

RENT WARS

Renters Relieved! Life Returns to Normal After Supreme Court Turns Down Harmon Case

Tweet 15

Like 19

0

By Kim Velsey 4/23 4:13pm



The house the Harmons built... but don't truly own? (Google Maps)

Today marks a day of rejoicing for residents living in one of the city's many rent-regulated apartments. Break out the Andre!

The Supreme Court has declined to hear a challenge to rent control brought by former federal prosecutor James D. Harmon Jr., the owner of a five-story townhouse on West 76th Street. Mr. Harmon, who grew up in the brownstone and now lives there with his wife Jeanne, inherited the building and its three rent-controlled tenants from his grandfather. The building also has three market-rate tenants.

In a city of renters, where the approximately 47% percent of the city's 2.2 million rental units are subject to rent control or rent stabilization laws, the Harmon case touched New Yorkers' notoriously hard-to-reach hearts. The case's potential to radically upset New York City housing policy, as well as rent regulation laws across the country, left those

on both sides of issue anxiously awaiting the court's decision.

"This is a huge relief, because rent control could have been doomed under the conservative Roberts court," City Councilwoman Jessica Lappin wrote to *The Observer*. "Right now our city needs stronger rent protections so New Yorkers can afford to stay in their homes."

In *Harmon v. Kimmel*—Jonathan Kimmel is chair of the city's Rent Guidelines Board—the Harmons argued that New York City's rent laws violate the Constitution by taking their property without just compensation, "thus imposing on the Harmons the unconstitutional burden of involuntarily sharing their home with tenant strangers whom the Harmons must subsidize for the rest of their lives."

The Harmons also argued that the costs and benefits of the laws were distributed so arbitrarily that they violated their right to due process of law.

The most recent case was not the first time Mr. Harmon has challenged rent control laws in the courts (one challenge involved trying to oust a tenant so the couple's college-aged granddaughter could live in the apartment), nor is it the first time that his case has been denied. Last September, the United States Court of Appeals for the Second Circuit ruled that the rent-stabilization law did not constitute a "taking" and that Mr. Harmon had acquired the property with "full knowledge that it was subject to RSL." (In addition to inheriting his share of the building, Mr. Harmon also bought out his brother).

BOX OFFICE

Is Steve Harvey the New Tyler Perry (Of the Box Office)?

Park Slope Is New York's Second Most Adulterous Neighborhood, Says AshleyMadison.com

NY1 Anchor Pat Kiernan Moving to Williamsburg, is a Baller

Televangelist Creflo Dollar Sells Manhattan Condo

The Story of Etan Patz: Reporters Remember the Quest to Cover (and Find) Soho's Missing Boy

Silverstein Beats Vornado to the Port Authority Punch Again, Proposes New Bus Terminal on West 39th

"The Harmon family is disappointed in the Supreme Court's decision," the family said in a statement this afternoon. "We still believe that the Constitution does not allow the government to force us to take strangers into our home at our expense for life. Even our grandchildren have been barred from living with us. That is not our America."

Mr. Harmon also challenged the validity of his the ongoing housing emergency, "There are 68,000 vacant apartments in the City. That is not an emergency by any definition," he wrote in his statement. "If there is a problem, all New Yorkers should share in the cost of solving it, as we have done for over forty years. The Harmon family and other small property owners have carried the burden alone for too long."

City officials, on the other hand, were overjoyed by the court's decision not to hear the case.

"Rent regulation in New York City has a long history, and the Court properly left it to elected State and City officials to decide its future," said Alan Krams, senior counsel for the NYC Law Department, who filed opposition briefs in the case.

City Council Speaker Christine Quinn, long a champion of rent regulations and the supporter of a bill to [reform the Rent Guidelines Board to better reflect the city's tenants](#), praised the Supreme Court's decision in a statement this morning.

"I'm pleased that the Supreme Court has refused to hear the case challenging the City's rent stabilization program. The court's decision is consistent with longstanding precedent that affirms the City and State's authority to enact these laws, which are an integral part of the City's effort to provide affordable housing to New Yorkers," said Ms. Quinn. "Now, the City's rent regulation system can proceed unfettered, as we continue to ensure affordable housing is available to New Yorkers."

Maggie Russell-Ciardi, the executive director of Tenants & Neighbors, a tenant advocacy group, said that although the organization viewed the suit as frivolous, it caused tenants with rent-regulated apartments a great deal of anxiety.

