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Restoring Housing Security and Stability in New York City Neighborhoods:

Recommendations to Stop the Displacement of
Dominicans and Other Working-Class Groups in
Washington Heights and Inwood



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INTRODUCTION

By many objective measures, over the last three decades, New York City has experienced a dramatic reversal of demographic trends. The City regained the population that it lost in the 1970s and became a magnet for college graduates, young adults, and childless families.¹ While these demographic trends have undoubtedly added to the vibrancy of the City, the dark underbelly of this type of population change lies in increasing economic inequality and upward pressures on housing prices. These demographic changes and their implications for the housing market have also not been distributed equally across neighborhoods. In fact, neighborhoods that were low-income in 1990 and experienced rent growth above the median for the City, are precisely the ones that also experienced the fastest growth in the number of college graduates, the number of childless households, and the number of white residents.² This process of gentrification of New York City's low-income neighborhoods has sharply increased the rent burden for low and moderate income households. Moreover, while gentrifying neighborhoods have added housing units at a pace greater than non-gentrifying neighborhoods, the share of newly available units affordable to low-income and working-class families has sharply decreased since 2000.³

“gentrifying neighborhoods have added housing units at a pace greater than non-gentrifying neighborhoods, the share of newly available units affordable to low-income and working-class families has sharply decreased since 2000”

As we argued in the previous policy brief released by the CUNY Dominican Studies Institute in January 2018, the demographic changes that New York City has experienced since 1990 put into serious question whether neighborhoods such as Washington Heights/Inwood, which have been the home to generations of Dominicans, will continue to be spaces for low-income, immigrant, and working-class people.⁴ While policy-makers unanimously agree that the displacement of low-income and working-class people from gentrifying neighborhoods and the scarcity of affordable housing are problems that New York City needs to face, the solutions to the City's housing crisis have been piecemeal, and have to a large extent, ignored the regulatory environment, which has allowed rents to skyrocket.

1 NYU Furman Center for Real Estate and Urban Policy. (2016). State of New York City's Housing and Neighborhoods in 2015, Focus on Gentrification. Retrieved from http://furmancenter.org/files/sotc/NYUFurmanCenter_SOCin2015_9JUNE2016.pdf

2 Ibid.


3 Ibid.

4 Hernandez, R, Sezgin, U., and Marrara, S. (2018). When a Neighborhood Becomes a Revolving Door to Dominicans: Rising Housing Costs in Washington Heights/Inwood and the Declining Presence of Dominicans. CUNY Dominican Studies Institute.

In particular, even though New York City has one of the nation's most comprehensive rent stabilization laws and has recently committed to helping low-income tenants with free legal representation when facing eviction, the tenant protection regulations have significant loopholes, which have been abused by landlords to push long-term tenants out in search of higher rents from more affluent newcomers. Moreover, recent proposals by the City, such as the one to rezone Inwood allowing for new residential and commercial construction⁵, have faced vigorous opposition from community members as rezoning is seen as another tool to add unaffordable housing to the neighborhood and to continue the upward pressures on rents in previously affordable units. At stake here are not only the city's development ambitions, which undoubtedly will produce improvements in infrastructure. The current proposed plan for the rezoning includes ambitious promises for investment in the Inwood community through the preservation and construction of affordable housing, a grant program for existing businesses, and upgrades to open space and neighborhood institutions. Also at stake is how new city-sponsored investments in a neighborhood undergoing gentrification do not end up accelerating the displacement of long-term residents or creating even more perverse incentives for landlords to push long-term tenants out and replace them with affluent newcomers.




