

[NEWS](#) [\[/NEWS\]](#)

# Tenants Face Uphill Battle To Get Landlords To Roll Back Illegal Apartment Deregulations

BY [STEVEN WISHNIA](#) [\[/STAFF/STEVEN-WISHNIA\]](#)

SEPT. 17, 2019 5:00 P.M. • [21 COMMENTS](#)



► Members of the Upstate Downstate Housing Alliance protesting in Albany on June 4, 2019: The state rolled back high-rent vacancy decontrol, but failed to automatically reregulate apartments that were removed from the rent rolls under the old law. HANS PENNINK/AP/SHUTTERSTOCK

David Sewell thought there was something “very suspicious” about his rent when he and his wife, Peggy Vujovich, moved into their one-bedroom apartment in Greenpoint in 2014. Their lease said it was a market-rate unit with a legal rent of \$2,900 a month, above what was then the \$2,500 threshold for being taken out of rent stabilization, but the landlord gave them a discounted “preferential rent” of \$2,000.

"I had my doubts about it as soon as I moved in," Sewell, a 47-year-old actor, says. Earlier this year, after he and two neighbors obtained histories of their apartments' rent from the state Division of Housing and Community Renewal (DHCR), he discovered another red flag: All three histories, according to Sewell, showed a "suspicious bump" in 2013, \$1,000-a-month increases that brought the rents over \$2,500, allowing the landlord—a limited liability corporation that lists Kevin Nealis as head officer and Harry Bodansky as managing agent—to declare the apartments as market-rate. "It was just obvious they were trying to get out of rent stabilization," he adds.

Sewell filed a challenge to the legality of his rent with DHCR, the branch of the state Housing and Community Renewal agency that administers rent regulations, in February. In June, when his lease was up, his landlord refused to renew it, and began Housing Court proceedings to evict Sewell and Vujovich—a move Sewell calls "obviously retaliatory." And because their apartment was supposedly no longer rent-stabilized thanks to that 2013 increase, the landlord had the right to deny him a renewal without cause, except for illegal reasons such as racial discrimination or harassment.

Their apartment is one of an unknown number in the city that have been illegally deregulated since 1994 (<https://www.villagevoice.com/2018/05/02/if-your-rent-is-too-damn-high-blame-anthony-weiner/>), when a city law allowed landlords to take vacant units out of rent stabilization once the rent had been raised to \$2,000. The state enacted a similar measure in 1997. The state Housing Stability and Tenant Protection Act, the rent-law revisions enacted in June, repealed that provision, and early versions of the new law (<https://legislation.nysenate.gov/pdf/bills/2019/S2591A>) would have reregulated the vast majority of the apartments affected. But "chapter amendments ([https://assembly.state.ny.us/leg/?default\\_fld=&bn=S06571&term=2019&Summary=Y&Actions=Y&Text=Y&Committee%26n](https://assembly.state.ny.us/leg/?default_fld=&bn=S06571&term=2019&Summary=Y&Actions=Y&Text=Y&Committee%26n)) added after the legislation was passed, ostensibly to clear up technical errors, specified that "any unit that was lawfully deregulated prior to June 14, 2019 shall remain deregulated."

No one knows just how many apartments were deregulated, legally or otherwise, under the high-rent vacancy decontrol law. The city Rent Guidelines Board (<https://www1.nyc.gov/assets/rentguidelinesboard/pdf/changes19.pdf>), citing DHCR figures, says 160,000 were removed from regulation between 1994 and 2018, peaking at more than 12,000 a year between 2008 and 2010. But it cautions that this is a minimum, because it includes only apartments that landlords told DHCR they had deregulated—and reporting was voluntary before 2014.

"The true number is higher than that, and we don't know how much higher. I have given up trying," Community Service Society housing policy analyst Thomas Waters told the Assembly Housing Committee ([https://nystateassembly.granicus.com/DocumentViewer.php?file=nystateassembly\\_a7577ba7df95cffb52a44a1cfdef08b1.pdf&view=1](https://nystateassembly.granicus.com/DocumentViewer.php?file=nystateassembly_a7577ba7df95cffb52a44a1cfdef08b1.pdf&view=1)) in May. Michael McKee of TenantsPAC, a longtime tenant activist and lobbyist, tells Gothamist the number might be as high as 300,000 to 450,000.

The most common legal method of raising rents past the deregulation threshold was by doing renovations after a tenant moved out, and applying a fraction of the cost to the new tenant's monthly rent; when that fraction was set at one-fortieth of the cost, a \$40,000 renovation enabled a \$1,000 increase. The most common *illegal* method was by exaggerating the costs of those renovations high enough to get over the threshold.

