

MAJOR CAPITAL IMPROVEMENTS:



**An unjust system that enriches landlords at the
expense of rent-burdened New Yorkers**

March 2020

EXECUTIVE SUMMARY

Major Capital Improvement (MCI) increases are one of several tactics that landlords exploit to raise rents and drive displacement. With monthly MCI rent hikes as high as \$800 per apartment, the Upstate-Downstate Housing Alliance urges Albany to stand with tenants and eliminate MCI rent increases.

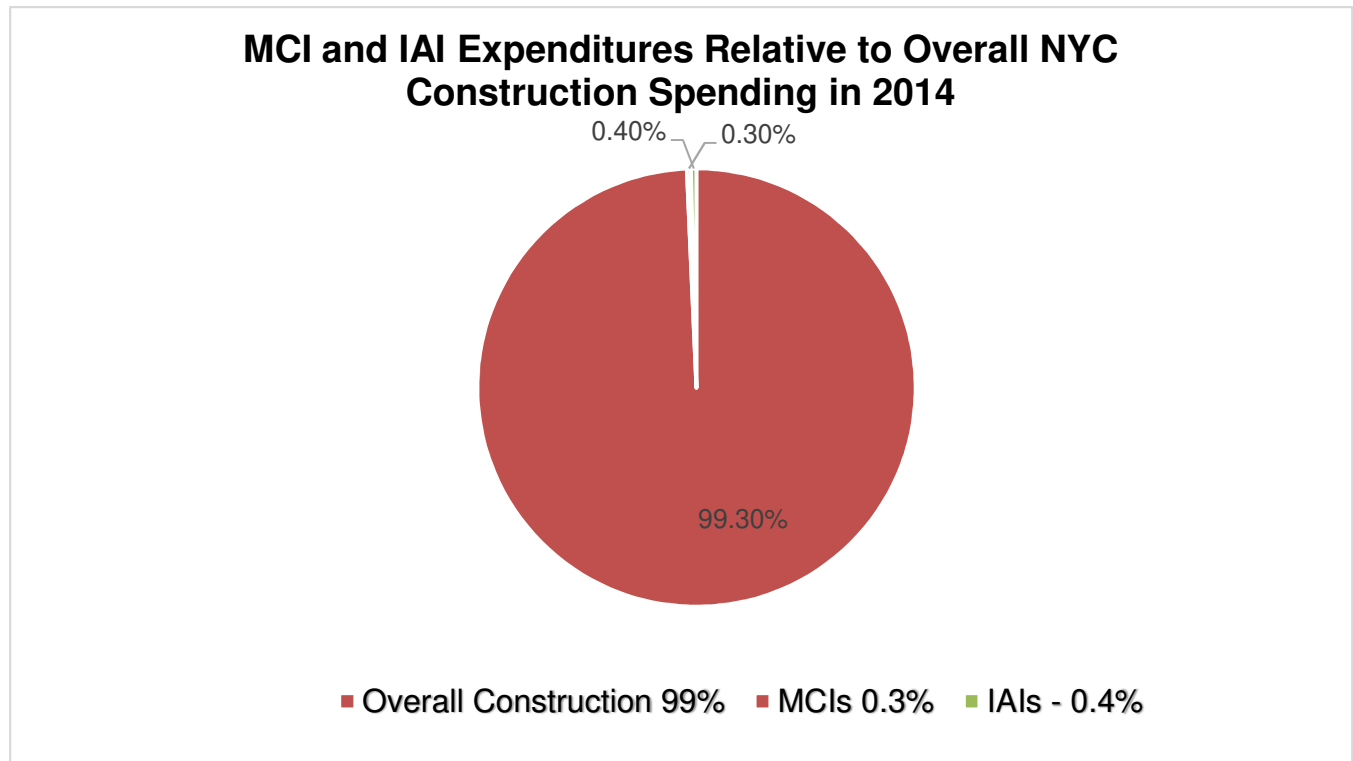
MCIs enrich large, corporate landlords and drive up rents for the working class rather than provide jobs.

- *MCI jobs are a tiny slice of the pie:* In 2014, MCI costs amounted to only 0.003% of the total amount spent on construction in New York City that year.¹ From 2003–2014, landlords spent nearly \$115 billion maintaining rent-stabilized buildings. Of this \$115 billion, only 1% of the expenditures went towards MCIs.²
- *Most MCI Increases Benefit Large Landlords:* From 2000–2014, 70% of MCI applications received by DHCR came from owners of portfolios that are now greater than 150 units³

Landlords have plenty of other reasons to improve buildings besides collecting MCI rent increases from working-class tenants.

- *Cost Savings:* Replacing boilers, roofs, windows, and other weatherizing work reduces operating and maintenance costs by improving energy efficiency, sometimes cutting heating bills by more than half.⁴ According to the Mayor's Office of Sustainability, a pair of Manhattan multifamily buildings that upgraded their heating system realized \$551 in savings per apartment per year as compared to their old boiler.⁵ Landlords don't need to be doubly compensated for these cost savings.
- *Government Subsidies:* Landlords already receive hundreds of millions in State and local tax incentives to help cover the costs of building improvements. This year alone, New York City landlords will receive tax exemptions and abatements totaling \$301 million for the same types of improvements that qualify for MCIs.⁶ In addition to these city expenditures, New York State's Weatherization Assistance Program, the largest in the country, provides financing for boilers, entrance doors, and windows.⁷
- *Landlords are Reaping Record Profits:* The median sale price of a rent stabilized building in New York City has increased over 600% in the past 15 years.⁸ Only 5% of New York City's rent stabilized properties are considered financially distressed, and landlords' net operating income has increased every year for the past 13 years.⁹

Simply put, a building is a landlord's asset, investment, and responsibility. As with any asset, the owner has an inherent interest in ensuring the value of their asset does not depreciate. MCIs are investments landlords make not to improve the building, but increase the value to their asset and increase their overall profits. **It should not be done at the expense and burden of New York renters.**



Sources: New York Building Congress, "Construction Outlook," April 2015. Retrieval at <https://www.buildingcongress.com/advocacy-and-reports/reports-and-analysis/construction-outl>
Urbanomics, "The Economic Impact of Capital Improvements and Annual Operations of Rent Stabilized Buildings on the Economy of New York City, 2003-2014," February 2015. Retrieval at: <https://rsanyc.net/urbanomics-report-february-2015.pdf>

I. INTRODUCTION

Aisha Gomez, a LeFrak City tenant leader describes receiving MCI notices as "scary and intimidating. Each one *feels* like an eviction notice."

