Revisiting Rent Stabilization in the Neighborhood Context: The Potential Impact of Rent Regulation on Community Stability and Security in the New York Metropolitan Region

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NEIGHBORHOOD CONTEXT: THE POTENTIAL
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COMMUNITY STABILITY AND SECURITY IN
THE NEW YORK METROPOLITAN REGION

Madeleine Parker* and Karen Chapple**†

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† This Article was originally submitted in March 2019 as part of the Fordham Urban
Law Journal 2019 Symposium, “One Hundred Years of Rent Control: An
Examination of the Past and Future of Rental Housing,” which took place on
January 18, 2019. In June 2019, the New York State Legislature passed the Housing
Stability and Tenant Protection Act of 2019 (S6458), which enacts several changes to
state laws governing rent regulation that are not reflected in this Article. S.B. 6458,
2019–20 Reg. Sess. (N.Y. 2019). S6458 implements several tenant protections, and
allows any jurisdiction to opt into the Emergency Tenant Protection Act, which
enacts rent stabilization measures in locations with vacancy rates under 5%. Id. In
particular, S6458 repeals the vacancy bonus increases and high-rent and high-income
decontrol measures described in this Article, and limits the owner-occupancy
conversions of rental properties. Id. Although this Article was unable to take these
changes into account, they bode well for the expansion of rent stabilization in the
future and thus strengthen this article’s findings.
INTRODUCTION: THE IMPORTANCE OF HOUSING SECURITY AND COMMUNITY STABILITY

For many decades, economists and planners have debated the value of rent control, staking out opposing sides of the debate with results that are mixed.1 For the most part, the literature adopts a conventional approach to assessing the effectiveness of rent stabilization ordinances, asking, for a particular city with rent control, how many renters are protected and affordable units preserved, and

whether the ordinance dampened housing production. The conclusion is usually that there are some winners (typically long-term residents) and some losers (particularly low-income newcomers).

Yet, it is entirely possible that impacts of rent stabilization vary by neighborhood. Neighborhoods differ in terms of their mix of housing and their trajectories of change. Some are homogeneous communities of single-family homeowners, untouched by rent stabilization. Others have a mix of building and tenure types — for example, apartment buildings with renter occupants may act as a more flexible housing supply. Some are high-income and exclusive, gradually losing their low-income residents without replacement. Others are low-income and gentrifying with new affluent residents. Still other low-income areas are simply churning low-income residents. These differing contexts offer varying degrees of stability and security for their residents.

In a diverse, rapidly changing low-income neighborhood, rent stabilization may cause fewer residents to move out, intensifying competition and increasing rents for the few housing units available. In an exclusive neighborhood populated primarily by affluent residents, rent-stabilized units play a similar role in terms of slowing exit rates, but without creating the same kind of pressure on the other units. Given high land costs in these areas, these units also may become the only feasible way of preserving affordability. At the same time, there may be pressure to convert housing units, whether in single-family homes or apartment buildings, from rental to homeowner tenures.

Neighborhood dynamics also vary depending on regional context. Rent stabilization ordinances are enacted city by city, likely resulting in spillover effects in neighboring municipalities. For instance, to the extent that stabilization reduces churn, and thus housing supply, adjacent communities may experience a surge in demand — and prices. This may then result in conversion from homeowner to rental

5. While to our knowledge, no study to date has examined spillover effects between municipalities, a study of Cambridge, Massachusetts did find spillover
units, or simply an increase in exclusion as low-income in-movers are priced out.

This Article shifts the analytic lens from examining the effectiveness of rent stabilization ordinances at preserving affordability and supply to surveying how they work in different neighborhood contexts throughout a diverse region — the 31-county New York metropolitan region and its 20 million residents. The analysis provided in this Article develops a typology of neighborhood change, using United States Census data, that demonstrates the extent to which low-income households are being displaced from both low-income and moderate-to-high income neighborhoods. It then couples this typology with estimations of the potential number of rental units that would be affected by rent regulation. This Article finds that over 1.2 million units could potentially be protected; about three-quarters of these are currently affordable at the regional median household income. The majority of the neighborhoods potentially most affected by rent regulation are low-income (i.e. those with a median household income of less than 80% of the regional median). Most of these neighborhoods are either currently undergoing processes of gentrification, displacement, or both; or have vulnerabilities that place them at risk of such change.

By analyzing how rent control works across a variety of neighborhood types, from gentrifying to exclusionary and from majority renter to homeowner, this Article provides a new perspective on how renter protections maintain stable and secure communities. Whether or not rent stabilization ordinances work to preserve affordability, they may play an important role in helping low-income residents achieve other goals, such as upward mobility or a sense of community, while also supporting cities in their goals for local diversity, inclusion, and fair housing.

Part I of this Article provides an overview of the literature on neighborhood change, with a focus on the various forms of neighborhood ascent, from gentrification to exclusion. Part II


6. See infra Table 3.
7. See infra Table 3.
8. See infra Figure 1.
examines the variation in types of tenure across neighborhoods. After a brief discussion of the methodological approach to analyzing census data, Part III constructs typologies of neighborhood change across the 31-county New York metropolitan region and examines how they relate to the location of renter households. Part IV examines how rent stabilization preserves affordability across different neighborhood types. Finally, the conclusion offers thoughts for further research and implications for policy.

I. UNDERSTANDING NEIGHBORHOOD CHANGE

Part I.A begins with an overview of theories and evidence about neighborhood change across a variety of communities: from cities to suburbs, and from low-income to high-income to mixed-income communities. Part I.B then discusses different policies that have been implemented to stabilize neighborhoods, such as fair share housing, inclusionary zoning, and rent stabilization. It concludes with an examination of existing literature on how these policies, including rent regulations, perform in different neighborhood types.

A. Theories and Evidence on Neighborhood Change

Understandings of neighborhood change have developed over time. The invasion-succession model of the Chicago school has long dominated scholarship about neighborhood change — it describes a process by which lower-income residents residing in the inner core of the city invade the outer rings and gradually succeed the higher-income residents. Theorized during a period of rapid growth in the city of Chicago, this model describes an influx of immigrants or increase in incomes that will spur the succession process. New competition for land causes shifts in concentric rings or zones, with residents sorting themselves by socioeconomic status into neighborhoods. With the Chicago core increasingly occupied by

10. The 31-county region includes the five boroughs of New York City (Bronx, Kings, Manhattan, Queens, and Richmond), counties in Connecticut (Fairfield, Litchfield, and New Haven), New Jersey (Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, and Union), and New York (Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, Warren, and Westchester).


13. *Id.* at 56–57.
high-end commercial uses, developers constructed new neighborhoods on the periphery, attracting higher-income residents ready to leave their aging properties in the urban core. Just as they began to provide a lower quality of shelter, these housing units filtered down to lower-income groups, who often overcrowded into the units and hastened their decline.

Whether or not through invasion-succession, the majority of metropolises end up in a pattern of concentric rings or zones: the innermost ring occupied by the commercial and residential renters able to pay the most, subsequent rings occupied by households of a mix of incomes, and the most affluent households occupying the outermost ring. Pockets of concentrated poverty remain and, in some regions, have increased. However, the diversity of many neighborhoods in the urban core is increasing, perhaps due to neighborhood ascent. Somewhere between 14% and 20% of neighborhoods actually ascend in socioeconomic status each decade, and though the majority of these are white suburbs, diverse minority and immigrant core neighborhoods are increasingly likely to see higher incomes as well. Some of this change is due to upgrading by incumbent residents. Another reason for this change is best characterized as gentrification, a form of revitalization that is depicted by both an influx of new investment and an inflow of new

15. See id. at 122.
18. Owens, supra note 9, at 357. Owens defines ascent as “neighborhoods that experience improving socioeconomic status (SES) regardless of socioeconomic origin, outcome, or process, with gentrification only one type of change falling under this umbrella.” Id. at 346.
19. Id. at 363.
20. See Phillip L. Clay, Neighborhood Renewal: Middle-Class Resettlement and Incumbent Upgrading in American Neighborhoods 7 (1979) (defining incumbent upgrading as a process in which existing residents improve the conditions of their housing unit, resulting in physical impacts without socioeconomic changes).
people, typically of higher educational and income levels than the original residents, into low-income neighborhoods.\textsuperscript{21}