“ the tenant protection regulations have significant loopholes, which have been abused by landlords to push long-term tenants out in search of higher rents from more affluent newcomers ”




Our policy recommendations below represent a multi-pronged approach to combating housing unaffordability in Washington Heights/Inwood. The recommendations combine generating new revenue for housing with statutory reform of rent regulations at the state level. We think these policies are the most promising ones in addressing the housing needs of the Washington Heights/Inwood community. Some of them, if enacted, will also have broad beneficial impacts for all working class New Yorkers. In particular, we propose that the City of New York establish a tax-increment financing (TIF) area in Washington Heights/Inwood and use the revenues from it to fund a Community Land Trust (CLT) whose leadership comes from local community members. The idea behind the TIF area is to harness the appreciation in housing prices that is driven by neighborhood demographic change and by potential future city investment through the Inwood rezoning plan. We call on the City of New York to reinvest a portion of the taxes generated by gentrification for the benefit of the local community. We also call on the State of New York to close loopholes in laws governing rent stabilized apartments and establish protections for tenants with preferential rent riders in their lease agreements. Our first proposal could serve as a model to other neighborhoods in New York

5 NYC Economic Development Corporation (NYCEDC). (2017). Inwood NYC 2017 Action Plan. Retrieved from https://www.nycedc.com/sites/default/files/filemanager/Projects/Inwood_NYC/InwoodNYC2017ActionPlan_Full.pdf

City and beyond in harnessing the changes induced by gentrification to the benefit of long-term neighborhood residents. Our second proposal has wide support amongst the city's housing policy advocates since it would reform a rent system, which despite being created to protect tenants, has been used to benefit landlords and property owners.



“we propose that the City of New York establish a tax-increment financing (TIF) area in Washington Heights/Inwood and use the revenues from it to fund a Community Land Trust (CLT) whose leadership comes from local community members”



1. ESTABLISH A TAX-INCREMENT FINANCING (TIF) AREA TO FUND AFFORDABLE HOUSING

We start our policy recommendations with the most ambitious one amongst them. We propose that the City of New York establish a tax-increment financing area in Washington Heights/Inwood, the revenues from which can be used to fund affordable housing.

Here is how tax-increment financing works. In any neighborhood, the process of gentrification causes previously cheaper but still economically viable housing units to appreciate in value. The local municipality can then collect additional property tax on the housing appreciation fueled by gentrification. These additional revenues can be set aside for two neighborhood-specific purposes: first, they can fund affordable housing through either preservation, new construction, or both; and second, they can be applied to local amenity improvements, such as better parks and more reliable services.

The tax-increment financing (TIF) strategy has typically been used as an economic development tool whereby a local government designates an area as a TIF area and assesses the value of existing property for the purposes of taxation. As new investments (both private and public) make the area more attractive, property values rise producing increased tax revenue for the local government in general and the TIF area specifically.

The main advantage of tax-increment financing is that it keeps the revenues generated by gentrification in the same neighborhood. Since the revenues generated by TIF can be used for the preservation of affordable units, low-income residents who already live in the neighborhood directly benefit from the process of gentrification. In section 2 below, we propose

that the City spend the revenues generated by the TIF area to fund a Community Land Trust (CLT) as a means of preserving long-term affordability for community residents.⁶

Another important advantage of tax-increment financing is that it is self-financing. Local municipalities do not need to raise any new taxes. Rather, investments in infrastructure and the concomitant increases in the price of housing are used to help gentrifying neighborhoods maintain their socioeconomic diversity.

Currently, local housing policies tend to deal with gentrification in inefficient ways. Local jurisdictions, for instance, require new construction to incorporate a certain portion of affordable units. Yet, new construction in gentrifying neighborhoods can be tied up for years in protests and litigation. A clear example of this is the current Inwood rezoning proposal which has already generated much opposition amongst neighborhood residents, the local community board, and the Manhattan Borough President. The contention is that it is not clear how new construction will affect the price of existing housing in the area.

The TIF strategy has several advantages over standard approaches to affordable housing.⁷ From the perspective of developers and property owners, the TIF area does not single out particular properties. Everyone who experiences a financial gain in property values from gentrification contributes tax on these additional profits. Since the TIF area collects taxes on additional profits, there is less of a possibility that these revenues will be seen as a new tax. From the perspective of incumbent residents, gentrification is directly financing protections against rent inflation, and this level of financing is directly proportional to the volume of gentrification. As property values rise due to gentrification, the tax that the City collects on the appreciation is earmarked specifically to preserve the affordability of existing units or to build new affordable units. The greater the levels of property appreciation, and thus the greater revenue generated in the TIF area, the more money gets invested back into the neighborhood.

