

**Testimony before the Subcommittee on Housing and Insurance
of the House Committee on Financial Services**

“Restoring Prosperity in American Communities:
Examining the Failures of Status Quo Housing Policy”

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About the Author

John Ketcham is a fellow and director of cities at the Manhattan Institute for Policy Research.* His research covers state and local issues in New York City and State, including housing, electoral reform, the ongoing migrant crisis, and more. His writing has appeared in publications including *The Wall Street Journal*, *Newsweek*, *New York Daily News*, *New York Post*, and *City Journal*. Ketcham holds a JD from Harvard Law School and a BS from Fordham University.

*The Manhattan Institute does not take institutional positions on legislation, rules, or regulations. Although my comments draw upon my research as an Institute scholar, the views represented today are solely my own, not my employer's.

Chairman Davidson and honorable members of the Subcommittee on Housing and Insurance, thank you for the opportunity to testify. My name is John Ketcham, and I am a fellow and director of cities at the Manhattan Institute (MI), where my colleagues and I produce research and advocacy aimed at keeping America and its great cities prosperous, safe, and free.

The New York City metropolitan area is an economic powerhouse, contributing over \$2.1 trillion to U.S. GDP.¹ With approximately 8.3 million residents in the city limits and nearly 20 million in the wider metropolitan statistical area,² New York City plays a major role in the nation's economic, social, and political life. Throughout its 400-year history, the city has provided countless opportunities to immigrants and natives alike, helping to shape the concept of what it means to be an American and achieve the American dream.

But New York's promise is under grave threat from its ever-worsening housing affordability and supply crisis. Just this month, the New York Housing and Vacancy Survey revealed that the city's overall rental vacancy rate plunged to 1.4 percent, the lowest level since 1968.³ For units with a monthly rent of \$1,650 or less, that rate drops to a vanishing 0.65 percent.⁴ Spiraling rents and housing prices effectively tell those who dream of making it in New York that the city has no room for their dreams.

In 2023, the median asking rent for publicly listed apartments in New York City reached an unprecedented level, now averaging around \$3,500 per month citywide and far higher in the most desirable neighborhoods.⁵ Over 52 percent of New York City renters pay 30 percent or more of their pre-tax income on rent.⁶ About 69 percent of households rent their housing, demonstrating that the crisis affects many New Yorkers directly and everyone indirectly.⁷

By driving away invaluable human capital to areas with lower housing costs and greater residential construction,⁸ New York's policies are hampering not only its prosperity, but also that of the nation at large. For instance, economists Chang Tai Hsieh and Enrico Moretti have estimated that the housing constraints in high-productivity cities like New York and San Francisco "lowered aggregate US growth by 36 percent between 1964 and 2009."⁹ As economist

¹ *Total Gross Domestic Product for New York-Newark-Jersey City, NY-NJ-PA (MSA)*, FRED, <https://fred.stlouisfed.org/series/NGMP35620>.

² *Resident Population in New York-Newark-Jersey City, NY-NJ-PA (MSA)*, FRED, <https://alfred.stlouisfed.org/series?seid=NYTPOP>; OFF. N.Y. STATE COMPTROLLER, NYC'S SHIFTING POPULATION: THE LATEST STATISTICS 1 (2023).

³ N.Y.C. DEP'T HOUS. PRES. & DEV., 2023 NEW YORK CITY HOUSING AND VACANCY SURVEY SELECTED INITIAL FINDINGS 21 (2024), <https://www.nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-selected-initial-findings.pdf>.

⁴ *Id.* at 22.

⁵ OFF. N.Y.C. COMPTROLLER, SPOTLIGHT: NEW YORK CITY'S RENTAL HOUSING MARKET 4 (2024), <https://comptroller.nyc.gov/reports/spotlight-new-york-citys-rental-housing-market/>.

⁶ *Id.* at 10.

⁷ *Id.* at 4.

⁸ *See, e.g.,* Conor Sen, *New York, You're Squeezing Out the Young and Ambitious*, BLOOMBERG (Feb. 15, 2024), <https://www.bloomberg.com/opinion/articles/2024-02-15/new-york-rents-are-squeezing-out-the-young-and-ambitious>.

⁹ Chang Tai Hsieh & Enrico Moretti, *Housing Constraints and Spatial Mismatch*, 11 AM. ECON. J.: MACROECON. 1, 1-3 (2019).

