

**DEFINITIONS OF RENT REGULATION STATUS
for the 2014 New York City Housing and Vacancy Survey**

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For purposes of the New York City Housing and Vacancy Survey (NYCHVS), the Census Bureau draws a scientifically selected sample of New York City housing units from among all those possible; i.e., the sample frame. The 2014 and 2011 New York City Housing and Vacancy Surveys (NYCHVS) used a sample based primarily on the 2010 Census and updated for units added by new construction or through alteration or conversion. Each rental unit in the sample must be assigned a rent regulation status.

The following describes the two-phase coding procedure applied to determine rent regulation status for each rental unit in the 2014 NYCHVS sample, and brief definitions of these rent regulation status categories under current law and regulations.

First Phase - Address Lists

HPD cleans and compiles address-level lists that are provided to the Census Bureau. These lists are based on information from the administrative records of the various federal, state and city agencies responsible for rent regulation. Each record is geo-coded (to identify valid, duplicate and alias addresses) and prepared in a format that the Census Bureau can use. HPD utilizes the following: annual apartment and building registration files from the New York State Division of Housing and Community Renewal (DHCR) for rent stabilized and rent controlled units, the addresses of public housing buildings owned and managed by the New York City Housing Authority, buildings regulated by New York State or New York City under the Mitchell-Lama program, buildings held and managed by the City under the *in rem* program, units whose rents are regulated by the New York City Loft Board, buildings whose rents are regulated under programs of the federal Department of Housing and Urban Development (HUD), and those regulated under Article 4 of the Private Housing Finance Law (PHFL) or under the City's Municipal Loan Program.

The largest of these lists contains the records for rent stabilized and rent controlled units. Under the Omnibus Housing Act of 1983, administration of rent control and rent stabilization in New York City became the responsibility of the New York State Division of Housing and Community Renewal (DHCR). In April 1984, owners of rent controlled units in buildings of six or more units were required to register these units and provide information on their tenancy and unit characteristics to DHCR. Owners of rent stabilized units are required to file registrations annually.

For the 2014, 2011, 2008, 2005 and 2002 NYCHVSs, HPD compiled as complete a list of rent-controlled and rent-stabilized units as possible by integrating several address list files provided by the state DHCR. In order to do this for the 2014 NYCHVS, HPD obtained from DHCR and merged the annual unit and building rent registration files covering the preceding five-year period (2009 – 2013), and selected the most recent registration status available for each unit. The annual apartment registration files include records of units classified as stabilized, exempt,

or vacant. HPD also obtained from DHCR records of units known to be controlled as of March 2014, based on records where building owners had requested an increase in the Maximum Base Rent or requested a Fuel Cost Adjustment. The file of controlled units excluded those that had been controlled at one time but were decontrolled because of the death of a tenant, relocation of a tenant, high income-high rent decontrol, or high rent vacancy. Based on these records provided by DHCR, HPD provided the most recent available rent regulation status (controlled, stabilized, or exempt) for a unit to the Census Bureau for its coding of regulatory status. For the 2014 NYCHVS, the sequence of the rent regulation coding procedure was adjusted to give greater precedence to DHCR's recorded rent regulation status than in the past. See appended Technical Note.

The Census Bureau matches sampled units against these administrative lists to determine an initial rent regulation status.

Second phase - Supplementary Information

The NYCHVS seeks to identify units that are subject to any rent regulation, not only those that are registered with DHCR or recorded on other administrative lists. Rent regulation status is not determined sufficiently by those records. In the second phase multiple sources of information are combined to apply other provisions and updates of law.

DHCR registration records may be incomplete for a number of reasons:

First, although the Omnibus Housing Act of 1983 required owners with rent controlled and rent stabilized apartments to register with the DHCR, the Rent Regulation Reform Act of 1993 substantially eased penalties for failing to register in a given year, so it is unlikely that all owners of stabilized units do register their buildings and units annually. Owners of buildings with rent-controlled units are not required to register those units annually.