"It was a distraction," said Ms. Russell-Ciardi, who said that now the group could focus on initiatives like strengthening the enforcement of the rent-regulation laws. "Rather than suing Kimmel, a lot of other owners of rent-regulated buildings just ignore the regulations or try to get around them."

Although the court's decisions would seem to confirm the suspicions, voiced by many rent control supporters, that Mr. Harmon's case had little chance of being heard given the court's previous findings in related property cases (last week, State Assemblyman Brian Kavanagh called it "a fools game" at a press conference about the Rent Guidelines Board), the Supreme Court did order the city to file briefs opposing Harmon's petition.

"It indicates that some interest was being shown behind the scenes... you can't grant a petition unless oppositions have been filed," said attorney R.S. Radford, who filed an amicus brief supporting Harmon's petition on behalf of the Pacific Legal Foundation, Cato Institute and Small Property Owners of San Francisco Institute.

"This could have just gone down the tubes three months ago, but the fact that it didn't is encouraging."

Mr. Radford said that he was also surprised at the generally favorable media attention given to the case and thought it suggested a good atmosphere for further legal challenges.

"I was filing briefs in cases like this 20 years ago and the media coverage was so hostile," said Mr. Radford. "But this time there was such a sense of realism. People realize that rent control is not achieving the positive social outcomes that it's supposed to."

Jack Freund, the executive vice president of the Rent Stabilization Association, which represents 25,000 property owners and agents, called the court's decision "very

INTERIORS

FASHION



ANTIQUITIES

MODERN
BRITISH

DISCOVER ALL THE
POSSIBILITIES

NEW YORK · LONDON · ONLINE

CHRISTIE'S

Japan's Instagram Alternative Taps Into Your Inner Tweenage Sticker Fiend

Thrillist's JackThreads Announces First Private Label, Goodale

Hey, Mobile Wallets Don't Work for Everyone

Charlie Rangel Flexes Puerto Rican Credentials

Benjamin Kallos Praises Potential Rival Micah Kellner's Record

RNC Accuses Obama of 'Misuse of Government Funds'

Art.sy Is One of Time's Tech Start-Ups to Watch

Fitz Henry Lane, Oscar Bluemner and Norman Rockwell Lead Christie's American Art Sale

Two Lost Paintings Will Emerge at Sotheby's in May

Photos from the Society of MSKCC and Gucci's Spring Ball

Albert Nobbs Co-Stars Get Close at Broadway Premiere: A Love Story in Five Acts

To Do Thursday: Liquid Courage

disappointing,” and was worried that city councilmembers like Ms. Quinn would see the decision as giving them carte blanche.

“We will be looking for continued opportunities to challenge the constitutionality of rent laws. We thought this case raised some serious issues of whether there isn’t a better way to provide rent assistance rather than willy-nilly,” said Mr. Freund. “This case is a dead end, but the concepts that it raises are not.”

The three tenants in Mr. Harmon’s rent-regulated one-bedroom apartments, did not respond to *the Observer’s* request for comment. Each signed their leases in the 1970s and pay approximately \$1,000 a month for their one-bedroom apartments, about 59 percent below market rate, according to court documents.

The tenants’ financial situations have remained something of a mystery, although much has been made of the fact that Nancy Wing Lombardi, an executive recruiter, owns a house on Long Island.

Of the three, only Dave Mlotok, who works in publishing, has spoken publicly, albeit briefly, about the situation. He told the *The Times* that despite the potential for unpleasant confrontations, Mr. Harmon had been a good landlord and their meetings in the foyer have remained civil. He declined to discuss whether or not he could afford to pay market rate for his apartment.

The court’s denial comes in the midst of several city and state initiatives to preserve and strengthen rent regulations in the city. Last month, the city voted to extend the Rent Stabilization Law through 2015, citing vacancy rates well below 5 percent. Such is the threshold to declare the requisite, ongoing housing emergency needed to continue the law.

The law, on the books since 1969, mandates that owners of properties with six or more units abide by annual rent increases—usually around 3 percent—set by the Rent Guidelines Board.

And last year, the state legislature bolstered the protections, [renewing rent regulation laws](#) and raising the ceiling on rent stabilization-eligible apartments in the process.

Whether mourning the Supreme Court’s decision or praising it, both opponents and champions of the city’s rent regulation agreed on one thing—no one likes the current rent regulations.

