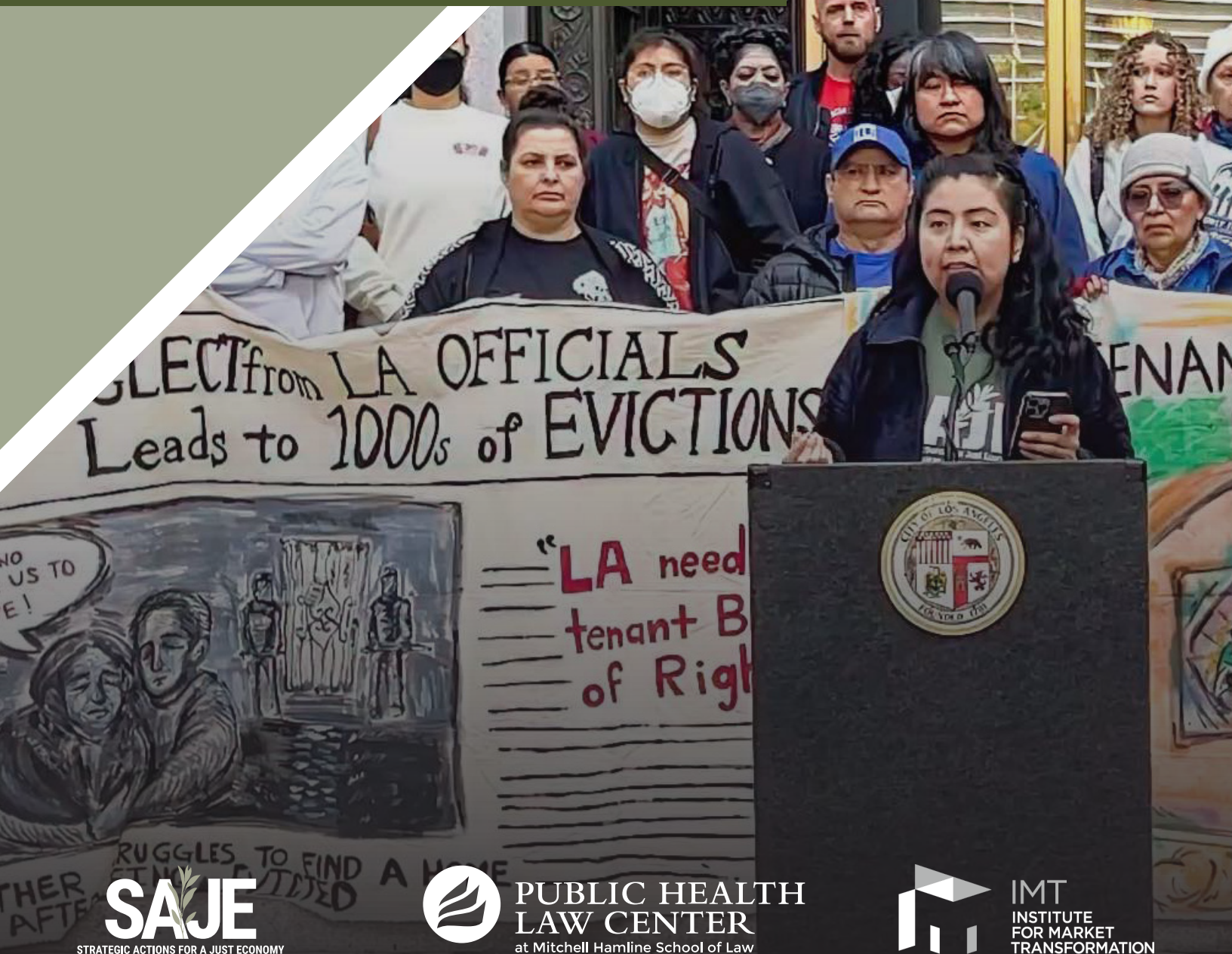


TENANTS AT THE CENTER

AN EQUITABLE PATH TO BUILDING DECARBONIZATION

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ABOUT SAJE

Strategic Actions for a Just Economy (SAJE) is a 501(c)(3) nonprofit organization in South Central Los Angeles that builds community power and leadership for economic justice. Founded in 1996, SAJE focuses on tenant rights, healthy housing, and equitable development. We believe that everyone in Los Angeles, regardless of income or connections, should have a voice in creating the policies that shape our city, and that the fate of city neighborhoods should be decided by those who dwell there in a manner that is fair, replicable, and sustainable.

ABOUT PUBLIC HEALTH LAW CENTER

Public Health Law Center (PHLC) collaborates with others to reduce and eliminate commercial tobacco, promote healthy food, support physical activity, pursue climate justice, and address other causes of chronic disease. We partner with Tribal health leaders, federal agencies, national health advocacy organizations, state and local governments, planners, researchers, attorneys, community coalitions, and individuals working on public health issues to create healthier communities around the country. PHLC is a nonprofit affiliate of Mitchell Hamline School of Law in Saint Paul, Minnesota, and was founded in 2000.

ABOUT IMT

The Institute for Market Transformation (IMT) is a national 501(c)(3) nonprofit organization that envisions a world where buildings dramatically lower greenhouse gas emissions and support our physical, social, and economic well-being.



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I. INTRODUCTION

The climate crisis is escalating at an alarming rate, marked by unprecedented extreme heat, destructive storms, and natural disasters fueled by greenhouse gas emissions (GHGs). Simultaneously, the U.S. is in the throes of a severe housing crisis that has now caught the attention of the nation, as rents and home prices continue to far outpace wages in most of the country. At the intersection of these problems is the decarbonization of residential building stock. On the one hand, because buildings account for almost 40% of greenhouse gas emissions worldwide, decarbonizing them is critical to mitigating climate change. On the other hand, decarbonization policies have the potential to exacerbate the housing crisis by driving rents higher and encouraging unnecessary or illegal evictions.¹ For this reason, residential building decarbonization policies must be designed and implemented carefully to protect renters, who are more likely than homeowners to be Black, brown, or low-income—groups that already disproportionately bear the negative effects of climate change.

The momentum around climate change mitigation is increasing, as evidenced by federal and state investments in decarbonization efforts in recent years. And many legislators have begun including tenant protections in their implementation plans. But lawmakers, sustainability experts, climate advocates, and environmentalists often lack expertise in housing and tenant rights, making it difficult to ensure the tenant protections built into decarbonization policies are sufficiently strong and holistic. This report looks at the tenant-landlord legal landscape in three U.S. cities: Chicago, Los Angeles, and New York, highlighting the difficulties tenants face within those housing markets, and how decarbonization policies designed without tenant protections risk making those difficulties worse. The report also proposes model policy elements to minimize those risks, demonstrating there is no one-size-fits-all solution. If policymakers are committed to preventing displacement while advancing decarbonization, thoughtful, considered, and tailored safeguards are necessary, though the new administration may attempt to limit this.

II. THE DUAL CRISES OF HOUSING AFFORDABILITY AND CLIMATE CHANGE

Globally, building emissions and energy use account for 27% of carbon dioxide emissions.² The U.S. has taken steps to reduce or eliminate emissions from residential buildings by incentivizing efficiency measures and the adoption of electric equipment and appliances as well as by restricting gas appliances. In 2021, more than 40 U.S. mayors and governors agreed to design or implement one type of building decarbonization regulation as part of the Biden Administration's National Building Performance Standard Coalition. This commitment applies to 20 billion gross square feet of building floor area, an estimated 4.5 billion of which is residential.³ The federal government is also making \$370 billion available for building decarbonization through the Inflation Reduction Act, a significant amount of which will be funneled through state-implemented programs.⁴

At the same time, the nation is facing a severe housing affordability crisis. Renters, who comprise over a third of household in the U.S., are disproportionately affected: half are rent burdened, meaning they spend more than 30% of household income on rent.^{5,6} There is a nationwide shortage of 7.3 million affordable homes, and no state has enough affordable housing to meet the needs of low-income renters.⁷ The federal programs meant to address the shortfall have been underfunded for decades.⁸ Meanwhile, thousands of affordable housing covenants are beginning to expire, potentially leading to the loss of hundreds of thousands more affordable units.⁹

The housing affordability problem in the U.S. in part stems from the fact that the nation's rental housing is provided almost exclusively by the private market—individuals and corporations whose primary goal is to maximize profits. This commodification of rental housing is also driving property neglect, deferred repairs, and the strategic use of evictions, as investors attempt to limit their spending on upkeep and replace longstanding tenants with newcomers who can pay more. Depending on local laws, these investors may have near-complete control over housing costs and tenants' rights.