Second, the Rent Regulation Reform Acts of 1993 and 1997 and the Rent Act of 2011 provided owners with certain terms and conditions related to vacancy, monthly rent levels and leaseholder incomes that allowed them to decontrol both rent controlled and rent stabilized units. This meant that annual registration information could be supplanted by subsequent decontrol on the part of the owner.

Third, rent controlled units can be passed to a next generation of close relatives or domestic partners who have shared the unit for a period of years with the original leaseholder.

Fourth, units in buildings receiving J-51 or 421-a tax benefits are supposed to operate under rent stabilization while the building continues to receive tax benefits. Such buildings should be, but are not always, included on DHCR's address lists.

For units with no match on any of the publicly regulated address lists, the Census Bureau then applies a further algorithm to incorporate, to the extent information is available, the major definitional criteria covered in the Local Emergency Rent Control Act of 1962, the 1969 Rent Stabilization Law, the 1974 Emergency Tenant Protection Act, the Omnibus Housing Act of 1983, the Rent Regulation Reform Acts of 1993 and 1997, and the Rent Act of 2011.

This phase determines whether a unit 1) should have been listed as controlled or stabilized but was not, or, 2) was at one point controlled or stabilized but should not have been by the time of

the NYCHVS interview; and 3) if identified as rent stabilized, should be coded as pre-1947 or post-1947, since this information does not appear on the DHCR files. For example, this supplementary procedure identifies units registered as controlled in 1984 that changed tenancy since then but for which no change in registration was filed, or units in cooperative or condominium buildings that were regulated at the time of a prior registration but changed tenancy since conversion, and exempt units whose owners have not registered them as exempt. The major definitional criteria covered in state and local rent control and rent stabilization laws that were applied in the Census Bureau's rent regulation status classification procedure include age of building, number of units in the building, move-in date of the current tenant, whether the building receives a 421-a or J-51 tax reduction benefit, whether the building is a cooperative or a condominium, whether the tenant moved in after date of coop/condo conversion, and contract rent level.

Below are descriptions of the rent control and rent stabilization categories, followed by descriptions of the other rent regulation categories covered in the NYCHVS.

Rent Controlled

Rent controlled units are subject to the provisions of the Rent Control Law and Regulations, which have jurisdiction over some occupied private rental units. All increases in rent are set and must be approved by the state DHCR. A Maximum Base Rent is established for each apartment and may be adjusted every two years to reflect changes in operating costs. Owners who certify that they are providing essential services and have removed violations are entitled to raise rents up to 7.5 percent each year until they reach the MBR. The following units are classified as rent controlled: units in buildings with three or more units constructed before February 1, 1947, where the tenant moved in before July 1, 1971, or units substantially rehabilitated prior to January 1, 1976 under the provisions of J-51, which were initially occupied by the current tenant prior to January 1, 1976; units in buildings with one or two units constructed before February 1, 1947 which were initially occupied by the current tenant prior to April 1953. Some controlled units may remain controlled by limited right of succession by a close family member or domestic partner. Some controlled units may remain in buildings converted to cooperatives or condominiums.

In addition, the rents of units in rental buildings aided by a loan under the Municipal Loan Program prior to September 1, 1986 are under statutory rent control, though not under the Maximum Base Rent system. In rental buildings aided by a loan after September 1, 1986, the units are subject to the Rent Stabilization Law. Municipal Loan units are covered in the second phase of the NYCHVS coding procedure where they are treated similarly to "Other Regulated."

Under law, all rent controlled apartments that are voluntarily vacated after June 30, 1971 are no longer subject to the jurisdiction of the Rent Control Law. If the unit is in a building with fewer than six units, it becomes decontrolled; if the unit is in a building with six units or more, it becomes rent stabilized.

Rent Stabilized

The rents of rent stabilized units in New York City are adjusted by the Rent Guidelines Board based on consideration of housing market conditions, economic trends, owner costs and revenues, availability of financing, changes in housing supply, affordability of rental housing, rental vacancy rates, cost of living indices and other data. The New York State Division of

Housing and Community Renewal maintains the official record of rent stabilized (and controlled) units in the City.

