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Housing for people, not profit

Tenant Inquilino

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PERIODICAL

Why War Is a Housing Issue

By Gabriel Thompson

To acknowledge the obvious: Four more years of George W. Bush as president may find the government entirely out of the affordable-housing business. But although most Democrats are better than most Republicans on housing issues, many issues remain unchanged by Bush's winning a second term. When both parties support war, both parties create an environment in which housing will be relegated to the sidelines. In fact, by failing to stake out a clear antiwar agenda, John Kerry undercut the one mobilizing force that could have attracted those undecided voters that have given Bush a mandate for continued aggression and privatization.

We in the tenant movement have a lot on our plate, and so it's no wonder that we can frequently forget about the other issues that affect our work. Yeah, there might be a war going on in Iraq, but we've got evictions to contend with, widespread lead-paint hazards to remove, Section 8 vouchers to fight for, and collapsing ceilings to repair. With a Bush administration that likes to pursue measures that can only be described as increasing homelessness, and a Secretary of Housing and Urban Development who thinks that "being poor is a state of mind, not a condition," we need every tenant politician we've got.

As a tenant advocacy organization, Met Council endorses candidates that reflect this agenda. We endorsed Senator Charles Schumer, who has been a staunch defender of New York City tenants, leading the fight to restore Section 8 cuts while also supporting the tenants of project-based Section 8 buildings that are threatened due to HUD's negligence. In fact, there's only one anti-housing policy that Schumer has taken,



Iraq Peace Team

Damage in the Ragibaa District, Khatoon Al-Athenia City in Iraq.

and that's to support the Iraq war.

At a certain point we have to look beyond our core housing issues and start talking about the war. War is a terrible drain on resources, and usually has terrible results—as we have witnessed in the invasion of Iraq. In an instant it drops all of the priorities of the left—affordable housing, health care, edu-

cation—lower on the list of pressing issues, and when we do finally come out of the hysteria, it's usually too late. The so-called "peace dividend" of the '90s that was to allow generous funding of domestic programs after the Cold War never materialized. Now, with the "War on Terror" and the war and subsequent occupation in Iraq, it's unclear when we'll

be able to talk rationally about the problems facing poor and working-class people at home.

War may be a force that gives some meaning, but it's also a force that spells disaster for humane domestic policies. When we go to war, we'd better remember to weigh this equation carefully, and

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Supreme Court Case Raises Rent-Control Questions

By Steven Wishnia

A Supreme Court case involving gas stations in Hawaii could have far-reaching implications for rent control in New York City and across the nation.

In 1997, Hawaii, trying to hold down the high price of gas in the islands, enacted a law limiting how much rent oil companies could charge gas stations. Chevron challenged the law, charging that the controls violated the "takings" clause of the Fifth and 14th Amendments—that the government cannot take private property, in this case by denying the company the extra rent it would have collected, without "just compensation." Two lower courts agreed, and on Oct. 12, the Supreme Court agreed to hear Hawaii's appeal of the case, *Chevron v. Lingle*.

Could the courts also

hold that rent controls are an unconstitutional "taking" of landlords' property? "It's something to watch, but not something to be overly worried about," says Manhattan tenant lawyer Timothy L. Collins, an expert on the legal issues around rent regulations. Courts have upheld the constitutionality of rent controls in the past, he notes. Still, a ruling striking down the Hawaii law could open the way for fresh challenges, especially if President Bush packs the Supreme Court with justices who believe property rights trump all other concerns.

About 140 U.S. cities have some form of rent control, down from about 175 in the late 1970s. New York, with more than 1 million apartments under rent control and rent stabilization, has the broad-

est-reaching and the best-known systems, but four of the nation's five largest metropolitan areas—all but Chicago—are at least partially covered. In California, Los Angeles, San Francisco, San Jose, Oakland, and Berkeley all have rent controls. Washington has 100,000 apartments under rent control, and the Maryland suburb of Takoma Park also limits rents. Most of New Jersey's large cities, including Newark, Jersey City, Hoboken, and Paterson, retain rent regulations, as do Albany, Buffalo, Rochester, and Syracuse.

The main conflict is over what standards the courts should use to judge "takings." In most previous cases, courts have held that "generally applicable" laws—such as regulations that limit development in

wetlands, as opposed to government decisions that apply to a specific piece of property—should be judged on whether they have a rational basis. But in the *Chevron* case, the 9th Circuit Court of Appeals ruled that Hawaii had to prove that the law "substantially advances" a legitimate state interest, and that the courts had the power to judge the facts on

whether or not it did. The decision held that the rent-control law had not advanced a legitimate state interest, because it had failed to reduce gas prices.

Giving the courts such power would be "an assault" on states' abilities to regulate "a potentially vast array" of economic, health, and environmen-

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LETTERS

WBAI's Gary Null Rejects 'Coup' Allegations

To the Editor:

In "WBAI Elections —Vote!" (*Tenant/Inquilino*, Oct. 2004) by Vajra Kilgour, your publication stated that I "championed those involved in the corporatist 'coup'" at WBAI. I would appreciate it if you would correct this malignant myth.

The fact is I was on tour when the coup occurred. Upon discovering what occurred, I called Valerie Van Isler and asked her how I could help the station. She asked me if I could call the executive director who had fired her, which I did. I pleaded the case for Valerie remaining as WBAI's station manager. Contrary to supporting the coup, I was the only producer and radio program on WBAI who invited Bernard White, Juan Gonzalez, Robert Robertson, and other individuals who had been fired or banned onto my program so that they could air their views. I did this at the risk of being fired myself, as I had been warned by new station management not to do this. Furthermore, I did not know, nor had I spoken to anyone in power at WBAI before the coup or for about a month afterwards. I requested on air that there be a cessation of all personal attacks against those who had been banned and fired. I also stated publicly that the banned and fired should be rehired and that the station allow for arbitration, due

process, and mediation to determine the dispute.

When a lie is spread long enough, people accept it as fact. As a journalist, I make it a point to contact anyone who I am going to write about for an opportunity to respond. This was not done here. The article was written by a partisan journalist who is running for a position on the Local Station Board, and she did not have the courtesy to speak with me. This article was not independent journalism, but served a one-sided self-aggrandizing political agenda. I would expect that your publication would have the courtesy to correct the inaccuracies that were reported. I am always open to address any of the issues of which I have personal knowledge. Thank you for your attention to this.

Gary Null
Manhattan

Vajra Kilgour responds: Following the end of the corporatist coup at WBAI, Gary Null hired Paul DeRienzo, a coup collaborator.

A year and a half after the coup had ended, Mr. Null's attorney filed papers asking that Pacifica be put into receivership (judicial management), specifying that "my client's principal, Gary Null,

is aligned with Ken Ford and some other prior board members." Ford was a Pacifica board member who supported the coup, and resigned from the board after public outcry over his comparison of the anti-coup movement to al-Qaeda. Bernard

White appeared on a number of programs other than "Natural Living" during the coup. Mr. Null did not interview him until after White called in to Bob Fass's show,

"Radio Unnameable," to challenge the veracity of a promised "in-depth investigation" that Mr. Null was on the point of airing without having contacted White, Valerie Van Isler, Juan Gonzalez, or Amy Goodman.