Decarbonization policies will necessitate massive capital improvements to the nation's rental stock—and someone will have to pay for these improvements. For example, New York's Local Law 97, which requires large buildings to reduce their greenhouse gas emissions by 40% by 2030, is projected to necessitate \$20 billion in spending.¹⁰ This policy can benefit tenants by lowering their energy bills and creating healthier homes, but it may also inadvertently incentivize building owners to recoup the costs of decarbonizing by raising rents or evicting tenants paying below market-rate rents. Unfortunately, most tenant-protection laws do not do enough to shield tenants from these outcomes, even in places known for having the strongest tenant protections, like California. Most municipalities have no rent-stabilization or rent-control protections and few defenses against eviction.¹¹



If properly planned and resourced, residential building decarbonization will be a boon for tenants, particularly low-income renters, who tend to live in older, energy-inefficient housing with outdated systems and appliances. This is especially true for BIPOC households, which are more likely to live in “severely-” or “moderately-inadequate” housing.¹² The resulting habitability issues—insufficient or nonexistent heating, ventilation, or air-conditioning systems and poor insulation and sealing—create health problems climate change will only exacerbate.¹³

III. CURRENT POLICIES AND RISKS TO TENANTS

Over the past decade, lawmakers have spearheaded efforts to reduce or eliminate greenhouse gas emissions from existing buildings. Broadly speaking, efforts include reach codes, building energy performance standards, appliance standards, and rebate and incentive programs (See Table 1 for a full list of strategies). Each strategy risks unintended negative consequences for renters as it advances efforts to cut pollution from buildings. Estimates of major electrification retrofits in California are said to be between \$14,200 and \$28,200 per unit, making the cost to decarbonize a 25-unit apartment building at least \$355,000 (See Table 2 for cost estimates). These costs may include the purchase and installation of new appliances, disconnecting gas, upgrading wiring, and energy-efficiency measures such as insulation upgrades. While these costs may be recouped through lower utility bills, there is no guarantee that tenants will receive such benefits.

Table 1. Decarbonization Strategies

Strategy	Description
Reach Codes	Reach codes set energy efficiency or greenhouse gas reduction standards that exceed those established by the state or federal government. They provide local governments the flexibility to adopt more stringent regulations tailored to specific climate goals and conditions. Reach codes often focus on electrification, renewable energy integration, and improved building performance to reduce carbon emissions.
Building Energy Performance Standards	BPS are a mandated, phased approach to decarbonization that typically target large buildings first and set a performance target that must be met by a compliance deadline. ¹⁴ The performance target is typically related to energy use or on-site emissions. More recent BPS policies have defined individual performance trajectories based on a building’s current level of performance. Targets are designed to decrease every few years until energy efficiency or emissions reductions are achieved. This gives property owners discretion in planning the sequence of their decarbonization retrofits. ¹⁵
Rebates and Incentive Programs	Rebates and incentive programs have been the primary approach to building decarbonization to date, from broad, long-established programs like the federal Weatherization Assistance Program to new, targeted programs like Boston’s Healthy and Green Retrofit Pilot. ¹⁶ These types of subsidy programs can cover the full or partial cost of decarbonization measures either up front or through reimbursement.
Appliance Standards	Appliance standards establish minimum energy efficiency or emissions requirements for various appliances and equipment. These standards aim to reduce GHG emissions by ensuring that products consume less energy and/or are less polluting. They have been primarily established by the federal government because federal law restricts state and local governments’ authority to adopt their own standards. ¹⁷

Table 2. Cost Estimates for Decarbonization Retrofit Per Unit, Los Angeles¹⁸

Old Technology	New Technology	Capital Investment	Construction and Installation Costs	Low Estimate	High Estimate
Gas space heater	Ductless heat pump	\$1,500-\$2,500	\$3,800-\$5,400	\$5,300	\$7,900
Gas water heater	Heat-pump water heater (50 gallons)	\$1,300-\$2,000	\$800-\$1,000	\$2,100	\$3,000
Gas dryer	Electric or heat pump dryer	\$700-\$1,400	\$300-\$400	\$1,000	\$1,800
Gas range/oven	Induction cooktop/ electric range	\$1,000-\$2,300	\$400-\$600	\$1,400	\$2,900
Building efficiency improvements	Insulation, new windows, weatherization, etc.	\$0	\$4,000-\$6,000	\$4,000	\$6,000
Gas disconnection		\$0	\$400-\$600	\$400	\$600
Old electrical panel/distribution	Electrical panel update	\$0	\$0-\$6,000	\$0	\$6,000
				\$14,200	\$28,200

Decarbonization strategies that mandate costly renovation, like building energy performance standards, pose significant risks to tenants.¹⁹ The legal landscape in most jurisdictions allows landlords to pass up to 100% of the costs of decarbonization onto tenants, raise rents without limit, or evict for renovation projects. Landlords hoping to recoup costs may raise rents, displacing low-income tenants, removing affordable units from the market, driving up rental rates, and worsening the affordability crisis. Those hoping to capitalize on increased property values may sell to corporate investors, which also fuels rising rents and evictions as well as contributes to poor housing conditions.²⁰

In some jurisdictions where rent-stabilization laws apply, landlords will have to evict tenants in order to raise rents beyond allowable limits.²¹ Those who cannot legally evict may pressure tenants to leave by harassing them. However, many jurisdictions with rent-stabilization laws allow landlords to exceed annual rent caps to recoup capital investments. For example, Los Angeles' rent-stabilization ordinance ties annual rent increases to the Consumer Price Index; that cap has hovered around 3% in recent years. But landlords who make specific capital improvements are permitted to increase rents by up to 10% over two years.²²

Many tenant protection laws also permit evictions if they are carried out to facilitate the renovation of a unit or building.²³ This means landlords may use decarbonization work as an excuse to evict.²⁴ Landlords may also leverage construction work related to decarbonization to harass tenants into leaving, for example by cutting off power or water for long periods or creating unreasonable amounts of dust or noise to harm residents' health and quality of life.²⁵ Unfortunately, this sort of construction-as-harassment is already widespread, and decarbonization mandates will likely make the problem worse.*

A subsidy-based approach to decarbonization is the most risk-free method for achieving climate goals while minimizing harmful impacts on tenants. This approach allows for the integration of robust tenant protections that can override jurisdictional regulations. For instance, property owners who participate in subsidy programs can be required to agree to rent caps and non-eviction clauses for a certain period in exchange for public funding. This is the case in the California Energy Commission's (CEC) Equitable Building Decarbonization Program.²⁶ Embedding tenant protections into subsidy programs ensures that tenants benefit from the decarbonization efforts without facing displacement or financial burden. Additionally, subsidies can stipulate all construction work is conducted ethically and respectfully (See Page 11 for more information on the CEC's program guidelines). One challenge of a subsidy-only approach lies in the limited availability of funds, which constrains its widespread application. Nonetheless, any available subsidies should be leveraged to enforce strong protections and ensure that tenants are key beneficiaries of the transition to greener buildings.

Another challenge is that renters have very little power when it comes to decarbonizing their own homes and often cannot participate in subsidy programs. Lease agreements typically restrict modifications to a unit or building, and the cost to decarbonize may be prohibitively expensive for those already struggling to pay rent. Decarbonization measures that require building permits, such as installing HVAC systems or solar panels, must be initiated by landlords, leaving tenants dependent on landlords' willingness to pursue upgrades. Because tenants typically pay their own electricity bills, landlords may have little incentive to invest in energy efficiency improvements that will benefit tenants' bottom lines at the expense of their own. Consequently, decarbonization subsidy programs designed for low-income renters may not be used.

* This is not meant to imply that landlords typically conduct retrofit work in order to harass tenants; retrofit work is important to protect the safety and well-being of tenants as well as to preserve housing stock. The trouble is that some landlords abuse the exceptions in tenant protections meant to encourage retrofits. The problem of construction-as-harassment demonstrates the need for tenant voices in shaping housing policy. For years, the problem had been overlooked or ignored by housing agencies, brought to light only through the efforts of tenant advocates and community-based organizations such as the Stand for Tenant Safety Coalition in New York and the Chinatown Community for Equitable Development, Los Angeles Tenants Union, and Strategic Actions for a Just Economy in Los Angeles.