The rent stabilized category is divided into two parts: units built pre-1947 and units built in or post-1947.

Pre-1947 Stabilized

The following units are pre-1947 stabilized units: units in buildings with six or more units constructed before February 1, 1947 where the current tenant moved in on or after July 1, 1971; units that had been rent controlled but were decontrolled prior to July 1, 1971 under the luxury decontrol provisions of city rent regulations unless the current tenant moved in after the effective date of a cooperative or condominium conversion (if any).

In buildings that contained six or more units at the time stabilization went into effect, which were converted to five or fewer units at a later date, units would remain stabilized. If a landlord failed to properly register one of these units as stabilized, the DHCR does not correct it, and thus, it would be inaccurately coded as "other" for the purposes of this survey.

Post-1947 Stabilized

The following units are classified as post-1947 stabilized: units in buildings with six or more units that were constructed between 1947 and 1973 or after 1974 if the units receive a 421-a or J-51 tax benefit that is still in effect, and the current tenant moved in prior to a cooperative or condominium conversion (if any); units in buildings occupied prior to 1974 under the Mitchell-Lama program which have been "bought out" of the program. In addition, some housing units subject to regulation by virtue of various governmental supervision or tax benefit programs are subject to rent regulatory status pursuant to Section 2521.1(k) of the Rent Stabilization Code.

Public Housing

Rental units in structures owned and managed by the New York City Housing Authority are classified as Public Housing. Only households with specified low- or moderate-income levels may qualify as tenants. The Authority regulates terms and conditions of occupancy. Private housing leased by the Authority is not classified here as Public Housing.

Mitchell-Lama Rental

Rental units in buildings constructed under the provisions of Article 2 of the PHFL are classified as Mitchell-Lama Rental. Units in the sample are coded by the Census Bureau based on administrative records from the state and city agencies (DHCR and HPD) that are responsible for supervising these developments.

The Mitchell-Lama program is primarily housing for moderate income tenants; therefore, occupancy is restricted to households meeting certain income limitations. The mechanisms employed to keep rents at affordable levels include tax exemption, state- or city-provided low interest mortgages, and limitations of return on equity. In certain instances, federal subsidy programs are combined with the state and local assistance measures to achieve the program's objectives. Rents are directly regulated; adjustments are based on changes in operating costs, debt structure, and profitability in the particular project and must be approved by the appropriate state or city agency. Certain Mitchell-Lama projects were refinanced under 223F, National

Housing Act, and their rents are regulated by the U.S. Department of Housing and Urban Development (HUD).

Other Regulated Rental Housing

This category in tables of NYCHVS data prepared by the Census Bureau encompasses all other government-regulated units excluded from the control status classifications described above. It includes the following categories which can be isolated separately when using NYCHVS microdata files prepared by the Census Bureau for the NYCHVS.

(a) In Rem

In Rem includes units located in structures owned by the City of New York as a result of an *in rem* proceeding initiated by the city after the owner failed to pay tax on the property for 3 or more years for 1- and 2-family dwellings, or one or more years for a multiple dwelling. Though many of these units in multiple dwellings had previously been subject to either rent control or rent stabilization, they are exempt from both regulatory systems during the period of city ownership. Although some residual *in rem* units remain in City programs, since 1997 the City no longer takes direct possession of such tax delinquent, distressed properties. After an *in rem* judgment of foreclosure by the court, the City transfers title of such residential properties from the former owner to a new responsible, pre-qualified owner, without ever taking title to the property. A not-for-profit entity acts as an interim holding company to assist the transition.

(b) HUD Regulated

Unit is in a building which received a subsidy through a federal program which requires HUD to regulate rents in the building. These programs include Section 8 New Construction, Substantial and Moderate Rehabilitation as well as other subsidized construction and rehabilitation programs. They do not include units in buildings which receive federal mortgage guarantees. Units classified as HUD regulated indicate that the entire building is part of a federal program. This means that individual units that are part of a federal program in buildings that are not subject to oversight by HUD are excluded. For example, units whose tenants receive Section 8 existing certificates or rent vouchers would be excluded, unless the entire building is receiving HUD assistance. Some units that receive subsidies from more than one government source may be listed under another regulation category, such as Mitchell-Lama.