There are important details to consider before and during the designation of TIF areas, the implementation of the financing, and the disbursement of funds.⁸ Issues such as how long the financing will last, how the new funds will be allocated, and who will get priority for assistance will undoubtedly generate lively debate. However, as Lance Freeman has argued, tax-increment financing makes a lot of sense from an equity perspective in that property


6 An activist at a recent community board meeting on the Inwood rezoning plan did in fact mention establishing a community land trust to preserve affordability in the neighborhood. Savitch-Lew, A. (April 11, 2018). Vibrant Opposition at BP's Inwood Rezoning Hearing. City Limits. Retrieved from <https://citylimits.org/2018/04/11/vibrant-opposition-at-bps-inwood-rezoning-hearing/>

7 The case for tax-increment financing is based on Freeman, L. (2006). *There Goes the 'Hood*, Chapter 6. Philadelphia, PA: Temple University Press.


8 Erickson, K. (2011). Protecting Low-income Residents during Tax Increment Financing Redevelopment. *Wash. UJL & Pol'y*, 36, 203.

owners who directly benefit from gentrification are also the ones who help the most vulnerable residents in gentrifying neighborhoods when TIFs exist. Moreover, the successful implementation of TIF areas across the United States has demonstrated that issues around the implementation of such programs are not insurmountable stumbling blocks.⁹

Still, we would like to acknowledge some potential pitfalls of our TIF proposal. First, as we mention above, TIF-area financing has been usually used for large public infrastructure developments. For example, using the TIF model, New York City recently funded the expansion of the 7 subway line to the 34th Street-Hudson Yards Station without any state or federal assistance.¹⁰ This was the first time the City had used TIF for major infrastructure improvements, but since then advocates of this financing model have proposed other similar projects. TIF is usually seen as a way to re-capture land value increases due to public investments in some type of infrastructure, such as subways, office buildings, commercial retail development, or even cosmetic improvements to an area. Housing in general, and affordable housing in particular, is usually not seen as “infrastructure” by local policy makers. We argue that housing represents infrastructure because there are no neighborhoods without housing. We further argue that for working class families housing is the most valuable type of infrastructure because it provides security and stability for the members of said families. Therefore, using TIF to fund affordable housing is a way for any city to invest in infrastructure that is critical to thriving working-class communities.



“Housing in general, and affordable housing in particular, is usually not seen as “infrastructure” by local policy makers. We argue that housing represents infrastructure because there are no neighborhoods without housing. We further argue that for working class families housing is the most valuable type of infrastructure because it provides security and stability for the members of said families”



Second, we would like to acknowledge that property taxes especially in gentrifying New York neighborhoods are already an issue for long-term homeowners. The City assesses property taxes annually based on comparative sales, but there are state-mandated caps on assessed property value increases for one to three family homes. This means that the most expensive housing in already gentrified neighborhoods might be assessed lower tax bills than the rapidly appreciating but still moderately priced housing in newly gentrifying neighborhoods. A new law suit against the City has produced numbers showing that homeowners in Washington Heights

9 Freeman, L. (2006). *There Goes the 'Hood*, Chapter 6. Philadelphia, PA: Temple University Press.

10 Campion, S. (Dec. 2017). *Tax Increment Financing: A Primer*. Citizens Budget Commission New York. Retrieved from https://cbcny.org/sites/default/files/media/files/REPORT_TIFs_12062017_0.pdf

are assessed a home value of 141% of comparative sales prices. The respective number for Williamsburg is 74%.¹¹ While the TIF area will not collect any new taxes, but rather capture the increase in property taxes due to rising property values, the issue of property taxes and affordability for long-term homeowners is important. We know from recent nationally representative estimates that there is no evidence that increasing property taxes displaces homeowners or that property tax limits protect homeowners in gentrifying neighborhoods.¹² Nevertheless, preserving affordability for long-term homeowners in gentrifying neighborhoods is a vital part of stemming the process of displacement. Therefore, in our recommendations below we propose that the Community Land Trust (CLT) preserve affordability for both renters and homeowners.