Photo by Jun Ampig



The Inflation Reduction Act and the Department of Energy's Guidelines to Avoid Negative Unintended Consequences

While the Trump Administration has expressed opposition to the IRA, it is not yet clear whether this will lead to a repeal of the law. So far, the Inflation Reduction Act (IRA) is the most substantial action that U.S. Congress has taken to reduce greenhouse gas emissions and mitigate the effects of climate change. The IRA includes funding for rebate programs to pay for efficiency and electrification measures in buildings, which states will design and implement.²⁷ The Department of Energy (DOE), the agency responsible for approving IRA rebate programs, has required states, territories, and Tribes to include certain tenant protections in their implementation plans, but those protections are not sufficient to ensure tenants are shielded from rent increases and eviction.

To participate in IRA rebate programs, landlords renting to low-income households must agree to the following stipulations for at least two years: (1) continue renting to low-income households; (2) refrain from raising rents “as a result of” the retrofit, or from evicting tenants “to obtain higher-rent tenants based upon the improvements”; and (3) inform tenants of these stipulations.²⁸ Landlords who receive IRA funding must include these terms in any property sale agreement made within the two-year protection period, meaning the IRA stipulations still apply even if the property is sold.²⁹ States and territories also must have an enforcement program for these stipulations in place that is “clear and sufficient to act as a deterrent for owner violations.” Subsidy recipients must agree to a clawback provision if they violate these terms, under which tenants can sue for damages and attorneys’ fees.

Unfortunately, these protections only remain in effect for two years. This short time frame does little to ensure long-term housing stability for vulnerable renters and may even incentivize landlords to bide their time until the protections expire. Additionally, while the landlord stipulations are important, there is little indication that the DOE is insisting on effective enforcement programs. As a result, safeguards may be easily circumvented, leaving low-income households at risk of displacement. As the case studies below highlight, more comprehensive measures are needed to protect tenants.





Program Highlight: Tenant Protections in the California Energy Commission's Equitable Building Decarbonization Program³⁰

Rent Increases: For market-rate rental housing, the program participation agreements include provisions that require a property owner choosing to participate in this program not to increase rent for units improved by the program by more than 3% per year. Rent increases up to 3% per year must be due to a documented increase in property taxes, operations and maintenance costs, or amortization of improvements unrelated to a project funded by this program. This rent increase limitation will apply:

- Ten years after project completion for buildings with five or more units
- Five years after project completion for buildings with between one and four units

Eviction: Program participation agreements will prohibit property owners from terminating a tenancy and/or evicting a tenant from an improved unit before, during, or after the project without just cause as defined in Civil Code Section 1946.2. The property owner must also commit in writing that the building retrofits conducted pursuant to the Equitable Building Decarbonization Program, or any other activity related to the program, shall not be the basis for eviction.

Information for Tenants and Property Owners: Administrators will be responsible for ensuring that project information is available in the predominant languages spoken in the community and is communicated clearly to both property owners and tenants. Such information should include:

- Measures to be installed
- Benefits expected from installed measures
- Expected duration of construction and construction hours
- Whether temporary displacement is required
- Tenant and property owner rights and responsibilities related to participation in this program, including those related to rent increases, evictions, and displacement
- Expected timing of post-project follow-up surveys
- Number to call regarding any concerns related to a project funded by this program

In addition, the California Energy Commission will provide information on program benefits and potential impacts that will be required to be provided to tenants prior to execution of any program participation agreements by tenants and commencement of the project.

Construction Rules and Temporary Displacement: Project construction shall be limited to 30 days whenever possible. Projects should be designed to minimize disruption to tenants, avoid the need for temporary displacement, and reduce the duration of displacement if it is necessary. If displacement is needed, tenants shall have the right to return to the same unit once construction is complete, and state and local laws governing tenant displacement shall apply.

Enforcement: The Equitable Building Decarbonization Program guidelines require program participants to enter into contracts called Program Participation Agreements that identify the rights and responsibilities of participants, including tenant protections. The guidelines do not specify exactly how these agreements will be used to enforce tenant protections, but regional program administrators are required to develop their own enforcement approaches.

IV. CASE STUDIES: NEW YORK CITY, LOS ANGELES, AND CHICAGO

By understanding a jurisdiction's tenant-landlord legal landscapes, policymakers can design tailored and effective safeguards to prevent negative unintended consequences to tenants. In this report, we examine tenant-landlord legal landscape in three cities—Los Angeles, New York City, and Chicago.

We examined:

- The existence of rent caps;
- How each city protects against evictions; and
- How each city regulates construction work in rental housing.

We chose these cities because: 1) they are majority renter cities, 2) they are major US cities, 3) they have adopted, or have committed to adopting, energy performance standards for buildings, and 4) they have very different tenant protection frameworks from one another. All three cities face challenges with building decarbonization, as their local governments have either implemented or are planning to implement decarbonization strategies. Our case studies highlight the necessity of tailored approaches to tenant engagement and protection in each city, analyze existing legal frameworks, and propose targeted legislative reforms.

A. Case Study: New York City

Climate Context

In New York, the city's largest buildings are responsible for over a third of all greenhouse gas emissions.³¹ As such, buildings have been a focal point of New York City's climate strategy.³² This includes support for electrification and efficiency programs; restrictions on the use of greenhouse gas-emitting fuels in new buildings; and Local Law 97, a building performance standard that requires large buildings to reduce their carbon emissions to net-zero by 2050.^{33, 34, 35}

Local Law 97, passed in 2019, has attracted the most attention because of its broad scope and ambition. The law applies to all buildings in the city over 25,000 square feet.³⁶ New York City estimates that compliance with the first phase of the law, which requires 40% reduction across covered buildings by 2030, will require work in 11,625 residential buildings, with upfront costs totaling between \$7.8 and \$9.5 billion.³⁷ Reducing building emissions to net zero by 2050 will presumably require even greater investment. Since this work will primarily be performed on buildings where people already live, it has the potential to help tenants by lowering energy bills and improving housing quality. But the high level of investment in buildings could also incentivize and enable landlords to raise rents or push out tenants.

New York City's Housing Crisis

The U.S. housing affordability crisis is particularly severe in New York City. The city had a very low vacancy rate of about 1.4% in 2023, and less than 1% for apartments protected by rent stabilization, a rent protection described in more detail below.³⁸ Rent burden has skyrocketed over several decades, with the result that most tenants earning less than the median income pay 54% of their household income in rent.³⁹ Fewer than one-third of vacant apartments are affordable to median-income households.⁴⁰ The rate of eviction filings was quite high prior to the COVID-19 pandemic, plummeted after the city enacted a temporary eviction moratorium, and have risen steadily since that protection expired in early 2022.⁴¹

The housing stock is also stratified by race and income. Black, Hispanic, and low-income residents have substantially lower-quality housing: households headed by Black and Hispanic renters are more than twice as likely to live in "poor quality" apartments (defined as a unit with at least three maintenance problems) as those with white or Asian heads of household.⁴² Similarly, households earning between \$50,000 and \$100,000 are about 50% more likely, and households earning less than \$50,000 twice as

likely as those earning more than \$100,000 to live in poor-quality apartments.⁴³ In addition, New York City tenants and organizers have identified major problems with illegal or harmful construction, often used as a means of harassing tenants in order to push them out of their homes. In one survey of tenants in buildings undergoing construction, 71% of respondents reported threats to their health or safety from that construction, and 53% reported being offered money to leave their apartment before or during construction, a sign that their landlords wanted them to leave.⁴⁴ These concerns spurred tenants to demand a series of legislative reforms, detailed below.

Tenant Protections in New York City

As a result of tenant organizing, New York City has a long history of enacting tenant protections. These protections will be useful as decarbonization retrofits accelerate, though they are not perfect. Roughly half of tenants are protected by rent stabilization, which limits the amount their rents can increase. However, when landlords do major work on a building—including the sort of work required for electrification and energy efficiency retrofits—they can increase rent in order to pass costs on to their tenants. New York City tenants have strong eviction protections on paper, but they are not always aware of or able to use them (See Table 3).