Neighborhood change in the suburbs has garnered relatively less attention from scholars. Some have noted the rise of the polycentric region, where cities on the edge of the traditional urban core contain new concentrations of jobs surrounded by housing.\textsuperscript{22} This new centering attracts new upper-income residents, resulting in suburban neighborhood ascent or gentrification.\textsuperscript{23} Recent observers are likely to note the decline of the inner-ring suburbs.\textsuperscript{24} However, instead of zones of homogeneity, today's inner-ring suburbs appear increasingly diverse.\textsuperscript{25}

Neighborhood change also occurs in affluent areas, which may increasingly exclude low-income households as housing becomes more expensive. Despite pockets of diversity, economic segregation has generally increased since the 1970s, and is associated with increased racial segregation.\textsuperscript{26} Increases are particularly pronounced in more affluent neighborhoods. Between 1980 and 2010, the share of

\begin{flushright}
\begin{tabular}{l}
23. See Owens, supra note 9, at 357–58. \\
25. Bernadette Hanlon et al., The New Metropolitan Reality in the U.S.: Rethinking the Traditional Model, 43 URB. STUD. 2129, 2138 (2006); see Kneebone & Berube, supra note 24, at 9. \\
\end{tabular}
\end{flushright}
upper-income households living in majority upper-income tracts doubled from 9% to 18%, compared to an increase from 23% to 25% in segregation of lower-income households living in majority lower-income tracts.\textsuperscript{27}

It is unclear what is happening to the low-income households in these neighborhoods. One study of racially concentrated areas of affluence suggested that these neighborhoods still retain substantial shares of low-income households.\textsuperscript{28} Even as the concentration of upper-income households was increasing in affluent areas, the number of lower-income households was growing as well: the share of lower-income households in majority upper-income tracts increased from 1% in 1980 to 2% in 2010.\textsuperscript{29}

The sorting of the rich and poor is even more pronounced between jurisdictions than between neighborhoods in the same city.\textsuperscript{30} The concentric zone model is strongly associated with the segregation of the affluent.\textsuperscript{31} In other words, in metropolitan areas where the affluent are most separated from the poor, the rich are living on land further from the center — for instance in suburban enclaves.

Trajectories of neighborhood change are decidedly more varied than early models predicted.\textsuperscript{32} There is a tendency towards residential sorting and segregation, but at the same time, recent decades have seen the emergence of ascending neighborhoods in the urban core and diversifying inner-ring suburbs.\textsuperscript{33} Urban models emphasize change but neighborhoods are actually quite slow to change — neighborhoods are remarkably stable. This is in part because Americans have become significantly more rooted over time. In any given year, almost 90% of the residents lived in the same house the year before.\textsuperscript{34} The annual mover rate for owner-occupied housing is 5.1%, versus 24.9% for renters.\textsuperscript{35}

\begin{itemize}
\item \textsuperscript{27} Fry & Taylor, supra note 26, at 1.
\item \textsuperscript{28} See generally Edward G. Goetz et al., Racially Concentrated Areas of Affluence: A Preliminary Investigation, 21 CityScape 99 (2019).
\item \textsuperscript{29} Fry & Taylor, supra note 26, at 13.
\item \textsuperscript{30} See Reardon & Bischoff, supra note 26, at 1125.
\item \textsuperscript{31} See Dwyer, supra note 16, at 129.
\item \textsuperscript{32} See Robert E. Park et al., The City 51–52 (Robert E. Park & Ernest W. Burgess eds., 1967); Owens, supra note 9, at 363.
\item \textsuperscript{33} See Hanlon et al., supra note 25, at 2140.
\item \textsuperscript{34} Press Release, U.S. Census Bureau, About 36 Million Americans Moved in the Last Year, Census Bureau Reports (Nov. 18, 2013), https://www.census.gov/newsroom/press-releases/2013/cb13-192.html [https://perma.cc/9UX3-97QU].
\item \textsuperscript{35} Id.
\end{itemize}
B. The Role of Policy

Neighborhood changes emerge in part from changing preferences, but policies to support income-diverse or integrated neighborhoods play a role as well.\textsuperscript{36} The public interest in supporting integration stems from federal civil rights enforcement, particularly in the area of fair housing.\textsuperscript{37} But substantial literature demonstrates the costs of segregation and the benefits of income mixing.\textsuperscript{38} Underlying this approach is the notion, advanced originally by New York urbanist Jane Jacobs, that the mixture of household types, tenures, and incomes that create income diversity are vital components of neighborhood revitalization.\textsuperscript{39} Such an income mix can also serve to break up or prevent concentrations of poverty that are viewed as generators of neighborhood decline.\textsuperscript{40} Good social services, especially education and safety, are easier to provide in communities with more fiscal capacity to pay for such services.\textsuperscript{41} Everyone in the community benefits from better services. Low-income families benefit, just like middle-class families, when there are reductions in crime rates, and their children benefit from access to higher quality education.\textsuperscript{42}

Mixed-income neighborhoods arguably create an environment where the poor are not as segregated from the mainstream as they are in neighborhoods with a concentration of poverty.\textsuperscript{43} Middle-income residents bring resources that augment the quality of local schools, parks, and other amenities, helping low-income residents to acquire the skills needed to break away from poor communities, and thus reducing social costs down the road.\textsuperscript{44} Income-diverse communities

\textsuperscript{36} See \textit{Chapple}, supra note 21, at 119–24.


\textsuperscript{41} See \textit{Dreier et al.}, supra note 38, at 185.

\textsuperscript{42} See \textit{id.} at 82, 96.

\textsuperscript{43} See \textit{id.} at 284–86.

\textsuperscript{44} See \textit{id.} at 287.
may also be better equipped to avoid and withstand periods of decline than low-income communities because of their diversity of housing options and established economic base.\textsuperscript{45}

A wide range of initiatives, from efforts by the U.S. Department of Housing and Urban Development (HUD) to integrate subsidized housing,\textsuperscript{46} to regional fair share housing,\textsuperscript{47} to inclusionary zoning,\textsuperscript{48} have been used to promote mixed-income communities. Assessments indicate that these approaches have generally fallen short of their implementation goals and, even when enacted, may not improve life outcomes for the disadvantaged.\textsuperscript{49} One important precedent was the \textit{Gautreaux} lawsuits, starting in the late 1960s, which questioned the legality of mobility programs that aimed to relocate public housing residents to mixed-race and mixed-income neighborhoods.\textsuperscript{50} These mobility programs operated under the premise that diversifying a person’s environment would give access to advantages not available in public housing, and adopted two approaches.\textsuperscript{51} The first, the “development” strategy, attracts market-rate tenants to redeveloped HUD-managed properties to create mixed-income communities.\textsuperscript{52} The HOPE VI program (running from 1992 to 2011), which redeveloped public housing projects as new mixed-income developments, grew out of this approach.\textsuperscript{53} In contrast, the “dispersal” or “mobility” strategy grants tenants Section 8 vouchers so that they could move into market-rate housing in the neighborhood of their choice, provided that landlords would accept

\textsuperscript{45} See \textsc{Alan Berube}, \textsc{Mixed Communities in England: A U.S. Perspective on Evidence and Policy Prospects} 39–40 (2005).
\textsuperscript{46} See \textsc{Drier et al.}, \textit{supra} note 38, at 159.
\textsuperscript{47} See \textit{id.} at 262–63.
\textsuperscript{48} See \textsc{Chapple}, \textit{supra} note 21, at 82.
\textsuperscript{49} See \textit{id.} at 239.
\textsuperscript{50} There were a number of \textit{Gautreaux} decisions; in one of the first, \textit{Gautreaux v. Chicago Housing Authority}, an Illinois federal district court found that the Chicago Housing Authority discriminated based on race in the placement and leasing of public housing. 269 F. Supp. 907, 908 (N.D. Ill. 1969) \textit{aff’d} 436 F.2d 306 (7th Cir. 1970). In 1976, the U.S. Supreme Court ruled in \textit{Hills v. Gautreaux} that remedial mobility programs — court orders that provided Section 8 vouchers for public housing residents to move to predominantly white neighborhoods to address CHA’s discriminatory policies — were constitutional. 425 U.S. 284, 297 (1976).
\textsuperscript{51} See \textsc{Chapple}, \textit{supra} note 21, at 119.
\textsuperscript{52} See \textsc{Edward G. Goetz}, \textsc{Clearing The Way: Deconcentrating the Poor in Urban America} 58 (2003).
\textsuperscript{53} \textsc{Chapple, supra} note 21, at 126. Over the duration of the U.S. Department of Housing and Urban Development’s HOPE VI program, it made 515 grants, worth over $6 billion, to replace about 83,000 housing units with a mixture of market-rate and subsidized housing. \textit{Id.}
This became the basis of the Moving to Opportunity experiment, which was designed to relocate residents living in neighborhoods with a concentration of poverty, as well as the eleven consent decrees that followed the Gautreaux decision.

