE JOHNSON: Good afternoon.

ASSEMBLY MEMBER CYMBROWITZ: Good afternoon. Thank you for joining us today.

HONORABLE JOHNSON: Thank you for having me. May I begin?

ASSEMBLY MEMBER CYMBROWITZ: Please.

HONORABLE JOHNSON: Thank you very much, so good afternoon members of the Assembly. It's nice to see you all up there. I'm Corey Johnson, speaker of the New York City Council. I'm here to

BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON HOUSING, CONSTRUCTION, AND COMMUNITY DEVELOPMENT

PUBLIC HEARING:

RENT REGULATION AND TENANT PROTECTION LEGISLATION

Newburgh Armory Unity Center
321 South William Street
Newburgh, New York

May 23, 2019

PRESIDING:

Senator Brian Kavanagh
Chair

PRESENT:

Senator Neil D. Breslin

Senator Shelley B. Mayer

Senator Jen Metzger

Senator Zellnor Myrie

Senator Julia Salazar

Senator James Skoufis

is earning over $200,000, so maybe we should take a look at that particular unit.

For every unit like that, it does cry out for a certain amount of social justice, that -- that, in the American way, that person earning a high income should really move on --

(Audience member sneezes.)

ALBERT ANNUNZIATA: Salute.

-- and give -- see, that's the Italian in me.

-- and give a more worthy tenant, single mom, low- to middle-class person, a chance for a rent-stabilized apartment, which they are -- which really they need, and really is due them.

SENATOR KAVANAGH: Thank you, Senator Myrie.

Just, briefly, you know, we are very late.

I would just -- I would suggest, just some of those cups -- and we appreciate the cup demonstration.

Just a couple of -- I would -- couple of them I might move over, just, for example, by pointing out that, statutorily, these rent guidelines boards do have to have two landlord representatives and two tenant representatives --

ALBERT ANNUNZIATA: That's correct.

SENATOR KAVANAGH: -- and then five

additional.

So I am not sure, you know, how that

generated a cup for the tenant side without a cup for the landlord side.

ALBERT ANNUNZIATA: Well, in Westchester County -- I can only speak for Westchester.

In Westchester County, and in the ETPA statute, a tenant can serve on the rent guidelines board and vote on their own increases, decreases, freezes.

A landlord cannot serve.

SENATOR KAVANAGH: A landlord can serve as long as they are not owning -- a landlord can serve as a (indiscernible) member, as long as they are not owned -- an owner of real estate that is actually regulated by the statute.

ALBERT ANNUNZIATA: Well -- right, true.

SENATOR KAVANAGH: But there are certainly many landlords and many who are sympathetic to the interest of landlords.

ALBERT ANNUNZIATA: Right.

They're not under the regulatory -- they're not under the regulatory aegis (indiscernible) --

SENATOR KAVANAGH: Again, I would say, you

know, the idea that it's not balanced, you know, is something, and, certainly, many would question.

And I also would note that high-income deregulation provisions are -- that is a process that landlords can initiate.

What many people are concerned about is that, under the current process, it doesn't just remove

the undeserving household that makes over $200,000, although, some -- you know, in some of our neighborhoods, $200,000 might be like a -- you know, a school principal and a firefighter, a two-income household.

But, also, you know, it removes the unit entirely from rent regulation.

So, you know, there's no -- there's no provision right now to remove that high-income household and keep the system in regulation.

ALBERT ANNUNZIATA: And that's part of -- and that's part of the inequities that you all are looking at.

SENATOR KAVANAGH: But we do -- again, we do appreciate your testimony, and your cups, and --

ALBERT ANNUNZIATA: Thank you, Mr. Chairman.

SENATOR KAVANAGH: -- thank you very much.

ALBERT ANNUNZIATA: My wife is a fourth-grade

teacher in Yonkers, and either she'd be very proud of me at this moment, or she'd be absolutely horrified.

SENATOR KAVANAGH: She can -- this will be webcast, so perhaps she can view the tape --

ALBERT ANNUNZIATA: Oh, my.

SENATOR KAVANAGH: -- and let you know.

ALBERT ANNUNZIATA: Oh, my goodness.

All right.

Thank you so much.

SENATOR KAVANAGH: Thank you.

Okay, next up, we're going have -- again,

NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 14, 2019

11:29 a.m.

REGULAR SESSION

SENATOR BRIAN A. BENJAMIN, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

person or a household has an annual income of a million dollars annually, would that household then be eligible to rent a stabilized unit?

SENATOR KAVANAGH: Through you, Mr. President. If a landlord chooses to rent a rent-stabilized apartment to a household with a million-dollar income, and if a household with a million-dollar income that presumably could rent many different kinds of apartments chooses to rent a rent-regulated apartment, then that transaction would be valid under this law.

SENATOR AMEDORE: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AMEDORE: Do you know how many units have left stabilization due to the high-rent, high-income deregulation program?

SENATOR KAVANAGH: About 6500 units, is my understanding, is the number that

have been deregulated through what is sometimes called the high-income vacancy deregulation. An additional over 200,000 units have left the system through what's sometimes called high-rent vacancy deregulation.

SENATOR AMEDORE: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AMEDORE: Thank you, Senator Kavanagh.

Does this bill prevent those households who can afford to pay market rate from renting stabilized apartments --

SENATOR KAVANAGH: {Inaudible.}

SENATOR AMEDORE: -- in turn -- in turn allowing those more likely who need help in housing allowance or housing itself to rent a stabilized unit?

SENATOR KAVANAGH: Mr. President, I

don't think I understood the conjunction there. But the --

SENATOR AMEDORE: I could clarify it for you.

SENATOR KAVANAGH: Yes.