Table 3. Tenant Protections and Associated Concerns in New York City

Law	Coverage	Protections	Concerns
Rent Control	Buildings built before 1947, continually occupied since 1971, with succession requirements for tenancy changes	<ul style="list-style-type: none"> • Rent increases tied to operating costs • Law, not lease, governs tenancy 	<ul style="list-style-type: none"> • Allows additional rent increases for certain work (e.g., retrofits) • Major rehabilitation can remove rent caps
Rent Stabilization Law, Emergency Tenant Protection Act, and Housing Stability & Tenant Protection Act	Residential buildings of 6+ units built before 1974, and 3+ units built/renovated after 1974 under certain programs	<ul style="list-style-type: none"> • Rent increases capped annually by the Rent Guidelines Board • Just cause eviction protections 	<ul style="list-style-type: none"> • Permits additional rent increases for capital improvements • Tenants may lack knowledge or ability to enforce rights
Good Cause Eviction	Buildings 30+ years old or built before 2009, excluding small buildings, small landlords, and high-rent units	<ul style="list-style-type: none"> • Just cause eviction protections • Defense against “unreasonable rent” increases over 10% or 5% + inflation 	<ul style="list-style-type: none"> • Exemptions leave some tenants unprotected • Rent increase defense relies on tenant enforcement
Right to Counsel	Tenants facing eviction proceedings	<ul style="list-style-type: none"> • Free legal representation for tenants at or below 200% of the federal poverty level or aged 60+ • Consultation for others 	<ul style="list-style-type: none"> • Insufficient resources to meet demand
Permitting Requirements & Tenant Protection Plan	Occupied buildings undergoing construction	<ul style="list-style-type: none"> • Requires tenant protections and minimized service disruption during construction 	<ul style="list-style-type: none"> • Weak enforcement of permit requirements and unpermitted work
Certificate of No Harassment	Single-room occupancy buildings, buildings in specified areas, or buildings with 6+ units and distress indicators	<ul style="list-style-type: none"> • Requires proof of no tenant harassment within five years to change building use, occupancy, or demolish 	<ul style="list-style-type: none"> • Limited scope • Challenges in verifying harassment cases

Rent Protections

New York City’s tenant protections are in large part defined by rent regulations. Most buildings with at least six units that were built before 1974 as well as some buildings built or renovated under certain city programs are covered by “rent stabilization.” Around one million apartments—a little less than half the city’s rental stock—are rent-stabilized, and rent-stabilized apartments are much less expensive than market-rate apartments, making the program the core tenant protection in New York City.⁴⁵

Rent increases for rent-stabilized apartments are capped at a citywide rate, determined each year by the city’s Rent Guidelines Board, based on economic conditions and other data—though the parameters for rent increases are loose enough to allow for political influence, as well.⁴⁶ However, building owners can increase rents beyond that cap in order to recover the up-front costs of investments they made in

the building. These rent pass-throughs currently allow for annual rent increases up to 2% greater than the citywide cap for improvements to the building as a whole (called “major capital improvements,” or MCIs).⁴⁷ The cost of work done to benefit specific units (called “individual apartment improvements,” or IAIs) can also be recovered as a one-time increase equal to a fraction of the cost, though the costs recoverable for IAIs are capped at \$15,000 per 15-year period.⁴⁸ IAI increases are permanent, and MCI increases last for 30 years, but they are calculated based on amortizing the cost recovery over 12 to 15 years; this means that landlords can make a profit on the work in many cases (See Table 4).

Table 4. Cost Recovery Work Programs in New York City for Rent-Stabilized Tenants⁴⁹

Program	Relevant Qualifying Work	% Cost Recovery	Amortization	Max Monthly Rental Increase	Duration
Major Capital Improvements	Building-wide electrical rewiring, window upgrades, or heating or cooling system upgrades (building must be < 65% market-rate)	100%	12 or 12.5 years, depending on building size	No cap on total increase, but must be phased in at 2% per year	30 years
Individual Apartment Improvements	In-unit appliance replacement, window replacement (if not building-wide)	100%, but capped at \$30,000 per 15-year period, or \$50,000 for certain vacant units	14 or 15 years (1/168 or 1/180 of cost per month), depending on building size	No cap	Permanent

The current MCI rules are closely tied to the development of Local Law 97: Local Law 97 originally exempted buildings with even a single rent-regulated apartment from its requirements (except some minor retrofitting requirements) specifically to avoid triggering the MCI provisions.⁵⁰ This approach had the support of tenant and environmental justice organizers and advocates, who specifically argued that such an exemption was necessary to avoid tenant displacement.⁵¹ The state legislature passed a sweeping set of tenant protections later that year, which included eliminating MCIs for buildings where fewer than 35% of the apartments are rent regulated. The next year, New York City expanded Local Law 97 coverage to include the buildings which were now ineligible for MCIs—again, with the approval of tenant organizers and environmental justice advocates.⁵² Local Law 97 and MCI protections continue to be linked: for example, a pending tax-abatement program that is partially meant to support Local Law 97 compliance requires recipients to waive MCI increases for work done under the program.⁵³

A building that is “substantially rehabilitated” can be removed from rent stabilization.⁵⁴ Substantial rehabilitation requires indoor finishing to be completely replaced or “made as new,” and at least 75% of each of the building’s systems to have been replaced.⁵⁵ In addition, the residential portions of the

building must have been in a “substandard or seriously deteriorated condition” prior to the rehabilitation. Finally, the owner (or previous owners) must not have harassed tenants for a five-year period prior to the rehabilitation.^{56, 57}

About 24,000 of New York City’s rented units are also protected by “rent control,” an earlier and stronger form of rent protection than rent stabilization.⁵⁸ These are generally units that were built before 1947 and continually occupied by the same tenant or a qualified successor since 1971.⁵⁹ Rent-controlled units have individually established rents, which increase based on increases in operating costs, and in any event cannot increase more in a year than recent rent-stabilization cap increases.⁶⁰ As a result, their rents are even lower than rent-stabilized units.⁶¹

Earlier this year, the New York State legislature created an additional layer of protection through the Good Cause Eviction Law.⁶² The Good Cause Eviction Law does not directly regulate rents, but it does create a defense to eviction based on an “unreasonable rent increase.”⁶³ A rent increase is presumed to be unreasonable if it is greater than the rate of inflation plus 5% or 10%, whichever is lower.⁶⁴ However, a landlord can overcome that presumption by showing that the rent increase is justified by increases in operating costs, including the cost of “the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit.”⁶⁵ It is too early to tell how this will play out, but the new restrictions could potentially create a new form of pseudo-rent regulation, complete with a system of passing on costs of decarbonization retrofits similar to MCIs or IAs (though governed by the vague standard of “reasonableness” rather than numerical limits).*

Finally, the question of utility costs also bears on tenants’ housing costs, if not always their rent. Many buildings in New York City have centralized, fossil-fuel-based heat systems, and many tenants do not pay for heat or gas.⁶⁶ Some tenants do not even pay for electricity because their apartments do not have individual meters. When these systems are decentralized—for example, by converting centralized heat to heat pumps in individual apartments—their costs could shift from landlords to tenants.⁶⁷ Rent-stabilized tenants are entitled to a reduction in their rent when this happens, but advocates question whether the reduction is sufficient to match the new costs that tenants take on, and whether landlords follow the appropriate procedures to allow for such a reduction in the first place.⁶⁸

Eviction Protections

Tenants in rent-stabilized apartments are protected from eviction. Landlords are required to renew the lease of any rent-stabilized tenant when it expires for either one or two years, at the tenant’s option.⁶⁹ Likewise, tenants may not be evicted from rent-stabilized apartments except on certain grounds. These include “for-cause” reasons, such as failing to pay rent or causing harm to other tenants, as well as several “no-fault” reasons: the landlord taking over the apartment for their personal use or that of their family, or, if the landlord is a nonprofit, for the nonprofit’s purpose; the tenant living primarily in another place; or the landlord withdrawing the apartment from the rental market or demolishing it.^{70, 71}

The Good Cause Eviction Law extends similar eviction protections to many tenants that are not rent-stabilized.⁷² Generally speaking, the law covers tenants in buildings built before 2009, and any building that is at least 30 years old; new buildings will age into the law starting in 2039.⁷³ There are a number of exceptions, however, most notably for tenants whose landlords own 10 or fewer buildings in the state and for owner-occupied buildings with 10 or fewer units.⁷⁴ The Good Cause Eviction Law also stops applying to a rental unit when it reaches a threshold rent level, currently set at about \$6,000 for a one-bedroom apartment.⁷⁵