Another set of initiatives have sought to promote the integration of low-income housing into wealthier, high-opportunity neighborhoods. These follow in part from the New Jersey case Southern Burlington County N.A.A.C.P. v. Mount Laurel, which called for municipalities to provide their fair share of their region’s housing needs. Regional fair share programs increase affordable housing opportunities throughout a region, typically based on an allocation formula set by a regional authority. Many municipalities have adopted inclusionary zoning ordinances, but the number of affordable housing units produced is quite small. In the 40 years of the program leading up to 2010, inclusionary zoning produced an average of about 4000 units per year across the entire country.

Rent stabilization ordinances may also act as a tool to promote income mixing. Studies to date have not focused on this aspect of rent regulations, but there exists some evidence that cities with rent stabilization can preserve their income diversity and community stability. Rent stabilization may spur gentrification, as landlords seeking to profit in a hot market may try to remove their units from regulation by evicting tenants and/or converting rental units to

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54. See Goetz, supra note 52, at 51.
55. See Susan J. Popkin et al., Obstacles to Desegregating Public Housing: Lessons Learned from Implementing Eight Consent Decrees, J. POL’Y ANALYSIS & MGMT. 179, 179-99 (2003). The Moving to Opportunity (MTO) program was authorized in 1992 and was modeled after Gautreaux but differed in that it was designed to relocate residents living in neighborhoods with a concentration of poverty rather than racial concentrations. The program relocated residents living in areas with greater than 40% of residents below the federal poverty level to areas where less than 10% of the population was below the federal poverty level. For a detailed description of all these programs, see Goetz, supra note 52, at 45–63.
58. Inclusionary zoning ordinances ask or require developers to provide a certain proportion of affordable housing units within a development or provide funds in lieu. See Lincoln Inst. of Land Pol’y, Inclusionary Housing in International Perspective: Affordable Housing, Social Inclusion, and Land Value Recapture 1 (Nico Calavita & Alan Mallach eds., 2010).
59. For measurements and calculations, see id. at 15–78.
60. See Pastor et al., supra note 1, at 16.
condominiums.61 As supply tightens, local rents may increase. This may still lead the remaining tenants to stay in place longer than they would have (presumably due to reduced supply and improved local amenities), stabilizing some communities.62 Residents of rent stabilized apartments are 10–20% more likely to stay in their housing long-term.63 Even when not facing drastically rising rents or market pressures, benefits accrue to staying in a home longer. One study found that tenants without rent regulations had a discount of 12.7–21.7% for staying in their homes, and tenants in rent-stabilized units had a discount of 26.5–30.9%.64

Affordability benefits of rent stabilization may even spill over for units not in eligible buildings. Studies have found that rent regulations are associated with either slightly decreased rents or no effect on non-stabilized units.65 Cities with rent regulations in New Jersey and California were found to have lower growth in median rents than cities without regulations.66 In Massachusetts, rent stabilized units were shown to slightly decrease rents of non-controlled units.67

Moderate rent stabilization measures tend to exempt new construction.68 Because of this, rent stabilization does not significantly impact new construction, after controlling for related characteristics.69 A study of New Jersey municipalities, with and without rent stabilization measures, found that the measures did not have a significant impact on appreciation or foreclosure rates, allaying concerns about disinvestment in low-income areas.70 Other studies demonstrate that in hot real estate markets, with wealthy incoming tenants, tenant protections may generate increased demand for new

61. Diamond et al., supra note 4, at 2.
62. PASTOR ET AL., supra note 1, at 16.
63. Id. at 4.
64. W. A. V. Clark & Allan D. Heskin, The Impact of Rent Control on Tenure Discounts and Residential Mobility, 58 LAND ECON. 109, 111 (1982).
66. Glaeser, supra note 65, at 196.
67. Sims, supra note 65, at 148–49.
68. PASTOR ET AL., supra note 1, at 14.
construction. By protecting lower-income renters who stay in their homes, wealthy tenants drive demand for, and are able to afford, new construction.71

II. UNDERSTANDING HOUSING OPTIONS THROUGH A MORE EXPANSIVE VIEW OF TENURE

Part II first defines housing tenure. It then examines the nature and prevalence of different types of tenure in the New York metropolitan region, detailing programs in New York City as well as regulations in other jurisdictions. These different types of tenure include informal tenures, affordability-protected rentals, open-market rentals, third way tenures, homeownership, and mixed tenures.

Discussions of housing tenure, traditionally referring to the arrangement of housing ownership and occupancy, are often viewed in terms of a simple dichotomy of renting versus ownership.72 Tenure can take a range of different forms, including mixed-tenure housing.73 Tenure offers a useful dimension for mapping the domain of housing options, as moving beyond the original notion of tenure gives insight into the amount of stability and control a resident has over their living situation.74 Many forms of tenure are insecure, such as when renters are not formally on the lease or where renters are unprotected from potentially drastic rises in rents.75 Other forms of tenure carry affordability protections, and there is a small but growing development of “third way tenures,” involving cooperatives and

71. PASTOR ET AL., supra note 1, at 14 n.12 (citing the opinion of Berkeley Housing Director Dr. Stephen Barton).
72. See generally Jake Wegmann et al., Breaking the Double Impasse: Securing and Supporting Diverse Housing Tenures in the United States, 27 HOUSING POL’Y DEBATE 193 (2017); see also James Barlow & Simon Duncan, The Use and Abuse of Housing Tenure, 3 HOUSING STUD. 219, 220 (1988) (describing and critiquing the term in more depth).
73. See Barlow & Duncan, supra note 72, at 219 (describing tenure having more than its original meaning of occupancy and homeownership); see also Wegmann et al., supra note 72, at 10 (advocating for a more expansive definition of the range of tenure types).
75. See Wegmann et al., supra note 72 (describing the concept of high-risk tenures). This Article’s definition of “tenure” is based on Wegmann et al.’s conception of high-risk tenures.
community land trusts.\textsuperscript{76} Examples of each tenure type are shown in Table 1.

Table 1: Forms of Tenure\textsuperscript{77}

<table>
<thead>
<tr>
<th>Form of Tenure</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal tenures</td>
<td>Tenant not on lease; transitional housing; living on street</td>
</tr>
<tr>
<td>Affordability-</td>
<td>Rent controlled units; units under rent stabilization measures; public</td>
</tr>
<tr>
<td>protected rentals</td>
<td>housing</td>
</tr>
<tr>
<td>Open-market rentals</td>
<td>Rental units in municipalities that do not have rent stabilization; units built recently; single-family rental homes (in most areas)</td>
</tr>
<tr>
<td>Third way tenures</td>
<td>Community land trusts; cooperatives</td>
</tr>
<tr>
<td>Homeownership</td>
<td>Owner-occupied homes</td>
</tr>
<tr>
<td>Mixed-tenure</td>
<td>Accessory Dwelling Units; rental units in owner-occupied buildings</td>
</tr>
</tbody>
</table>

Central to conversations about housing and tenure is the question of affordability: What housing is affordable, and to whom? Housing can become insecure by not being affordable to a household. Both owning and renting can include ranges of affordability, although affordable housing is often assumed to refer only to rental housing.\textsuperscript{78} The classic reason for this distinction is the capital required for a mortgage and the capital gains homeowners are able to accrue.

\textsuperscript{76} Traditional “third sector” or “third way” housing was defined as common property regimes, including cooperatives and community land trusts. CHARLES GEISLER & GAIL DANEKER, PROPERTY AND VALUES: ALTERNATIVES TO PUBLIC AND PRIVATE OWNERSHIP xiv (Charles Geisler & Gail Daneker eds., 2000).

\textsuperscript{77} See Wegmann et al., supra note 72, at 193–216 (describing concept of high-risk tenure); see also CASH, supra note 74, at 23–28; supra note 75 and accompanying text.

through property ownership. This then drives societal inequality. For instance, historic redlining and racial discrimination in access to mortgages and other loans resulted in the inability of people of color to purchase property and attain the gains that white homeowners were able to accrue, which contributes significantly to the racial wealth gap. HUD estimates a rent to be affordable if it is less than 30% of a household’s annual gross income, and households paying more than 50% of their income in rent are considered to be severely rent burdened. Homeowners are also considered to be cost-burdened if they pay more than 30% of their income on housing costs, including mortgages.