Edward Glaeser notes, “By making America poorer, restrictive zoning limits the tax revenues that could fund national defense or care for the needy, weakening the nation.”¹⁰

Fortunately, a simple explanation accounts for most of the problem. Even better, it is one that Americans of all political persuasions can accept¹¹: **Too few new housing units are being built in and around New York City relative to demand.**

New York’s metropolitan area is the most stringently regulated housing market on the East Coast, second only to San Francisco nationwide.¹² New York City’s Zoning Resolution was last rewritten comprehensively in 1961, despite the immense economic and social transformations that have occurred since. Between 2009 and 2019, the city added approximately 3.9 jobs for each housing unit permitted.¹³ Every job-taker that settles in places like northern New Jersey—which has built new housing at far higher per-capita rates¹⁴—or in other metro areas altogether is a lost opportunity for the Empire State’s economic growth.

Housing-supply growth’s great nemeses are entrenched interests and biases favoring the status quo. Numerous antiquated government policies restrict new housing supply, with a combined effect greater than the sum of the parts. Overly restrictive zoning requirements, such as use limitations,¹⁵ parking mandates,¹⁶ building-size and lot-coverage restrictions, and large minimum lot sizes,¹⁷ among others, limit construction and drive housing prices higher. The cost of new development often exceeds what low- and medium-income households can afford, adding to their rent burdens and preventing newcomers from moving to New York.¹⁸

Land-use needs change as technology and the local economy evolve. Strict use limitations—most notably, for detached single-family homes—often fail to provide enough flexibility for sustainable long-term growth.¹⁹ Likewise, planners decades ago could not have possibly known the proper ratio of parking to housing units in every circumstance.

New York State’s Multiple Dwelling Law further discourages more housing growth by, among other things, limiting allowable square footage for residential buildings to 12 times the building’s

¹⁰ Edward L. Glaeser, *Free to Build*, CITY J. (Winter 2023).

¹¹ See generally, e.g., JENNY SCHUETZ, *FIXER UPPER: HOW TO REPAIR AMERICA'S BROKEN HOUSING SYSTEMS* (2022); Rachel M. Cohen, *The big, neglected problem that should be Biden's top priority*, VOX (Mar. 1, 2023), <https://www.vox.com/policy/23595421/biden-affordable-housing-shortage-supply>; Michael Hendrix, *Yes In My Backyard!*, PERSUASION (Jan. 3, 2022), <https://manhattan.institute/article/yes-in-my-backyard>.

¹² JOSEPH GYOURKO, JONATHAN HARTLEY & JACOB KRIMMEL, *THE LOCAL RESIDENTIAL LAND USE REGULATORY ENVIRONMENT ACROSS U.S. HOUSING MARKETS: EVIDENCE FROM A NEW WHARTON INDEX* 5, 22 (2021), https://real-faculty.wharton.upenn.edu/wp-content/uploads/~gyourko/WRLURI/GyourkoHartleyKrimmel_NBERw26573.pdf.

¹³ Eric Kober, *New York City Records Another Year of Jobs-Housing Mismatch*, MANHATTAN INST. (Mar. 16, 2020), <https://manhattan.institute/article/new-york-city-records-another-year-of-jobs-housing-mismatch>.

¹⁴ CITIZENS BUDGET COMM’N, *STRATEGIES TO BOOST HOUSING PRODUCTION IN THE NEW YORK CITY METROPOLITAN AREA* 27–28 (2020).

¹⁵ See, e.g., N.Y.C. Plan., *Residence Districts: R1*, <https://www.nyc.gov/site/planning/zoning/districts-tools/r1.page>.

¹⁶ See, e.g., N.Y.C. Zoning Resol., art. II, ch. 5 § 25–20–21.

¹⁷ M. NOLAN GRAY, *RIGHTSIZING LOT-SIZE RULES IN METROPOLITAN NEW YORK CITY* 2–8 (2021), <https://media4.manhattan-institute.org/sites/default/files/gray-minimum-lot-sizes-nyc-housing.pdf>.

¹⁸ CITIZENS BUDGET COMM’N, *supra* note 14, at 27–29 (2020).