2. USE THE FUNDS FROM THE TAX-INCREMENT FINANCING (TIF) AREA TO FUND A COMMUNITY LAND TRUST (CLT)

We propose that the additional revenue generated by the TIF area be used to fund a Community Land Trust (CLT) in the Washington Heights/Inwood area.

The idea of Community Land Trusts (CLT) at the most basic level involves dedicating a revenue stream for the purchase of land for the benefit of the local community.¹³ The land is held in a trust in perpetuity by a local non-profit organization, which makes sure to represent the interests of the beneficiaries of the trust. Housing on the CLT land is usually purchased along with it but later can be sold off to homeowners, cooperatives, other non-profits, or for-profit businesses. All individuals and businesses that purchase housing on CLT-owned land agree to either keep rental units affordable to community residents or to forgo profits above a certain level should they decide to sell the property. The CLT has the right to re-purchase any buildings on its land up for sale for below-market price and to intervene in situations of absentee or neglectful landlords. The CLT leadership comes from residents of buildings on CLT land, community members who do not live on CLT land but are part of the CLT service area, and people who represent the public interest.

The CLT model was first developed by black farmers who sought to protect their assets in the Jim Crow South.¹⁴ More recently, the CLT model has been a major tool in environmental preservation efforts and in initiatives aimed at ensuring long-term affordability for homeown-

11 Smith, G. (April 23, 2017). NYC Property Taxes Favor Rich and White Homeowners, Lawsuit Claims. NY Daily News. Retrieved from <http://www.nydailynews.com/new-york/nyc-property-taxes-favor-rich-white-homeowners-suit-claims-article-1.3089889>

12 Martin, I. W., & Beck, K. (2018). Gentrification, Property Tax Limitation, and Displacement. *Urban Affairs Review*, 54(1), 33-73.

13 The description of CLTs is based on White, K. (1982). *The Community Land Trust Handbook*. by The Institute for Community Economics.

14 Davis, J.E. (Writer) & Cohen, H. (Editor). (2016). *Arc of Justice: The Rise, Fall, and Rebirth of a Beloved Community* [Documentary]. Open Studio Productions. Retrieved from https://static1.squarespace.com/static/574610bb20c647ad3c3c2daf/t/583c8c659de4bb595172a9b2/1480363113503/AoJ_backstory_v4a.pdf

er housing.¹⁵ CLTs have also gained popularity amongst housing advocates in gentrifying neighborhoods because their basic structure can be easily harnessed to help both renters and homeowners in neighborhoods with affordability issues.

In neighborhoods such as Washington Heights/Inwood, CLTs are an attractive way to subsidize affordable housing because the affordability stays with the housing unit and the local community in perpetuity and not with the household or the developer who might temporarily take advantage of a specific subsidy for affordable housing. When CLTs purchase land in gentrifying communities, they disrupt potential attempts to speculate with the price of that land. They also limit the amount of housing units available to potential high-income newcomers to the neighborhood. By restricting the amount of land and housing that could be gentrified, CLTs preserve the socioeconomic diversity of neighborhoods. In fact, a recent research article published in the *Journal of Urban Affairs* (JUA) has shown, urban CLTs in gentrifying neighborhoods have been successful in stabilizing neighborhoods at risk of undergoing gentrification.¹⁶

Moreover, since CLTs are governed by a board of local community stakeholders, they are an ideal vehicle not only for the preservation of housing affordability but also for the stewardship of local community priorities. Since CLTs involve collective ownership of housing and land on behalf of a community, CLT advocates have also argued that this particular type of community ownership encourages social stability and neighborhood cohesion.¹⁷

We think that the time is particularly auspicious for starting a CLT in Washington Heights/Inwood. New York City's Department of Housing Preservation and Development recently launched a \$1.6 million seed fund for CLTs in New York City.¹⁸ In December 2017, the New York City Council officially codified CLTs into city law, allowing CLTs to enter into regulatory agreements with the city.¹⁹

There is no CLT in Washington Heights/Inwood yet, but an organization called Faith in New York is currently looking to start one with a property owned by the Department of Transpor-

15 Temkin, K., Theodos, B., and Price, D. (2010). *Shared Equity Homeownership Evaluation: Case Study of the San Francisco Citywide Inclusionary Affordable Housing Program*. Washington, D.C.: Urban Institute.