A. Informal Tenures

Informal tenures encompass the most insecure forms of housing and include those without a formal lease in a resident’s name or without access to housing. The most vulnerable are those unhoused, in shelters, or on the street. New York City has over 3000 street homeless, and roughly 60,000 people living in shelters — the largest population in the country. A wide range of other living arrangements, often undercounted and unprotected, fall under this umbrella as well, including short-term rentals, informal tenants, transitional housing, and informal live-work arrangements. Other forms of informal tenures include crowding, defined by the New York

83. See supra note 75 and accompanying text.
84. See supra note 75 and accompanying text.
86. See Wegmann et al., supra note 72, at 24.
City Housing and Vacancy Survey as more than one person per room on average, for all rooms in a unit. In 2017, 11.5% of renter households in the city were crowded under this definition.

B. Affordability-Protected Rentals

The New York metropolitan region is home to a wide variety of subsidized rental tenures, supported by federal, state, and city subsidies as well as rent control and rent stabilization measures. The term “affordability protection” is used in this Article to define housing that has some legal regulation providing a constraint on the rent, through direct subsidies or prohibiting a level of increase. Moreover, the term “protection” is used to encompass rent stabilization and rent control, and retain focus on the impact on residents. In the New York metropolitan region, affordability protections are typically rental protections, though there are affordable homeownership programs run by the city and state.

i. Rent Stabilization and Rent Control

The most widespread affordability protections in the New York metropolitan region are rent regulations. More than half of the region’s rental units are located in New York City, but restrictions in rent regulations mean that many of these units are exempt from rent stabilization protections, due to high rents or being located in

88. Id.
89. See Wegmann et al., supra note 72, at 20 (describing affordability protections). Wegmann et al.’s description informs this Article’s definition of “affordability protection.”
91. See NAT’L MULTIFAMILY HOUS. COUNCIL, RENT CONTROL BY STATE LAW (2019), https://www.nmhc.org/link/049fe4e913c24234b8d9fe0be2d6a40b.aspx [https://perma.cc/JLR5-LDND]. However, this does not mean that half of rental units in the region are covered, due to specifications of the rent stabilization laws.
92. Authors’ analysis of U.S. Census data, infra Part III.A.
In 2017, just 44% of New York City’s rental units were rent stabilized. New York’s rent stabilization is maintained through the Emergency Tenant Protection Act, which is renewed every three years while the city is considered to be under a housing emergency (with a vacancy rate below 5%). These units are protected from open market increases on rents: as of 2018, increases are allowed by the Rent Guidelines Board at the rate of 1.5% for one-year leases and 2.5% for two-year leases. These regulations provide stability: the median contract rent for rent stabilized units increased by 2.6% from 2014 to 2017, while the median contract rent for private non-regulated units increased by 10% in that time period.

There are two primary limitations on rent stabilization in New York City. First, rent stabilization most typically covers units in buildings of six or more units built between February 1947 and December 1973. There are a few additions, for buildings with special affordability protections through tax exemption programs, certain buildings with three or more apartments constructed or extensively renovated on or after January 1974 with special tax benefits, and for tenants in buildings built before February 1947, who moved in after June 1971. Second, New York City has vacancy bonus increases and high-rent vacancy and high-income decontrol thresholds. Vacancy bonus increases mean that each time a tenant moves out, the landlord can raise the rent by 20% (for a two-year lease, less for a one-year lease), with small additions for

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94. See N.Y.C. DEP’T OF HOUS. PRES. & DEV., supra note 87, at 1.

95. See NYU FURMAN CTR., RENT STABILIZATION IN NEW YORK CITY 1–2 (2012).


98. See N.Y. STATE DIV. OF HOMES & CMTY. RENEWAL, supra note 93.


100. N.Y. STATE DIV. OF HOMES & CMTY. RENEWAL, supra note 93.

101. Id. These specific dates are due to the two waves of rent regulations passed in New York City, the first due to migration during World War II, and the second during inflation in the 1970s. See Richard Arnott, Time for Revisionism on Rent Control?, 9 J. ECON. PERSP. 99, 100–02 (1995).
improvements. High-rent vacancy decontrol means that apartments are deregulated when rents rise beyond the current deregulation threshold of $2774.76 and there is a vacancy. High-income decontrol means that if the income of residents is above $200,000 for each of the two prior years, and the rent of the unit is at or above the deregulation threshold, the unit is no longer subject to rent regulation.

High rates of rent decontrol are the primary reason for a decline in the number of rent-stabilized units in New York City. The Furman Center found that approximately half of units in the city were rent-regulated in 2011, with a net loss of 230,000 units over the past 30 years, despite the entry of units due to tax incentive programs. Due to these decontrol measures, New York City has rapidly lost rent-stabilized units: between 13,000 to 40,000 apartments are priced out of rent regulation each year.

Rent control, which is often conflated with rent stabilization, is more restrictive. Rent control applies only to buildings constructed before February 1947, with a tenant or a lawful successor — family member, spouse, or adult lifetime partner — who has been living continuously in the apartment since before July 1971. When rent-controlled apartments become vacant, they either become stabilized, if in an eligible building, or are removed from regulation. Rent-controlled apartments only comprised approximately 1% of New York City’s housing stock in 2017.

103. RENT CONTROL, supra note 99, at 4.
104. Id.
105. NYU FURMAN CTR., supra note 95, at 2.
108. Id.
Some other municipalities in the region have some form of rent stabilization, sometimes through an Emergency Tenant Protection Act similar to New York City, while other jurisdictions restrict municipalities from adopting these protections. Those with high-rent vacancy decontrol have similar thresholds to New York City, although the protections range from governing single-unit buildings in parts of New Jersey to applying only to buildings with 100 or more units in parts of New York. One of the states in the defined New York metropolitan region, Connecticut, currently prohibits local jurisdictions from adopting rent control laws.

**ii. Federal Subsidy Programs**

Federal subsidy programs, including public housing and Housing Choice Vouchers, also known as Section 8 vouchers, provide for a significant amount of housing in the region, including over 350,000 units in New York City. However, these programs do not necessarily prevent displacement. Holders of Section 8 vouchers...
often face constrained housing choices, despite attempts by local, state, and federal government to prevent discrimination.

Public housing units that are government built-and-operated exist in large numbers in the region. The New York City Housing Authority (NYCHA) provides an enormous share of the affordable housing in the city. In 2018, some 174,000 public units housed approximately 400,000 low-income New Yorkers — or, one in eleven renters. This is far more than the number supported by low-income housing tax credits, at approximately 116,000 units. Rents in public housing units are far more affordable than in unregulated units: average public housing rents were less than a third of average unregulated rents in New York City in 2017.

There was a shift in the 1960s and 70s from federal decisions to build public housing to subsidizing developments by private developers. The Low-Income Housing Tax Credit (LIHTC) is a subsidy to private developers for low-income families to live in the private housing market. This is now the largest subsidy for the production of rental housing in the United States, allocated in the form of tax credits for low-income housing.

### iii. New York City Programs

New York City has run dozens of subsidy programs within the five boroughs over the decades. These often involve state, federal, or local funding (or a combination thereof), subsidizing new construction as well as the preservation of affordability in current units. Programs like 421-a, for example, involve tax incentives to

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118. NYU FURMAN CTR., supra note 115, at 1.

119. Id. at 2.

120. Id. at 3.


122. Id. at 8.


124. See id.
provide affordability for certain units. Others, like J-51, provide tax incentives for building renovation and refurbishment programs that involve affordability protections. Land use tools have been used as well, including Mandatory Inclusionary Housing, requiring set-asides of affordable units in higher-density developments and conversions. The City has also been using city-owned lots in combination with federal programs to incentivize affordable housing. Together these provide a significant share of subsidized units within the five boroughs, and have recently had a renewed emphasis under “Housing New York,” the 2014 plan to increase housing affordability in the city. Housing New York financed just over 135,000 units of new construction and affordability preservation in its first five years.

Most frequently, units subsidized through New York City programs fall under rent stabilization. Subsidized new construction units are initially leased through a lottery system, and applications require proof of meeting low- or middle-income cutoffs. These subsidized units are subject to the same vacancy bonus increases and high-rent vacancy decontrol policies as all rent-stabilized units.

129. See generally id.
131. See Directory of NYC Housing Programs, supra note 123.
These programs are confined to the five boroughs of New York City. Other jurisdictions have affordable housing programs but they are at a smaller scale, without New York City’s substantial funding or administrative capacity. Affordable housing is very expensive to build and maintain, especially in areas with high land costs. Promisingly, New York State recently launched a plan to create and preserve affordable housing in New York City and throughout the state.