New York is in the midst of a housing crisis.

- More than **92,000 people are homeless** across the state.¹⁰
- New York City spends nearly **\$2 billion annually in homelessness services**.¹¹
- New York State's **homeless population grew by a startling 46.8%** from 2007–2018, by far the largest jump in the country.¹²

In light of this dire reality, New Yorkers formed the Upstate-Downstate Housing Alliance to build towards a future where all New Yorkers have a Homes Guarantee. As part of this state-wide organizing effort, the Alliance's New York Homes Guarantee vision seeks to strengthen and expand New York's tenant protection laws. The progressive platform's goals include investment in social housing, taxing the rich to fund our homes, and enacting universal rent control. **This report focuses on the outstanding need to eliminate unjust rent increases for Major Capital Improvements (MCIs), a legal loophole that solely exists to benefit corporate landlords at the expense of working-class tenants who are already rent burdened. Prior to 2019, MCIs have been responsible for an average of \$140 million in permanent rent increases each year.**¹³

MCIs refer to new building-wide system upgrades or installations like roofs, windows, boilers, wiring, or exterior work. MCI projects are building-wide and intended to impact all tenants. They are distinct from work done in individual apartments. Our current laws allow landlords to apply to New York State's Division of Homes and Community Renewal (DHCR) for a rent increase that passes the cost of these improvements onto tenants in the form of ongoing rent increases that will continue for three decades, even after the improvements have been fully paid off by tenants in the first 12.5 years.

Tenants have the opportunity to contest an owner's application, but the process is futile—DHCR approved MCI rent increases for 92% of applications filed between 2015–2017.¹⁴ Zara Realty tenants at 88-06 Parsons

Boulevard were handed MCI increases of over \$480 per month in 2017, despite tenants having flagged numerous irregularities in the application. In early 2019, DHCR approved an \$800 per month rent increase for tenants on the Upper East Side for claimed facade work involving a “terra cotta rain screen”.¹⁵ The twenty Corona, NY buildings that make up LeFrak City have received an average of 15 MCI applications apiece.¹⁶ Virtually all of the applications at the complex have been approved,¹⁷ even though hazardous code violations persist in tenants’ apartments across the complex. Aisha Gomez, a LeFrak City tenant leader describes receiving MCI notices as “scary and intimidating. Each one feels like an eviction notice.”

Even in instances when MCI work was accompanied by severe tenant harassment or construction harassment, such as lengthy deprivations of bathroom or kitchen access, DHCR has still approved the increases. Once the rent increases hit, many tenants simply cannot pay. And the nightmare does not always end there. Some landlords even go after tenants who were already forced to move out by starting cases in small claims court for alleged retroactive MCI arrears.

While tenants struggle to make ends meet, landlords grow wealthier. MCI-eligible projects increase the value of buildings but shift the burden of paying for this additional value onto tenants. The families in the building essentially subsidize the landlord’s investment. When landlords sell their buildings, they recoup this added value, often making a significant profit. In fact, the median sale price of a rent stabilized building in New York City increased over 600% in the past 15 years.¹⁸ Yet, when tenants move out, or are worse forced out by steep rent hikes, tenants don’t get to take the windows, roofs, boilers, gas piping, or terra cotta rain screens that they paid for through MCI increases. They also don’t receive a payout when landlords sell their buildings, yet they are forced to subsidize the profits. This injustice is particularly acute for communities of color, especially Black communities, who, for generations, have been systematically barred from wealth-building opportunities through government sanctioned red-lining. Our current MCI system effectively requires that some of the same people who were historically denied access to wealth-building home equity must pay to improve the value of their landlords’ equity.

Imposed on tenants in approximately 1,000 rent-regulated buildings each year,¹⁹ MCIs transfer wealth from tenants to landlords, incentivize displacement, drive up legal rents, and pit habitability against affordability. After decades of fighting a losing battle against MCIs within the confines of the current system, New Yorkers are united in their belief that legislators need to eliminate MCIs once and for all.

II. MCIs IN A HISTORICAL CONTEXT

Rent increases for MCIs have existed across several generations of rent regulation—from World War II-era federal rent controls²⁰ to present-day rent stabilization.²¹ We therefore have decades of data available that reveal how MCIs have historically failed to incentivize appropriate levels of owner investment in rent-regulated housing; instead, MCIs primarily serve as fuel to accelerate rental increases in neighborhoods where landlords see potential for profit.²² A comprehensive audit of the MCI program commissioned by DHCR and published in June 1989 found, even back then, that “Owners are primarily improving buildings in neighborhoods undergoing economic revitalization, and the poorest areas are receiving little or no investment using the M.C.I. program.”²³ Moreover, the audit also found that “major types of building improvements that are essential to prolonging a building's useful life - such as plumbing and wiring replacement - are not often generated by the program.”²⁴

The actual history of the MCI program belies the doomsday prognostications of real estate lobbyists, who argue that eliminating MCIs would bring us “back to the 1970s, when the city’s housing stock was the national poster child for urban blight, because restrictive laws choked off resources and income landlords needed to upgrade and maintain their properties.”²⁵ In reality, MCIs have existed for decades, during times of economic growth and recession. The housing crisis of the 1970s and 80s was the result of decades of racist red-lining, failed urban renewal and planned shrinkage federal policies, white flight, block-busting and the federally subsidized funding of suburbia. To blame tenant protections for the entire crisis is both ahistorical and insincere.