Attention Seniors!

New SCRIE Income Limit Signed Into Law

\$24,000 is the new official income limit for the Senior Citizen Rent Increase Exemption program.

Seniors (62 or older) who rent rent-regulated apartments or live in Mitchell-Lama (or similar program) apartments can apply to get their rent frozen if their household income is \$24,000 or less and their rent is 1/3 or more of their income.

To apply or get more details, call the city's central number, 311, and ask for the Department for the Aging, or go to a local senior center.




Watch Rent Wars News

the weekly tenants show that covers the news, people, and events that affect New York's tenants.

Brooklyn
Every Monday at 7 p.m.:
Time Warner Channel 34 or
Cablevision Channel 67

Manhattan
Every Sunday at 12 p.m.:
Time Warner Ch. 57 or RCN
Ch. 112. Digital 110.
Without converter: Time
Warner Ch. 69

**Also check out
www.rentwars.com**
Participate in the RWN Forum,
post events, listen to inter-
views and specials online,
and read show supplements
that go deeper into the
stories covered on the show.



Scott Sommer hosts Met Council's

HOUSING NOTEBOOK

Mondays at 8:00 p.m. on
WBAI 99.5 FM

Listen on the Internet
www.wbai.org


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TenantNet™ Online Resource for Residential Tenants

New York Tenants on the World Wide Web

<http://tenant.net>
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- News from other NY tenant groups
- Fact Sheets & complete Housing Laws
- Bulletin Board & e-mail mailing list
- Rent Control/Rent Stabilization/DHCR information
- Weekly Housing Court Decision summaries



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EL INQUILINO HISPANO

Por qué la guerra es cuestión de vivienda

Por Gabriel Thompson
Traducido por Lightning Translations

Para reconocer lo obvio: cuatro años más de George Bush como presidente puede hallar al gobierno totalmente fuera del negocio de vivienda asequible. Sin embargo, aunque la mayoría de los demócratas son mejores que los republicanos en torno a las cuestiones de vivienda, muchas cosas no han cambiado al haber ganado Bush un segundo periodo. Mientras ambos partidos apoyan la guerra, los dos crean un ambiente en el cual se relega la vivienda al margen. De hecho, al no establecer una plataforma clara en contra de la guerra,

John Kerry socavó la única fuerza de movilización que pudiera haber atraído a los votantes indecisos que dieron a Bush un mandato para continuar con la agresión y la privatización.

Nosotros en el movimiento de vivienda tenemos una agenda apretada; por eso no es sorprendente que a menudo podemos hacer caso omiso a los otros problemas que afectan nuestro trabajo. Sí, puede haber una guerra en Irak, pero tenemos desalojos que enfrentar, peligros extensos de pintura con plomo

que remover, vales de Sección 8 para los cuales tenemos que luchar y techos derrumbados que arreglar. Con un gobierno de Bush, al que le gusta buscar medidas que sólo pueden describirse como el aumento de familias sin hogar, y un secretario de Vivienda y Desarrollo Urbano quien cree que "ser pobre es un estado de ánimo, no una condición," necesitamos de todos los políticos que apoyan a los inquilinos.

Como organización que promueve los derechos de inquilinos,

Met Council apoya a los postulantes políticos que reflejan este programa. Respalamos al senador Charles Schumer, quien ha sido un firme defensor de los inquilinos neoyorquinos, encabezando la lucha por la restitución de los cortes de la Sección 8 a la vez que apoya a los inquilinos de edificios de Sección 8 basados en proyectos de vivienda, los cuales están amenazados por la negligencia de HUD. De hecho, sólo hay una política

pasa a la página 4

Los Ajustes de la "Junta de Regulación de Renta" de la Ciudad de Nueva York (Orden No. 36)

Para los contratos de apartamentos de Renta Estabilizada que comienzan el 1ro. de octubre de 2004 hasta el 30 de septiembre de 2005.

Los topes de renta que aparecen en el cuadro son los incrementos máximos que los dueños de edificios pueden cobrar legalmente por los apartamentos de renta estabilizada en la ciudad de Nueva York. Son válidos para todos los contratos que comienzan dentro del periodo de doce meses a partir del 1ro. de octubre de 2004. Los incrementos de alquiler basados en las pautas para la renovación del contrato de 1 o 2 años pueden cobrarse solamente una vez durante el periodo cubierto por dichas pautas, y deben ser aplicados a la renta legal estabilizada para el 30 de septiembre de 2004. Las cantidades que aparecen en el cuadro y los incrementos para los apartamentos vacíos no se aplican a los apartamentos que estaban sujetos a renta controlada en aquella fecha. No se permite el recargo también conocido como el «impuesto de pobres.»

Los Contratos para Apartamentos Vacíos o Nuevos En junio de 1997, el gobernador George Pataki, al intentar destruir la regulación de rentas, forzó cambios que les dieron a los caseros un recargo muy grande por los apartamentos vacíos. Una cláusula de la "Reforma al Acta de Regulación de Renta" de 1997 permite que los nuevos alquileres sean incrementados en un porcentaje obligatorio: 20% para un contrato de dos años, y por un contrato de 1 año, 20% de incremento menos la diferencia en el tope de renovación para los contratos de 1 y 2 años. La ley permite también incrementos adicionales para los apartamentos vacíos donde no se habían cobrado incrementos por desocupación por ocho años o más.

Exceso de Cobro Los inquilinos deben estar al tanto de que muchos caseros van a aprovecharse de la complejidad de estas regulaciones y subvenciones, así como del poco conocimiento de los inquilinos del historial de renta de sus aparta-

mentos, para cobrar un alquiler ilegal. Una vez que el inquilino haya tomado posesión del apartamento, puede escoger entre llenar un formulario de queja de exceso de cobro de renta con la oficina de la División de Vivienda y Renovación Comunal (DHCR), o disputar la cantidad de la renta en la corte de vivienda de la ciudad para que se determine cuál es el alquiler legal.

Si un posible inquilino da muestras de conocer sus derechos, lo más probable es que el casero no firmará ningún contrato con tal inquilino. Los caseros evitan contratar con inquilinos que les pueden dar problemas. El exceso de cobro de alquiler es muy común. Todos los inquilinos deben luchar contra posibles excesos de cobro. Obtenga y llene un formulario *Form RA-89* con la oficina de DHCR para determinar el alquiler correcto en los archivos oficiales. Llame a la DHCR a (718) 739-6400 para obtener un formulario, o búsquelo en el sitio www.dhcr.state.ny.us.