Ironically, the Good Cause Eviction Law could reintroduce a problem that was recently addressed for rent-stabilized units. Prior to 2019, a unit would lose rent-stabilization protections once its rent reached a certain threshold; this was known as “luxury decontrol.” This incentivized landlords to raise rents

* It is also worth noting that the only apparent means for a tenant to enforce against an “unreasonable rent increase” is to fail to pay their full rent and wait for the landlord to sue to evict them, then use the rent increase as a defense. This would be an extremely risky strategy, and therefore the Good Cause Eviction Law may not have a strong impact on rents. For an early assessment of the use of Good Cause, see Celia Young, “Tenants Begin Using Good Cause Eviction Law in Housing Court. Here are the Outcomes” (New York: Brick Underground, October 14, 2024), <https://www.brickunderground.com/rent/first-cases-using-good-cause-eviction-law-argued-housing-court-nyc>.

wherever possible, using MCIs and IAs in particular, and was one reason for tenant advocates' concern with Local Law 97. The Housing Stabilization and Tenant Protection Act removed luxury decontrol from the rent-stabilization rules. However, the Good Cause Eviction Law appears to create a similar incentive for market-rate units: Landlords will have an incentive to raise rents as much as possible to hit the threshold rent level at which the law no longer applies. Notably, the Good Cause Eviction Law's "luxury" threshold is much higher, at about \$6,000 for a one-bedroom apartment, than the rent-stabilization threshold was before 2019, about \$2,800 for any apartment.⁷⁶

Construction Regulations

"Construction as harassment"—the use of construction as cover for, or as a means of, displacing tenants—has been a persistent problem in New York City.⁷⁷ This problem has been marked by poor enforcement of existing laws regulating construction, which has begun to be addressed on a comprehensive basis only in the last few years.

On paper, the city has required "Tenant Protection Plans" or "Tenant Safety Plans" detailing steps that will be taken to protect tenants during construction, for about 40 years.⁷⁸ This requirement had been poorly enforced, however.⁷⁹ In 2017, after a campaign by the Stand for Tenant Safety Coalition, the City Council imposed new requirements on Tenant Protection Plans.⁸⁰ These include the requirement to list "with particularity" all methods that will be used to protect tenants; to minimize disruptions to essential services like heat, hot water, and electricity; and to make the plans publicly available. Further amendments in 2019 made approval of the plans (not merely submission) a requirement for permit issuance and increased both the auditing rate and the violation fines.⁸¹

Stand for Tenant Safety also pushed through a number of other legislative reforms in 2017.⁸² These focused on improving the rate and quality of municipal enforcement actions; for example, violations issued by the city's Department of Buildings must now include a deadline for correcting the violation in certain circumstances. The coalition reviewed the efficacy of these programs several years later and found that insufficient implementation continued to impede enforcement, allowing construction as harassment to continue.⁸³

A third anti-harassment policy, still in its pilot phase, is the "Certificate of No Harassment." This policy takes a retrospective, rather than prospective, approach to enforcement: It requires the owners of covered buildings to prove that they have not taken certain illegal acts against their tenants in the past five years in order to get certain permits for major work.⁸⁴ This approach allows tenants to speak for themselves, though it can be stymied when tenants that experienced harassment have been pushed out of their building. The Coalition against Tenant Harassment, which campaigned for the program, found some initial signs that the certificate program was effective but noted that the initial pilot should be expanded to cover a broader range of buildings.⁸⁵ The New York City Council did so in 2021, and the program now covers buildings with at least six units and one of five indicators of poor management.⁸⁶



Enforcement

New York City's tenant protections are quite strong on paper, particularly for tenants in rent-stabilized housing. However, serious enforcement problems jeopardize those protections. For example, the state Division of Housing and Community Renewal, which is responsible for enforcing rent protections, has a years-long complaints backlog.⁸⁷ Unscrupulous landlords may pressure tenants to withdraw cases or even leave their units before a complaint is addressed.⁸⁸ One reason is a simple lack of resources: as of 2019, the agency operated primarily on paper records and had only 25 staff members to review complaints despite receiving over 1,000 each year.⁸⁹

There are similar concerns with New York City's eviction protections, which must ultimately be enforced in court. The city has taken the important step of establishing Right to Counsel legislation, which is meant to guarantee full legal services during an eviction proceeding to any tenant at least 60 years old or with a household income less than 200% of the Federal Poverty Guidelines (other tenants get one consultation with a lawyer).⁹⁰ Approximately 84% of tenants who received full legal services under the program remained in their homes after their court case, indicating the efficacy of the program.⁹¹ Still, fewer than half of tenants actually receive representation in court, in part because the Right to Counsel program does not have sufficient funding to cover all of the tenants entitled to counsel.^{92, 93}

Enforcement against construction-as-harassment has also been a persistent problem. Tenants report persistent failures by the city's Department of Buildings to meaningfully implement the 2017 package of tenant-safety protections.⁹⁴ This is compounded by the difficulty of actually obtaining Tenant Protection Plans or other key documents, which can hamper tenants' ability to identify violations and push the department to take action on them.⁹⁵ The Certificate of No Harassment program partially counters this by involving the city more deeply in identifying problem landlords and working with tenants and organizers, but it is limited in scope.⁹⁶

B. Case Study: Los Angeles

Climate Context

The impact of climate change on Los Angeles has been particularly harmful in recent years. The city is routinely exposed to smoke from wildfires, resulting in poor air quality and power shut-offs. The city is also plagued by record-breaking summer heat, droughts, and rising sea levels. Black, Latinx, and low-income communities suffer the most from these impacts because they tend to live in substandard rental housing in areas that are highly polluted and lack green space and infrastructure to mitigate climate effects.⁹⁷

Recognizing that greenhouse gas reduction is critical to slowing climate change, former Mayor Eric Garcetti launched the Los Angeles Green New Deal (GND) in 2019. The GND aspires to end carbon emissions in Los Angeles by 2050. Buildings are one of the largest sources of the city's carbon and emit 43% of the GHGs.⁹⁸ Multifamily buildings* are responsible for 16% of overall energy use in Los Angeles.⁹⁹

The GND specifically seeks to end carbon emissions in new buildings by 2030 and in existing buildings by 2050. To meet these goals, the city is in the process of adopting a Building Energy Performance Standard, which would require residential buildings over 20,000 square feet to decarbonize by a set date. Meanwhile, Los Angeles households can decarbonize using subsidy programs such as the Los Angeles Department of Water and Power's Comprehensive Affordable Multifamily Retrofit program. Soon, households will also be able to apply for California's Equitable Building Decarbonization program, which will fund comprehensive retrofits including electrical panel upgrades, and beginning in 2030, households will no longer be able to purchase gas-powered space and water heaters.

* Defined here as buildings with five or more units.

Los Angeles' Housing Crisis

There are serious concerns that this transition to a clean energy future will worsen the severe housing crisis in Los Angeles. Two million people rent in Los Angeles, and nearly half are severely rent-burdened, spending over 50% of their income on rent and utilities.¹⁰⁰ This year, Los Angeles ranked the most unaffordable city in the nation.¹⁰¹ This is especially true now, after the 2025 Los Angeles County wildfires resulted in over 10,000 homes lost, tens of thousands of people displaced and an immediate 20% rise in rents due to rampant rent gouging by landlords.¹⁰²

Low-income renters have the highest rent burden.¹⁰³ Recent reports from the Southern California Association of Nonprofit Housing show that one minimum-wage worker supporting a family would have to work 145 hours per week to afford the average two-bedroom apartment.¹⁰⁴ Each year, more than 40,000 renters in the Los Angeles area receive eviction notices; meanwhile just 3% of these renters have legal representation when they appear in eviction court.¹⁰⁵ In order to meet the climate goals set in motion in the Green New Deal, landlords will need to retrofit buildings. Under existing regulations, tenants will absorb the cost.

Tenant Protections in Los Angeles

Los Angeles is considered to have some of the strongest tenant protections in the nation. Despite this reputation, city regulations do nothing to prevent landlords from passing the cost of decarbonization to tenants and, in some cases, evicting tenants for such work. Los Angeles also does not take a proactive and robust approach to regulating construction, making it easy for landlords to carry out renovation work that is harmful to tenants. On top of this, an under-resourced housing department has meant that many regulations go unenforced, which means tenants must protect themselves.