CURRENT CONTEXT: HOW MCIs ARE USED AS A TOOL OF DISPLACEMENT

Even after the enactment of the HSTPA of 2019, current MCI laws still allow landlords to benefit from decades of neglect, during which residents were forced to endure substandard conditions and freezing winters. After years of failing to provide repairs, not maintaining essential services such as heat and hot water, and ignoring regular maintenance to their buildings, landlords can receive even larger 30-year rent hikes from tenants once they finally decide to “invest.” In fact, certain real estate investors specialize in using MCIs to drive up rents specifically targeting buildings that were not maintained to code and where prior owners failed to make basic repairs or provide essential services. This strategy may become even more attractive because the HSTPA of 2019 has eliminated many other rent increase loopholes that speculative landlords had previously exploited.

In the last few years, there has been an uptick in buildings that have experienced cooking gas shut offs. Although it is hard to quantify a shift in the last few years, many tenant organizations and legal service providers have experienced an increase in the number of buildings affected by cooking gas shut offs that can range from 6 months to two years.²⁶ Tenants frequently blame their landlords for ignoring leaks or failing to do

proper repairs and maintenance. By state law, a landlord can, in violation of the “warranty of habitability” statute, continue operating a building that has cooking gas shut off for a year and multiple open City code violations. After replacing the entire gas piping system in the building and eventually clearing the violations, the landlord will still be eligible to collect a MCI rent increase.

Nearly half of residents in New York City are rent burdened and pay more than 30% of their income towards rent. As a recent article noted, “[t]he alarming statistic here however is the fact that 91 percent of these severely rent-burdened households are low-income New Yorkers.”²⁷ This amounts to 368,000 families paying more than 50% of their income towards rent. Families experiencing severe rent burdens are forced to make critical life altering choices of how to spend their remaining money. It can mean compromising on long-term health and doctor visits, medicine, experiencing hunger and lack of shelter, or not having money to enroll children in art classes, sports, and other life-enriching activities.

Throughout New York City, rapidly gentrifying neighborhoods and neighborhoods that experienced decades of disinvestment have experienced waves of MCIs. Speculative and corporate landlords employ MCIs to drive up legal rents in an entire building, while forcing tenants to pay for their “investment.” While landlords claim they need MCI increases as an incentive to maintain buildings, their capital improvement costs are already mitigated by landlord-friendly federal tax policies²⁸ and City subsidy programs like J-51.²⁹ Landlords are richer today than ever before, and Net Operating Income for rent stabilized landlords has steadily grown for the last 13 years as reported in the most recent research published by the New York City Rent Guidelines Board (RGB).³⁰

For over 40 years, the Rent Guidelines Board has systematically granted rent increases. Having separate systems for how landlords are rewarded and receive rent increases is *tantamount to double-dipping and encourages exploitation* of the MCI system.

MCIs enrich and embolden landlords by creating an additional mechanism for landlords to seek rent increases on top of lease renewals. The Rent Guidelines Board was established to evaluate the conditions of the market for landlords and determine fair adjustments based on a variety of factors including real estate taxes, sewer and water rates, gross operating maintenance costs, housing vacancy and supplies, and other relevant factors such

as the impact of affordability for tenants.³¹ For over 40 years, the Rent Guidelines Board has systematically granted rent increases. Having separate systems for how landlords are rewarded and receive rent increases is tantamount to double-dipping and encourages exploitation of the MCI system. Landlords are allowed to apply for multiple MCIs at once, as long as they are for different improvements or installations, while also receiving yearly lease renewal rent hikes. In effect, after years of services and repairs denied, a tenant may suddenly face many-hundreds of dollars worth of annual rent increases.

In the Bronx, corporate landlords like Finkelstein Timberger Real Estate (FTRE) and Morgan Group buy buildings and impose wave after wave of MCIs. Together, their vast portfolios house 2,796 families in approximately 126 buildings all in one borough ripe for gentrification.³² FTRE and Morgan Group were named last year by the Right to Counsel NYC Coalition (RTCNYC) as some of the Worst Evictors in the Bronx. The common tactics they use to exploit tenants and subject them to harassment include denial of repairs, heat, hot water, non-working elevators, higher rates of evictions, and on top of it all - multiple MCIs. Instead of government agencies intervening and enforcing habitable conditions and a stop to construction harassment on behalf of tenants, FTRE and Morgan Group have been rewarded with millions of dollars in rent increases by DHCR. There is a clear connection between MCI rent increases imposed by giant landlords, like FTRE or Morgan Group, and the unusually high volume of eviction cases being filed by those same landlords, as documented in the RTCNYC Worst Evictors List.

Housing advocates and attorneys have worked with tenants to examine the MCI increases in FTRE and Morgan Group buildings. Approved MCI rent increases in these portfolios have ranged from \$50 per room to \$80 per room, which come out to \$200–\$300 of permanent rent increases per apartment added to the monthly legal rent.³³ While both of these corporate landlords frequently used MCIs to renovate kitchens and bathrooms, they frequently did so without the consent of renters, and often to replace kitchens and bathrooms that were already functional or recently replaced. When tenants tried to decline the unnecessary renovations, they were reportedly threatened with holdover eviction cases for denying access to the landlord. In total, thousands of families in these specific buildings were subjected to construction harassment and denied basic services for several weeks at a time to up to months in the worst cases, for “repairs” they did not ever want, need, or ask for. Families lived without gas, working kitchens, toilets, and showers. Families in 60- to 100-unit buildings were forced to share one bathroom between them (and often with construction workers as well) for many months at a time. And after enduring such ordeals, these thousands of families will pay rent hikes essentially for the life of their tenancy.