16 Myungshik, C. Van Zandt, S. and Matarrita-Cascante, D. (2018). Can Community Land Trusts Slow Gentrification? *Journal of Urban Affairs* 40(3), 394-411.

17 Savitch-Lew, A. (January 8, 2018). The NYC Community Land Trust Movement Wants to Go Big. *City Limits*. Retrieved from <https://citylimits.org/2018/01/08/the-nyc-community-land-trust-movement-wants-to-go-big/>

18 New York City Housing and Preservation Department. (July 19, 2017). Enterprise Awards New York City \$1.65 Million to Support the Formation and Expansion of Community Land Trusts. Retrieved from <https://www1.nyc.gov/site/hpd/about/press-releases/2017/07/07-19b-17.page>

19 Savitch-Lew, A. (January 8, 2018). The NYC Community Land Trust Movement Wants to Go Big. *City Limits*. Retrieved from <https://citylimits.org/2018/01/08/the-nyc-community-land-trust-movement-wants-to-go-big/>

tation, located at 672 W 158th Street.²⁰ Currently, the only fully fledged CLT in New York City is Cooper Square on the Lower East Side. This CLT owns the land where 328 low-income co-op units are located. There are, however, many organizations around New York City actively looking to replicate Cooper Square's success. An example of one of them is East Harlem- El Barrio Community Land Trust, which recently convinced the City to transfer ownership of four buildings to the CLT.²¹ CLT proponents have also identified many city-owned vacant lots that could serve as a jumping-off point for the establishment of CLTs across New York City.²²

Relying exclusively on new housing construction or gut rehabilitation in New York City is extremely expensive. Currently, the average per-unit New York City subsidy for new affordable housing is \$45,000; a \$17,000 increase since 2014, because of increased land and construction costs.²³ Moreover, the mayor's plan to build and preserve affordable housing in Washington Heights/Inwood has so far led to the construction of only three new properties and the preservation of six additional ones for a total of 91 new units and 223 preserved units.²⁴ Therefore, what we propose here is to go beyond the idea of constructing new housing by purchasing available land and/or already existing housing stock, and ensuring long-term affordability through a CLT funded by tax-increment financing (TIF). The CLT harnesses the process of gentrification and revitalizes a neighborhood while putting a damper on land speculation and increasing rents.

3. CLOSE LOOPHOLES IN RENT REGULATIONS

A. Vacancy decontrol

Vacancy decontrol, colloquially also known as the "eviction bonus," is a loophole in New York City rent stabilization laws which allows an owner to increase rents by 20% plus 1/60th of the cost of any improvements done to a rent-stabilized unit when a renter moves out.

20 Ibid.

21 Ibid.

22 There are more than 1,000 empty city-owned lots across New York City. Many of them are not suitable for housing construction, but local housing groups have been active in trying to acquire some of the empty lots for the benefit of the local communities. Murphy, J. (2016, April 18). City's Empty Spaces: What is the Housing Potential? City Limits Retrieved from <https://citylimits.org/2016/04/18/citys-empty-spaces-what-is-the-housing-potential/>

23 Goodman, D. (March 4, 2018). De Blasio Bolsters Affordable Housing, but at What Price? The New York Times. Retrieved from <https://www.nytimes.com/2018/03/04/nyregion/de-blasio-affordable-housing-cost.html?mtrref=undefined&gwh=88EF5BF626FCCCE4126B6D2A9FEBD9B0&gwt=pay>