La Apelación de la Renta de Mercado Justa Otro tipo de

exceso de cobro sucede frecuentemente cuando se vacía un apartamento que previamente estaba sujeto a renta controlada y se alquila con renta estabilizada. La Junta de Regulación de Renta (RGB) establece anualmente lo que ellos llaman el "Tope Especial de la Renta de Mercado Justa," el cual es empleado por la DHCR para bajar las rentas de mercado injustas de los inquilinos que llenan el formulario llamado "Apelación a la Renta Justa de Mercado" (FMRA). Según la Orden 36, es la Renta de Mercado Justa de HUD o un 50% sobre la renta base máxima. Ningún inquilino de un apartamento de renta estabilizada que fue descontrolado el 1ro de abril de 1984 o después debe dejar de poner a prueba la llamada "Renta Legal Inicial Regulada" (renta de mercado) que los caseros cobran cuando hay descontrol del apartamento. Use el formulario de DHCR *Form RA-89*. Indique claramente que su queja es tanto una queja de "Apelación a la Renta Justa de Mercado" como de "exceso de cobro." La corte de vivienda no puede tomar decisión sobre una

Apelación de Renta de Mercado. Apartamentos vacíos que antes estaban controlados en edificios que se han convertido en cooperativas o condominios no se vuelven estabilizados y no satisfacen los requisitos para la Apelación de la Renta Justa de Mercado.

Exención de Incrementos para las Personas de Mayor Edad: Las personas de 62 años o más que viven en apartamentos estabilizados y cuyos ingresos familiares anuales son de \$24,000 o menos, y que pagan (o enfrentan un incremento de alquiler que los forzaría a pagar) una renta de un tercio o más de sus ingresos, pueden tener derecho al programa de Exención de Incrementos para las Personas de Mayor Edad (SCRIE, por sus siglas en inglés), si aplican al Departamento de la Ciudad de Nueva York Sobre las Personas de Mayor Edad, cuya dirección es: SCRIE Unit, 2 Lafayette Street, NY, NY 10007. Si el alquiler actual de un inquilino que tiene derecho a este programa sobrepasa un tercio del ingreso, no se lo puede reducir, pero es posible evitar incrementos de alquiler en el

futuro. Obtenga el formulario de SCRIE por llamar al (212) 442-1000.

Unidades de Desván (Lofts) Los incrementos legales sobre la renta base para las unidades de desván son de un 2.5 por ciento por un contrato de un año y un 5.5 por ciento por un contrato de dos años. No se permiten incrementos para las unidades de desván vacías.

Hoteles y Apartamentos de una Sola Habitación

No habrá ningún aumento de la renta este año para los apartamentos de hotel de Clase A, casas de habitaciones, hoteles de clase B (de 30 habitaciones o más), hoteles de una sola habitación, y las casas de habitaciones (Clase B, 6-29 cuartos). No se permiten incrementos para apartamentos vacíos.

La Desregulación de Rentas Altas y Altos Ingresos (1) Los apartamentos que legalmente se alquilan por \$2,000 o más por mes y que se desocuparon entre el 7 de julio de 1993 y el 1ro. de octubre de 1993, o en o desde del 1ro de abril de 1994 son sujetos a la desregulación. (2) La misma desregulación se les aplica, para el mismo periodo establecido en (1), a los apartamentos que legalmente pagan \$2,000 o más mensualmente aunque no se desocupen, si el ingreso total de la familia es más de \$175,000 en los dos años consecutivos previos. Para cumplir los requisitos de esta segunda forma de desregulación, el casero tiene que enviarle un formulario de certificación de ingreso al inquilino entre el 1ro de enero y el 1ro de mayo, así como someter dicho formulario al DHCR y conseguir su aprobación.

Para pautas previas, llame a la RGB al 212-385-2934 o busque el sitio www.housingnyc.com.

Tipo de Contrato	Renta Legal Actual	Contrato de 1 Año	Contrato de 2 Años	
Renovación del Contrato	Si el dueño paga la calefacción	3.5%	6.5%	
	Si el inquilino paga la calefacción	3%	6%	
Contratos para Apartamentos Vacíos	Más de \$500	Incrementos por desocupación cobrados en los últimos 8 años	17%	20%
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, más el 17%	0.6% por el número de años desde el último incremento por estar vacío, más el 20%
	Menos de \$300	Incrementos por desocupación cobrados en los últimos 8 años	17% + \$100	20% + \$100
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, + 17% + \$100	0.6% por el número de años desde el último incremento por estar vacío, + 20% + \$100
	Renta de \$300 a \$500	Incrementos por desocupación cobrados en los últimos 8 años	17% o \$100, lo que sea mayor	20% o \$100, lo que sea mayor
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, mas 17%, o \$100, lo que sea mayor	0.6% por el número de años desde el último incremento por estar vacío, mas 20%, o \$100, lo que sea mayor

La guerra

viene de la página 3

asumida por Schumer en contra de la vivienda: apoyar la guerra en Irak.

En cierto momento tenemos que mirar más allá de nuestros problemas de vivienda centrales y empezar a hablar de la guerra. La guerra agota los recursos terriblemente y generalmente da resultados terribles—como hemos visto en Irak. En un instante abandona todas las prioridades de la izquierda—vivienda asequible, salud, educación—en la lista de problemas urgentes; cuando por fin emergemos de la histeria, ya es demasiado tarde. Nunca materializó el susodicho “dividendo de paz” de los años 90, que iba a permitir inversiones generosas en los programas internos después de la guerra fría. Ahora, con la “guerra contra el terror” y la guerra y la subsiguiente ocupación de Irak, no se puede decir cuándo podremos hablar racionalmente de los problemas que enfrenta la gente pobre y de clase trabajadora en el país.

La guerra puede ser una fuerza

que da algún sentido, pero también es una fuerza que representa un desastre para las políticas internas humanas. Cuando vamos a la guerra, no debemos olvidar pesar esta ecuación con cuidado y prepararnos para políticas internas regresivas. Puede ser que de alguna manera la guerra sea la mejor opción en algunos casos, pero para los que están luchando con los problemas como la vivienda, representa una carga difícil de superar.

La política trata de prioridades. Los \$200 mil millones o más que se habrán gastado en la guerra en Irak para el fin del año que viene son \$200 mil millones que no se gastaron en la implementación de políticas progresistas. A la vez que Bush estaba tomando medidas para cortar marcadamente los vales de Sección 8, conducía a nuestro país a un esfuerzo de “reconstrucción” en Irak, que incluyó la edificación de vivienda—vivienda recientemente destruida por nuestras bombas. Entonces, a la vez que nuestro gobierno asevera que no tiene los recursos para mantener uno de

nuestros más eficaces programas de subvención de vivienda, sí puede hallar suficiente dinero para destruir la vivienda de otro país y después reconstruirla. Usualmente, el miedo y la irracionalidad dan origen a la guerra; la guerra engendra más miedo e irracionalidad.

Por eso, nosotros en el movimiento de vivienda no podemos fingir que nuestros problemas existen en un vacío. Si tomamos en serio el incremento de recursos para asegurar que todos tengan una vivienda segura y asequible, también tenemos que tomar en serio la creación de un ambiente en que se perciben estos recursos como una prioridad. Tenemos que empezar a comunicar

un mensaje sencillo. Cuando nuestros amigos en torno a los problemas centrales de vivienda respaldan acciones como la guerra en Irak, están socavando su propia capacidad para abogar eficazmente por las mismas cuestiones de vivienda para las que les respaldamos. Hiciéramos bien en recordar lo que pasó a la “Gran Sociedad” que imaginó Lyndon Johnson en los años 60. Empantanada en los gastos y las bajas de la guerra en Vietnam, seguía siendo postergada. Al final, se desvaneció.

Gabriel Thompson es miembro de la junta directiva de Met Council.