CHALLENGING AN MCI AND THE ADMINISTRATIVE PROCESS

DHCR has historically failed to implement adequate protocols for reviewing MCI applications, and has provided minimal oversight in decisions that impact thousands of families.³⁴ According to data submitted to the Rent Guidelines Board over the last 3 years, DHCR receives on average around 1,000 applications annually and approves over 90% of them.³⁵ DHCR's administrative process to review MCI applications is designed to expedite them and ensure landlords receive the rent increases they applied for. **No reforms or policy changes to DHCR's administrative processes will change the outcome.** As long as MCIs are allowed under state law, they will be approved by DHCR. This is the basis of why the Coalition is calling for the elimination of MCIs.

DHCR does not have a rigorous process or protocol in place to examine every single MCI application. Currently, landlords have up to two years to apply for an MCI *after* the work has been completed. Meanwhile, tenants have 60 days to submit an opposition. Landlords are not required to notify tenants or ask for their consent before the building-wide work commences that ultimately will result in a rent increase. It often gives tenants, especially those in FTRE and Morgan Group buildings, the false impression that their landlords are finally investing what is needed to improve their living conditions. Meanwhile tenants do not realize that they themselves will be on the hook for paying for all the improvements through drastic rent increases a year or two after the work is completed.

In some representative examples of lack of DHCR oversight and scrutiny, tenant advocates have reported the following:

- An MCI application was approved without any inspection less than two months after the Tenant Association submitted a certified letter within the 30-day response period asking for an extension of time. Case files later received by tenant advocates in response to a Records Access Request confirmed that DHCR indeed received the Tenant Association's original letter request for an extension, but ignored it.
- Tenant advocates witnessed DHCR inspectors walking into apartments in multiple buildings to inspect the new bathroom, kitchens, and re-piping, and witnessed the inspector exiting apartments within a minute, despite tenants pleading for the inspector to look at specific problems with the work.
- DHCR's current policies allow a landlord to use a company run by the building Superintendent as its general contractor for an MCI project.³⁶ One landlord admitted in DHCR filings that they had indeed hired a Superintendent's company as the general contractor for multiple MCI projects, worth a total of approximately \$16 million. DHCR still approved the MCIs.

- Landlords often obtain construction permits for MCI projects while falsely claiming on their permit applications that the buildings did not contain any rent-stabilized units.³⁷ In a recent meeting between the Alliance and DHCR, after a tenant member brought up a clear example of this practice, an executive level DHCR official explained that the agency was not concerned about landlords lying about rent stabilization on city applications, so long as the false statements were not made to DHCR directly.
- An extremely distressed building with close to 300 violations with 52 units had an MCI approved as soon as the landlord cleared the last violation, nearly 18 months after the initial MCI application was submitted. Per DHCR policy, the MCI application should have been denied.

Historically, DHCR has employed one inspector per borough and has not had the capacity to thoroughly investigate every application received and properly inspect every building.³⁸ As a result, DHCR relies mostly on landlord self-reporting and tenant-instigated investigations to oversee MCIs applications. This system invites and encourages fraudulent behavior. Without full inspections, DHCR cannot know if work was completed, if completed work is properly functioning, and if the landlord is neglecting other work in the building, and leaving tenants to live in unsafe conditions or endure construction harassment. Moreover, landlords have an incentive to portray their work as high quality or submit questionable invoices and permits, and this administrative blind spot accounts for many MCI rent increases being unfairly granted and rarely scrutinized.

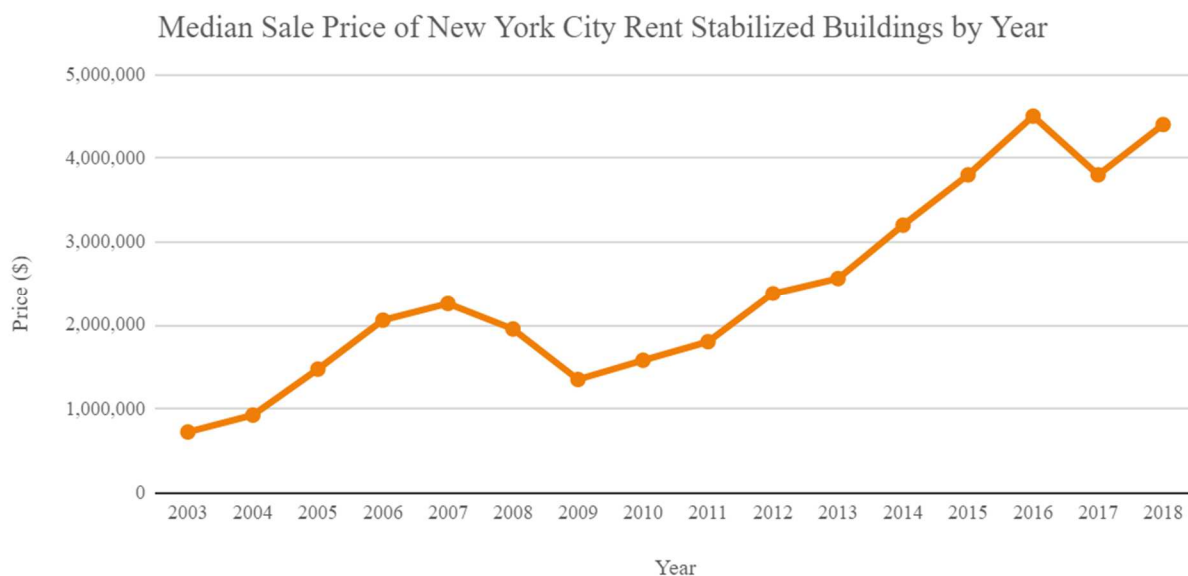
DHCR's administrative practices for processing MCI applications also overlook the serious issue of construction as harassment in buildings where landlords are seeking MCI rent increases. DHCR has acknowledged they will not grant MCIs where work was done improperly or if there are outstanding open building code violations, indicating poor physical conditions in the building. However, without the resources to look deeper into the landlord's construction practices, the agency cannot know if tenants were harassed in the process of renovation or in correcting violations. In summary, the real solution is not to reform the MCI program. The sensible solution is to eliminate this additional system of rent hikes that encourages fraudulent behavior, has minimal oversight, and forces already rent-burdened tenants to subsidize their landlord's profits.