C. Open-Market Rentals

The majority of rental units in the New York metropolitan region are not governed by any form of affordability protections. Our conservative estimates are that 2.3 million units are not governed by some form of affordability protection.


136. This value was calculated by subtracting the number of rent stabilized and rent controlled units in New York City and the approximate number of units under rental protections in the rest of the New York metropolitan region from the total number of rental units in the New York metropolitan region. The value for the number of rent stabilized and rent controlled units in New York City was from the 2011 Furman Center Report on the Housing and Vacancy Survey. See NYU Furman Ctr., Profile of Rent-Stabilized Units and Tenants in New York City (2014) [hereinafter Furman Ctr., 2011 Survey], https://furmancenter.org/files/FurmanCenter_FactBrief_RentStabilization_June2014.pdf [https://perma.cc/8ZJD-CT63]. The estimated number of units under rental protections in the rest of the New York metropolitan region was calculated as the total number of units in municipalities with some form of rent stabilization measures. Municipalities were listed in Jim Lapides et al., Rent Control Laws by State Chart (2019). See Jim Lapides et al., Rent Control Laws by State Chart, Nat’l Multifamily Housing Council (Sept. 20, 2019), https://www.nmhc.org/research-insight/analysis-and-guidance/rent-control-laws-by-state/ [https://perma.cc/4SR8-VE22]. Rental unit numbers were from the U.S. Census Bureau, 2012–2016 American Community Survey 5-year estimates (2017), U.S. Census Bureau 2012–2016 American Community Survey 5-Year Estimates [hereinafter Census 2012–2016 5-Year Estimates], Soc. Explorer, https://www.socialexplorer.com/tables/ACS2016_5yr (last visited Oct. 18, 2019).
Some of the rents in open-market units are affordable to households, at less than 30% of their household incomes, and may be below market rate. However, tenants have no protections against rapid rent increases by landlords, making them particularly vulnerable to displacement. Stabilized units have lower rents overall than those on the open market in New York City.137

D. Third Way Tenures

“Third way” tenures refer to joint forms of ownership among residents, such as community land trusts.138 The majority of New York City’s subsidized housing programs are for renters, but the city also has two subsidized housing programs which offer homeownership at reduced rates — Mitchell Lama co-ops and Housing Development Fund Corporation (HDFC) co-ops.139 Both of these programs have income limits.140 Mitchell Lama units, created out of a city-state program, have long multi-year waiting lists, with many waiting lists within the New York metropolitan region closed.141 New York State has about 35 of these developments beyond New York City limits but the majority are within the five boroughs.142 Some Mitchell Lamas are rentals, though most are cooperative ownership.143 Data on third way tenures is not systematically gathered on a national level, but the New York City Housing and

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138. Charles Geisler & Gail Daneker, Property and Values: Alternatives to Public and Private Ownership xiv (2000) (defining traditional “third sector” or “third way” housing as common property regimes, including cooperatives and community land trusts).
141. See supra note 139 and accompanying text.
143. See id.
Vacancy Survey reports that there were approximately 300,000 units of co-op housing in New York City in 2017.144

E. Mixed-Tenure

Mixed-tenure solutions include all forms of tenure that involve a mixture of renting and owning on the same property, and therefore provide a different balance of protection depending on the resident in question. For example, a renter in an owner-occupied building may not have as much stability or protection from increases in housing costs as the homeowner, despite living on the same premises.

Accessory Dwelling Units (ADUs) — additional smaller houses on the same property as another residential building, often with mixed tenureship on the land parcel — have been slow to be legalized in the New York metropolitan region.145 New York State allows municipalities to form their own laws around the matter.146 Researchers in Long Island found that about 2% of single-family homes, or about 16,000 units, have a legal ADU.147

F. Homeownership

Finally, over one-half of units in the New York metropolitan region are owned rather than rented (53%).148 This percentage has increased slightly over time: 51% of units were owned in 1990, and 53% were in 2016.149 This categorization includes a range of types and characteristics, from single-family detached houses to condominiums in multi-story buildings.150 In the New York metropolitan region, the vast majority of owner-occupied units are single-family homes

146. See N.Y. MULT. DWELL. § 3 (1983).
149. Id.; U.S. Census Bureau 1990 Decennial Census [hereinafter 1990 Census], SOC. EXPLORER, https://www.socialexplorer.com/tables/RC1990 (last visited Oct. 18, 2019). Note: this statistic refers to the total percent of residents in the region owning or renting at each time period.
150. 1990 Census, supra note 149; Census 2012–2016 5-Year Estimates
While data on condominiums is not readily available for the entire New York metropolitan region, in New York City there were approximately 116,000 owner-occupied condominiums compared to about 600,000 owner-occupied conventional homes.\textsuperscript{152}

Owner-occupied units do not guarantee stability: the 2008 housing crisis resulted in four million foreclosures across the United States from 2008–2011.\textsuperscript{153} Homeownership is particularly risky for low-income homeowners. Several studies show that nearly half of low-income homebuyers return to renting within five years of purchasing a home.\textsuperscript{154}

Despite the risks, homeownership is still associated with more stability than renting market-rate units is.\textsuperscript{155} Tax and fiscal policy prioritize the stability of homeowners, through tax deductions on retirement accounts and home mortgage interest, without equivalent protections for lower-income renters.\textsuperscript{156} Ultimately, scholars have described this as the "hidden welfare state."\textsuperscript{157}

\textbf{PART III: NEIGHBORHOOD TYPES AND WHERE LOW-INCOME HOUSEHOLDS LIVE}

Determining the relationship between neighborhood change and rent stabilization ordinances requires multiple steps of data preparation. For this analysis, this Article used the 31-county New York metropolitan region as defined by the Regional Plan Association, extending across three states: New York, Connecticut, and Connecticut.


\textsuperscript{152} See N.Y.C. RENT GUIDELINES BD., supra note 144, at 4. Questions about co-ops and condominiums were not asked on the 2017 U.S. Census American Community Survey.


\textsuperscript{155} Rohe \& Lindblad, supra note 153, at 44.


\textsuperscript{157} See id. at 17–18.
and New Jersey. Part III first describes this data preparation process and then presents the results of the analysis: a typology of eight different forms of neighborhood change.

**A. Data and Methods**

The first step in the analysis is designating neighborhoods by their stage of change over time. For this, data from the Decennial Census, collected in 1990 and 2000, and the American Community Survey from 2012 to 2016 was used. To reconcile the changes in tract boundaries from earlier time periods, this Article used Brown University’s Longitudinal Tract Database (LTDB) and its crosswalks, which normalize census tract data from each year to 2010 census tract boundaries to maximize comparability across the study period.

Where variables are not provided by the LTDB, the original raw data was downloaded and normalized using LTDB’s crosswalk. Change in both low- and high-income neighborhoods was characterized — looking at gentrification and displacement in the former and exclusion in the latter. Thus, the region was divided into low-income neighborhoods at less than 80% of area regional median household income, and moderate- to high-income neighborhoods with median income at or above 80% of area regional median household income. These thresholds were selected to be consistent with affordable housing policies and programs. Tracts with populations of over 500 were also selected, primarily because of data reliability issues.

To describe the neighborhoods where gentrification and displacement are taking place, most studies first pinpoint the

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160. See John R. Logan et al., Interpolating U.S. Decennial Census Tract Data from as Early as 1970 to 2010: A Longitudinal Tract Database, 66 PROF. GEOGRAPHER 412, 417 (2014).
161. The variables missing from the LTDB included household income distribution and number of low-income households moving into a census tract. These were downloaded instead via Social Explorer, http://www.socialexplorer.com.
neighborhoods with potential to change (or the “eligible” tracts). To do this here, several different indicators were used. At the most basic level, vulnerability to change is defined by concentration of affordable housing, so neighborhoods where either rents or housing values are below the regional median were selected. Also selected were several other demographic characteristics — college education below the regional median, share of low-income households above the regional median, share of renters above the regional median, and share of nonwhite households above the regional median. The results of this study suggested that “eligible” neighborhoods must have housing affordability plus any three of the four demographic characteristics.

Next, neighborhood change was characterized in the form of gentrification, operationalized as the influx of investment and people into low-income areas, and displacement, the loss of low-income households without replacement, in low-income areas. Exclusion, by this Article’s definition, transpires when displacement occurs in high-income neighborhoods. Thus, gentrification was measured via the change in real median housing value or rent — depending on whether the neighborhood is majority owner or renter — above the regional median change, as well as growth in share of college educated population and household median income greater than the regional median change. To measure displacement and exclusion, two indicators were used: absolute loss of low-income households between census years and decrease in the in-migration rate of low-income households.