Ahora se requiere detectores de monóxido de carbono

Una nueva ley municipal que entró en vigencia el 1° de noviembre obliga a los caseros instalar detectores de monóxido de carbono en apartamentos donde el edificio se calienta por medio de una caldera que quema hidrocarburos o en apartamentos expuestos a alguna otra fuente de monóxido de carbono. Los caseros tienen que instalar los detectores dentro de 15 pies de cada dormitorio (o cualquier cuarto que se utilice para dormir) y proporcionar al inquilino información sobre cómo mantenerlos. Es legal utilizar aparatos combinados que detectan tanto humo como monóxido de carbono.

El monóxido de carbono es un gas tóxico inoloro, subproducto de la quema de hidrocarburos como el petróleo, carbón o gasolina. Se une a proteínas en la sangre de tal manera que impide la absorción de oxígeno por el cuerpo.

Una vez que se instale los detectores, es responsabilidad del inquilino darles mantenimiento. El casero puede cobrar al inquilino \$25 por cada uno; el inquilino tiene un año para pagar la cuota. Si su casero todavía no ha instalado el monitor, escríbale una carta diciendo que usted espera recibir uno y señalando al casero cómo ponerse en contacto con usted para fijar la hora de la instalación. Si no recibe una respuesta, comuníquese con la ciudad al número de teléfono central para quejas, 311.

War & Housing

continued from page 1

prepare for regressive domestic policies. War might still be the best option in some cases, but for those fighting on issues like housing, that's a pretty heavy burden to overcome.

Politics is about priorities. The \$200 billion or more that will have gone into the Iraq war by the end of next year is \$200 billion that wasn't used to implement progressive policies. At the same time that Bush was moving to cut back dramatically on Section 8 vouchers, he was leading our country into a “rebuilding” effort in Iraq that included the construction of housing—housing which was recently destroyed by our bombs. So while our government claims that it does not have the resources to maintain one of our most effective housing-subsidy programs, it can find the money to destroy the housing of another country and then build it back up again. Fear and irrationality usually give birth to war; war breeds further fear and irrationality.

That's why we in the housing movement can't pretend that our issues exist in a vacuum. If we're serious about radically increasing the resources to ensure that everyone has safe and affordable

housing, we've also got to be serious about creating an environment where those resources are seen as a priority. We have to start communicating a simple message. When our friends on core housing issues endorse actions like the invasion of Iraq, they are undermining their very ability to advocate effectively on behalf of the housing issues for which we are endorsing them. We would do well to remember what happened to the “Great Society” envisioned by President Lyndon Johnson in the 1960s. Bogged down with the increasing costs and casualties of the war in Vietnam, it continued to be put off. Eventually, it faded away.

Gabriel Thompson is a Met Council board member.

Complaint Numbers

To reach the Department of Housing, Preservation and Development's Central Complaints hotline, call 311.

Also call 311 to reach the Department of Buildings and other city agencies.

No se quede helado: ¡ORGANÍZASE!

La ley requiere que su casero proporcione calefacción y agua caliente a las temperaturas siguientes, desde el 1ro de octubre hasta el 31 de mayo:

Desde las 6 a.m. hasta las 10 p.m.: Si la temperatura afuera es de menos de 55 grados, la temperatura adentro debe ser al menos de 68 grados en todo el apartamento.

Desde las 10 p.m. hasta las 6 a.m.: Si la temperatura afuera es de menos de 40 grados, la temperatura adentro debe ser al menos de 55 grados en todo el apartamento.

Se tiene que proporcionar agua caliente a un mínimo de 120 grados en el grifo las 24 horas del día, todo el año.

Si su casero no mantiene estas temperaturas mínimas, usted debe:

- * Comenzar una “Acción HP” (HP Action) en la Corte de Vivienda. Pida una inspección por orden de la corte y una Orden de Corrección (Order to Correct)
- * Llamar al Buro Central de Quejas (Central Control Bureau) de la ciudad de Nueva York al 311 inmediatamente, para documentar la violación del casero. Llame repetidamente. Se supone que un inspector vendrá eventualmente, aunque a veces no lo haga.
- * Exhortar a los otros inquilinos en el edificio a llamar al Central Complaint. Todos deben llamar repetidamente, al menos una vez al día, todos los días en que tengan problemas con la calefacción.
- * Comprar un buen termómetro para afuera y adentro, para documentar las fechas exactas, las horas, y las temperaturas, tanto afuera como adentro, mientras tenga problemas con la calefacción. Esta documentación es su evidencia
- * Llamar a la División de Vivienda y Renovación Comunal del Estado de Nueva York (DHCR, por sus siglas en inglés) al (718) 739-6400, y pedir que le envíen el formulario de Queja de Calefacción y Agua Caliente. Llene el formulario y consigue la



participación de todos los inquilinos en su edificio que pueden firmarlo. Reclame una orden para restaurar la calefacción y el agua caliente, y que se reduzcan y congelen (¡disculpe lo de “congelen”!) todas las rentas.

- * Necesitarán una fuerte asociación de inquilinos para obligar al casero a proporcionar calefacción y agua caliente. Escriban y llamen al casero para demandar reparaciones y aceite. Prepárense para una huelga de renta (sobre todo con asesoría legal)—de relámpago si es necesario.

Las leyes sobre la calefacción establecen también:

- * Que el Departamento de Reparaciones de Emergencia de la ciudad le proporcione la calefacción si el casero no lo hace. (No se siente en un bloque de hielo—otra vez, ¡disculpe!—mientras espere que lo haga.)
- * Una multa de \$250 al casero por cada día que se produzca la violación. (Pero la verdad es que la Corte de Vivienda raras veces impone las multas, y menos aun las cobra.)
- * Una multa de \$1,000 al casero si algún aparato de control automático se instala en la caldera para mantener la temperatura por debajo del mínimo legal.
- * Si el tanque de combustible de la caldera está vacío, los inquilinos tienen el derecho de comprar su propio combustible después de haber pasado 24 horas sin calefacción y también sin obtener ninguna respuesta del casero. Esto no se aplica si la caldera está rota y necesita tanto reparación como combustible.

¡Cuidado! ¡proteja su dinero! Si los inquilinos deciden comprar el combustible, hay que seguir los procedimientos legales cuidadosamente. Consiga la ayuda y el consejo de un organizador de inquilinos. La existencia de leyes de calefacción y agua caliente vigentes no garantiza que el gobierno las implemente. No se quede helado por esperar que la ciudad o el estado actúe. ¡Organízese!

State Senate Results Bring Hope for Tenants

By Kenny Schaeffer

Despite the devastating national election results, tenants in New York City should take cheer from the gain of at least three seats by Democrats in the state Senate, which will narrow the Republican majority to 35-27.

Democrats swept the three contested races in the city. Assemblymember Jeffrey Klein won the seat formerly held by disgraced Bronx Republican chair Guy Velella. Jose Serrano trounced party-turncoat incumbent Olga Mendez in the East Harlem/Bronx district, with more than 80 percent of the vote. And Diane Savino, the fiery former political action director of SEIU Local 371, captured the Staten Island/Brooklyn seat of retiring Democrat Seymour Lachman.