(c) Article 4

Unit is in a building that was constructed under Article 4 of the PHFL that is still covered by the provisions of the article. This program built limited-profit rental buildings for occupancy by households with moderate incomes.

(d) Loft Board Regulated Buildings

Unit is located in a building originally intended as commercial loft space, is occupied as rented residential space and has its rents regulated by the New York City Loft Board, as indicated by Loft Board records.

(e) Municipal Loan Program

Unit is in a building rehabilitated under Article 8 of the PHFL, whose rents are set by DHCR upon HPD's recommendation, based on operating and maintenance costs and a limited profit allowance.

Other Regulated as a category in tables in the published comprehensive report includes HUD-regulated, Article 4, Municipal Loan and New York City Loft Board-regulated units, described above. In tables where Mitchell-Lama or *in rem* units are not categorized separately, they may also be included in "Other Regulated."

Not Regulated

Units with no current governmental restrictions or regulation on rents or rental conditions or type of tenancy are included in this category, comprised of the following units:

- (a) Units regulated in the past and deregulated under the provisions of vacancy decontrol. For the most part these units are in buildings with five or fewer units built before 1947.
- (b) Units that were deregulated by order of the DHCR prior to June 24, 2011 because of monthly contract rent of \$2,000 or more and annual tenant income of \$175,000 or more, under provisions of the Rent Regulation Reform Act of 1997. These units were identified from a list of such units provided by the DHCR. The Rent Act of 2011 raised these thresholds to \$2,500 in rent and \$200,000 in annual income, effective June 24, 2011.
- (c) Units whose tenants took occupancy between October 1993 and June 23, 2011, if the rent was \$2,000 or more and the building was not under the 421-a or J-51 program. This high rent vacancy deregulation threshold was raised to \$2,500, effective June 24, 2011.
- (d) Cooperative or condominium units that are renter-occupied by tenants who moved into them after the buildings were converted to cooperatives or condominiums.
- (e) Units that were never subject to government rent regulation. Units in this category are mainly located in structures of fewer than six units that were completed on or after February 1, 1947, or in rental buildings constructed after January 1, 1974 which do not receive 421-a or J-51 tax benefits, or are in buildings originally constructed as cooperatives or condominiums.

Definition of Program Status Input

This variable is only used as part of the control status recode programming sequence that identifies the rent regulation status of a unit. For reasons of confidentiality, units in buildings receiving benefits from more than one program are only listed for one program by the Census Bureau. Thus, the variable does not give complete data for all programs and should not be used to study characteristics of units in the various programs. Definitions of programs used in this control status recode are the same as those described above, with the addition of the following two programs:

Rental units in buildings currently receiving J-51 or 421-A benefits are required to be stabilized, regardless of a rent level that might exceed the high rent decontrol level. To the extent that owners of buildings receiving such benefits do not register with NYSHCR, the number of stabilized units reported in the NYCHVS would be higher than the number recorded by NYSHCR.

421-a

Unit is in a building which receives 421-a tax benefits from the City of New York. This program provides real estate tax exemptions to newly constructed units. Because of constraints placed on the data for reasons of confidentiality, the Census Bureau may not list as receiving 421-a tax benefits some units that do receive 421-a tax benefits but also receive benefits under other programs. Therefore, NYCHVS data on 421-a should not be used to study the size, effects, or beneficiaries of the 421-a tax exemption program.

J-51

Unit is in a building that receives J-51 tax benefits from the City of New York. This program provides real estate tax exemptions and abatements to existing residential buildings that are renovated or rehabilitated in ways conforming to the requirements of the statute. It also provides these benefits to residential buildings that were converted from commercial or other non-residential structures. The NYCHVS data on J-51 should not be used to study size, effects, or beneficiaries of the J-51 program because, for reasons of confidentiality, some units receiving J-51 benefits as well as other benefits are not listed as receiving J-51 benefits by the Census Bureau.