Finally, two additional neighborhood types were created. For a set of neighborhoods that have not yet gentrified but also exhibit both vulnerability and a real estate market that is heating up, we use the designation “at risk of gentrification.” For all neighborhoods, whether gentrifying or exclusionary, where the median income is more than two times the regional median of $70,000, a category “super gentrification or exclusion” was created.


164. See Neil Smith, Toward a Theory of Gentrification: A Back to the City Movement by Capital, Not People, 45 J. Am. Plan. Ass’n 538, 545 (1979) (characterizing this as the rent gap, or the difference between a housing unit’s current rent and the potential rental income under market conditions). A simple proxy, whether a census tract’s median home value or rent is less than 80% of the regional median, was used to identify this affordable housing stock.
B. Results

Table 2 explains the classification system. Figures 1 and 2 map the results of this analysis and describe change over time at the neighborhood level.\textsuperscript{165} The maps identify historic change and predict areas likely to change in the future. Overall, of the 5294 census tracts in the 31-county region, 7\% have already gentrified, 5\% are currently undergoing gentrification, 9\% are currently undergoing displacement, 14\% are in some stage of exclusion, 6\% are in super gentrification or exclusion, and 10\% are at risk of gentrification. The remaining 48\% of tracts may be considered stable. This typology depicts neighborhood change over a 26-year period and uses the patterns from 1990 to 2016 to predict long-term change.

Table 2. Neighborhood Change Typologies for the New York Metropolitan Region

<table>
<thead>
<tr>
<th>Typology (tract income level)</th>
<th>Typology Criteria</th>
</tr>
</thead>
</table>
| Not Losing Low-Income Households (Low Income) | • Population in 2000 >500  
• Low Income Tract in 2016  
• Not classified as At Risk or Ongoing Gentrification or Displacement |
| At Risk of Gentrification (Low Income) | • Population in 2016 > 500  
• Low Income Tract in 2016  
• Vulnerable in 2016 (Defined in Appendix)  
• “Hot market” from 2000 to 2016  
• Not currently undergoing displacement or ongoing gentrification |
| Ongoing Displacement of Low-Income Households (Low Income) | • Population in 2000 > 500  
• Low Income Tract in 2016  
• Loss of Low-Income households 2000-2016 (absolute loss)  
• Few signs of gentrification occurring |
| Ongoing Gentrification (Low Income) | • Population in 2000 or 2016 > 500  
• Low Income Tract in 2016  
• Gentrified in 1990-2000 or 2000-2016 (Defined in Appendix) |
| Advanced Gentrification (Moderate to High Income) | • Population in 2000 or 2016 > 500  
• Moderate to High Income Tract in 2016  
• Gentrified in 1990-2000 or 2000-2016 (Defined in Appendix) |
| Stable Exclusion (Moderate to High Income) | • Population in 2000 > 500  
• Moderate to High Income Tract in 2016  
• Not classified as Ongoing Exclusion |
Table 2 (Continued)

<table>
<thead>
<tr>
<th>Ongoing Exclusion (Moderate to High Income)</th>
<th>Super Gentrification or Exclusion (Very High Income)</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Population in 2000 &gt; 500</td>
<td>- Population in 2000 &gt; 500</td>
</tr>
<tr>
<td>- Moderate to High Income Tract in 2016</td>
<td>- Median household income &gt; 200% of regional median in 2016</td>
</tr>
<tr>
<td>- Loss of Low-Income (&quot;LI&quot;) households 2000-2016 (absolute loss)</td>
<td></td>
</tr>
<tr>
<td>- LI migration rate (percent of all migration to tract that was LI) in 2016 &lt; in 2009</td>
<td></td>
</tr>
</tbody>
</table>

Figure 1: Map of Typologies in the New York Metropolitan Region

166. Based on analysis by the authors from the New York dataset. See id; infra Appendix 1.
Figure 2: Typologies in Manhattan and Brooklyn

167. Based on analysis by the authors from the New York dataset. See Chapple, Mapping NY., supra note 165; infra Appendix 1.
Overall, low-income households are dispersed throughout the different types (Figure 3). Less than half live in low-income neighborhoods, indicating that there is considerable neighborhood income diversity in the region.

Figure 3: Location of Low-Income Households by Neighborhood Type

PART IV: THE POTENTIAL IMPACTS OF RENT STABILIZATION

This Part describes the way rent stabilization may work in different neighborhood contexts in the New York metropolitan region. First, it summarizes the results of the study and identifies the number of units affected under potential rent stabilization measures and the change in rent and ownership across neighborhood types. This Part then analyzes the role rent stabilization could play in each neighborhood type and in parts of the New York metropolitan region not currently covered by affordability protections. It argues that rent stabilization

168. Created by the authors based upon the typology analysis, using the Urban Displacement New York dataset. See Chapple, Mapping NY., supra note 165; infra Appendix 1.

169. Created by the authors based upon the typology analysis, using the Urban Displacement New York dataset. See Chapple, Mapping NY., supra note 165; infra Appendix 1.
can play multiple roles: to prevent losing low-income households, address ongoing displacement, and slow gentrification in certain at-risk neighborhoods. Finally, it discusses different factors that policymakers should consider in a rent stabilization scheme.

Rent stabilization is the primary tool available to increase renter stability and provide affordability protections. There is evidence that rent stabilization increases housing stability and decreases resident mobility, especially displacement due to external forces (such as increased rents) rather than choice. These impacts are seen in both rent stabilized units and in those units on the open market, not covered by renter protections.

Housing stability has long been a priority of the U.S. government, ever since policy measures were enacted in response to post-Great Depression homelessness and foreclosures. Though other methods of keeping low-income residents in their homes exist, rent stabilization holds the greatest promise for broad implementation. For example, the number of residents on the waiting list for Section 8 vouchers in Los Angeles is over nine times the number of existing vouchers. The expansion of Section 8 vouchers would be very costly: the budget of the program was $22 billion for 2018, and an expansion of the program to 55,000 new targeted households is costing $450 million in 2019. Additionally, even a small increase in program size required pushing back against the current federal administration, and ultimately, research has found that the Section 8 program does not materially improve housing conditions for most

170. See PASTOR ET AL., supra note 1, at 21.


172. See Pastor et al., supra note 1, at 4.

173. See id. at 17.

174. See id. at 20.

residents. In contrast, rent stabilization can be implemented at scale. New York City’s rent regulation program demonstrates this, and it also illustrates methods to strengthen tenant protections and stability under rent stabilization. Rent stabilization exists in all five boroughs of the city, but significant portions of the region are unprotected or are covered under specific forms of rent stabilization restricted to limited unit types.

Rent stabilization has been found to have an impact on the portion of homes rented or owned, increasing the portion of homes owned instead of rented: a reduction in rents received means that some landlords take rental units off of the rental market. Landlords may elect to evict tenants so that they can move into their own units (often allowed under owner move-in eviction laws); or so owners can convert rental units to condominiums. In conjunction with how rent stabilization has been shown to shift tenure to ownership, rent regulation decontrol tends to shift tenure back to rental. The change in rental tenure is not insignificant. A study of San Francisco estimated that rental stock decreased by 15% due to rent stabilization over the 1979–1994 time period.

The following analysis provides an approximation of the number of units that could potentially preserve affordability under rent stabilization across different neighborhood types. The neighborhood change typologies provide a framework to analyze the differing potential benefits or drawbacks of rent stabilization depending on neighborhood context. For example, rent stabilization would play a vital role in maintaining affordability in some areas, and likely would reinforce the status quo in others.