ACTING PRESIDENT BENJAMIN: Go ahead, clarify. Please clarify.

SENATOR AMEDORE: Through you, Mr. President. So those who are -- who have the means to afford market rate but yet live in a stabilized unit take away -- because programs like this should help those who need a little assistance or help within the housing allowance versus to the ratio to their annual income.

So someone who has a household income of maybe $60,000 living in New York City -- real small, housing is expensive -- I would think would qualify for a stabilized unit more than someone who has a household annual income of seven figures.

So would this bill, would this bill prevent that from happening?

SENATOR KAVANAGH: Mr. President, just a few points.

First of all, I appreciate the fact

that the gentleman thinks that a $60,000 income is a relatively low income and that people at that income are worthy of protection under these kinds of laws. The current median income of people renting a rent-stabilized apartment in New York City is $45,753. So the great majority of people renting these apartments currently rent at a level that -- have incomes at a level that is below the $60,000 threshold that the gentleman cites.

In addition, it should be noted that under the current system, apartments that -- when somebody with a higher income leaves the unit, it is not the case that the rent goes down to a more affordable level that somebody with a lower income could afford. And I think that folks in this chamber, especially those on the other side of the aisle, have defended repeatedly the ability of landlords to raise rents, and sometimes raise them very rapidly, on those apartments.

The current -- the provision that we are -- one of the provisions that we are repealing in this bill is a bill that ends the availability of apartments when somebody is

making $200,000 or more in two consecutive years. That is at the option of the landlord. But it doesn't provide that apartment as an affordable apartment for anybody. What it does is it takes the apartment entirely out of the rent-regulated system and it deregulates, the unit making it available for someone with an even higher income.

We are eliminating that provision today, along with many other provisions that we believe causes landlords to speculate on their ability to remove tenants to make excessive profits, and that diminish the ability of this program to protect affordability for the very people the gentleman is talking about.

SENATOR AMEDORE: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AMEDORE: Thank you, Senator Kavanagh.

The latest New York City housing vacancy survey stated that housing maintenance conditions were very good. And more than half of all renter-occupied units reported no maintenance deficiency in 2017.

This bill drastically reduces the amount a landlord is able to receive in increased rent after providing major capital improvements, MCIs, or individual apartment improvements, IAIs. What effects will this have on maintenance conditions of the units?

SENATOR KAVANAGH: Through you, Mr. President. We think that maintenance conditions in these buildings will continue to be at their current level. We believe that this bill will continue to permit landlords to do the capital improvements that are necessary to keep their buildings in good shape and to comply with the many laws that require them to provide heat and decent housing conditions and habitability.

With respect to individual apartment improvements, those are often done, as the name suggests, to dramatically improve the apartment, to take it from a modest apartment that one person can afford to a much better, nicer, more

too late now.

But I thank you for answering the questions. And for the good parts of this, I'm pleased, but I have a real concern with some of those restrictions.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Salazar on the bill.

SENATOR SALAZAR: Thank you, Mr. President.

It's been my own personal experiences as a tenant in an apartment owned by an egregiously neglectful landlord and abusive management company that were once the strongest motivation for me to eventually take the steps to even be here in this chamber today.

Those firsthand experiences as a former tenant in an unregulated apartment, including enduring a winter without adequate heat and having to defend myself and my neighbors in housing court just to compel our landlord to make basic repairs; being forced to move out even after we successfully challenged our landlord, because they retaliated by denying us a new lease without any cause; and, in that process, losing

what I had of my late father's belongings due to an illegal lockout.

All of this revealed to me at the time just a glimpse of the similarly outrageous injustices that fellow tenants across our state face every day.

Throughout this session, tenants from Brooklyn to Binghamton to Buffalo have shared their own experiences with us to testify to the failure of our current rent laws, our failure to protect them from harmful and predatory practices. Housing experts, attorneys and community stakeholders have urged us to finally pass rent laws that will alleviate the rampant problems of homelessness and displacement of families across our state. Their stories and lived experiences should motivate all of us to act and to support this legislation.

By passing this bill, I'm proud to say that we are responding to their call. We are finally taking long-overdue steps to confront the injustices of our state's housing crisis and keep more families in their homes. The paramount purpose of rent regulation is to give tenants the security of knowing that they can continue to

live in their homes without fear that their life and their families' lives will be disrupted by eviction.

But this purpose has long been obstructed in New York because of various mechanisms and tools within the law at landlords' disposal to deregulate apartments, to preclude tenants from exercising their rights, and to privilege profits over people.

We are repealing the deregulatory policies of vacancy decontrol and ending vacancy bonuses that for years have directly led to the loss of thousands of rent-stabilized apartments from the rent regulation system, particularly in my own district.

We're expanding the provisions of the previous Emergency Tenant Protection Act so that communities across the state can finally choose to adopt policies that the tenants who live there are begging us for.

We are codifying provisions for families living in manufactured homes and mobile homes who are so often left out of the rent laws conversation. And we're doing much more than I can concisely say.

Under current law, the rent regulations would expire tomorrow. But because we are passing this legislation today, and this time without any arbitrary sunset date, we won't have to say that again.

By making these laws permanent, we're ending the cycle of only revisiting these laws every four years -- a cycle that has vastly favored the interests of big real estate over the needs of working families.

I wholeheartedly support this bill, even as I recognize that our efforts to secure basic protections for millions of tenant households are not finished. We celebrate today's victory for tenants, but we will not rest and our housing justice movement will not rest until every tenant is empowered to live without fear of eviction.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Ranzenhofer --

SENATOR RANZENHOFER: Thank you, Mr. --

ACTING PRESIDENT BENJAMIN: Are you on the bill, or would you like to ask a question?