The level of protection offered to tenants in Los Angeles depends on the age of the building, number of units, and ownership type. Over half of households are protected by the Los Angeles Rent Stabilization Ordinance (LARSO), which caps rents and limits arbitrary evictions. Those not protected by the LARSO fall under AB1482 or the city's Just Cause for Eviction Ordinance (see Table 5).



Photo by Jun Ampig

Table 5. Tenant Protections and Associated Concerns in Los Angeles

Law	Coverage	Protections	Concerns
Los Angeles Rent Stabilization Ordinance (LARSO)	Tenants in buildings constructed on or before Oct. 1, 1978, with exceptions (e.g., single-family homes)	<ul style="list-style-type: none"> • Rent increases capped at CPI (up to 8%) • Just cause eviction protections • Temporary relocation for major renovations 	<ul style="list-style-type: none"> • Allows additional rent increases up to 10% for renovation cost pass-through • No-fault evictions allowed for owner move-in and market withdrawal • Provisions are underenforced • Tenant harassment is often used to bypass eviction protections
Tenant Protection Act (AB 1482)	Tenants in buildings at least 15 years old, excluding single-family homes and condos not owned by investment entities	<ul style="list-style-type: none"> • Rent increases capped at 5% + CPI (up to 10%) 	<ul style="list-style-type: none"> • Allowable rent increases of up to 10% are often unaffordable for low-income tenants, exacerbating housing insecurity • Exemptions for certain populations leave many renters vulnerable to unlimited rent increases • Lack of dedicated enforcement body
Just Cause for Eviction Ordinance (JCEO)	Most residential properties not regulated by RSO, with exceptions for recent tenancies (< 6 months) or specific types of housing	<ul style="list-style-type: none"> • Just cause eviction protections 	<ul style="list-style-type: none"> • Until recently, permitted no-fault evictions for substantial remodel work, creating a loophole for renoventions • No rent caps
Tenant Habitability Plan (THP)	Applies to tenants under the RSO undergoing major construction projects	<ul style="list-style-type: none"> • Requires landlords to provide temporary relocation for tenants during uninhabitable construction • Relocation costs covered 	<ul style="list-style-type: none"> • No enforcement for illegal construction • Relocated housing may be substandard or far from tenants' need • Allows up to 1-year displacement, enabling exploitation and prolonged construction • Lacks a sufficient process to appeal bad-faith applications
Tenant Anti-Harassment Ordinance (TAHO)	All residential tenants	<ul style="list-style-type: none"> • Prohibits landlords from harassing tenants • Provides tenants with a private right of action and affirmative defense against eviction 	<ul style="list-style-type: none"> • Limited capacity of housing department and weak enforcement impacts efficacy • Tenants may lack knowledge or ability to enforce rights through legal action

Rent Protections

Through LARSO, Los Angeles protects tenants against unlimited rent increases by capping them at annual inflation or 8%, whichever is lower.¹⁰⁶ Despite this, landlords may increase rent beyond the cap to recoup the costs of certain retrofits through existing cost recovery programs. Under the Primary Renovation Work Program, tenants are subject to a large rent surcharge that is permanent even after all applicable work is paid off. The Primary Renovation Work program allows landlords to increase a LARSO tenant's monthly rent beyond the normally allowable increase and by an additional 10% to recoup the cost of approved retrofits.¹⁰⁷ The type of work includes insulation improvements, upgrading electrical paneling, and improving cooling and heating systems. Two key components of residential decarbonization subject to this are electrical panel upgrades and HVAC systems, which are meant to replace gas heaters with technology that can both cool and heat. HVAC installations, whether a mini-split or heat pump, require building permits, while specific requirements vary depending on local building codes and regulations (see Table 6 for cost recovery programs in Los Angeles).*

Tenants who are not protected by LARSO and are subject to AB 1482 may see rent increases of 10% each year. This is a steep rent increase for a low-income family to sustain over many years.

Program	Relevant Qualifying Work	Cost Recovery	Amortization	Maximum Monthly Rental Increase	Duration
Primary Renovation Work Program	Upgrading electrical paneling and improving cooling and heating systems	100%	180 months	10%	Permanent; phased in at 50% in year one and 50% in year two
Capital Improvement Program	Purchase and installation of solar energy, an energy-saving system (such as insulation), and new appliances	50%	60 months	\$55	Temporary

Eviction Protections

The Just Cause for Eviction Ordinance (JCEO) covers residential properties not regulated by LARSO. It protects tenants from eviction without just cause. Both policies require relocation assistance be paid to tenants for no-fault evictions. The JCEO outlines specific reasons for no-fault evictions. No-fault evictions occur for reasons beyond the tenant's control, such as the owner moving in, withdrawing the property from the rental market, or, until recently, conducting substantial remodels that require tenants to vacate. In the case of no-fault evictions, tenants are entitled to relocation assistance.

* An exception to this five-year rule is made for tenants classified as low income; they cannot be subject to a rent increase over 10% during the life of their tenancy.

The loophole for substantial remodels diminished the law’s capacity to protect tenants in buildings undergoing renovations. Whereas under most local rent stabilization ordinances, substantial renovation work requires the landlord to temporarily relocate tenants, the JCEO included an exception that allowed landlords to evict tenants if they planned to remodel the unit for more than 30 days and it was unsafe for the tenant to stay. Building decarbonization retrofits, which may take months to complete, could have led to evictions under this loophole.¹⁰⁹ Tenant and environmental justice groups in Los Angeles, including SAJE, fought and won an ordinance to remove substantial remodel as a no-fault cause for eviction under the JCEO.¹¹⁰ The ordinance is temporary, but advocates are hopeful that a permanent one will pass soon, thereby removing an obstacle to equitable building decarbonization in the city. This recent achievement has also inspired efforts to do the same across the state, recognizing that the substantial remodel loophole is present in AB 1482.

Construction Regulations

Tenant Habitability Plans

All major renovation work done in Los Angeles rentals requires owners of LARSO to pay temporary relocation costs to tenants if they cannot remain safely in the home during retrofit work.¹¹¹ A Tenant Habitability Plan (THP) may be required for a decarbonization retrofit. If a building needs significant work to meet emissions reduction targets beyond appliance replacement, a LARSO tenant may have to move temporarily under the THP. Tenant advocates and attorneys have seen THPs misused by landlords to harass and permanently displace LARSO tenants who pay below market rate.¹¹² Landlords have put tenants in uncomfortable and substandard housing incomparable to their homes, sent tenants to addresses that don’t exist, or place them in housing that is so far from their jobs that it creates a burden. A tenant can be legally displaced through a THP for up to a year.

Construction-as-Harassment

Construction-as-harassment is a tactic used to displace tenants by creating uncomfortable and hazardous living conditions. This practice often involves undertaking disruptive construction activities, such as generating excessive noise and dust, without the necessary permits.

The current system of enforcement against construction-as-harassment, which includes issuing stop work orders for unpermitted work, does not impose significant penalties, making it insufficient to deter landlords from using such tactics. As Los Angeles moves towards implementing stringent energy efficiency standards as part of decarbonization, there is growing concern that these standards could lead to more construction-as-harassment. This highlights the urgent need for stronger tenant protections and more effective enforcement to prevent landlords from exploiting decarbonization policies to displace tenants and raise rents.



Enforcement

Despite the existence of various renter protection ordinances in Los Angeles, the city faces significant challenges in enforcing these laws effectively. While these regulations are designed to safeguard tenants from unfair rent increases, harassment, and eviction, the primary means of prosecuting violations is through individual legal battles. This approach places the burden on tenants to navigate complex legal processes with little help from city authorities. This leaves many tenants vulnerable to illegal rent increases, tenant harassment, and evictions. Although the city attempted to address landlord harassment by enacting the Tenant Anti-Harassment Ordinance (TAHO) in 2021, its effectiveness has been limited. TAHO allows tenants to sue landlords for harassment, again placing the burden of enforcement on the tenants themselves by requiring them to navigate the legal system and find attorneys willing to take on their cases. As a result, despite being in effect for more than two years, TAHO has seen no cases filed by the city.¹¹³ Additionally, TAHO does not explicitly recognize illegal construction as a form of harassment, contributing to the issue.

In September 2024, advocates in the Keep LA Housed Coalition (KLAH) won amendments to strengthen TAHO, which went into effect in December 2024. The changes included redefining what constitutes harassment, placing minimum fines on violations of the ordinance, and guaranteed attorneys' fees.¹¹⁴

AB 1482 has no proactive government enforcement at all. Instead, enforcement must be driven by tenants in civil court. While the law does not stipulate penalties for landlords in violation, it grants tenants the ability to sue for damages due to breaches and wrongful eviction. This reliance on the judicial system poses challenges, as it places the burden on tenants to assert their rights. Many renters, especially those who are low-income or do not speak English, have trouble navigating this lengthy, complex, and expensive legal process or don't try in the first place.

