

## Real estate pros say HPD's predatory landlord "watch list" is flawed

*Properties will be listed based on median cap rate on properties borough-wide*

By [Kathryn Brenzel](#) | June 22, 2018 08:00AM

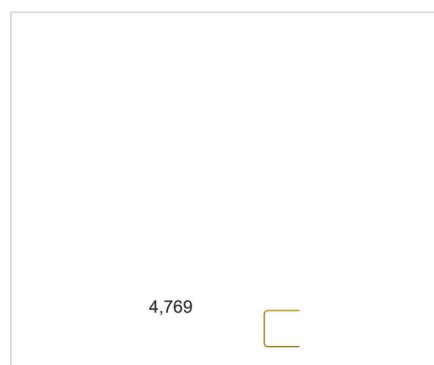


South Bronx (Credit: Pixabay)

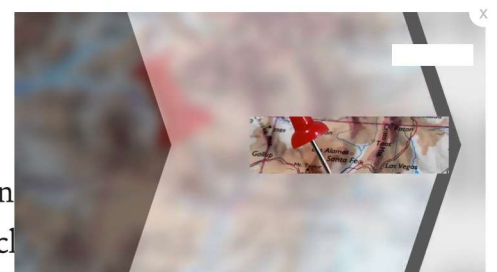
The city expects to add 150 properties each year to a list designed to warn tenants of potential predatory landlords. But some industry professionals think the city's methodology for the "watch list" is flawed.

The Department of Housing Preservation and Development recently proposed guidelines for what buildings will appear on its "Speculation Watch List." HPD seeks to include rent-regulated multifamily buildings that sell below the median cap rate of the property's borough, saying such deals are potential red flags.

"When a purchaser is willing to pay more than the property value, it indicates a greater potential for tenant harassment so that the purchaser can recoup its inflated purchase price through forcing tenants out in order to escalate rents," HPD states in its proposal.



The City Council passed [legislation](#) in November to create the list, leaving properties would qualify. The legislation specified that the list would include



buildings with six or more units, a majority of which are rent-regulated. In addition to the borough-based median cap rate test, HPD also proposed that the list include only properties sold for more than \$10,000. A hearing on the proposed rule change is slated for July 10.

Multifamily brokers and investors voiced concern about using cap rates as criteria, saying it's a fairly subjective metric that changes from year to year. Slate Property Group's David Schwartz noted that using the borough-wide median could skew the results.

"The cap rate in Brownsville will be very different than the cap rate in Williamsburg," he said. "If the goal is to limit predatory players, there are probably a lot better ways to do it."

An HPD representative said the list will go by the borough-wide median to assure there's a large enough pool of properties to compare sales to.

The list's intent is to help protect tenants from landlords eager to free their buildings' units from rent-regulation. Such tactics gained notoriety, in part, with the conviction of landlord [Steve Croman](#). In December, he agreed to pay \$8 million in restitution to tenants he harassed and tricked to give up their rent-regulated homes.

In a three-part series last month, The New York Times detailed the various ways landlords exploit state and city laws to make their units market rate. According to the series, the city has lost more than 152,000 rent-regulated apartments since 1993.

"Certainly harassment shouldn't be tolerated. But I don't know that you can come up with a magic bullet," said Jay Neveloff, partner and real estate chair at Kramer Levin. "It seems to me that the city should be focused on harassment, but I'm not sure that an empirical test does it."

[David Rozenholc](#), one of the city's most well-known tenant lawyers, said unless developers have "an enormous concern about the public's perception," the list isn't likely to have a major impact.

"It's better [than] nothing. But I don't see how it protects tenants," he said. "Instead of getting involved in these stupid lists, pass some legislation that makes it more difficult for developers to evict tenants."

In November, the City Council also passed a duo of tenant harassment bills. One changed the definition of harassment to include certain construction code violations, such as failure to fix hazardous conditions at a site. The other required that certain developers get a certificate of no harassment before the Department of Buildings can issue a permit for renovation or demolition work at the property.

Matthew Creegan, a spokesperson for HPD, said the watch list "will serve as an important advocacy tool for the public that leverages data analysis to identify buildings at risk of tenant harassment or displacement."

But the list may unfairly vilify property owners since there are many reasons to buy properties at a low cap rate, said Shaun Riney, of Marcus and Millichap. Institutional investors, for instance, often buy properties with the expectation that that the investment will pay off in the long term. The purchase could also be the result of a 1031 exchange, in which cases the motivation is often to park money quickly in order to reap tax

benefits. He added that the list doesn't take into consideration that landlords are often pumping capital into buildings and improving the housing stock.

"The buyer is coming in and investing a lot of capital, getting violations down and fixing the boiler, fixing the roof," he said. "Where's the angels' list?"

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