The good news was not confined to the city. In Syracuse, Republican Nancy Lorraine Hoffman (who defected from the Democrats a few years ago) was narrowly defeated by Dave Valesky. Democrats may also pick up another seat in Yonkers, where county legislator Andrea Stewart-Cousins trailed

Republican incumbent Nicholas Spano by about 1,700 votes at press time, with thousands of paper ballots yet to be counted and allegations of fraud from both sides. Spano opposed renewing rent regulations on a key vote in 1997.

The new breed of state senators, under the leadership of David Paterson, Eric Schneiderman and Liz Krueger, is committed to taking back control of the Senate in the next two elections (2006 and 2008). They will now only need to pick up five more seats—four if Stewart-Cousins pulls off an upset—to accomplish this. The task was made more difficult by the Legislature's redistricting in 2002, when the Democratic-controlled Assembly allowed state Senate Majority Leader Joseph Bruno to gerrymander Senate district lines to maximize Republican seats in exchange for him letting Democrats draw the lines for the Assembly.

Pressure from his left has already caused Bruno to adopt some more populist positions. Last spring, over the vociferous

opposition of the business community, he allowed the Senate to pass an increase in the state minimum wage from \$5.15 to \$7.15 an hour. Following Gov. Pataki's veto, Bruno told the *Daily News* that the Senate will join the Assembly in overriding it.

Recapturing the state Senate would be of utmost importance in the fight to preserve and strengthen New York City's rent and eviction protections, which expire in 2011 and cover one million rent-stabilized apartments housing more than 2.4 million New Yorkers. Because the 1971 Urstadt Law deprives the city of home rule over rent regulations, the rent laws were progressively weakened in Albany when they came up for renewal in 1994, 1997, and 2003. The Senate has also blocked enactment of laws protecting Mitchell-Lama tenants

facing deregulation. Virtual vacancy decontrol now applies in many neighborhoods in the city, as landlords raise rents on vacant apartments above \$2,000 legally or illegally and claim exemption from stabilization, knowing few tenants have the knowledge or resources to challenge it.

No amount of the investment being considered to create new affordable housing—billions of dollars to create tens of thousands of new units—will ameliorate the city's worsening housing crisis if the one million affordable units currently under stabilization—which are being lost at an alarming rate—are not preserved by strengthening the rent laws. This can only be done by loosening Joe Bruno's iron grip on the state Senate, and this year's election marked a significant first step.

Rent-Regulation Rejecter Rides Out of Rikers

Disgraced Republican State Senator Guy Velella, whose early release from the Rikers Island jail last month by a virtually unknown city panel caused a scandal that forced the board's head to resign, had a strongly anti-tenant record in Albany.

Velella had served three months of a one-year sentence for taking bribes. He was freed by the Local Conditional Release Commission, which has gotten more than 7,000 applications for early release from city prisoners so far this year—and granted five, three of them to Velella and two co-defendants.

"I cry in my cell at night before I try to sleep," Velella wrote to the board last summer—although it was not apparent whether he was experiencing remorse for his crimes or for getting caught.

More than 30 people wrote letters urging the commission to free Velella, including former mayor Ed Koch, state Senate Majority Leader Joseph Bruno, and various Bronx politicians. He got a ride out of Rikers from the head of the guards' union.

Velella, who represented the north Bronx and southern Westchester for 18 years until last May, when he resigned and pleaded guilty to the bribery charges, was one of the three state senators from New York City who voted against renewing the state's rent regulations in 1997. He was the only one of the three to draw significant Democratic opposition in the years after that, but still won the endorsement of Local 1199, the once-progressive health-care workers' union. The Bronx Democratic machine either endorsed him or gave lukewarm support to his opponents.

After Velella drew a strong challenge from Democrat Lorraine Coyle-Koppell in 2000, his district was reconfigured to avoid black neighborhoods in Mount Vernon and the Bronx and excise the block where Coyle-Koppell lived. Its resulting shape resembled a lobster shaking hands with a very surprised cat.

—Steven Wishnia and Kenny Schaeffer

BECOME A WRITING TENANT

Met Council wants to profile you and your neighbors' struggle to obtain affordable quality housing. We want you to write for *Tenant/Inquilino*.

For more information call Met Council 212-979-6238

Don't Freeze—Organize!



The law requires your landlord provide heat and hot water at the following levels from October 1 through May 31:

From 6 am to 10 pm: If the outside temperature falls below 55 degrees, the inside temperature must be at least 68 degrees everywhere in your apartment.

From 10 pm to 6 am: If the outside temperature falls below 40 degrees, the inside temperature must be at least 55 degrees everywhere in your apartment.

Hot water at a minimum 120 degrees at the tap must be provided 24 hours a day, year round.

If your landlord does not maintain those minimum temperatures, you should:

- * Start an "HP action" in Housing Court. Ask for a court-ordered inspection and an Order to Correct.
- * Call the New York City Central Complaints Bureau at 311 immediately to record the landlord's violation. Call repeatedly. An inspector should eventually come, although sometimes they don't.
- * Get other tenants in your building to call Central Complaint. Everybody should call repeatedly, at least once every day the condition is not corrected.
- * Buy a good indoor/outdoor thermometer and keep a chart of the exact dates, times, and temperature readings, inside and out, so long as the condition is not corrected. The chart is your evidence.
- * Call the New York State Division of Housing and Community Renewal at (718) 739-6400 and

ask them to send you their Heat and Hot Water complaint form. Get as many other apartments as possible in your building to sign on, demanding an order restoring heat and hot water, and a reduction and freeze (pardon the expression!) in all the rents.

You'll need a strong tenant association to force the landlord to provide heat and hot water. Write and call the landlord and demand repairs or fuel.

Prepare to go on rent strike—but get legal advice first.

The heat laws also provide for:

- * The city's Emergency Repair Department to supply your heat if the landlord does not. (Try waiting for this one!)
- * A \$250 a day fine to the landlord for every day of violation. (But the Housing Court rarely imposes these fines, let alone collects them.)
- * A \$1,000 fine to the landlord if an automatic control device is put on the boiler to keep the temperature below the lawful minimum.

If your boiler's fuel tank is empty, tenants have the right to buy their own fuel after 24 hours of no heat and no response from the landlord. But this provision does not apply if the boiler is broken and needs both repairs and fuel.

Caution! Protect your money! If you decide to buy fuel, you must follow special lawful procedures very carefully. You should get help and advice from a tenant organizer.

Because the heat and hot water laws are in the law books does not mean they are enforced by government. Don't freeze to death waiting for the city or state to act. Organize!

City Moves on New Lead Law; Advocates Push for More Protection

By Janelle Nanos

Back in June 2003, the city's health commissioner stood before the City Council and blasted a bill designed to reduce children's exposure to lead paint. Intro 101A, as it was then known, "is not consistent with federal guidelines," he said, and it's "not targeted to those at greatest need."

Now, roughly three months after Local Law 1 was enacted over these concerns and Mayor Bloomberg's veto, advocates say the Department of Health (DOH) is working hard to implement the stringent new rules.