C. Case Study: Chicago

Climate Context

Chicago has set ambitious goals for the reduction of its greenhouse gas emissions, 69% of which come from the city's building stock.¹¹⁵ In April 2019, Chicago became the largest jurisdiction at the time to commit to 100% clean energy by setting a goal of powering all buildings on clean and renewable energy by 2035.¹¹⁶ The city's decarbonization commitments were further demonstrated by the convening of the Chicago Building Decarbonization Working Group in 2021 and the release of Chicago's Climate Action Plan in 2022.¹¹⁷

In early 2024, Chicago's decarbonization goals materialized into policy when the Clean and Affordable Buildings Ordinance (CABO) was introduced by Mayor Brandon Johnson. CABO will set emissions standards for newly constructed buildings while a building performance standard policy for existing buildings will be considered in the near future.¹¹⁸ These commitments are important to meet climate goals with the urgency required to mitigate and curb climate change, but they are also cause for concern in a city with few tenant protections and a growing housing crisis.

Chicago's Housing Crisis

Chicago is a majority renter city, but it is growing increasingly difficult for tenants to thrive as rents rise at some of the fastest rates in the country.¹¹⁹ Rents are particularly difficult to keep up with for those still recovering from the COVID-19 pandemic; as was the case nationally, the pandemic period left low-income renters in Chicago with less residual income and drastically increased the proportion of renter households that are rent-burdened.¹²⁰ By June 2022, about one out of five Chicago-area renter households reported being behind on rent, with Black and Hispanic renters being more behind than white renters.¹²¹

Tenants impacted by rising rents have few places to turn as the loss of subsidized and unsubsidized affordable housing outpaces development of new affordable housing. Between 1995 and 2010, more than 20,000 public housing units in Chicago were demolished, resulting in the mass displacement

of low-income tenants and higher overall housing costs in impacted areas.¹²² Another contributor to unaffordability is the growing influence of speculation and corporate landlordism on Chicago's rental housing stock, which has been on the rise since the foreclosure crisis of 2008.¹²³ Chicago's affordable housing gap—the difference between the number of households that need affordable rental housing and the number of units that are affordable—reached 119,000 units in 2021, its highest level in a decade.¹²⁴

This growing crisis causes tenants to be priced out of their homes or displaced through eviction, with the most common reason for eviction being non-payment of rent. Between 2010 and 2019, Chicago saw an average of 22,500 eviction filings per year—equal to a rate of 1 in 25 renters and their families facing eviction each year.¹²⁵ The true scale of displacement in Chicago, however, is unknown as many tenants self-evict upon receiving termination notices or are pushed out due to landlord harassment, which is scantily reported or punished.¹²⁶

Tenant Protections in Chicago

Chicago's tenant protections are notably weaker than those in New York and Los Angeles. The city's primary rental housing ordinance, the Residential Landlord Tenant Ordinance (RLTO), provides a basic framework for the rights and obligations of tenants and landlords but excludes many rental properties and lacks restrictions on rent increases and evictions seen in other major cities (see Table 7). Without rent control, just-cause eviction protections, or effective enforcement mechanisms, Chicago tenants are at risk of displacement, rent hikes, and habitability issues as landlords undertake decarbonization upgrades. For Chicago to protect its tenants, it needs to adopt foundational policies that cities like Los Angeles and New York implemented decades ago and ensure that enforcement is proactive and efficient, rather than relying solely on individual tenants' legal battles.

Table 7. Tenant Protections and Associated Concerns in Chicago

Law	Coverage	Protections	Concerns
Fair Notice Ordinance	<p>All tenants, with notice periods based on tenancy length:</p> <ul style="list-style-type: none"> • 60 days for tenancies of 6 months to 3 years • 120 days for tenancies over 3 years 	<ul style="list-style-type: none"> • Requires advance notice for rent increases and lease terminations • Extends time to resolve eviction by paying owed rent and fees 	<ul style="list-style-type: none"> • Does not limit excessive rent increases • Allows arbitrary lease termination at end of term
Residential Landlord Tenant Ordinance	<p>Most rental properties in Chicago, excluding small owner-occupied buildings (≤6 units), hotels, dorms, shelters, and co-ops</p>	<ul style="list-style-type: none"> • Establishes tenant and landlord rights and obligations • Prohibits harassment and retaliation by landlords 	<ul style="list-style-type: none"> • Tenants may lack awareness or ability to enforce rights • Harassment and retaliation are rarely reported or punished
Chicago Building and Construction Codes	<p>New and existing buildings</p>	<ul style="list-style-type: none"> • Regulates permitting, construction noise, and habitability standards 	<ul style="list-style-type: none"> • Poor enforcement undermines regulations • No relocation requirements during construction



Rent Protections

Rent control has been preempted in Illinois since 1997, preventing any local government from “enacting, maintaining, or enforcing an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential or commercial property.”¹²⁷ Due to this preemption, landlords can raise rents at the end of a lease term without limit and without reason as long as they give tenants proper notice.

The preemption has been described as “far-reaching” by advocates and prevented the passage of policies such as temporary rent freezes during the pandemic.¹²⁸ Legislative attempts and ongoing grassroots efforts to lift the state’s ban on rent control have not yet found success.¹²⁹ In the absence of rent stabilization, Chicago tenants’ best recourse in the face of a rent increase is to form a tenants association or try to negotiate with their landlord. The lack of protections against excessive rent increases are a concern in the context of decarbonization as landlords are likely to try to recoup the cost of upgrades and capitalize on building improvements by increasing rents.

Eviction Protections

While other major cities like New York and Los Angeles have just-cause eviction protections that limit the legal reasons for eviction and protect tenants from arbitrary displacement, Chicago does not. Consequently, property owners in Chicago can terminate a lease at the end of its term without reason or for any reason. Decarbonization upgrades, for example, could be used as a basis for evicting a tenant at the end of a lease. Landlords already take advantage of this lack of protections to evict long-standing tenants and then rent their units to higher income tenants, worsening the city’s affordability crisis.

Landlords are required to give tenants notice before an eviction case is filed in court but have no other legal obligations to tenants, such as paying relocation assistance to those who are evicted by no fault of their own. Consequently, tenants are left with little time and few resources to find new housing that they can afford, particularly if they are low-income, live on a fixed income, or have a housing voucher.¹³⁰ At best, organized tenants may be able to negotiate with their landlord for more time in their units, relocation assistance, or the right to temporarily withhold rent.¹³¹

Construction Regulations

Chicago has codes and ordinances that regulate construction practices. Property owners are required to apply for permits before beginning most types of building construction, demolition, rehabilitation, and repair work. Many decarbonization upgrades—such as electrical upgrades and the replacement of heating and cooling systems—necessitate permits.¹³² If a property owner is found to be conducting unpermitted construction work, a city employee will issue a stop work order and work may resume only after the owner obtains building permits and pays the associated penalty (\$1,000+). Generally, the fee

for a building permit issued after a stop work order is tripled. Property owners may also be subject to an administrative enforcement case or lawsuit to recover penalties or correct conditions that violate the Chicago Construction Codes.¹³³ Chicago's Noise Ordinance also limits construction work to between the hours of 8:00 a.m. and 8:00 p.m. and subjects violators to fines.¹³⁴

Though these penalties are designed to deter property owners from conducting unpermitted and disruptive construction work, their efficacy is contingent on swift action from the Department of Building (DOB), which is tasked with investigating construction and code violations. The failures of the DOB are extensive and well documented. A 2018 audit of the department revealed that from January through May 2017, only 34.6% of "Permit & Construction Violations" in new buildings were investigated on-time.¹³⁵

The DOB also severely underperformed in responding to code violations in occupied, existing buildings. In June 2017, the department had a backlog of more than 5,000 open housing complaints dating back to 2013, including 199 complaints describing serious threats to life and safety, such as water leaking down an elevator shaft onto electrical wires, homes without water, and blocked exits and escape routes.¹³⁶ The audit concluded that the DOB is understaffed, does not have effective strategies for prioritizing complaint-based inspections, sets long response deadlines, and uses outdated and ineffective methods of tracking cases.¹³⁷