¹⁹ M. NOLAN GRAY, *ARBITRARY LINES: HOW ZONING BROKE THE AMERICAN CITY AND HOW TO FIX IT* 37–39, 142 (2022).

land area.²⁰ Such provisions make it difficult, if not impossible, to convert many underutilized offices built since 1977 to residential use.²¹

For most rezonings, state law mandates exorbitantly expensive and time-consuming environmental reviews.²² Multifamily housing, however, is among the most environmentally friendly and efficient forms of living in terms of energy consumption and emissions.²³

These state mandates add to the cost of building new housing, even though they often have little to do with health or safety, which can be addressed through building codes and similar measures. Burdening new development in such ways downplays the considerable risks of inaction.

To offset the city's disproportionately high property taxes on large rental apartment buildings (more than 10 units) compared with condos and cooperatives,²⁴ New York State had, for many years, authorized a property tax exemption on new large rental developments in New York City, known as 421-a. In exchange for these tax benefits, developers generally had to make a share of new units affordable to a range of incomes.²⁵ The 421-a program expired in June 2022 and has not been renewed, despite calls from Governor Kathy Hochul and Mayor Eric Adams.²⁶

Further, under the administration of former Mayor Bill de Blasio, the city instituted the "Mandatory Inclusionary Housing" (MIH) policy, which likewise requires that residential developments in rezoned areas include 20 to 30 percent of floor area set aside as permanently affordable to a range of incomes.²⁷ These requirements, however, were designed assuming the continued existence of 421-a tax benefits.²⁸

With the expiration of 421-a, MIH's affordability set-asides make residential rental developments economically infeasible to build, at least without deep public subsidies.²⁹ If they decide to build at all, developers will often opt to avoid MIH and retain existing, lower density

²⁰ N.Y. Multiple Dwelling Law § 26(3).

²¹ ERIC KOBER, REBOOTING THE NEW YORK HOUSING COMPACT: WHAT ARE THE LEGISLATIVE OPTIONS IN 2024? 6 (2023), <https://media4.manhattan-institute.org/wp-content/uploads/rebooting-the-new-york-housing-compact-legislative-options-in-2024.pdf>; Emily Badger, *American Cities Have a Conversion Problem, and It's Not Just Offices*, N.Y. TIMES UPSHOT (July 1, 2023), <https://www.nytimes.com/2023/07/01/upshot/american-cities-office-conversion.html>.

²² N.Y. Env'tl. Conserv. Law art. 8-0101–8-0117 (New York State Environmental Quality Review Act of 1975 (SEQRA)).

²³ See, e.g., EDWARD GLAESER, TRIUMPH OF THE CITY: HOW OUR GREATEST INVENTION MAKES US RICHER, SMARTER, GREENER, HEALTHIER, AND HAPPIER 14 (2008).

²⁴ N.Y.U. FURMAN CTR., DISTRIBUTION OF THE BURDEN OF NEW YORK CITY'S PROPERTY TAX 9–11 (2012).

²⁵ ERIC KOBER, ZONING, TAXES, AND AFFORDABLE HOUSING: LESSONS FROM BLOOMBERG'S FINAL TERM 6–7 (2020), <https://media4.manhattan-institute.org/sites/default/files/zoning-taxes-and-affordable-housing-EC.pdf>.

²⁶ Mihir Zaveri, *The Tax Break New York Relied on to Build Housing Is Gone. What's Next?*, N.Y. TIMES (Jan. 28, 2024), <https://www.nytimes.com/2024/01/28/nyregion/421a-housing-tax-break-legislature-485x.html>.

²⁷ ERIC KOBER, DE BLASIO'S MANDATORY INCLUSIONARY HOUSING PROGRAM: WHAT IS WRONG, AND HOW IT CAN BE MADE RIGHT 5–6 (2020), <https://manhattan.institute/article/de-blasios-mandatory-inclusionary-housing-program-what-is-wrong-and-how-it-can-be-made-right>.

²⁸ Eric Kober, *An Unproductive Housing Consensus*, CITY J. (Sept. 15, 2023), <https://www.city-journal.org/article/new-yorks-unproductive-housing-consensus>.

