

State's Take on Demolition Roils Renters and Owners

By PATRICK MCGEEHAN

When is a demolished apartment building not demolished?

That is not a child's riddle. It was the subject of hours of protest and impassioned oratory at a public hearing in Lower Manhattan on Tuesday about proposed changes to the rules on renovating rent-stabilized housing.

The State Division of Housing and Community Renewal has proposed to define what constitutes a demolition plan, which would allow the owner of a rent-stabilized building to evict its tenants. For several years, tenants' advocates have complained that the lack of a precise definition of demolition has allowed landlords to push out low-rent tenants and create luxury condominiums.

But now that the division has come up with a definition, those advocates do not like it. Neither, it seems, do building owners.

Representatives of both groups testified at a public hearing held by the division, and none of them had much positive to say about the proposed regulations, which would define demolition as the complete gutting of a building's interior — but not necessarily the removal of its outside walls or support beams.

Councilwoman Rosie Mendez of Manhattan said that demolition should be defined as "to be

A proposed definition that would let tenants in rent-stabilized buildings be evicted.

razed down to the floor, so if you can see it, it's not a demolition."

The division's more-liberal definition would "rubber-stamp the practice of partial, or phony, demolitions," said Serge Joseph, a tenants' lawyer with Himmelstein McConnell Gribben Donoghue & Joseph. He said it would "open the floodgates for owners to evict rent-regulated tenants."

That trend is already well under way, according to Monte P. Schapiro, a bookseller who lives in a five-story tenement on Fifth Street in the East Village. Mr. Schapiro, 51, said new owners of his building filed an application to demolish it but told him that they did not intend to raze it.

Instead, Mr. Schapiro said, they offered to pay the tenants to leave so that they could renovate their apartments into condominiums and capitalize on the city's real-estate boom. Mr. Schapiro said he flatly rejected the initial offer of a \$5,000 buyout in lieu of facing eviction, but some other tenants accepted larger sums and left. He said the owners used similar tactics to clear out all of the tenants of another rent-stabilized building on Elizabeth Street

in just four months.

The regulation regarding demolition was intended "to allow owners to demolish buildings which were unsalvageable," Mr. Schapiro said. "It was never meant to provide speculators and real estate investors with an easy way to displace all the tenants in newly acquired properties so that the building could be deregulated."

But lawyers for building owners said they should be allowed to do just that.

"This is not an issue of compelling necessity," said Sherwin Belkin, a partner in Belkin Burden Wenig & Goldman, a law firm that has advised owners on how to use demolition applications to upgrade their properties. "This is private property, and if an owner wishes to demolish it, then the owner should be able to."

Mitchell Posilkin, the general counsel for the Rent Stabilization Association, a group of about 25,000 building owners, told the panel, of three division officials, that they should drop the proposed definition altogether. A court ruling that called for the division to spell out its definition of demolition has been reversed, Mr. Posilkin said.

But James Plastiras, a spokesman for the division in Albany, said that while the court ruling had spurred it to define the term, state officials still felt obligated to provide clarification for both tenants and owners. With 47 applications for demolitions pending statewide, he said, there is a need for clarity.

The pending regulation also would create a more generous formula for compensating tenants in rent-stabilized buildings that are cleared out for demolition. For six years after their departure, displaced tenants would receive a monthly stipend equal to 120 percent of the average monthly rent of similar stabilized apartments in the same ZIP code.

Several elected officials testified that the proposed stipend would be inadequate to keep tenants in their neighborhoods.

"The product of this formula is insufficient," said Councilwoman Gale A. Brewer of Manhattan, "And you definitely can't find a rent-stabilized unit on the Upper West Side."

Ms. Brewer and other elected officials, including Assemblywoman Deborah Glick of Manhattan, called for the division to require landlords to relocate displaced tenants in similar-sized apartments at similar rents in the same neighborhood or to raise the stipends to cover market-rate rents.

Laura Taylor, a freelance fashion designer who lives on West 50th Street, said she was fighting to stay in her rent-stabilized two-bedroom railroad flat because she would not be able to find a similar apartment at the same price anywhere in the neighborhood. She said she had turned down an offer of \$90,000 to move.