In June, DOH began a widespread public-awareness campaign, reaching out to both parents and physicians with flyers and subway ads to better educate them about the threat of lead. Whenever a child tests positive for lead exposure, the landlord has 21 days to correct hazard-

ous conditions in the home. It is also working closely with the Department of Housing Preservation and Development to ensure that landlords routinely inspect and correct peeling paint and other violations.

"The city is making much better use of its resources," said Matthew Chachère, an attorney with the Northern Manhattan Improvement Corporation, who helped draft the legislation. "We won't have data for some time to know if our lead-poisoning rates go down. But if the bill is properly implemented, it could have a great effect."

Not great enough, say some local parents. On Oct. 12, roughly a dozen parents of lead-poisoned children clustered outside the Department of Health offices, asking Commissioner Thomas Frieden to lower the threshold at

which it considers a child "poisoned."

Under the current law, DOH regularly tests all children under the age of 6 and notifies the family when a child is found with a blood lead level of 10 micrograms or more per deciliter ($\mu\text{g}/\text{dl}$) in his or her body. At 15 $\mu\text{g}/\text{dl}$ or more, the agency can order the landlord to do remediation.

"We don't want to wait until a child's level becomes elevated," said Deborah Nagil, director of the Lead Poisoning Prevention Program for DOH. "HPD is there to prevent poisonings and make landlords live up to the law. We kick in when levels reach ten [$\mu\text{g}/\text{dl}$] and above."

While acknowledging this as a step in the right direction, the parents, organized by the nonprofit Pratt Area Community Council, aren't satisfied. They cite a 2003 study re-

leased in the *New England Journal of Medicine* that found that children with lead levels as low as five $\mu\text{g}/\text{dl}$ can still suffer neurological damage and a drop in IQ. They're hoping to persuade the Health Department to lower the acceptable lead level to five $\mu\text{g}/\text{dl}$.

"Lead is not known to be safe in any quantity," said Dr. John Rosen, director of pediatrics at Montefiore Medical Center in the Bronx. Yet since the federal standard has hovered at 10 $\mu\text{g}/\text{dl}$ for over a decade, he said, the likelihood of a state or local office intervening at a lower level

is a long shot at best.

The parents at the protest were still hopeful. "One in two children in these neighborhoods are affected by lead poisoning and we need to take this out of the hands of the landlords," said Shannon Casey, a Park Slope resident whose 11-month-old son has a lead level of nine $\mu\text{g}/\text{dl}$. "Currently the city is saying his level is not a problem, and they're offering no treatment for him and so many others."

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Attention All On-line!

If you have an e-mail address, join the Met Council "ACTIVE! list." We'll send you alerts about demonstrations, hearings and other activities. Simply send us a message, subject heading "subscribe", to: active@metcouncil.net

NYC Rent Guidelines Board Adjustments (Order No. 36)

for Rent Stabilized Leases commencing Oct. 1, 2004 through Sept. 30, 2005

This rent guidelines table shows the maximum increases landlords in New York City can legally charge for rent stabilized apartments on all leases commencing in the twelve-month period beginning October 1, 2004. Increases in rent based on the 1- or 2-year renewal guidelines can be charged only once during the period covered by the guidelines, and must be applied to the legal stabilized rent on September 30, 2004. The above guidelines and vacancy bonuses do not apply to an apartment which was rent controlled on that date. There is no low rent supplement, a.k.a. poor tax, allowed.

Sublease Allowance

Landlords can charge a 10 percent increase during the term of a sublease that commences during this guideline period.

Vacancy Leases

In June 1997, Governor George Pataki, as a part of his efforts to destroy rent regulation, forced changes that gave landlords large vacancy bonuses. Provisions of his Rent Regulation Reform Act of 1997 allow the rents of apartments to rise by a statutory percentage: 20 percent for a 2-year lease, and 20 percent minus the difference between the 1- and 2-year renewal guidelines for 1-year leases. The law also allows additional vacancy increases for apartments which have had no vacancy allowance in eight or more years.

Rent Overcharges

Tenants should be aware that many landlords will exploit the complexities of these guidelines and bonuses, and the tenant's unfamiliarity with the apartment's rent history, to charge an illegal rent. The tenant can choose be-

Lease Type	Current Legal Rent	One-year Lease	Two-year Lease	
Renewal Leases	Landlord pays heat	3.5%	6.5%	
	Tenant pays heat	3%	6%	
Vacancy leases	More than \$500	Vacancy allowance charged within last 8 years	17%	20%
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 17%	0.6% times number of years since last vacancy allowance, plus 20%
	Less than \$300	Vacancy allowance charged within last 8 years	17% plus \$100	20% plus \$100
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 17% plus \$100	0.6% times number of years since last vacancy allowance, plus 20% plus \$100
	Rent \$300 to \$500	Vacancy allowance charged within last 8 years	17% or \$100, whichever is greater	20% or \$100, whichever is greater
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 17%, or \$100, whichever is greater	0.6% times number of years since last vacancy allowance, plus 20%, or \$100, whichever is greater

tween filing an overcharge complaint with the Division of Housing and Community Renewal or challenging the rent in Housing Court to get a determination of the legal rent.

A prospective tenant who expresses knowledge of their rights will probably not be given a lease to sign. Landlords avoid renting to tenants who may be troublesome. Overcharging is very common. Every tenant should challenge possible overcharge. With DHCR, obtain and fill out *Form RA-89* to determine the correct rent from official records. Call DHCR at (718) 739-6400 to obtain the form or go to: www.dhcr.state.ny.us

Fair Market Rent Appeal

Another type of overcharge frequently occurs at the time that a previously rent controlled apartment becomes vacant and is re-rented as a stabilized unit. The Rent Guidelines Board an-

nually sets what they call the "Special Fair Market Rent Guideline" that is used by DHCR to lower unfair market rents for tenants who file the Fair Market Rent Appeal (FMRA). Under Order 36, it is HUD Fair Market Rent or 50% above the maximum base rent., whichever is higher. No stabilized tenant of an apartment that was decontrolled on or after April 1, 1984 should fail to challenge the so-called Initial Legal Regulated Rent (market rent) that landlords charge upon decontrol. Use DHCR *Form RA-89*. Indicate clearly that your complaint is both a complaint of "overcharge" and "Fair Market Rent Appeal." The Housing Court cannot determine a Fair Market Rent Appeal. Formerly controlled vacant apartments in buildings converted to co-ops or condos do not become stabilized and are not eligible for a Fair Market Rent Appeal.

Senior Citizen Rent Increase Exemption

Rent stabilized seniors, 62 years or older, whose disposable annual household income is \$24,000 or less and who pay (or face a rent increase that would cause them to pay) one-third or more of that income in rent may be eligible for a Senior Citizen Rent Increase Exemption (SCRIE) if they apply to the NYC Dept of the Aging, SCRIE Unit at 2 Lafayette Street, NY, NY 10007. If an otherwise eligible tenant's current rent level is already above one-third of income, it cannot be rolled back, but future rent increases may be avoided. Obtain the SCRIE application form by calling (212) 442-1000.

Loft Units

Legalized loft unit increases above the base rent are 2.5 percent for a one-year lease and 5.5 percent for two years. No va-

cancy allowance is permitted on vacant lofts.