III. A WORLD WITHOUT MCI INCREASES

The current MCI regime allows any landlord to collect rent increases from cash-strapped tenants. It doesn't have to be this way. There are a myriad of government programs that subsidize capital improvements, and there is also an existing hardship provision written into the rent laws that permits rent increases for landlords that affirmatively prove that they are in financial distress and not making enough profit. Eliminating MCI rent increases would create relief for tenants that would be spared steep rent hikes, and allow landlords who truly need help financing capital improvements to their buildings increased access to ample government resources.

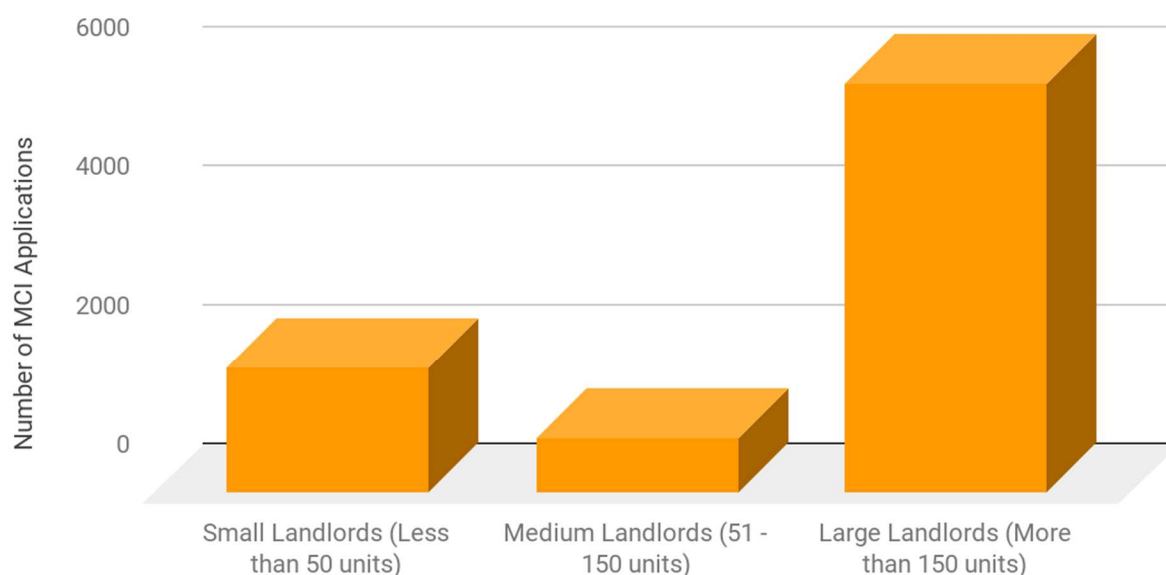
Most landlords can afford to maintain their buildings without MCI increases. New York City's incredibly lucrative real estate market means that landlords have access to ample capital to invest in their buildings and an incentive to maintain their significant financial investments.

- **Record Profits:** As shown in the chart below, the median sale price of a rent stabilized building in New York City has increased over 600% in the past 15 years.³⁹ Only 5% of New York City's rent stabilized properties are considered financially distressed, and landlords' net operating income has increased every year for the past 13 years.⁴⁰ Despite the real estate industry's prosperity, the broad permissibility and promise of MCI rent increases allowed by current laws serve to further enrich landlords at the expense of tenants.



- **Dominance of Speculative Landlords:** Not only are landlords' buildings incredibly valuable, this wealth is concentrated in the hands of corporate giants. Together, New York's five largest landlords, including Blackstone, LeFrak, and A&E, now own over 57,000 units,⁴¹ and in 2016, more than 150,000 of the City's 2 million residential units were concentrated in the hands of only 20 landlords.⁴² According to an analysis of December 2018 HPD registrations by JustFix.nyc, a typical HPD-registered property is part of a 21-building, 893-unit portfolio.⁴³ Mom-and-pop landlords are increasingly rare, and our policies should be responsive to this reality. These numbers indicate that landlords have enough collateral and income to finance improvements without passing the cost on to tenants.
- **Most MCI Increases Benefit Huge Landlords:** **Landlords of MCI buildings have bigger portfolios than the average landlord.** Blackstone, LeFrak, and A&E tenants are besieged with consecutive MCI applications. A comparison of JustFix.nyc's analysis of HPD's property profile registrations and information disclosed through a DHCR FOIL request shows that buildings with MCI increases belong to portfolios that are more than *double the size* of an average New York City portfolio.⁴⁴ In fact, between 2000 and 2014, 70% of MCI applications came from portfolios of landlords with more than 150 units⁴⁵:

MCI's Benefit Big Landlords the Most: Number of MCI Applications by Portfolio Size, 2000 - 2014



