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New York City Housing and Vacancy Survey (NYCHVS)

Definitions of Rent Regulation Status

NYCHVS Rent Regulation Status Definitions

Prepared by
New York City Department
of
Housing Preservation and Development
Office of Housing Analysis and Research

The 1991, 1993, 1996, and 1999 New York City Housing and Vacancy Surveys (HVSs) use a new sample taken from a sample frame based on the 1990 Census (for information on the sample, see the section "NYCHVS Sample"). The five HVSs from 1975 to 1987 all used the same sample taken from a sample frame drawn from the 1970 Census. For these earlier surveys rent regulation status was initially determined in 1975 from the written records of the then New York City Department of Rent and Housing Maintenance, and changes in the status of units which were no longer available from official records were updated through a special coding procedure as follows. Units which had been listed as controlled were recoded as pre-1947 stabilized if the tenants moved in on or after July 1, 1971 and the building had six or more units; as decontrolled if the tenants moved in on or after July 1, 1971 and the building had fewer than six units. Units in buildings with six or more units built between 1947 and 1974 were coded as post-1947 stabilized. Units in buildings constructed after 1974 which received 421-a tax benefits or J-51 conversion tax benefits were also coded as post-1947 stabilized. Units in buildings constructed after 1974 which did not receive tax abatements or which had fewer than six units were coded as "other". Units in buildings converted to cooperatives or condominiums in which the tenants stated that they had moved in after the date of conversion were recoded from controlled or stabilized to "other".

Because of the new sample used in 1991, 1993, 1996, and 1999 and changes in both the administration and the content of rent regulation laws since 1975, the following two-phase coding procedure was used for the 1991, 1993, 1996 and 1999 HVSs in determining rent regulation status. This procedure allowed the U.S. Census Bureau to assign a regulation status to privately owned units (not public housing, in rem, or Mitchell-Lama) which were not government assisted (not federally subsidized or under Article 4 of the New York State Private Housing Law [PHFL] or whose rents were not regulated by the New York City Loft Board. The first phase was the determination of the regulation status of sample units based on the computerized rent registration database of the New York State Division of Housing and Community Renewal (DHCR). With the passage of the Omnibus Housing Act of 1983, administration of rent regulation in New York City became the responsibility of DHCR. In April 1984, owners of rent controlled units were required to register these units and provide information on their tenancy and unit characteristics to DHCR. Owners of rent stabilized units have been required to file similar registrations annually. These records should accurately reflect the control status of all regulated units. A review of the DHCR database from 1984 through 1989 indicated, however, that because a significant number of owners failed to register their stabilized units in every year, relying solely on the latest data available would lead to the undercount of a substantial number of stabilized units. Therefore, New York City's Department of Housing Preservation and Development (HPD's) Office of Policy Analysis and Research merged the DHCR files and created a data file consisting of all apartment records from 1984 through 1989 (the last year available prior to the 1991 HVS coding procedure). The Census Bureau selected the regulation status for the most recent year listed for each sample unit. Even after this procedure, it was clear that these records could not be the sole complete source of information on regulation status.

Thus, the second phase of the coding procedure used the DHCR regulation status as a base (for those units which appear in the DHCR file) and used supplementary information to improve on DHCR's accuracy. This is helpful for units registered as controlled in 1984 which have changed tenancy since 1984 but for which no change in registration was filed (especially important for units in buildings with fewer than 6 units which are no longer regulated in any way) and units in buildings that are cooperatives or condominiums which were regulated at the time of a prior registration but which have had a change in tenancy since conversion. Although owners are required to register exempt units, it is likely that some owners do not, so that relying solely on DHCR status might incorrectly classify these exempt units as regulated. In addition, this coding procedure was used to differentiate between pre- and post-1947 stabilized units since this information does not appear on the DHCR files.

Rental units which do not appear in DHCR files also were assigned regulation statuses by applying the major definitional criteria covered in the Local Emergency Rent Control Act of 1962, the 1969 Rent Stabilization Law, the 1974 Emergency Tenant Protection Act, and the Omnibus Housing Act of 1983. These criteria include age of building, size of building, move-in date of the current tenant, whether the building receives a 421-a or a J-51 tax reduction benefit and whether the building is a cooperative or condominium. This procedure may tend to overestimate somewhat the total number of regulated units in the city but reliance solely on DHCR records would significantly underestimate regulated units in the city.