Using renovation costs as an excuse to raise rents is what Sewell's landlord did, according to the rent history he says he and his neighbors received. All three apartments were subjected to the exact same rent hikes.

Challenging an illegal deregulation, however, "can be very, very difficult," says Sewell's lawyer, Ronald Languedoc, a former tenant representative on the city Rent Guidelines Board. "It's going to be very hard, in my opinion, to recapture a lot of these apartments." For Sewell to win his case, says Languedoc, he'll have to get the landlord to document what work was done and how much it cost—and likely bring in an expert witness to challenge the validity of what the landlord claims.

Trust Management, the Williamsburg-based property manager of Sewell's building, declined to comment. "I think we want to keep this confidential between the landlord and the tenant," an administrator who answered the phone told Gothamist. The company manages more than 50 properties, mostly smaller buildings in Bushwick, Williamsburg, and Greenpoint.

The two other tenants in the building who suspected their rents were illegally high have not filed challenges, Sewell says—one because they can't afford a lawyer, and the other because they wanted to wait until after the new rent laws were enacted.

The June law made it much easier for tenants to challenge an illegal overcharge or deregulation, tenant lawyers say. It clarified that there is no statute of limitations on challenging fraudulent increases. It also expanded the limit on how far back tenants can get refunds (from four years to six) and treble damages for overcharges (from two years to six).

"Every tenant should get a copy of their rent history," says Manhattan lawyer Roger Sachar. Obtaining one from DHCR is normally the first step in the process. If the increases listed in the legal rent seem questionable—such as those that are for suspiciously round numbers, or where separate apartments received identical increases—McKee urges residents to contact a lawyer or tenant organizer.

Manhattan lawyer Marc Bogatin, who successfully challenged the deregulation of his own Upper West Side apartment and went on to represent 16 other tenants in his building, says that in eight of those cases, his landlord, Stellar Management, hadn't spent enough to reach the threshold "even based on their own records."

In one case, an apartment registered at \$454 a month in 2008 rented for \$2,575 in 2013. That increase would have required more than \$120,000 in renovations, but the landlord admitted spending only \$38,000. In December 2017, a State Supreme Court judge, ruling that the owner had "systematically overcharged" tenants, reduced the rent on the apartment to \$1,090 and awarded the tenant \$62,000 in back rent and damages.

Other cases are more complex. Records are not hard to fudge or forge, says Languedoc. In those cases, he says, it helps to bring in an expert witness who can compare the landlord's and contractor's records of renovations to the work actually done.

"It's often just so ludicrous you know it didn't happen," says Sachar. "You go in and everything [in the apartment] is 25 years old."

It doesn't help that, according to tenant lawyers, DHCR is surprisingly loose about what it accepts as documentation. In one case, says Manhattan lawyer Robert Grimble, DHCR accepted a landlord's claim that he paid \$50,000 in cash for renovation work without receipts or bank documents.

Grimble adds that one favored scam used by harassment (<https://gothamist.com/news/les-landlord-accused-of-tenant-harassment-arrested-on-mortgage-fraud-charges>) specialist (<https://ag.ny.gov/press-release/2017/ag-schneiderman-announces-unprecedented-consent-decree-nyc-landlord-steven-croman>) Steven Croman was to renovate three apartments and apportion the costs among them in a way that deregulated all three. In one case where Grimble represented the tenants, a Brooklyn landlord ([http://da27a6a5fb9f631f13bf-7bc7c7395b018a20cbebdadd7ff6d120.r96.cf2.rackcdn.com/LVT\\_2017\\_03\\_Final.pdf](http://da27a6a5fb9f631f13bf-7bc7c7395b018a20cbebdadd7ff6d120.r96.cf2.rackcdn.com/LVT_2017_03_Final.pdf)) claimed it had spent \$26,000 on labor, but the only proof it submitted was a sworn statement signed after the fact, and it

wasn't clear in which of three apartments the work had been done. (A DHCR administrator ordered the landlord to refund \$101,000, including triple damages.)

That case was one that resulted from an audit by DHCR's Tenant Protection Unit, formed in 2012 to enforce the law beyond relying solely on tenant complaints. A DHCR spokesperson tells Gothamist that the TPU has "conducted multiple investigations and coordinated enforcement activities resulting in the registration of over 78,000 improperly deregulated apartments and the recovery of approximately \$5 million in overcharged rent for unsuspecting tenants."

That is "absolute nonsense," McKee says. While landlords of those apartments reregistered them after receiving warning letters from the agency, he explains, it didn't tell the tenants that they might have been overcharged—and there's no guarantee that apartments were reregistered at the correct legal rent.