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178. Lapides et al., supra note 136.
179. Diamond et al., supra note 4, at 30.
182. Sims, supra note 65, at 145.
183. Diamond et al., supra note 4, at 1.
This exploratory analysis of the number of units eligible for rent stabilization was estimated based on Census data, using three criteria employed in the majority of rent stabilization measures in the region, including those in New York City. These criteria were approximated using available Census cutoffs: buildings built before 1979, with five or more units, and rents below $2750.\textsuperscript{184} The number of eligible units for each tract was calculated by using the percent of rental units in each tract qualifying under the three specifications, along with the total number of rental units in each tract. The approximation of falling under rent stabilization measures using Census data is assuming independence between building age and size and falling under the high-rent vacancy decontrol threshold. This number is approximate, as the Census questions are asked separately, and the percent of units under the decontrol threshold is assuming an even distribution of units in the appropriate Census gross rent category.\textsuperscript{185} It is likely that having a unit's rent above the decontrol threshold of $2750 may be related to building size and age, though these variables had a low correlation.\textsuperscript{186}

Table 3 shows the total estimated number of units that would be eligible for rent stabilization within each New York regional neighborhood change typology using the rent stabilization eligibility criteria.\textsuperscript{187} The results are shown in the first column of Table 3. Table 3 also includes a measure of the approximate number of units affordable to the median regional household income, calculated as having rents less than 30% of the regional median monthly income ($1500).\textsuperscript{188} This measure describes the total number of rental units under the $1500 threshold, irrespective of building age and size. Finally, the third column describes the approximate number of units eligible for rent stabilization, using the above qualifications, that are also under the $1500 rent threshold. The table demonstrates the large number of units in the region that would be eligible for rent stabilization policies, as they now stand, as well as the approximate number of potential affordable units eligible for such policies. The

\begin{itemize}
\item \textsuperscript{184} Naughton, supra note 180.
\item \textsuperscript{185} Authors’ analysis of U.S. Census data. \textit{Infra} Appendix 1.
\item \textsuperscript{186} Authors’ analysis of U.S. Census data. \textit{Infra} Appendix 1. Correlation between percent of units above the $2750 threshold and units in buildings of 5 or more units built before 1979 is -0.0760.
\item \textsuperscript{187} Census tract-level estimates were summed by neighborhood type to determine these totals.
\item \textsuperscript{188} This is an approximation that does not take into account individual household incomes related to their rental costs.
\end{itemize}
patterns across different neighborhood types are described in individual sections below.

Table 3: Rental Units Affected Under Potential Rent Stabilization Measures

<table>
<thead>
<tr>
<th>Neighborhood type</th>
<th>Total units potentially preserved (eligible for current rent stabilization)</th>
<th>Affordable to median regional income</th>
<th>Affordable to median regional income and eligible for current rent stabilization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not losing low-income households</td>
<td>194,100</td>
<td>272,100</td>
<td>136,100</td>
</tr>
<tr>
<td>Ongoing displacement</td>
<td>248,700</td>
<td>306,300</td>
<td>189,900</td>
</tr>
<tr>
<td>At risk of gentrification</td>
<td>365,200</td>
<td>484,500</td>
<td>309,100</td>
</tr>
<tr>
<td>Ongoing or advanced gentrification</td>
<td>262,000</td>
<td>331,300</td>
<td>194,400</td>
</tr>
<tr>
<td>Stable or ongoing exclusion</td>
<td>154,400</td>
<td>173,500</td>
<td>79,200</td>
</tr>
<tr>
<td>Super gentrification or exclusion</td>
<td>17,000</td>
<td>17,100</td>
<td>6400</td>
</tr>
</tbody>
</table>

As shown below in Table 4, there have been changes in tenure type across the region between 1990 and 2016. The percent of renters increased by 2% in areas not losing low-income households, by 1% in areas with ongoing displacement, and by 4% in areas at risk of gentrification. The percent of renters decreased by 2.5% in areas facing stable or ongoing exclusion, and by 9% in those with super gentrification or exclusion.

Table 4 also shows the diversity in the proportion of households in a tract that rent their homes, ranging from 79% of tracts at risk of gentrification to only 8% of super gentrification or exclusion tracts. These indicate the broad range of percent owner or renter across typologies, and the differing impacts that rent stabilization measures would have.

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189. Approximation using the percent of buildings of 5+ units, built before 1979 in each Census Tract, under $2750 rent decontrol limit.
190. Under 30% of median regional monthly income: $1500.
191. Rent under $1500, total number of units in type eligible for rent stabilization.
### Table 4: Change in Rent/Ownership Across Neighborhood Types

<table>
<thead>
<tr>
<th>Type</th>
<th>Percent renter 2016</th>
<th>Percent change (percent renter) 1990-2016</th>
<th>Change in percent renters/percent owners, 1990-2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not losing low-income households</td>
<td>0.687</td>
<td>0.024</td>
<td>0.071</td>
</tr>
<tr>
<td>Ongoing displacement</td>
<td>0.752</td>
<td>0.014</td>
<td>0.144</td>
</tr>
<tr>
<td>At risk of gentrification</td>
<td>0.785</td>
<td>0.041</td>
<td>0.409</td>
</tr>
<tr>
<td>Ongoing or advanced gentrification</td>
<td>0.564</td>
<td>-0.009</td>
<td>-0.011</td>
</tr>
<tr>
<td>Stable or ongoing exclusion</td>
<td>0.363</td>
<td>-0.026</td>
<td>-0.022</td>
</tr>
<tr>
<td>Super gentrification or exclusion</td>
<td>0.086</td>
<td>-0.088</td>
<td>-0.014</td>
</tr>
</tbody>
</table>

This Part uses the typologies to conduct an exploratory analysis of the role that rent regulation could play in each neighborhood type and in parts of the region not covered by affordability protections. Rent stabilization offers the primary way to keep people in their homes, providing essential stability, in terms of tenure, in areas prone to displacement, as well as income diversity in exclusive areas.\(^{192}\)

### A. Not Losing Low-Income Households

As described in Part II.B, areas that are not losing low-income households are classified as low-income in 2016 and do not have gentrification or displacement risk factors.\(^{193}\) These areas contain a


\(^{193}\) See supra Part II.
significant number of units that would qualify for protection under rent stabilization laws.\textsuperscript{194} These may not be areas with the most opportunity or greatest immediacy to protect renters, but the 272,000 units that are affordable to the regional median income serve an important purpose in housing residents in a region facing such high housing costs.\textsuperscript{195} Rent stabilization measures would protect half of these units, and research indicates that rent stabilization would not have a detrimental impact on house values or future construction.\textsuperscript{196}

\section*{B. Ongoing Displacement}

Areas facing the ongoing displacement of low-income households were low-income census tracts in 2016, which have been seeing a decline of low-income households but face few signs of gentrification.\textsuperscript{197} Similar to areas not losing low-income households, these are areas that contain a significant portion of the New York metropolitan region's rental units affordable to the regional median income. 75\% of residents in ongoing displacement tracts are renters.\textsuperscript{198} And given the rise in rents across the region, ensuring stability in areas with a significant share of renters is vital. As noted above, several studies have shown that new housing supply is not affected by rent stabilization measures, but instead is impacted by the local economy and other conditions.\textsuperscript{199}

\section*{C. At Risk of Gentrification}

Census tracts at risk of gentrification contain the largest number of rental units affordable to the regional median income. Approximately 300,000 of these units would qualify for rent stabilization protections due to building type and age.\textsuperscript{200} These areas were low-income in 2016 and were classified as “hot market” from 2000 to 2016.\textsuperscript{201} Each tract also meets three of four other

\begin{quote}
\textsuperscript{194} See supra Table 3.
\textsuperscript{195} See supra Table 3.
\textsuperscript{197} See supra Table 2.
\textsuperscript{198} Measured by the authors based upon the typology analysis, using the Urban Displacement New York dataset. See URB. DISPLACEMENT PROJECT, supra note 165.
\textsuperscript{199} See PASTOR ET AL., supra note 1 at 16; Gilderbloom, supra note 196, at 123; Gilderbloom & Ye, supra note 69, at 214; Sims, supra note 65, at 130.
\textsuperscript{200} See supra Table 3.
\textsuperscript{201} See supra Table 2.
\end{quote}
qualifications: higher than median percent low-income households, percent college educated, percent renters, or percent nonwhite. Overall, these tracts are 79% renter households.

These areas at risk of gentrification are primary locations that would benefit from rent stabilization measures, providing renter households with stability protections.

D. Ongoing or Advanced Gentrification

Historically, there has been considerable disagreement about which neighborhoods are considered to be gentrifying. The neighborhood typologies allow insight into where these areas are, at the forefront of displacement, and the loss of low-income households in the region.

Renters in areas with ongoing and advanced gentrification are currently facing significant displacement pressures, with rising or raised rents and demographic changes in the neighborhood. These areas are therefore primary cases of the need for rent regulation to increase stability and allow remaining residents to stay in their homes. New, wealthy residents bring an inflow of capital into neighborhoods, but strategies like rent stabilization are needed to ensure that older residents are able to capture the benefits of new resources.

One recent study in San Francisco suggested rent regulation may fuel gentrification, because of a reduction in rental stock due to conversions to owner-occupancy, though other scholars have since argued that the study did not sufficiently account for the other pressures increasing rents in the area. Others have found no evidence of gentrification, and that rent stabilized buildings drive down surrounding rents.