24 None of the new units are affordable for extremely low-income households (0% to 30% of median income) or very low-income households (30% to 50% of median income). About 70% of the preserved units are available to either extremely low-income households or very low-income household. Authors' calculations from New York City Housing and Preservation Department. Housing New York Map [Interactive Map]. Retrieved from <http://hpd.maps.arcgis.com/apps/webappviewer/index.html?id=192d198f84e-04b8896e6b9cad8760f22>

Once an apartment reaches \$2,733.75 through vacancy increases, it is permanently removed from the rent-stabilized stock. Between 1994 and 2016, 284,301 units were lost from the rent stabilized housing stock. More than half of them (54% or 152,147 units) were lost due to high-rent vacancy deregulation. Even though over the same period the city added 132,402 units to the stabilized housing stock, the net loss of stabilized units stands at 151,899.²⁵

A newly available building-level dataset scraped from tax bills retrieved from the website of the NYC Department of Finance allows us to examine the loss of rent stabilized units in Washington Heights/Inwood as compared to the rest of the city. Washington Heights/Inwood has experienced a net loss of 4,844 rent stabilized units between 2007 and 2014. This loss represents 6.0% of total units in stabilized buildings in Washington Heights/Inwood and 8.9% of the total citywide net loss of stabilized units. In comparison, the overall stabilized unit loss as percent of total units in stabilized buildings at the city level stands at 3.8%.²⁶ This reflects a clear systematic destruction of the housing infrastructure that has enabled Dominicans and other working-class families to live in Washington Heights/Inwood for decades.


“Washington Heights/Inwood has experienced a net loss of 4,844 rent stabilized units between 2007 and 2014”

According to 2014 data from the New York City Housing Vacancy Survey (NYCHVS), rent stabilized apartments constitute 85% of the rental housing stock in Washington Heights/Inwood (see Table 1). Eighty-seven percent of renter Dominican households in Washington Heights/Inwood live in a rent stabilized apartment. This represents a five percentage point drop since 2002.


“Eighty-seven percent of renter Dominican households in Washington Heights/Inwood live in a rent stabilized apartment. This represents a five percentage point drop since 2002”

The trends and patterns for Dominicans are even starker when we examine the Dominican population in New York City overall. As reflected in Table 1, in 2014 in New York City, 64%

25 New York City Rent Guidelines Board. (June 1, 2017). Memorandum: Additional Preferential Rent Data from NYS Division of Housing and Community Renewal (DHCR). Retrieved from <https://assets.documentcloud.org/documents/3872406/DHCR-Data-Memo-June-2017.pdf>

26 Net citywide loss of rent stabilized apartments between 2007 and 2014 is 54,239 units out of 1,417,773 units in buildings with at least one stabilized unit over the period. Net Washington Heights/Inwood loss of rent stabilized units between 2007 and 2014 is 4,844 units out of 81,231 units in buildings with at least one stabilized unit over the period. For more information on the project that created this dataset, see: <https://github.com/talos/nyc-stabilization-unit-counts>

of renter Dominican households lived in a rent stabilized unit. This represents a six percentage point drop since 2002. Just as in Washington Heights/Inwood, in New York City overall, Dominican renters live in rent stabilized units at much greater rates as compared to other Latinos, Non-Hispanic Whites, Non-Hispanic Blacks, and Non-Hispanic Asians. The high concentration of Dominican households in rent stabilized units means that any further erosion in rent stabilization will hit the Dominican community particularly hard.

“The high concentration of Dominican households in rent stabilized units means that any further erosion in rent stabilization will hit the Dominican community particularly hard”


Table 1.
Race/Ethnicity of Householders in New York City and in Washington Heights/Inwood by Rent stabilized units as % of all renter occupied units-2002-2014

New York City Overall						
Year	Dominican	Other Latino	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Asian	Total Population
2002	70%	51%	52%	43%	45%	50%
2005	65%	51%	51%	45%	47%	50%
2008	67%	48%	46%	44%	43%	47%
2011	63%	46%	45%	43%	42%	46%
2014	64%	48%	48%	45%	42%	48%


Washington Heights/Inwood						
Year	Dominican	Other Latino	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Asian ^a	Total Population
2002	92%	79%	83%	66%		85%
2005	89%	87%	84%	72%		85%
2008	91%	82%	73%	73%		83%
2011	88%	83%	76%	67%		83%
2014	87%	79%	86%	75%		85%

Source: Authors' calculations from the New York City Housing Vacancy Survey (2002, 2005, 2008, 2011, 2014). The data is calculated at 3- year intervals.


