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

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 Harmon 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 Harmon 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).
“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
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 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 regulations 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.”

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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.

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