Hotels and SROs

The board voted to freeze rents for Class A apartment hotels, lodging houses, Class B hotels (30 rooms or more), single room occupancy (SROs) hotels, and rooming houses (Class B, 6-29 rooms). No vacancy allowance is permitted. Landlords cannot collect an increase over the rent charged on September 30, 2004 between October 1, 2004 and September 30, 2005.

High-rent, High-income Deregulation

(1) Apartments legally renting for \$2,000 or more a month that became vacant from July 7, 1993 through October 1, 1993, or on April 1, 1994 and thereafter are subject to deregulation. (2) The same deregulation applies in the time periods set forth in (1) above to apartments legally renting for \$2,000 or more a month without their becoming vacant if the total household income exceeds \$175,000 in each of the prior two consecutive years. To be eligible for this second form of deregulation, the landlord must send an income certification form to the tenant between January 1 and May 1 and file it with and get the approval of DHCR.

For previous guidelines call the RGB at 212-385-2934 or go to www.housingnyc.com.



West Siders Fighting for Permanent Affordable Housing

By Harvey Epstein

The Bloomberg Administration has launched a plan to transform the West Side of Manhattan by building a 75,000-seat football stadium, 28 million square feet of office and commercial space, and 16,000 units of mostly market-rate housing. What the Mayor has totally forgotten is a plan for affordable housing. West Side community organizations like Housing Conservation Coordinators, the Hell's Kitchen Neighborhood Association, and the Hell's Kitchen/Hudson Yards Alliance have been actively opposing the Mayor's plan by mobilizing hundreds of community residents to fight for permanent affordable housing, no stadium, more open space, and less commercial and office development. As the plan unfolds, our strategy seems to be paying off.

Over the past year, both Public Advocate Betsy Gotbaum and City Comptroller William Thompson have spoken publicly against the plan. Manhattan Borough President C. Virginia Fields has endorsed parts of the plan, but has stated publicly that she opposes the stadium and wants a concrete plan for affordable housing. The Newman Institute and the Regional Planning Association have both told the Bloomberg administration that its plan is seriously flawed and needs less commercial development and more housing, particularly affordable units.

Although the City Planning Commission will likely vote on Nov. 22 (at 1 p.m. at 22 Reade St.) to approve the plan, the commissioners have loudly noted their concern about the lack of permanent affordable housing in it. The large grass-roots movement on the West Side has forced the administration to concede that it needs to incorporate more affordable housing; Housing Preservation and Development Commissioner Shaun Donovan has said repeatedly that the city will increase the number of affordable units in the plan. After the City Planning Commission acts, the City Council will have the opportunity to vote on the plan and to negotiate changes.

The Campaign for Inclusionary Zoning, made up of community organizations from around the city, sees the Hudson Yards rezoning as the first opportunity to force the city to include a mechanism for "mandatory inclusionary zoning," a zoning requirement that requires the developer to dedicate a percentage of the units built to be permanently affordable housing. The housing-activist community should likewise see this plan as an opportunity to develop permanent affordable housing. A mandatory inclusionary housing component in the Hudson Yards rezoning could set a precedent that would require similar affordable-housing production as a component of all future rezonings.

The *Tenant/Inquilino* October 2004 article "West Side Cowardice: Pols Protect Careers, Not Residents" by John Fisher contained many factual errors, and it also discounted the efforts of hundreds of local residents who have volunteered their time and resources to achieve a positive solution and to champion affordable housing. The Hell's Kitchen/Hudson Yards Alliance is a coalition of community groups, local elected officials, and local residents that operates on a strictly volunteer basis. Elected officials and community organizations dedicate staff time and resources to work with neighborhood residents to operate the coalition, and residents donate their own time to participate. In his article, Mr. Fisher incorrectly stated that the coalition is funded by Deutsche Bank, and outrageously insinuates a connection between the two. Housing Conservation Coordinators independently received a grant from Deutsche Bank to conduct outreach and education in the neighborhood about the Hudson Yards plan and other community issues; this is typical and routine funding for a not-for-profit organization.

The article also misrepresented positions the Alliance has taken and the concrete changes that have resulted from our work. The Alliance, the Hell's Kitchen Neighborhood Association, and Community Board 4 have all opposed the current city plan. We have strongly opposed the stadium, worked for affordable housing (including a mandatory inclusionary component), opposed the proposed boulevard that will require the condemnation of local businesses and residences, criticized the planned extension of the no. 7 subway line, and opposed the overall plan's excessive commercial density.

When Community Board 4 and Borough Board voted on the plan, both agreed to base zoning which would create mostly low-rise residential and limited commercial buildings, but they voted against the zoning text change which would allow the plan's 80-story towers. They voted to approve rezoning manufacturing spots to commercial and residential (provided it includes permanent affordable housing), but against the proposed bonuses that would allow 80-story towers. As a result of both of those votes, the city has once again modified its plan, changing it to provide less commercial and more residential development, and less overall bulk. That sounds like negotiation to me.

As our community mobilizes against powerful foes who would see our neighborhood transformed into a wall of exclusive luxury residences and monstrous office towers, we would appreciate

the support and involvement of both Mr. Fisher and Met Council. We are in a crucial stage of our struggle. The City Planning Commission will likely approve the plan on Nov. 22, and we will then move into the final phase of the Uniform Land Use Review Procedure.

Those of us who share the same goals—affordable housing, human-scale development, and the inclusion of neighborhood residents in public decision-making—should sort out our internal disagreements through conversation and engagement. Mr. Fisher should learn his facts before attacking a community group, Met Council should inform itself before printing misleading polemics, and we should all work together to resolve misunderstandings among West Side residents before

they take on such a destructive form.

Editor's Note

Last month, John Fisher's article on the proposed West Side development plan drew quite a bit of controversy. This month, we are publishing a response to it by Harvey Epstein of Housing Conservation Coordinators. Not every article we publish represents the opinions of Met Council. We welcome discussion and debate within the tenant movement and the housing community.

Boston Gets New Rent-Control Plan

Ten years after a statewide referendum abolished rent control in Massachusetts, Boston tenant advocates have introduced a new plan to limit rents in the city.

The Boston Community Stabilization Act, filed in the City Council on Oct. 20, would set up an agency where tenants could appeal excessive rent increases. Initiated by the Boston Tenant Coalition, an alliance of 70 housing and community groups, the act has also been endorsed by five of the city's 13 Councilmembers.

The measure would cover buildings of seven or more units built before 2002. It would let tenants appeal rent increases if they exceeded either 10 percent a year or twice the increase in the Consumer Price Index, whichever is greater. Elderly, poor, or disabled tenants could appeal increases above 5 percent or the CPI, which-

ever is greater. The proposal also contains protections for small owners against foreclosure and predatory loans.

The Council defeated a similar measure sponsored by Mayor Thomas Menino in 2002, and the state legislature would have to approve this one for it to become law.

The bill "will allow low-moderate income families and individuals some security, and help to stabilize Boston neighborhoods which are comprised of both renters and homeowners," the Boston Tenant Coalition said in a statement. Since rent control was abolished, according to the coalition, renters have been hit with increases of as much as \$800 a month, and new "affordable" housing has been aimed at people making \$50,000 a year or more.

