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A rent control nightmare.

## THE LANDLORD'S TALE

**M**ANHATTAN'S Upper East Side is an extremely desirable place to live. Easily accessible to midtown, it retains a certain isolated charm. Transportation is a bit complicated and usually involves a long walk to the Lexington Avenue subway, but the streets are safe and clean. High-rise development has not yet crowded the avenues. On a summer day the whole area can take on an almost tropical brilliance.

Living on the Upper East Side can be either very expensive or very cheap, depending on who you are. New York City still operates under rent control, a "temporary" measure originally imposed by the federal government during World War II and never lifted.

A young couple just moving into the neighborhood can expect to pay at least \$800 for a studio apartment, \$1,200 for a one-bedroom apartment, and \$1,500 for two bedrooms. If you have lived in Manhattan for a long time, however—or if you have friends or relatives who are willing to pass on an apartment—you may pay as little as \$200 to \$300.

Rents in New York are regulated in two ways, and learning the difference is an essential part of becoming a New Yorker. "Rent control," the extension of the wartime era program, only applied to buildings built before 1947. No increases were allowed until 1969, and many tenants in rent-controlled apartments are still paying prices of the 1940s.

In 1969 "rent stabilization" was applied to all apartments built between 1947 and 1969 and has since been extended to cover just about everything that is not already rent-controlled. People in rent-stabilized apartments generally pay prices prevalent in the early 1970s. When a rent-controlled tenant moves or dies—and is unable to pass the apartment on to a friend or relative—the apartment slips into rent-stabilization. There are also "vacancy allowances" and other intricacies that tend to protect sitting tenants and push up rents for newcomers. As a result, people who move to New York today are probably paying prices that are *higher* than they would be without rent regulations.

Ming Wang is an architect who escaped from Shanghai during the Cultural Revolution. She and her husband live in New York and run an architectural firm out of their brownstone on East 87th Street. They have come to love Manhattan's old buildings. Four years ago they spotted a 1906 six-story apartment house that was up for sale a few blocks away. It was run-down, but Wang says she thought that "it was definitely something worth preserving. The building has a beautiful brick facade with lots of stone detail. There is a delicate filigree on the fire escape, and a wraparound courtyard that gives you a window in every room." The Wangs had heard about rent control but hadn't given it much thought. "I assembled an investment group and con-

vinced them it would be a good risk," Ming Wang said.

Of the building's 25 apartments, 13 had two bedrooms and 12 had three bedrooms. Fifteen apartments were rent-controlled, and the rest were stabilized. The rent-stabilized tenants were all paying between \$200 and \$225, regardless of size, condition, or location in the building. The rent-controlled tenants were all paying less than \$100 a month. One long-term tenant was paying \$75.19 for five rooms. (Rent-control prices have been allowed to rise in fine calibrations over the last 17 years and are almost always expressed in two decimal points.)

None of Wang's tenants was particularly poor. In fact, most are the kind of upper-middle-class Manhattanites who regularly use rent control as a springboard to a more affluent lifestyle. Two own houses in Florida. One couple even has a "primary-resident" designation on their Sarasota home that exempts them from Florida property taxes. One tenant is a stage mother whose daughter appears frequently in television commercials. Another is an airline stewardess. There are several retired people, but none is without resources. Several pay their rent out of money market accounts.

Altogether, the building's entire rent roll came to less than \$3,500 a month. Heating costs alone averaged \$1,200 a month, and total expenses, including taxes and mortgages, were around \$7,500. "Financially, it obviously wasn't a very attractive deal," said Wang. "We would have to subsidize it out of our own funds for awhile. But we figured that if we did a lot of the work ourselves, we could eventually turn it around."

Politicians and tenant activists like to portray themselves as locked in mortal, hand-to-hand combat with giant developers—the Donald Trumps and Harry Helmsleys. Yet most New York City landlords are small investors like the Wangs. Seventy-five percent of New York's landlords own one building. About 45 percent own fewer than 10 units, and 80 percent own fewer than 50. Helmsley, the city's largest private owner, owns only three percent of the market. He says he can't deal with rent regulations, and is currently liquidating his holdings.

**W**HEN CONFRONTED with a small owner who is obviously being ruined by the system, politicians and tenant activists always respond with the same question: "Why did you buy the building in the first place?" In this case, the Wangs were enticed by the promise of a loan from the City Department of Housing and Urban Development, which would allow them to rehabilitate the building. Because the city wants to recover its money, landlords who get city loans are allowed to raise their rents. Unfortunately, the Wangs soon discovered that the city was not making any more loans in their neighborhood.

The building was in desperate need of repairs. The roof was leaking into a top-floor apartment. Nothing had been painted in a decade. The previous owner, like many New York landlords, had given up. He had neither repaired the building nor filed the mountains of paperwork required to raise rents.