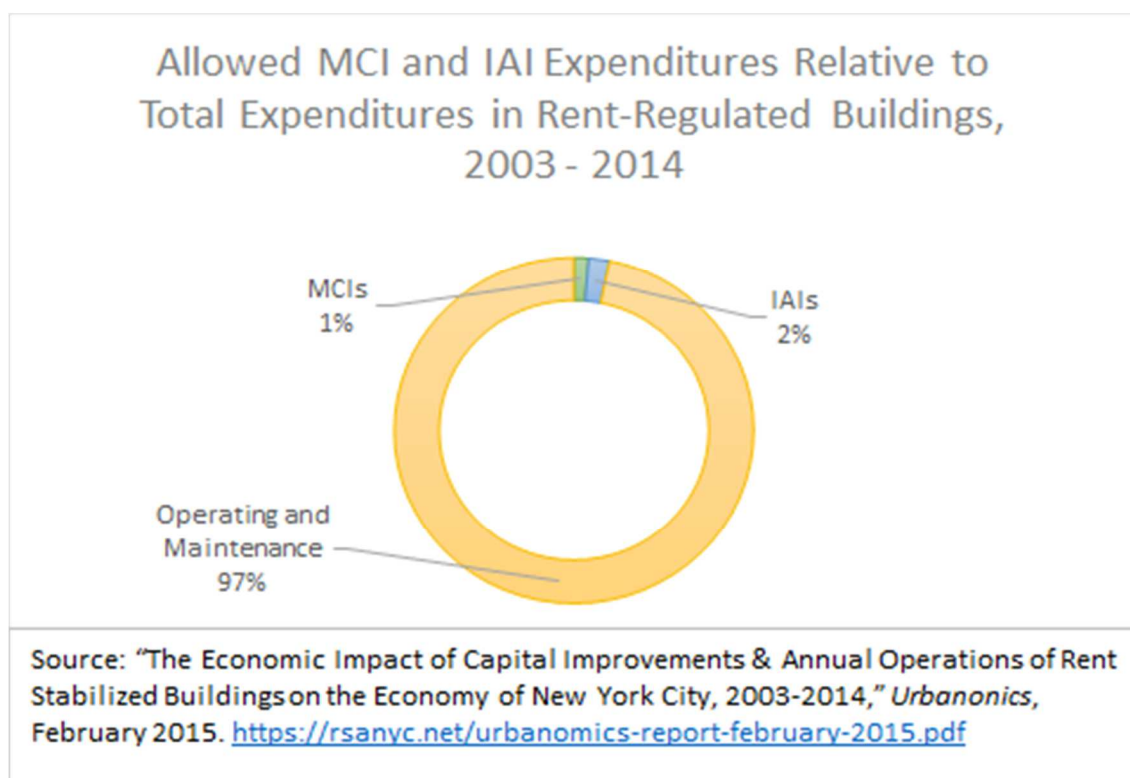
Landlords have plenty of incentives to improve their buildings without collecting MCI increases that displace tenants. In addition to various tax subsidies that benefit landlords generally,⁴⁶ there are a multitude of incentive programs for landlords to maintain their buildings.

- **Government Subsidies:** There are abundant resources available at the city and state level for landlords who need financial assistance to make necessary capital improvements, especially for improvements that increase energy efficiency like roofs and boilers. In FY 2020, New York City landlords will receive J-51 tax exemptions and abatements totaling \$301 million for the same types of improvements that also qualify for MCIs,⁴⁷ and there is at least \$130 million budgeted for various HPD programs to finance capital improvements.⁴⁸ In addition to these city expenditures, New York State's Weatherization Assistance Program, the largest in the country, provides financing for boilers, entrance doors, and windows.⁴⁹
- **Cost Savings:** Replacing boilers, roofs, windows, and other weatherizing work reduces operating and maintenance costs by improving energy efficiency, sometimes cutting heating bills by more than half.⁵⁰ According to the Mayor's Office of Sustainability, a **Manhattan multifamily building that upgraded its heating system realized \$551 in savings per apartment per year as compared to its old boiler.**⁵¹ **Landlords don't need to be doubly compensated for these cost savings.**
- **Preserving Equity:** Lenders consistently state that a building's condition is one of the most important factors in evaluating loan applications,⁵² so owners hoping to sell or borrow against their buildings already have financial incentives to keep their property in good repair.
- **Legal Obligation:** The law requires that building owners provide tenants with safe and habitable apartments and common areas in buildings. Landlords who acquire buildings, do so knowing this is a core legal obligation they must comply with under landlord-tenant law. Any landlord who does not maintain their building, including through regular investment in improvements, is simply demonstrating a willingness to flout the law. If an individual were to argue that they needed a financial incentive to comply with criminal law, for example, that would be considered irrational and illogical. This argument is no less illogical and irrational in the context of MCIs.

Tenants' rights are workers' rights. As the value of real wages struggle to keep up with housing costs, it is increasingly important to end laws like MCIs that drive up rents. Concerns that elimination would hurt construction workers are unfounded, especially since tenants frequently witness worker exploitation during MCI-eligible projects.

- MCI jobs are a tiny slice of the pie. In 2014, DHCR granted \$112 million in MCI costs,⁵³ which amounted to only 0.003% of the total amount spent on construction in New York City that year.⁵⁴ From 2003–2014, landlords spent nearly \$115 billion maintaining rent-stabilized buildings, out of which MCI expenditures approved by DHCR made up only 1% of the total expenditure.⁵⁵
- MCIs don't always create good, long-lasting jobs. Landlords habitually use their existing employees to help perform million-dollar MCI projects instead of creating new long-term and career jobs for the local community. For example, Finkelstein-Timberger East Real Estate, a Scarsdale-based corporation that owns around 75 rent-regulated buildings in the Bronx, listed one of its own building superintendents as the general contractor for over \$7.6 million in claimed bathroom and kitchen renovations performed at 10 of its buildings.⁵⁶

The monied and booming real estate industry wants the most vulnerable New Yorkers to pay a steep price through MCIs to subsidize their own investments and in return, provide a very small number of working-class jobs, many of which will become inaccessible to those forced out of New York by high rents. **For every dollar spent by real estate, only a penny goes towards MCI construction work and jobs.** Policy decisions must prioritize the massive impact of MCI rent increases on both tenant and workers over the preservation of a tiny number of jobs that are short-term and exploitative.



VI. RECOMMENDATIONS

The MCI program fails to provide tenants with safe, dignified, and affordable housing; instead, these laws incentivize a speculative cycle of neglect, harassment, and displacement. Corporate landlords disproportionately benefit, with tenants' hard-earned dollars subsidizing their outsized and continuous profits.