—Steven Wishnia

Carbon-Monoxide Detectors Now Required

A new city law went into effect on November 1 that requires landlords to install carbon-monoxide detectors in apartments where the building is heated by a furnace that burns fossil fuel, or in apartments that are exposed to some other source of carbon monoxide. Landlords must install the detectors within 15 feet of each bedroom (or any room used for sleeping) and supply the tenant with information on how to maintain them. It is legal to use combined devices that detect both smoke and carbon monoxide.

Carbon monoxide is a toxic, odorless gas that is a by-product of burning fossil fuels, such as oil, coal, or gasoline. It attaches itself to proteins in the blood in such a way that it prevents the body from absorbing oxygen.

Once the detectors are installed, it is the tenant's responsibility to maintain them. The landlord can charge the tenant \$25 for each one, and the tenant has a year to pay the fee. If your landlord has not installed the monitor yet, write him/her a letter saying that you expect one and tell the landlord how to contact you to schedule the installation. If you don't get a response, contact the city via the central complaint number, 311.

Supreme Court

continued from page 1

tal issues, New York Attorney General Eliot Spitzer argues in an amicus brief filed with the Supreme Court by 19 states. "Courts will be required to closely scrutinize not the reasonableness of a regulation, but whether the legislative 'means' chosen by the elected members of state government will, in the court's own view, achieve their 'ends.'"

That standard is so broad and vague that it could "allow the court to throw out any law it doesn't like," says Seth Miller, a partner in Collins' law firm. If this test were applied to rent control, he worries, the courts could abolish it simply because it hasn't resolved the city's housing shortage.

"Everybody's antennae get raised because the case concerns commercial rent control," says James Grow, a lawyer with the National Housing Law Project in Oakland, but he suspects that "the usual paranoia might be misplaced." The 9th Circuit decision, he explains, was highly unusual. The appeals court declared the law a "regulatory taking" even though Chevron stipulated that it had not suffered any economic injury from it, and went on to "substitute their own judgment" for that of the Hawaii legislature. Given this, he believes that the Supreme Court probably agreed to take the case "to straighten

the mess out" on regulatory law, not to issue a radical new doctrine.

"It's an issue of concern," says Grow, but rent regulations will likely remain unscathed for now. Even Justice Antonin Scalia found them constitutional, in a 1988 case involving a San Jose law that let the city deny landlords' applications for special rent increases if it would cause a hardship for low-income tenants. Though forbidding excessive rents made landlords poorer and tenants richer, Scalia wrote, that was not necessarily unfair, because landlords could "plausibly be regarded as the source or the beneficiary of the high-rent problem."

Still, the justice left the door open to further challenges to rent regulations, stating that if their purpose was to protect the needy, then that burden "should be borne by the public as a whole," not by landlords. The strongest argument against that, contends Collins, is that rent control is not a "subsidy" to tenants; it is a way of preventing profiteering in a market where there is a severe housing shortage.

If there is a long-term danger to rent control from the federal courts, it would come from President Bush filling them with judges who are ideologically opposed to government economic regulations. Bush's support for judges with theocratic ideas about sexual morality has gotten far

more publicity, but the far right is also grooming and promoting free-market ideologues for the federal bench.

Current case law, which accepts the constitutionality of economic regulations, dates largely from the New Deal. But for the first third of the 20th century, the main precedent on such issues was the 1905 *Lochner v. New York* decision, which held that a New York State law setting a 10-hour maximum workday for bakers interfered with workers' and employers' freedom to agree on contracts. The Supreme Court used similar reasoning to strike

down laws against child labor and to let employers force workers to sign pledges that they wouldn't join unions. "*Lochner* is what lawyers use as shorthand for the bad old days of the 1920s," says Seth Miller.

A return to *Lochner* "is a looming threat," says Collins. If the courts claim the power to second-guess regulations on a broad scale, it could "permit the market and property rights to trump democratic decision-making." Property rights shouldn't trump all other concerns, he adds, but "that's what the far right wants."

Long Beach Wins Rent-Control Case

A state appeals court has overturned a lower-court ruling ordering the city of Long Beach to pay more than \$6 million to two landlords because it didn't abolish rent control in their buildings.

The owners of two apartment complexes in the Long Island city had contended that because the vacancy rate in buildings of 100 or more units had exceeded 5 percent for three months in the spring of 1996, the city of Long Beach should have abolished rent stabilization for that category of buildings. The city argued that the high vacancy rate was a tem-

porary condition.

The landlords sued the city for the amount of rent that they could have collected if their buildings had been decontrolled, and a State Supreme Court special referee awarded them the money in 2002. But on Oct. 27, the Appellate Division of State Supreme Court overturned that award, holding that the state Emergency Tenant Protection Act had no provision for such lost-rent penalties.

Lawyers for the landlords told *Newsday* that they plan to appeal.

—Steven Wishnia

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 61 E. 4th St. (btwn. 2nd Ave. & Bowery)
 Tuesdays 6:30 pm</p> <p>CHELSEA COALITION ON HOUSING
 Covers 14th St. to 30th St., 5th Ave. to the Hudson River.
 322 W. 17th St. (basement), CH3-0544
 Thursdays 7:30 pm</p> <p>GOLES (Good Old Lower East Side)
 525 E. 6th St. (btwn. Aves. A & B) Lower East Side tenants only, 212-533-2541.</p> <p>HOUSING COMMITTEE OF RENA
 Covers 135th St. to 165th St. from Riverside Dr. to St. Nicholas Ave.,
 544 W. 157th St. (basement entrance).
 Thursdays 8 pm</p> | <p>LOWER MANHATTAN LOFT TENANTS
 St. Margaret's House, Pearl & Fulton Sts.,
 212-539-3538
 Wednesdays 6 pm-7 pm</p> <p>VILLAGE INDEPENDENT DEMOCRATS
 26 Perry St. (basement), 212-741-2994
 Wednesdays 6 pm</p> <p>WEST SIDE TENANTS UNION
 200 W. 72nd St. Room 63; 212-595-1274
 Tuesday & Thursday 2-5 pm
 Tuesday & Wednesday 6-7:45 pm</p> |
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METROPOLITAN COUNCIL ON HOUSING

Met Council is a citywide tenant union.

Our phones are open to the public
 Mondays, Wednesdays & Fridays from 1:30 to 5 p.m.

We can briefly answer your questions, help you
 with organizing or refer you to other help.

212-979-0611

Join Met Council

Membership: Individual, \$25 per year; Low-income, \$15 per year; family (voluntary: 2 sharing an apartment), \$30 per year. Supporting, \$40 per year. Sustaining, min. of \$100 per year (indicate amount of pledge). For affiliation of community or tenant organizations, large buildings, trade unions, etc. call 212-979-6238.

My apartment is controlled stabilized unregulated other _____

I am interested in volunteering my time to Met Council. Please call me to schedule times and duties. I can counsel tenants, do office work, lobby public officials, attend rallies/protests.

Name _____

Address _____ Apt. No. _____

City _____ State _____ Zip _____

Home Phone Number _____ Email _____

Send your check or money order with this form to:
 Metropolitan Council on Housing, 339 Lafayette St., NY, NY 10012