Vicki Been, the faculty director at NYU’s Furman Center for Real Estate and Urban Policy said that the case might be over, but that the issues raised by it—what exactly the city is trying to accomplish with rent regulation, who the program’s beneficiaries are, and how to both make housing more affordable to low-income people and preserve long-term housing, would linger on for years to come.

“It was an interesting moment for the city,” she said. “But for better or worse there’s no immediate crisis with the city.”

kvelsey@observer.com

Follow Kim Velsey [via RSS](#).

See also

Supreme Court Declines To Hear Harmon Rent Control Case

Nobody Likes The Rent Guidelines Board—Quinn, Squadron, Williams Rally, Take to Name Calling

Where's the Rent? Supreme Court Withholds Decision on Whether or Not to Hear Rent Control Case

Does the End of Rent Control Start Today? Supreme Court Will Decide Whether

[Soul Searching? Arianna Huffington Has an App for That](#)

[Rupert Murdoch Blames *Daily News* Editor Colin Myler For Phone Hacking Cover-Up](#)

[Village Voice Attorney Defends Her Company's Sex Site At Contentious Council Hearing](#)

[NY1 Anchor Pat Kiernan Moving to Williamsburg, is a Baller](#)

[Top Chef Tops Out at Maligned Montauk Hipster Spot, The Surf Lodge](#)

[Location, Location, Location](#)

[Rooney Mara Moving to 'Brooklyn'](#)

[Video: Jimmy Kimmel Isn't Worried About White House Correspondents' Dinner Because He's Not Louis C.K. \(Video\)](#)

[Park Slope Is New York's Second Most Adulterous Neighborhood, Says AshleyMadison.com](#)

[Andreessen Horowitz Pledges to Donate Half Its Venture Capital Income to Charity](#)

[Looks Like Facebook Goes Public May 17](#)

[Whither Groupon? A Wall Street Analyst Breaks It Down](#)

[Vote for Your Favorite New York City Landmark and It Might Win \\$3 M.](#)

[Silverstein Beats Vornado to the Port Authority Punch Again, Proposes New Bus Terminal on West 39th Street](#)

[Park Slope Is New York's Second Most Adulterous Neighborhood, Says AshleyMadison.com](#)

Charles Colson

A Good No-Decision

Good Deal for NYU and N.Y.C.

email address

or Not to Hear UWS Suit

Could Rent Control Die by Decade's End?

What I Told the Rent Guidelines Board

Quinn on Rent Guidelines Board: 'Predictable and Silly'

topics: [James Harmon](#), [Rent wars](#), [Supreme Court](#), [Upper West Side](#), [West 76th Street](#), [rent guidelines board](#), [rent regulations](#), [rent-control](#), [rent-stabilized](#)

0 Tweet 15 Like 19

Like

Add New Comment

Login



Type your comment here.

Showing 2 comments

Sort by popular now



Greed is Bad

Maybe in 1947. Yes, a system that limits new housing development and drives rent to price levels where people need to build fake walls in order to share apartments with 3 other people is really good public policy. Rent regulated tenants like to say they are protecting families and the middle class but in reality they are driving the middle class out of NYC as nobody but rent regulated tenants and millionaires can afford to raise a family here.

I'm a very liberal person, but granting one group of people a life time entitlement that is not offered to anyone else is the opposite of America's core principles.

Remove these laws, let rents come down, let developers build again, and then we can truly "move on" with a real stability for all.



eddy1947

Let's move on. Rent protections are fully legal, necessary, and good public policy.

[M](#) [Subscribe by email](#) [S](#) [RSS](#)

Reactions



[Show more reactions](#)



Find us on Facebook



The New York Observer

Like

9,582 people like The New York Observer.



Facebook social plugin

Mirante Expects Avison Young To Grow Quickly

Crane owner James Lomma Cleared of All Wrongdoing in Fatal 2008 Accident

Duly Noted: Despite Q4 2011 Drop in Distress, Schechtman, Knakal and Others Rack Up Hundreds of Millions of Dollars in the Deals



INNOVATION

MAKING HISTORY

Andreesen Horowitz Pledges to Donate Half Its

WHITE HOUSE CORRESPONDENTS' DINNER Video: Jimmy

OCCUPY WALL STREET Lost In New York: Can Occupy Find Its

[Classifieds](#) [Legal Advertising](#) [Subscriptions](#) [About Us](#) [Advertising](#) [Privacy Policy](#) [Terms of Service](#) [RSS](#)