Sachar says the TPU is also understaffed, with only a handful of lawyers to handle New York City and Nassau, Westchester, and Rockland counties. (A DHCR spokesperson clarified that the TPU currently has nine staff attorneys, and 29 staff members overall.)

DHCR did not respond to queries from Gothamist about reregulated apartments or TPU staffing, beyond stating, "A tenant may file a complaint with the Office of Rent Administration at 718-739-6400 or at [hcr.ny.gov/overcharge](http://hcr.ny.gov/overcharge) if they believe that they are being overcharged."

The agency also has a history of interpreting the laws in ways that favor landlords. Until a landmark 2009 court decision ([http://www.courts.state.ny.us/Reporter/3dseries/2009/2009\\_07480.htm](http://www.courts.state.ny.us/Reporter/3dseries/2009/2009_07480.htm)) involving Stuyvesant Town, DHCR allowed landlords to deregulate apartments in buildings receiving J-51 tax breaks—which are explicitly intended for rent-regulated units—as long as the tax breaks were not the only reason they had been regulated.

Sometimes landlords simply declare an apartment deregulated without renovations, Grimble says. That's what happened to Clare Grady, an Upper East Side woman he represented in 2017 (<https://cases.justia.com/new-york/other-courts/2018-2018-ny-slip-op-31398-u.pdf?ts=1530912493>). When she moved into her apartment in 1999, her landlord, Mautner-Glick Corp., charged her \$1,450 a month, saying that it was no longer rent-stabilized. She filed a complaint with DHCR in April 2017, a week after the owner told her that it wouldn't renew her lease when it expired the next month.

The rent history showed that the last legal registered rent had been \$1,023, in 1998, and that the landlord had not registered rents since then. Mautner-Glick immediately claimed that it was a mistake, hastily registered 18 years of rent increases retroactively, and offered Grady a two-year lease at \$1,767.50, with a \$4,600 refund of overcharges.

In June 2018, State Supreme Court Judge Barbara Jaffe ruled that charging increases over the legal limit while failing to register rents was fraudulent, and awarded Grady \$156,000 in overcharges, damages, and legal fees, according to Grimbale. Mautner-Glick is [appealing the damages](https://www.leagle.com/decision/innyco20190606868) (<https://www.leagle.com/decision/innyco20190606868>).

Tenants can challenge a deregulation either administratively through DHCR, or in Housing Court. Either way, it's a lengthy process. Two to four years is pretty common, and "I've had more than one case that's lasted ten years," Grimbale says.

That means it is likely that the tenant's lease will have expired before the proceedings are resolved. Fortunately for tenants charging illegal deregulation, it's fairly routine to get an eviction stayed while the proceedings are pending. Sewell did, and Marc Bogatin worked out an agreement with Stellar Management that it would not try to evict people in his building who had similar cases.

One legal reason for this, says Grimbale, is that it's a "rebuttable presumption" that evicting a tenant who's contesting the legality of their rent is illegally retaliatory, and that a landlord bringing a case in Housing Court would have to prove up front that the apartment had been deregulated. Holdover proceedings, evictions for causes other than nonpayment, are supposed to be dismissed if the tenant has a "colorable"—legalese for plausible—claim they are being illegally overcharged, says Sachar. In 2018, a state appeals court held (<https://law.justia.com/cases/new-york/appellate-term-first-department/2018/2018-ny-slip-op-50269-u.html>) that a landlord could not pursue a holdover eviction against a tenant whose lease had expired when they had "failed to establish that the apartment was exempt from rent regulation."

"If they lose, they're probably going to lose their apartment," says Languedoc. On the other hand, he says, people often don't file a challenge unless they're already facing eviction, so they have nothing to lose.

**[#DHCR \(/TAGS/DHCR\)](#)** **[#LANDLORDS \(/TAGS/LANDLORDS\)](#)**

**[#RENT REGULATIONS \(/TAGS/RENT-REGULATIONS\)](#)**

**Do you know the scoop?** [Comment](#) below or [Send us a Tip](#)  
(<mailto:tips@gothamist.com>)



## Gothamist Comment Policy

Gothamist welcomes relevant, constructive, and interesting comments. Please be respectful and stay on-topic!

Please read our [Comment Policy](#) before commenting.



21 Comments

Gothamist

 Login ▾

 Recommend

 Tweet

 Share

Sort by Oldest ▾



Join the discussion...

LOG IN WITH

OR SIGN UP WITH DISQUS 

Name

**Downtown-Pete** • 18 hours ago

This sounds like a perfect opportunity for Corey Johnson, currently Speaker of the City Council and aspirant to be the next Mayor, to show his commitment to help keep affordable housing affordable. Mr. Speaker, how about it? Throw your weight behind this, make some resources available!