²⁹ KOBER, *supra* note 27, at 12.

zoning, thus preventing land from being put to its highest and best use.³⁰ The legislature’s failure to provide a tax exemption has resulted in the prospect of sharply fewer large privately funded rental development projects in New York City in the coming years.³¹

Rather than encourage the private sector to build enough housing supply to meet demand—the only sustainable, long-term solution to the housing crisis—New York State has turned to price controls. In 2019, it strengthened its longstanding regime of rent stabilization.³² Draconian rent regulations have failed to correct the supply-demand mismatch and have likely worsened vacancy rates.³³ Instead, rent stabilization provides valuable benefits and entitlements to incumbent tenants at the expense of outsiders.³⁴ Further, by limiting landlords’ ability to add repair costs to rents following major—and in many cases, necessary—renovations, the 2019 restrictions have resulted in thousands of so-called “warehoused” units.³⁵ Amid a severe housing shortage, rent stabilization has made these once temporarily uninhabitable units permanently unprofitable and therefore indefinitely vacant.

A simple solution can alleviate crushing rent burdens. **New York State and City must loosen restrictions and facilitate new housing-supply growth.** Without new housing supply in the city and its downstate suburbs, rents will continue to rise, and New York’s economy will lose out to fierce competition from other states and cities.

At the same time, political realities dictate that New Yorkers, like Americans elsewhere, cherish their existing communities. Homeowners and long-term renters do not wish to see widescale, disruptive changes to the places they call home. Constituents and political leaders from both major parties value local control over most land use decisions.

Policy options are available to spur housing growth in New York while largely respecting local control, including the following, informed by the work of Manhattan Institute scholars:

New York State could grant all homeowners statewide the right to build an accessory dwelling unit (ADU) as-of-right on their properties.³⁶ These can be standalone small dwellings located in the backyards of existing properties, or configured within existing homes, such as in basements. Homeowners can utilize these dwellings for family members—allowing elderly relatives to age in place, for example—or to generate additional rental income.³⁷

³⁰ *Id.* at 4.

³¹ See, e.g., Samar Khurshid, *Housing Development in New York City Slows to a Crawl as Officials Debate Tax Incentives*, GOTHAM GAZETTE (June 1, 2023), <https://www.gothamgazette.com/state/12024-no-housing-development-new-york-city-state-421a-tax>.

³² N.Y. Senate Bill S6458 (2019).

³³ Eric Kober, *A Predictable Crisis*, CITY J. (Feb. 13, 2024), <https://www.city-journal.org/article/a-predictable-crisis>.

³⁴ See, e.g., MICHAEL HENDRIX, ISSUES 2020: RENT CONTROL DOES NOT MAKE HOUSING MORE AFFORDABLE, (2020), <https://manhattan.institute/article/issues-2020-rent-control-does-not-make-housing-more-affordable>.

³⁵ David Brand, *More than 13K rent-stabilized units in NYC are sitting empty for multiple years, report finds*, GOTHAMIST (Aug. 21, 2023), <https://gothamist.com/news/more-than-13k-rent-stabilized-units-in-nyc-are-sitting-empty-for-multiple-years-report-finds>.

³⁶ See ERIC KOBER, OVERCOMING EXCLUSIONARY ZONING: WHAT NEW YORK STATE SHOULD DO 13–16 (2021).

³⁷ GRAY, *supra* note 19, at 112–13.

The state could further cap residential minimum lot sizes at a reasonable size, perhaps a maximum of 5,000 square feet, wherever municipal water and sewer connections exist, opening more opportunities to subdivide properties where housing demand exceeds supply.³⁸ This measure would allow property owners to use their homes and land as they and their families see fit.

These two proposals effectively incentivize homeowners to promote housing-supply growth, even as the additional density would not fundamentally change the character of existing neighborhoods. Policymakers should think of homeowners as “site-value capitalists”—in the words of University of California, Davis law professor Christopher Elmendorf—or as entrepreneurial agents ready to create economic opportunity for themselves and newcomers by capitalizing on the latent value of their property.³⁹

Further, the state can exempt most residential upzonings from costly environmental reviews, especially in New York City.⁴⁰ The environmental benefits of denser housing are well-documented, and environmental harm occurs by diverting more prospective residents to locales dependent on cars and air conditioning. The state could also eliminate longstanding impediments to higher residential density in New York City. That includes lifting the 12 floor area ratio cap on residential buildings and streamlining antiquated restrictions on commercial-to-residential conversions.⁴¹