^a There are fewer than 12 non-Hispanic Asian renter households for each year. Therefore, we do not present percentages for this population in Washington Heights/Inwood.




“the “eviction bonus” creates a perverse incentive for landlords to push rent-regulated tenants out of affordable apartments through poor services, constant construction, and evictions that are easy to file but hard to fight”



Therefore, we join other housing advocates in recommending that the state strengthens rent regulation laws by amending or eliminating the vacancy decontrol rule to prevent rent stabilized units from leaving the pool of affordable apartments. Concretely, the loss of units each year undermines the city’s efforts to provide affordable apartments to its residents. As a recent feature in *The New York Times* documents²⁷, the “eviction bonus” creates a perverse incentive for landlords to push rent-regulated tenants out of affordable apartments through poor services, constant construction, and evictions that are easy to file but hard to fight. Landlords rely on law firms that churn out tens of thousands of cases per year with 1 in 10 rentals in the city receiving eviction notices last year. Landlords also exploit a housing court system with overburdened judges for whom it is hard to verify claims on eviction notices, and where most tenants do not have legal representation despite a recent NYC law that aims to provide free counsel to low-income tenants. The *Times* uncovered hundreds of eviction filings using generic templates for violations that could be as vague or as trivial as “smoking and/or drinking and/or gambling and/or loitering.” Lawyers who do not verify landlord claims in eviction filings, and process servers who fail to deliver eviction notices to tenants in the proper manner face little to no sanctions. Therefore, the “eviction bonus,” which allows landlords to deregulate rent stabilized apartments, coupled with inadequate housing court protections, has created a system that benefits the real estate industry at the expense of tenants. The way we see it, the “eviction bonus” represents an insidious action that borders on corruption, providing the opportunity for one group to benefit from another in an unethical manner.



“the “eviction bonus” represents an insidious action that borders on corruption, providing the opportunity for one group to benefit from another in an unethical manner”



27 Barker, K., Silver-Greenberg, J., Ashford, G and Cohen, S. The Eviction Machine Churning Through New York City. *The New York Times*. (2018, May 20). Retrieved from <https://www.nytimes.com/interactive/2018/05/20/nyregion/nyc-affordable-housing.html>

B. Preferential rent

A different loophole in rent regulation allows landlords to charge preferential rent in rent-stabilized apartments. The “preferential rent” provision was introduced in 2003 and allows landlords to charge less than the maximum allowable rent under rent stabilization. In theory, such discounts on rent should be good for tenants, but in practice the “preferential rent” provisions benefit landlords in several ways. Landlords have to register the maximum legal rent for their apartments in accordance with rent stabilization rules, but in practice they are free to put any figure as the legal rent as New York State’s Division of Housing and Community Renewal (DHCR) rarely checks to see if the rent that landlords register with the Division is in compliance with rent regulations.²⁸ Therefore, landlords are free to register a maximum rent that is higher than what an apartment could realistically be rented for, attract a new tenant with a “preferential rent” rider in the lease, and then raise the preferential rent up to the maximum allowable amount at any point a tenant renews his/her lease. This is possible because preferential rents are not subject to any of the annual caps of rent increases that are decided by the NYC Rent Guidelines Board. This underhanded practice can displace tenants who cannot pay for the difference between their preferential rent and the maximum allowable rent.²⁹