3  |  • Reply • Share ›

**Mel Vin** • 16 hours ago • edited

Once again Gothamist uses a couple "bad eggs" in an attempt to smear all NYC landlords, most of whom are honest businessmen and women.

I'm a landlord who'd have no trouble documenting every renovation I've done over the last 20 years. It never crossed my mind to make up numbers. Treble damages have always been an effective deterrent for 99% of property owners and managers.

The real reason tenants face an uphill battle is because 99% of renovations were legitimate and landlords have the records to prove it.

 |  • Reply • Share ›

**Lloyd Bergenson** → **Mel Vin** • 16 hours ago • edited

Anyone else notice that after RSA and REBNY got clobbered following the rent reform bill passing, there's been an uptick in pro-landlord shill comments?

And lo and behold, this account was created less than two weeks after the rent reform bill passed in Albany and its only comments relate to said bill. Of course, it must be a coincidence. Just as I'm sure that REBNY prez John Banks' decision to "step down" two weeks after the bill passed was also a coincidence.

6  |  • Reply • Share ›


**Mel Vin** → **Lloyd Bergenson** • 15 hours ago • edited

No, just a small fry here. After nearly 30 years of unclogging toilets, cleaning up garbage, and bending over backwards to make tenants happy, it sickens me to read biased articles about a couple crooked landlords with the clear intent of convincing readers that all landlords are scumbags.

 |  • Reply • Share ›

**Jamie McDonald** → **Mel Vin** • 15 hours ago

a small fry with a new account with nothing \*but\* pro-landlord shill posts. Imao c'mon

6  |  • Reply • Share ›

**Mel Vin** → **Jamie McDonald** • 15 hours ago • edited

So since I'm passionate about something, I'm a shill?

If the rules of your business were changed after spending half your life fixing and improving 100 year old properties, and all of a sudden, you were forced to sell your product for less than cost, you'd feel the same way I do.



You might even rant on lame websites!

^ | v • Reply • Share ›

**Jamie McDonald** ➔ Mel Vin • 15 hours ago

you're not fooling anyone, the good news is that we have our own resident landlord shill on here who does what you do for free, so your energies might be better focused elsewhere

2 ^ | v • Reply • Share ›

**Mel Vin** ➔ Jamie McDonald • 14 hours ago • edited

Unfortunately, none of our comments will change anything.

Nothing will change until the old apartment buildings fall apart, the tax base crumbles, and these anti-business socialist hacks are kicked out of office.

It could be years, but in the meantime It feels good to vent.

^ | v • Reply • Share ›

**Jamie McDonald** ➔ Mel Vin • 14 hours ago

oh, I think something's going to change for you all right, and sooner than you think

^ | v • Reply • Share ›

**Mel Vin** ➔ Jamie McDonald • 14 hours ago

What do you predict will happen?

^ | v • Reply • Share ›

**Jamie McDonald** ➔ Mel Vin • 14 hours ago

looks like you'll just have to wait and find out :)

^ | v • Reply • Share ›

**Mel Vin** ➔ Jamie McDonald • 14 hours ago

I was hoping you were going to make a good point about something, but I guess not. Take care!

^ | v • Reply • Share ›

**Jamie McDonald** ➔ Mel Vin • 14 hours ago

nope! enjoy your night of trying to convince anyone at all that landlords are good and deserve a break lmao

1 ^ | v • Reply • Share ›

**bkmanposeur** ➔ Mel Vin • 15 hours ago

You real estate people need to be exposed.

1 ^ | v • Reply • Share ›

**Downtown-Pete** ➔ Mel Vin • 12 hours ago

Where in this article does it say "all landlords"? And, what's up with the 99 % this and 99% that? Got any sources to back those numbers up? I'm 99% sure you don't. The one number I found pretty depressing in the article was the one about how many years it takes on average for the tenants to get some kind of ruling on their case. Here, justice delayed is indeed justice denied.

3 ^ | v • Reply • Share ›

**Mel Vin** ➔ Downtown-Pete • 11 hours ago

I know from years of working in real estate, the most people try to follow the laws.

^ | v • Reply • Share ›

**Rob C** ➔ Mel Vin • 12 hours ago

Lol there are so many "bad eggs" that it requires sweeping legislation so tenants don't get continually screwed on a widespread basis.

1 ^ | v • Reply • Share ›

**Mel Vin** ➔ Rob C • 11 hours ago

In 5 to 10 years, when NYC is back to the old days of high crime, abandoned buildings, pot holes everywhere, sputtering economy, horrible public schools, etc., remember that it all started when NYC's

**Guess What: Your Plastics Aren't Really Getting Recycled (/news/how-your-plastics-arent-getting-recycled)**