At a minimum, state lawmakers should strongly consider reviving a 421-a-style program before the current state legislative session ends, providing private developers with a path to sufficient profitability to enable new rental construction.⁴² Better still, the state could permanently authorize New York City to grant property-tax incentives to private developers that build mixed-income rental housing.⁴³ Local budget and housing officials have an interest in setting an amount the city can afford to incentivize new residential development.⁴⁴ Making this local power permanent would avoid the fits and starts that have accompanied periodic expirations and renewals of the 421-a program.⁴⁵

In the city, the Adams administration’s City of Yes for Housing Opportunity plan proposes sweeping reforms that, if enacted, would make it “possible to build a little bit more housing in every neighborhood.”⁴⁶ The plan includes measures to allow ADUs, eliminate residential parking

³⁸ GRAY, *supra* note 17, at 8.

³⁹ See CHRISTOPHER S. ELMENDORF, *THE HOUSING TREADMILL*, CITY J. (2023).

⁴⁰ KOBER, *supra* note 21, at 6–7.

⁴¹ See, e.g., *id.* at 7.

⁴² *Id.*

⁴³ *Id.* at 5–6.

⁴⁴ *Id.*

⁴⁵ See ERIC KOBER, *NEW YORK CITY’S FAR-REACHING HOUSING PROPOSALS ARE STILL NOT AMBITIOUS ENOUGH 2* (2023), <https://media4.manhattan-institute.org/sites/default/files/nyc-far-reaching-housing-proposals-still-not-ambitious-enough.pdf>.

⁴⁶ N.Y.C. Plan., *City of Yes for Housing Opportunity A little more housing in every neighborhood*, (Sept. 2023), <https://storymaps.arcgis.com/stories/f266a53c9cda42d5b7f63b57dc08f849>.

requirements, reduce minimum lot sizes, and increase the floor area permitted in residence districts citywide.⁴⁷

Because housing actions fall under the jurisdiction of state and local governments, federal intervention in housing reforms may infringe on traditional boundaries of federalism. Reasonable arguments exist on both sides of the question of whether the federal government should condition funding or otherwise encourage the adoption of such actions. In general, however, making the most cost-effective use of federal housing dollars means providing tenants with rental voucher-based assistance instead of project-based subsidies for new affordable-housing construction.⁴⁸

In addition, Congress can spur capital investment in housing nationwide through tax reform, such as by accelerating cost recovery for buildings. Because of the time value of money, the current 27.5-year depreciation schedule for residential real estate prevents rental property owners from deducting the full value of their investments in real terms.⁴⁹ Shortening the depreciation schedule and including bonus depreciation would encourage more residential construction.⁵⁰ Alternatively, depreciation deductions can be indexed to inflation and a real rate of return to adjust for the time value of money.⁵¹

Though daunting, New York's housing challenges are not a matter of technical infeasibility but political indecision. Time is of the essence. New York's long-run competitiveness and economic vitality are on the line.

By working together as citizens, we can build enough housing in New York City and State to continue their venerable tradition of providing life-changing and unique opportunities for individuals, families, and businesses to flourish.

Thank you again for this opportunity, and I welcome your questions.

⁴⁷ ERIC KOBER, NYC'S MAYOR ADAMS FINALLY FACES HOUSING CRISIS WITH MAJOR REFORMS (2023), <https://media4.manhattan-institute.org/wp-content/uploads/nyc-mayor-adams-finally-faces-housing-crisis-with-major-reforms.pdf>.

⁴⁸ See, e.g., Edgar O. Olsen, *The Cost-Effectiveness of Alternative Methods of Delivering Housing Subsidies*, U. VA. WORKING PAPER No. 351, 1–4 (2009).

⁴⁹ ALEX MURESIANU, 1980S TAX REFORM, COST RECOVERY, AND THE REAL ESTATE INDUSTRY: LESSONS FOR TODAY 5, 9 (2020).

⁵⁰ Arpit Gupta, *Unlock a Housing Boom through Depreciation Bonuses*, ARPITRAGE (Feb. 13, 2024), <https://arpitrage.substack.com/p/unlock-a-housing-boom-through-depreciation>.

⁵¹ ERICA YORK, OPTIONS FOR IMPROVING THE TAX TREATMENT OF STRUCTURES 4 (2020), <https://files.taxfoundation.org/20200518154207/Options-for-Improving-the-Tax-Treatment-of-Structures.pdf>.