Below are the descriptions of rent control and rent stabilization, followed by descriptions of non-rent control and rent stabilization categories covered in the 1991, 1993, 1996, and 1999 HVSs.

Controlled

Controlled units are subject to the provisions of the Rent Control Law and Regulations which have jurisdiction over occupied private rental units. All increases in rent are set and must be approved by DHCR. The following units were classified as controlled: units in buildings with three or more units constructed before February 1, 1947, where the tenant moved in before July 1, 1971 or units substantially rehabilitated prior to January 1, 1976 under the provisions of J-51, which were initially occupied by the current tenant prior to January 1, 1976; units in buildings with one or two units constructed before February 1, 1947 which were initially occupied by the current tenant prior to April 1953. Some of these controlled units may be in buildings converted to cooperatives or condominiums. In addition, units in buildings built under the Municipal Loan Program, Article 8 of the PHFL, are also controlled. Municipal loan units were not covered in the second phase of the 1991, 1993, 1996 and 1999 HVSs coding procedure and might be inaccurately coded as stabilized or "other" for this survey. However, the coding errors for these units should be few because the DHCR file covered the majority of regulated rental units and only those units not properly registered with the DHCR would be miscoded.

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

The estimates from this Survey may undercount somewhat the full rent controlled inventory for two reasons: (1) some units, which upon vacancy, may have qualified for stabilization but in fact did not join or may have been expelled from the stabilization system, and as a result, may have remained under the jurisdiction of the Rent Control Law; and (2) in some cases the householder may have moved in after 1971, but the apartment has remained rent controlled either because the rent controlled tenant has been joined by another person or family members who have used their succession rights to rent controlled status. For purposes of this survey, however, these units are considered eligible for stabilization and are classified as "Stabilized."

Stabilized

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

Pre-1947 Stabilized

The following units were classified as pre-1947 stabilized units: units in buildings with six or more units constructed before February 1, 1947 where the current tenant moved in on or after July 1, 1971; units decontrolled prior to July 1, 1971 under the luxury decontrol provisions of city rent regulations unless the current tenant moved in after the effective date of a cooperative or condominium conversion (if any). However, if an owner failed to register a luxury decontrolled unit as stabilized, it would likely be inaccurately coded as rent controlled.

Also units in buildings rehabilitated with loans issued under Articles 14 or 15 of the PHFL regardless of the size of the building should be rent stabilized. Units in buildings in Article 14 of the rehabilitation mortgage insurance program by New York City Rehabilitation Mortgage Insurance Corporation (REMIC) built before 1947 with 6 or more units properly would be coded as stabilized even if the owner failed to register correctly. Units in buildings with 3 to 5 units are also stabilized. This would have caused coding errors, since the second-phase coding procedure classifies units in buildings with 3 to 5 units whose tenants moved in after July 1, 1971 as "other". However, according to REMIC, there were no REMIC buildings with 3 to 5 units as of September 1990. Thus, there are no coding errors with respect to size. The same situation occurs with units rehabilitated under Article 15 and again, since buildings in the program always have more than 5 units, no special coding is needed.

Units in buildings rehabilitated under the 312 program (Section 607 of the PHFL) with more than 2 units should be rent stabilized. This causes a problem for coding units in buildings with 3 to 5 units whose owners did not properly register them. However, since there are relatively few of these buildings in the program (only 67 since 1981 and data on units prior to 1981 are not available) not including them in the second-phase coding procedure should produce only an insignificant error.

In buildings which contained six or more units at the time stabilization went into effect which were converted to five or fewer units at a later date, units would remain stabilized. If a landlord failed to properly register one of these units as stabilized, it would be inaccurately coded as "other" for the purposes of this survey.