E. Stable or Ongoing Exclusion

The number of eligible rental units in exclusive neighborhoods is far fewer than that in the other neighborhood types, with approximately 173,000 units affordable to the median household

202. See id.
203. See supra Table 4.
205. See supra Table 2.
206. See generally CHAPPLE, supra note 21, at 130–31.
207. See Naughton, supra note 180, at 537–41.
208. PASTOR ET AL., supra note 1, at 12.
209. See Heskin et al., supra note 181, at 172; Sims, supra note 65, at 130.
income and 79,000 affordable units in eligible buildings. But these are some of the most important units to protect affordability in, for the sake of income diversity and opportunity, including allowing less wealthy residents to access benefits of income mixing and higher local investment in schools, parks, and other neighborhood amenities. Rent stabilization and renter protections may be the best way to protect the presence of low-income neighbors in these areas, as rents and home values are very high, and federal programs seem to offer little access to wealthy neighborhoods for low-income households.

F. Super-Gentrification or Exclusion

Areas that have gone through super-gentrification or exclusion have seen immense changes, with median household incomes over 200% of the regional median in 2016 along with gentrification or exclusion indicators. As a result, there are few remaining affordable units in these areas. The percent of rental households decreased 8.8% from 1990–2016, and only 8.6% of units in these areas are renter-occupied. Meanwhile, only 6300 units are in eligible buildings with rents affordable to the regional median household income. Tenants would benefit from the distributional impacts of rent regulation; rent control measures have not been shown to decrease the supply of new construction.

210. See supra Table 3.
211. See supra notes 39–45 and accompanying text.
212. See generally Jake Wegmann & Karen Christensen, Subsidized Rental Housing in the United States, 17 PLAN. F. 55, 64 (2016) (describing lack of access to opportunity); Diamond et al., supra note 4, at 1 (demonstrating stability).
213. See supra Table 2.
214. See supra Table 3.
215. See supra Table 4.
216. See supra Table 3.
217. Pastor et al., supra note 1, at 15. In areas with significant majority-owner households, it is worth noting the significant subsidies to homeowners. United States homeowners receive federal mortgage subsidies, in far greater amounts than that spent on rental subsidies — over two-thirds of the federal government’s spending on housing subsidizes homeowners. See Anthony Downs, Introduction: Why Rental Housing is the Neglected Child of American Shelter, in Revisiting Rental Housing: Policies, Programs, and Priorities 7–8 (N. P. Retsinas & E. S. Belsky eds., 2008); Collinson et al., supra note 121, at 1.
G. Ways to Work with Rent Control: Tenant Protections, Decontrol Thresholds

Rent stabilization measures have potential benefits across the many typologies in the New York metropolitan region, but this is not to say rent stabilization measures are perfect. Several strategies may be able to increase the effectiveness of rent stabilization measures in providing stability and affordable housing.

i. High-Rent Vacancy Decontrol

Currently, most rent stabilization regimes in the region include three decontrol provisions, allowing rental increases upon tenants vacating a unit, and allowing units to enter the open market after rents pass a threshold and have a vacancy — currently approximately $2770 — or when renters pass an income threshold and rents are at or above the rent threshold.\(^\text{218}\) Over 160,000 units in New York City left the stabilized housing stock from 1994–2018 due to high-rent vacancy deregulation, which accounted for over half of the total losses of stabilized housing units.\(^\text{219}\) This vacancy rent increase has led to incentives for landlords to push out tenants, as it means they are able to raise rents with each rental turnover, resulting in tenant harassment and unstable tenures for tenants.\(^\text{220}\) Reducing these incentives, by increasing or removing the high-rent vacancy decontrol threshold or reducing vacancy bonus increases, may lead to more stability for renters.


\(^\text{220}\) Elvin Wyly et al., Displacing New York, 42 Env’t & Plan. A 2602, 2609 (2010).
ii. Increased Tenant Protections

New York City recently rolled out a comprehensive tenant protection program, beginning in 2017. The program provides free legal services for tenants falling under 200% of the federal poverty line, and includes access to legal services for tenants facing eviction in housing court and anti-harassment and displacement legal services. In the first year of the service, close to 250,000 residents had made use of the program, including approximately 26,000 households facing eviction cases in Housing Court. This program is feasible due to the capacity of related nonprofit organizations and legal services in New York City. However, providing additional legal services in other areas would strengthen the tenure benefits of rent stabilization measures.

iii. Code Enforcement and Other

Regulations and enforcement may be able to reduce some of the negative side effects that have come with rent stabilization. Studies have shown that some of the affordability provided by rent stabilized units may come at the cost of maintenance problems, likely due to a lack of incentives on the part of landlords and underreporting by tenants. Increased code enforcement may remedy this issue.

An increase in condominium conversions often occurs due to rent regulations. Unlike Mitchell-Lamas or HDFCs, these are market-rate condominiums, catering to higher-income residents. New York City prevents the condominium conversion of rent stabilized units: rent stabilized tenants are allowed to stay on in the building as renters. Currently limited to New York City, this type of measure

222. Id. at 16.
223. Id. at 1.
225. Id. at 69.
226. Diamond et al., supra note 4, at 5.
227. See id.
is helpful when thinking about potential expansions of rent stabilization to the region, to reduce the likelihood of residents living in affordability-protected units from being forced out.

CONCLUSION

By examining the potential extent of universal rent stabilization across the New York metropolitan region, this study found that the measure could keep rents affordable for over 800,000 families just in these three types of areas: gentrifying, at risk, and exclusive. Just as rent stabilization plays a role in preserving affordability for tenants, it also acts to stabilize communities and preserve security of tenure. These impacts of rent stabilization vary according to neighborhood context. Rent stabilization could potentially play a particularly effective role in gentrifying areas, by reducing rent increases; in areas at risk of gentrification, by keeping rents low; and in exclusive areas, by preserving access to resources and opportunity. Gentrifying, at risk, and most notably exclusive areas are present not just in New York City, but throughout the metropolitan region. It is important to assess how rent stabilization could slow displacement in communities throughout the 31 counties.

The expansion of rent regulation is not a far-fetched dream. In February 2019, Oregon passed legislation establishing rent control for the entire state. Moreover, in June 2019, New York State passed legislation (S6458) to strengthen and expand rent regulation across the state. While this Article describes the state of rental protections in the New York metropolitan region prior to S6458, the potential of the expansion of rent stabilization described in the Article still holds. By increasing tenant protections and by allowing all jurisdictions to opt into the Emergency Tenant Protection Act, S6458 makes the expansion of rent stabilization in the New York metropolitan region more feasible and impactful than before.

Rent stabilization is one of many possible tools to preserve affordability and stabilize communities. There are dozens of mechanisms to protect individual tenants, preserve affordable units, and plan for diversity over the long-term. Yet, few of these will act

231. See generally Karen Chapple, A Multi-Dimensional Approach to Affordable Housing Policy: Learning from Climate Change Policy, BERKELEY BLOG (February
fast enough or at a large enough scale to preserve affordability, and many will not work in the contexts where stabilization is most needed. For instance, inclusionary housing ordinances take years to produce a few units, and land costs make construction of new affordable units very expensive in the core of strong market cities. Therefore, rent stabilization deserves a closer look at how it can make and keep cities and suburbs diverse and inclusive.

232. See CHAPPLE, supra note 21, at 82.
233. See REID & RAETZ, supra note 134, at 1.
APPENDIX 1: TYPOLOGY METHODOLOGY

• **Vulnerable to gentrification in 1990 or 2000**
  - Housing affordable in base year (housing sales prices or rent < 80% of median)
    and (any 3 of 4)
    - % low-income households > regional median
    - % college educated < regional median
    - % renters > regional median
    - % nonwhite > regional median

• **“Hot Market” in 2000 or 2016**
  - Change in median real rent > regional median
    or
  - Change in median value for owner-occupied homes > regional median

• **Gentrification from 1990 to 2000 or 2000 to 2016**
  - Vulnerable in base year (as defined above)
  - Demographic change between base and end years:
    - Difference in % college educated > regional median
    - Percent change in real median household income > regional median
    - “Hot market” (defined above)
  - If any individual variable is missing, then the whole typology is missing.

• **Tracts with a coefficient of variation > 30% on several key 2016 variables are flagged and determined unreliable:**
  - Population
  - Housing units
  - Median rent
  - Median home value
  - Median income
  - College count
  - Renter count