To break this cycle, **we urge the New York State legislature to immediately pass, and Governor Cuomo to sign S3693/A6322.** These bills will not only eliminate MCI increases going forward, they also rollback MCI increases granted within the past 7 years. Notably, this resetting of rents would not be the first time New York has taken such action. For example, the initial rent control law of 1950 rolled back rents in New York City to the level in effect one year prior, which the legislature deemed necessary to address the emergency housing conditions of that time.⁵⁷ Today, we again face a historic housing crisis that merits a commensurate remedy. Bills S3693/A6322 are also mindful of smaller landlords and provide a process to ensure that they remain financially viable. These provisions, along with the rent laws' existing hardship process and various government subsidy programs, together create a more targeted system that confers benefits to only the landlords who truly need assistance maintaining their buildings.

Eliminating and rolling back MCI increases are of paramount importance, but MCIs are only one of many tactics that landlords exploit to raise rents and drive displacement. To meaningfully address its profound housing crisis, New York needs to immediately adopt the entire Universal Rent Control platform in the NY Homes Guarantee campaign:

- Pass "good cause" eviction to provide greater protection to 5.5 million renters (S2892/A5030)
- Eliminate and rollback MCI increases (S3693/A6322)
- Fully fund DHCR with an additional \$500 million dollar to the budget of the Office of Rent

Administration to implement and enforce the HSTPA.

New Yorkers need to get rid of MCI increases once and for all and strengthen protections for renters across the state. We cannot wait.

V. ENDNOTES

¹ According to a report prepared for the Rent Stabilization Association, direct expenditures on MCIs in 2014 totaled \$112 million. Urbanomics, *The Economic Impact of Capital Improvements & Annual Operations of Rent Stabilized Buildings on the Economy of New York City, 2003–2014* (2015), available at <https://rsanyc.net/urbanomics-report-february-2015.pdf> (hereinafter “February 2015 Report for RSA”). Meanwhile, total construction spending in New York City in 2014 totaled \$36 billion. New York Building Congress, *NYC construction spending reached \$36 billion in 2014; a 26 percent increase from 2013*, Construction Outlook Update, April 2015, available at <https://www.buildingcongress.com/advocacy-and-reports/reports-and-analysis/construction-outlook-update/NYC-construction-spending-reached-36-billion-in-2014-a-26-percent-increase-from-2013.html> (hereinafter “April 2015 Construction Outlook Update”).

² See February 2015 Report for RSA, *supra* note 1, at 1.

³ The referenced portfolio size analysis was performed by JustFix.nyc using December 2018 HPD Property Registrations and DHCR data on MCI applications 2000–2014 obtained through Freedom of Information Law (FOIL) request. A copy of JustFix.nyc’s analysis is on file with the authors of this report.

⁴ See City of New York, Mayor’s Office of Sustainability, *One City, Built to Last Technical Working Group Report* 37, 69–70 (2014), available at https://www1.nyc.gov/html/gbee/downloads/pdf/TWGreport_2ndEdition_sm.pdf (“[i]n both commercial and multifamily buildings, buildings with the best performing one-pipe, two-pipe, and hydronic systems use less than half of the energy for space heating than the median building”).

⁵ See *id.* at 69 (“[a]t 425 West 48th Street, the upgrade resulted in cost savings of \$551 per apartment in the first year, while at 527 West 47th Street, the upgrades yielded \$355 in savings per apartment in the first year”).

⁶ City of New York, Department of Finance, *Annual Report of Tax Expenditures: Fiscal Year 2020 15* (2020), available at https://www1.nyc.gov/assets/finance/downloads/pdf/reports/reports-tax-expenditure/ter_2020_final.pdf.

⁷ See New York State, Homes and Community Renewal, *Weatherization Assistance Program*, January 12, 2019, available at <https://hcr.ny.gov/system/files/documents/2019/03/weatherization-english-1222019layout-1-002.pdf>.

⁸ Calculated using median sale price data from New York City Rent Guidelines Board’s annual research reports available at <https://rentguidelinesboard.cityofnewyork.us/research/>.

⁹ See New York City Rent Guidelines Board, *2019 Income and Expense Study* 8–9 (2019), available at <https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2019/08/2019-IE.pdf>.

¹⁰ US Department of Housing & Urban Development, *The 2018 Annual Homelessness Assessment Report to Congress* 14 (2018), available at <https://files.hudexchange.info/resources/documents/2018-AHAR-Part-1.pdf> (hereinafter “HUD 2018 Homelessness Assessment”).

¹¹ See Picture the Homeless Research Committee, *The Business of Homelessness* 3 (2018), available at http://picturethehomeless.org/wp-content/uploads/2018/03/PtH_White_paper5.pdf.

¹² HUD 2018 Homelessness Assessment, *supra* note 10, at 15 ex.1.8.

¹³ See February 2015 Report for RSA, *supra* note 1, at 5 t.1, showing annual approved MCIs for 2003–2014. The calculation also includes additional data on approved MCIs for 2015–2017 obtained from DHCR through a Freedom of Information Law request.