Post-1947 Stabilized

The following units were classified as post-1947 stabilized: units in buildings with six or more units which were constructed between 1947 and 1973 or after 1974 if the units received a 421-a or J-51 conversion tax abatement (some previously tax-abated units may no longer be rent stabilized after the expiration of tax benefits) and the current tenant moved in prior to a cooperative or condominium conversion (if any); units in buildings constructed under the Mitchell-Lama program which have been "bought out" of the program; hotel accommodations with rents of \$350 per month or \$88 per week or less on May 31, 1968 where the current tenant took occupancy after December 2, 1949 (no official list of these units exists so no supplemental coding could be included for them); units in Stuyvesant Town and Riverton which were constructed pursuant to Section 125 of the PHFL and whose tax exemptions are being phased out under section 423 of the New York State Real Property Tax Law; other units in buildings constructed under and still subject to the Article 5 rental program. In addition, there are units which are subject to rent stabilization voluntarily, pursuant to Section 2521.1(m) of the Rent Stabilization Code. They are New York City Housing Development Corporation (HDC) and HPD financed housing units.

Public Housing

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

Mitchell-Lama Rental

Rental units in buildings constructed under the provisions of Article 2 of the PHFL were classified as Mitchell-Lama Rental.

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

All Other Rental Housing

In the 1991, 1993, 1996 and 1999 HVSs printed tables prepared and distributed by the Census Bureau this is a single residual category encompassing all units excluded from the control status classifications described above. It includes the following categories which can be isolated when using the 1991, 1993, 1996 and 1999 HVSs data file prepared by the Census Bureau.

1. Not Regulated. Units with no current governmental restrictions or regulation on rents or rental conditions or type of tenancy. This category is made up of the following units.
 - Units regulated in the past and deregulated under the provisions of vacancy decontrol. For the most part these units are in buildings with five or fewer units built before 1947.
 - Cooperative or condominium units which are renter occupied by tenants who moved into them after the buildings were converted to cooperatives or condominiums.
 - Units which were never subject to government rent regulation. Units in this category are mainly located in structures of fewer than six units that were completed on or after February 1, 1947, or in rental buildings constructed after January 1, 1974 which did not receive 421-a tax abatements, or are in buildings originally constructed as cooperatives or condominiums.
2. In Rem. In Rem includes units located in structures owned by the City of New York as a result of an in rem proceeding initiated by the city after the owner failed to pay tax on the property for 3 or more years for 1- and 2-family dwellings, or one or more years for a multiple dwelling. Though many of these units in multiple dwellings had previously been subject to either rent control or rent stabilization, they are exempt from both regulatory systems during the period of city ownership.
3. HUD Federal Subsidy. Unit is in a building which received a subsidy through a federal program which requires HUD to regulate rents in the building. These programs include Section 8 New Construction, Substantial and Moderate Rehabilitation as well as other subsidized construction and rehabilitation programs. They do not include units in buildings which receive federal mortgage guarantees; nor, because the HUD lists used for the HVSs were organized by building, not unit, do they include units whose tenants receive Section 8 existing certificates or rent vouchers unless the entire building is receiving federal subsidy. Moreover, some units which receive subsidies from more than one government source may be listed under another control category such as Mitchell-Lama. Thus, the HVSs data on HUD Federal Subsidy should not be used to study units or occupants of units participating in these programs.
4. Article 4. Unit is in a building which was constructed under Article 4 of the PHFL and which is still covered by the provisions of the article. This program built limited-profit rental buildings for occupancy by households with moderate incomes.
5. Loft Board Regulated Buildings. Unit is located in a building originally intended as commercial loft space, is occupied as rented residential space and has its rents regulated by the New York City Loft Board (as indicated by Loft Board records).

Definition of Program Status Input

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

421-a

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

J-51

Unit is in a building which receives or received J-51 tax benefits from the City of New York. This program provides real estate tax exemptions and abatements to existing residential buildings which are renovated or rehabilitated in ways which conform to the requirements of the statute. It also provides these benefits to residential buildings which were converted from commercial structures. The HVS data on J-51 should not be used to study size, effects, or beneficiaries of the J-51 tax abatement program for the following two reasons: first, the list used to code these buildings is only complete for 1982 and following years; and second, for reasons of confidentiality some units which receive J-51 benefits as well as other benefits are not listed as receiving J-51 benefits by the Census Bureau.

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