For landlords, eliminating preferential rents is not only a way to push tenants out, but it could also be a deterrent for tenants to complain about apartment disrepair lest they lose the preferential rent clause in their lease.³⁰ In gentrifying neighborhoods, preferential rents could be used to speed the process of tenant turn-over and to extract additional rent from tenants in years when the Rent Guidelines Board decides on a rent freeze or small increases in the maximum allowable rents.³¹ What is particularly concerning is that the city’s Independent Budget Office found a 55% increase citywide between 2008 and 2015 in the median gap between preferential rents and maximum allowable rents, with the gap in Manhattan being over \$800.³²


28 Podkul, C. (April 25, 2017). New York Landlords Exploit Loophole to Hike Rents Despite Freeze. *ProPublica*. Retrieved from <https://www.propublica.org/article/new-york-landlords-exploit-loophole-to-hike-rents-despite-freeze>


29 Kende, J. (March 23, 2018). State Must Patch Holes in City’s Rent Regulation. *Crain’s New York* Retrieved from <http://www.crainnewyork.com/article/20180323/OPINION/180329956/op-ed-state-must-patch-holes-in-citys-rent-regulation>

30 Podkul, *ProPublica*, April 25, 2017.


31 Podkul, C. (June 22, 2017). Many ‘Rent-Stabilized Apartments Are Not Really Stabilized. See Where They Are. *ProPublica*. Retrieved from <https://www.propublica.org/article/rent-stabilized-nyc-apartments-preferential-rent-mapped-zip-code>

32 Podkul, *ProPublica*, April 25, 2017.


“In gentrifying neighborhoods, preferential rents could be used to speed the process of tenant turn-over and to extract additional rent from tenants ”



As reflected in Table 2, about 26% of rent stabilized apartments in Washington Heights/Inwood currently have preferential rent terms. This is somewhat below the citywide average of 31%, but it still represents a sizeable number of tenants who could be displaced should their landlords decide to charge the maximum allowable rent. ZIP codes in Washington Heights/Inwood (10034 and 10040), where the Dominican population is either close to half or half of the total ZIP code population, are also the ones with the highest percentage of stabilized units with preferential rents (see Table 2). Therefore, it is a must for the state to reform how rent increases are handled in rent-stabilized units with preferential rents. The rent stabilization regulations are up for renewal through the state in 2019 making this the right moment to reexamine how the current system could be reformed to preserve the affordability of rent stabilized units.


“ZIP codes in Washington Heights/Inwood (10034 and 10040) where the Dominican population is either close to half or half of the total ZIP code population are also the ones with the highest percent of stabilized units with preferential rents”




Table 2
Racial/Ethnic Compositions, Preferential Rents, Stabilized Units
by ZIP code in Washington Heights/Inwood

Zip Code	Dominican	Latinos Overall	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Asian	Total Population 2010 ^b	Number of units with preferential rent 2016 ^b	Number of occupied stabilized units	Percent of occupied stabilized units with preferential rent
10031	32%	58%	12%	28%	2%	56,438	2,503	9,940	25%
10032	45%	70%	11%	16%	3%	57,331	2,800	12,595	22%
10033	45%	70%	24%	4%	2%	53,926	2,823	12,578	22%
10034	48%	72%	19%	7%	2%	38,908	3,033	10,425	29%
10040	50%	72%	20%	5%	2%	41,905	3,266	10,850	30%
Total (Washington Heights/ Inwood) ^a	47%	71%	17%	8%	2%	198,483	14,425	56,388	26%
New York City	7%	29%	34%	24%	14%	8,175,133	251,374	806,210	31%

Sources: Population data by ZIP code - U.S. Census Bureau 2010 Census SF 2; Table DP1. Preferential rent data from the New York State Division of Housing and Community Renewal (DHCR) available at <https://assets.documentcloud.org/documents/3872406/DHCR-Data-Memo-June-2017.pdf>

^a Population data for Washington Heights/Inwood PUMA (3801) - NYC Department of Planning 2010 Census. Available at <https://popfactfinder.planning.nyc.gov/profile/2099/census>

^b The population data in the table is from 2010 and the preferential rate data is from 2016.

Notes: Race data is for one race alone not in combination. A visualization of preferential rent data by ZIP code for the entire New York City area is available at <https://projects.propublica.org/graphics/preferential-rents>

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