The Wangs soon found that no bank would lend them money. "They would look at our rent rolls and say, 'How do you ever expect to pay us back?'" Finally they assembled some funds among friends and spent \$130,000 on a new roof, new wiring, new plumbing, outside painting, waterproofing, and a new concrete floor in the basement.

To try to encourage this kind of rehabilitation, New York has instituted the "major capital improvements" (MCI) program, which allows landlords to raise rents in order to recover the costs of repairs. Landlords must first formally ask their tenants if they are willing to pay for repairs to the building. Tenants almost never agree, and so the landlord is allowed to appeal to the state's Department of Housing and Community Renewal after the repairs have been completed. The state may then permit rent increases.

In the Wangs' case, the tenants weren't happy about the repairs. "They didn't see the building needed long-term maintenance," said Wang. "All they saw was that their rent was going to go up." And so, after investing \$130,000, the Wangs filed for an MCI increase. The instructions for the forms are 16 pages long, and a well-documented MCI application often involves 75 pages of financial records. If the landlord has both rent-controlled and rent-stabilized tenants, separate applications must be submitted for each. In September 1983, the Wangs filed the papers.

**B**Y LAW, they were supposed to have a decision within 90 days. At the time, however, the state DHCR was just setting up shop, after taking over the administration of rent regulations from the city. The department was so overwhelmed by its new responsibilities that it immediately put a moratorium on MCI applications that lasted over a year.

Fifteen months later, the decision for the rent-controlled tenants came back. The rents could be increased from an average of \$85.00 a month to around \$156.00. At that rate the Wangs would recover their \$130,000 (without interest) in about five years. However, the city recently had adopted a new rule saying that rent-controlled rents could not be raised more than 15 percent in any one year. The rent-controlled tenants immediately protested, saying their rent increases were too high. The city agreed and rolled back the increases to \$13.00 per month, stretching out the Wangs' recovery period to about 35 years.

The MCI application for the rent-stabilized tenants, filed in April 1983, came through in December 1985, 30 months after the application. The state allowed rent increases of six percent, and a six percent retroactive raise to make up for the delay in application. This made the rent-stabilized tenants unhappy. They had seen the rent-controlled tenants' increases rolled back, and they protested as well.

In order to delay the rent increases, tenants turned to a tactic that has become very popular among New York's tenantry. It might be called "the violations game." According to the city's rent laws, landlords who have gone through the paperwork and gotten a rent increase approved may not collect if there are any outstanding housing-code violations in the building. These violations need not be very large. A missing lightbulb or a crack in the

plaster is usually sufficient. Savvy tenants have long since figured out that if a building has no obvious violations, they can create a few themselves. Stolen lightbulbs and vanishing smoke alarms are a favorite.

"We found that once this violations game starts, it's a revolving door," said Wang. "When a tenant calls the housing inspectors, he gets an appointment on the spot. When a landlord calls to have the violation removed [rent-control argot for having the building certified violation-free], he must often wait six weeks before the inspectors arrive. When they do come, they remove one violation and write down three more. We got violations for things like 'Bicycle under public stairway,' or 'Flowerpots in courtyard.' Once they found a hairline crack in a marble floor. I told them, 'I'll take you down to City Hall and show you the same cracks.'"

An advanced variation on the "violations game" is the "access game." Violations in an individual tenant's apartment must be cleared by having the building inspector visit the apartment. But neither the inspector nor the landlord can enter without the tenant's permission. If the tenant refuses to allow access, or repeatedly misses appointments, rent increases can be delayed almost indefinitely.

"We had one tenant on the top floor whose ceiling had been leaking before we even took over the building," said Wang. "For three years now, he hasn't allowed the building inspector in his apartment. We stopped the leak when we fixed the roof in 1983, but we still haven't gotten the violation removed." Some New York landlords have begun making videotapes of workmen making repairs in order to prove in court that the violations have been corrected.

In the five years since Wang bought the building, three apartments have become vacant—all through the deaths of tenants. Vacancies mean a one-time increase to "fair-market" prices (not to be confused with "free-market" prices). This is why New York City landlords dream of losing their tenants. An empty building is worth six times as much as the same building filled with rent-controlled tenants.

**W**ANG HAS BEEN able to rent all three apartments for over \$1,000. In the process she has discovered something remarkable—people who pay the full freight get along fine with their landlords. "They've been the best tenants we have," said Wang. "We've actually become very good friends." Paul and Jean Field, for example, say they are still happy with their apartment after two years. "When we moved here, the other tenants tried to enlist us in the fight against the landlord," said Jean, whose husband runs a small consulting firm out of a basement office. "We listened to both sides, but we finally decided it was the tenants here who are the real problem." One tenant, for example, regularly registered her dissatisfactions by letting her dog defecate in the hallways.

After five years as a landlord, Wang has become obsessed with rent regulations. "You forget why you bought the building," she said. "We wanted to beautify New York, make it a better place to live. Now all I think about is