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- ¹⁴ Calculated using data received from DHCR through a Freedom of Information Law request.
- ¹⁵ Carl Campanile, *Couple Could Face Over \$800 Rent Hike in Stabilized Apartment*, N.Y. Post, February 24, 2019, available at <https://nypost.com/2019/02/24/couple-could-face-over-800-rent-hike-in-stabilized-apartment>.
- ¹⁶ Average based on analysis of 12 LeFrak City buildings for which full case histories were obtained from DHCR's Office of Rent Administration (on file with authors).
- ¹⁷ See *id.*
- ¹⁸ See *supra* note 8.
- ¹⁹ See *supra* note 13.
- ²⁰ See, e.g., *Jacob Goodman & Co. v. Porter*, 156 F.2d 549, 549 (Emer. Ct. App. 1946) (reviewing "whether the sums expended amounted to a major capital improvement so as to justify complainant in fixing the maximum rents at the first actual rental figures following the expenditures as provided in Section 4(d)(4) of the [federal] Rent Regulations").
- ²¹ See, e.g., 9 N.Y.C.R.R. § 2522.4(a)(2)(i), providing for increase of legal regulated rents upon finding that owner has completed a major capital improvement.
- ²² See Iver Peterson, *The Need for Improving New York's M.C.I. Program*, N.Y. Times, July 16, 1989, available at <https://www.nytimes.com/1989/07/16/realestate/the-need-for-improving-new-york-s-mci-program.html>.
- ²³ *Id.* (internal quotation marks and citation omitted)
- ²⁴ *Id.*
- ²⁵ Joseph Strasburg, President of the Rent Stabilization Association, *These rent 'reforms' don't remotely just hurt landlords*, N.Y. Post, May 24, 2019, available at <https://nypost.com/2019/05/24/these-rent-reforms-dont-remotely-just-hurt-landlords/>.
- ²⁶ Eddie Small, *No gas in your apartment? Don't hold your breath*, The Real Deal, January 13, 2020, available at <https://therealdeal.com/2020/01/13/no-gas-in-your-apartment-dont-hold-your-breath/>.
- ²⁷ See Tanay Warerkar, *Nearly Half of NYC Households are Rent Burdened*, NY Curbed, October 12, 2018, available at <https://ny.curbed.com/2018/10/12/17965416/nyc-rent-burden-households-affordable-housing>.
- ²⁸ See, e.g., Michael Kink, *Landlords Don't Need Any More Help From Albany*, N.Y. Daily News, June 4, 2019, available at <https://www.nydailynews.com/opinion/ny-oped-landlords-dont-need-any-more-help-from-albany-20190604-sagy25sfb5btbgvk3utmdj3piu-story.html> (describing how "Federal tax laws passed by Trump and the congressional Republicans give landlords new tax breaks and more ways to profit from owning rental properties").
- ²⁹ See *supra* note 6.
- ³⁰ See New York City Rent Guidelines Board, *2019 Income and Expense Study* 8–9 (2019), available at <https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2019/08/2019-IE.pdf>.
- ³¹ See generally Timothy L. Collins et al., *An Introduction to the D New York City Rent Guidelines Board and the Rent Stabilization System* 55–72 (rev. ed. 2020), available at <https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2020/01/intro2020.pdf>.
- ³² <https://www.worstevictorsnyc.org/evictors-list>
- ³³ Information obtained from DHCR's Office of Rent Administration on file with authors.
- ³⁴ See generally NYS Office of the State Comptroller, *Processing of Major Capital Improvement Rent Increase Applications*, Report 98-S-79 (2000), available at <https://osc.state.ny.us/audits/allaudits/093000/98s79.pdf> (hereinafter "NYS Comptroller Audit of MCI Processing") (describing "instances where rent examiners approved MCI applications

without adequately verifying the work performed or the costs incurred” and noting that “improvements [to MCI Unit processing] are needed to ensure rent increases are justified”).

³⁵ Percentage based on 2015 - 2017 data obtained DHCR FOIL request.

³⁶ See Woody Pascal, Deputy Commissioner, DHCR Office of Rent Administration, *Major Capital Improvements: Confirmation of Costs/Payments*, Operational Bulletin 2017-1, 3 (rev. ed. January 2020), available at <https://hcr.ny.gov/system/files/documents/2020/01/operational-bulletin-2017-1.pdf> (describing additional proof of claimed MCI costs customarily required when work was performed by an employee of the landlord or managing agent).

³⁷ See Zoe Rosenberg, *New DOB measure aims to stop landlords from flouting rent stabilization rules*, N.Y. Curbed, December 14, 2018, available at <https://ny.curbed.com/2018/12/14/18140815/rent-stabilization-regulation-law-kushner>.

³⁸ See NYS Comptroller Audit of MCI Processing, *supra* note 35, at 8 (observing that during the audit “No inspections were conducted in response to the 5 MCI-related complaints to determine the validity and nature of the complaints”).

³⁹ Calculated using median sale price data from New York City Rent Guidelines Board’s annual research reports available at <https://rentguidelinesboard.cityofnewyork.us/research/>.

⁴⁰ See New York City Rent Guidelines Board, *2019 Income and Expense Study* 8–9 (2019), available at <https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2019/08/2019-IE.pdf>.

⁴¹ Kevin Shun, *These are NYC’s Biggest Residential Landlords*, The Real Deal, December 24, 2018, available at <https://therealdeal.com/2018/12/24/these-are-nycs-biggest-rental-landlords/>.

⁴² Will Parker, *These are New York City’s 20 Biggest Landlords*, The Real Deal, July 6, 2016, available at <https://therealdeal.com/2016/07/06/these-are-new-york-citys-20-biggest-residential-landlords/>.

⁴³ JustFix.nyc Analysis, *supra* note 3.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Kink, *supra* note 29.

⁴⁷ FY 2020 Annual Report of Tax Expenditures, *supra* note 6, at 15.

⁴⁸ Information provided in email correspondence by the New York City Independent Budget Office

⁴⁹ See *supra* note 7.

⁵⁰ *Supra* note 4, at 37.

⁵¹ *Id.* at 69 (“[a]t 425 West 48th Street, the upgrade resulted in cost savings of \$551 per apartment in the first year, while at 527 West 47th Street, the upgrades yielded \$355 in savings per apartment in the first year”).

⁵² See New York City Rent Guidelines Board, *2019 Mortgage Survey Report* 7 (2019), available at <https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2019/08/2019-MSR.pdf>.

⁵³ February 2015 Report for RSA, *supra* note 1.

⁵⁴ See *supra* note 1.

⁵⁵ February 2015 Report for RSA, *supra* note 1.

⁵⁶ See DOB BIS, *Work Permits for Contractor*, results for G.C. License No. 610550, also available at <http://a810-bisweb.nyc.gov/bisweb/WorkPermitByLicenseServlet?alljappproftitle=GC&alljapplicnumber=610550&go14=+GO+&requestid=0&navflag=T>.

⁵⁷ See *Teeval Co. v. Stern*, 301 N.Y. 346, 360 (1950) (upholding constitutionality of one year roll back of rents pursuant to State rent control statute).