A building decarbonization mandate could increase the frequency of dangerous or unpermitted construction projects that push tenants out of their homes. Already, incidents of construction-induced displacement have been documented in gentrifying neighborhoods, where developers and investors are buying properties, renovating them, and increasing rents.¹³⁸ In one case reported on by the news outlet *Block Club Chicago*, a landlord in the Logan Square neighborhood attempted to evict all tenants in a newly purchased building. The landlord quickly began renovations, a process which impacted the heat, appliances, water system, and general habitability of the units. At least one tenant was forced out of the building by the unlivable conditions despite his lease stipulating that he could stay longer.¹³⁹

Enforcement

Chicago's Housing Department provides tenants with information and resources on their rights but does not enforce landlord-tenant laws. Tenants instead rely on self-help advice or legal service providers to assert their rights, but due to capacity issues legal aid is largely only available to those experiencing evictions.¹⁴⁰

The DOB enforces laws related to habitability and code violations, but, as discussed, their enforcement practices are ineffective. Even when code violations are identified, the remedies are left to the discretion of inspectors and do not necessarily effectuate compliance. Enforcement responses range from a lenient warning letter to the landlord with no further follow-up to the much more rare action of a city lawsuit against the property owner.¹⁴¹ In any case, re-inspections are not mandatory or automatic; they must be requested by a judge or a city hearing officer.¹⁴² Additionally, owners may be given multiple extensions to make repairs, leaving tenants stuck in dangerous living conditions indefinitely. Even when administrative hearings and lawsuits result in fines, the fine amounts are not high enough to push owners to address violations.¹⁴³



V. LESSONS FROM NEW YORK CITY, LOS ANGELES, AND CHICAGO

The three cities examined in this report face a similar conflux of enormous needs for affordable housing and ambitious climate targets. Building decarbonization is an important part of all three cities' plans for climate action.¹⁴⁴ This strategy is crucial, but will put additional pressure on low-income renters as landlords recoup decarbonization costs through rent increases, or even use retrofit work to displace tenants.

But the three cities differ in their level of readiness to protect tenants from these impacts. Los Angeles and New York City have relatively strong tenant protections—for the tenants that are covered by them—including rent stabilization, limited grounds for eviction, and more comprehensive protections against harm or displacement during construction work. In part, this is the result of state support for tenant protections: New York City's rent-stabilization program and a large portion of its eviction laws come from state legislation, and California has enacted statewide rent stabilization and tenant protections that are complementary to Los Angeles' own. Illinois, by contrast, has blocked Chicago (and other local governments) from enacting municipal rent-stabilization laws.

Tenant protections could give tenants in New York City and Los Angeles a stronger buffer against the costs of large-scale building decarbonization. But these protections are designed to yield to major renovation work—the same sort of work that building-decarbonization programs encourage. This effect can be seen in New York City and Los Angeles' rent-stabilization laws, both of which allow the up-front cost of capital investments in buildings to be passed to the people who live in those buildings. Los Angeles eviction protections also contain an exception for “substantial renovations,” the criteria for which track closely with decarbonization upgrades like HVAC replacement, electrical panel improvements, and thermal envelope sealing.

By contrast, Chicago has neither rent control nor significant eviction protections, and its construction and permitting laws are weaker than those of either New York City or Los Angeles. This leaves tenants exposed to the vagaries of the real estate market, which could in turn be affected by widespread capital investments. There are indications that “environmental gentrification” has occurred in parts of the city as the result of other government policies, such as the restoration of brownfields and rail-to-trail conversions.¹⁴⁵ The lack of measures to prevent rent increases also makes it difficult or impossible to prevent landlords from passing the costs of decarbonization work to their tenants.

New York City is the only city of the three which has passed a building performance standard, Local Law 97. The development of Local Law 97 is notable for the close connection with concurrent strengthening of tenant protections at the state level: Local Law 97 specifically exempted buildings with rent-regulated apartments from most of its requirements until cost-passthrough rules were strengthened, and even then only included buildings that were specifically exempt from one type of passthrough. This design of Local Law 97 appears to have reduced tenant advocates' level of concern with the program.

Finally, all three cities are examples of the need for strong enforcement. In New York City, the backlog of rent-overcharge complaints and the lax enforcement of permitting requirements highlights the need for adequately resourced government agencies. In Chicago, only a third of reported permit violations are investigated on time. And Los Angeles' Tenant Anti-Harassment Ordinance has never been enforced by the city, leaving tenants unprotected or reliant on private counsel. These examples provide indications that creating tenant rights on paper is insufficient; state and local governments must provide funding to ensure that those rights are enforced, and tenant protections must be designed so that tenants themselves can enforce their rights.

VI. CONCLUSION

Each city, county, and state has a unique legal landscape and housing market. It's crucial for decarbonization advocates to understand the nuances in order to design effective safeguards within decarbonization policies and programs before their implementation or adoption. We are advocating for foundational tenant protections that are distinct from, yet related to, decarbonization efforts. We recognize that energy efficiency professionals, climate justice advocates, and environmentalists may not be well versed in tenant rights policy. However, integrating a comprehensive understanding of, and commitment to, tenant protections is essential for equitable and successful decarbonization initiatives.

Recommendations

No single policy will be appropriate everywhere; much depends on the legal framework, administrative structure, and economic and housing situation of each jurisdiction. However, the experience of tenants and advocates who have won better tenant protections in the past gives rise to a few common themes: First, the cost of major capital investments in rental housing may fall on tenants, despite the fact that building owners retain the value of the investments in the form of the increased rent or sale value of their property; without safeguards, building decarbonization could drastically increase the rent burden of lower-income households. Second, bad-faith landlords could use work done on their buildings as cover for forcing tenants out of their homes, either through a formal eviction process or by creating such poor conditions that the tenants leave "voluntarily." Third, whatever tenant protections are put in place must be paired with strong enforcement mechanisms, including well-resourced government enforcement and, for subsidy programs, protections that tenants themselves can assert in court. We offer the below recommendations for building-decarbonization policies.



Photo by Jun Ampig

Table 8. Recommendations

Policy	Description
Prevent rent burden and maintain affordability	
Rent stabilization	Cap the amount that rent can be raised per year. Caps are typically tied to the local Consumer Price Index (CPI).
Ban pass-through costs for work related to energy efficiency and electrification	Prohibit rent raises and/or related renters' fees associated with retrofitting for energy efficiency or electrification.
Prevent evictions and keep people housed	
Just-cause eviction protections	Establish just-cause protections for all tenants to prevent arbitrary evictions, including evictions for renovation work.
Minimize disruption to tenants during retrofit work	
Tenant habitability plan	Ensure living conditions are habitable during construction or renovation, or provide for temporary relocation. These plans often include provisions to prevent unjust evictions and safeguard tenant mental and physical health.
Petitions for construction-related rent reductions	Allow tenants to petition for rent decreases if construction activities result in a decline in services, deferred maintenance, or health and safety hazards. Rent reductions may be retroactive or prospective.
Stringent penalties for illegal construction	Require that property owners who violate laws regulating construction work in occupied units pay stiff penalties.
Design and dedicate resources to enforcement	
Landlord-tenant contract	The contract should stipulate the terms and conditions of participating in the subsidy program and establish enforcement authority, clear penalties for violations, and remedies (e.g., a civil action).
Adequately resourced enforcement measures	Ensure city agencies charged with enforcing tenant protections have sufficient staff and funding to do their work. Use attorney-fee provisions or right-to-counsel funding to ensure that tenants have meaningful access to their rights in court.

Final Note

Winning robust tenant protections has never been easy—it often requiring tenants and advocates to take on well-funded and politically powerful real estate and landlord lobbies. Securing these protections in the context of building decarbonization presents an even greater challenge, as it adds the fossil-fuel industry to the list of formidable opponents that tenants face. Meeting this moment—and ensuring that decarbonization policies advance equity, not displacement—will demand coalition building on a scale rarely seen before.

Tenant groups, climate advocates, environmental justice organizations, energy policy experts, and environmentalists must come together to forge alliances. These partnerships will be crucial to navigating complex political landscapes, countering entrenched interests, and designing decarbonization initiatives that center tenant rights. By uniting across movements and leveraging each other's strengths, we can build the collective power needed to secure protections that safeguard tenants, advance climate justice, and ensure a fair and equitable transition to a sustainable future.

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