

TENANTS AT THE CENTER

AN EQUITABLE PATH TO BUILDING DECARBONIZATION

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If we're going to reduce carbon emissions and curb climate change, building decarbonization is an essential piece of the puzzle. However, due to weaknesses in tenant protections across the country, policies that mandate costly decarbonization renovations in rental housing will likely result in rent increases and unnecessary or illegal evictions. To avoid worsening the housing crisis through efforts to mitigate the climate crisis, decarbonization policies must be designed with tenants—especially Black, brown, and low-income residents—at the center.

Impacts on New York City, Los Angeles, and Chicago Renters

All of these major cities have adopted or committed to adopting energy performance standards for buildings. They are also grappling with worsening housing crises and dwindling stocks of affordable housing. It is necessary to develop local and specific safeguards to protect tenants and ensure they benefit from decarbonization.



Table 1. New York City

<p>Rent Stabilization</p>	<ul style="list-style-type: none"> Existing tenant protections: Nearly half of tenants enjoy caps on rent increases set annually based on various economic factors. Risks to tenants: Building owners can increase rents beyond these caps in order to recover costs associated with renovation work. These rent increases can continue long after the costs are paid off, often allowing landlords to profit from renovation work by continuing to charge increased rents even after upfront costs have been paid off. Updates to this cost-recovery system have been made in recent years to limit cost pass-throughs from New York City’s building performance standard, Local Law 97, and other retrofits.
<p>Eviction Protections</p>	<ul style="list-style-type: none"> Existing tenant protections: Most tenants have protections that prohibit arbitrary evictions. Renovation work is not a valid basis for eviction under just-cause eviction protection laws. Risks to tenants: Exemptions from eviction laws—including for small landlords, live-in landlords in small buildings, and newer housing—leaves some tenants unprotected.
<p>Construction Regulations</p>	<ul style="list-style-type: none"> Existing tenant protections: Landlords must detail steps that will be taken to protect tenants during construction. The city has passed new policies aimed at curbing “construction-as-harassment” in recent years. Risks to tenants: Insufficient implementation of new policies has continued to impede enforcement and has long allowed landlords to use construction as a means of harassing and displacing tenants.
<p>Enforcement</p>	<ul style="list-style-type: none"> Existing tenant protections: New York State’s Division of Housing and Community Renewal, responsible for reviewing rent-stabilization complaints, lacks adequate resources to quickly address violations. Risks to tenants: In general, inadequate enforcement resources mean that the burden of enforcement often falls on tenants, especially in eviction court where only a fraction of tenants receive legal services despite New York City having a Right to Counsel program.

Table 2. Los Angeles

<p>Rent Stabilization</p>	<ul style="list-style-type: none"> Existing tenant protections: Most tenants are either covered by the Los Angeles Rent-Stabilization Ordinance (LARSO) or California’s statewide Tenant Protection Act, both of which cap rents annually at a percentage never to exceed 8% or 10% respectively. Risks to tenants: The steepness of these caps poses a significant financial burden on low-income tenants, and exemptions to these policies leave some with no protections at all. Furthermore, tenants covered by LARSO can receive additional rent increases of \$55 or 10% a month (depending on the kind of work) as a pass-through cost for renovation work.
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<p>Eviction Protections</p>	<ul style="list-style-type: none"> Existing tenant protections: All tenants have just-cause eviction protections either through LARSO or the city’s Just Cause for Eviction Ordinance (JCEO). Risks to tenants: Tenants protected by LARSO cannot be evicted for renovation work, but, until recently, tenants covered by the JCEO could be evicted for renovations that qualified as “substantial remodels.” Tenant and environmental groups, including SAJE, fought and won a motion to temporarily remove substantial remodels as a cause for eviction under the JCEO in anticipation of the city passing a building performance standard policy.
<p>Construction Regulations</p>	<ul style="list-style-type: none"> Existing tenant protections: Owners of LARSO buildings who undertake construction projects must create plans that detail how tenants will be protected during construction, including temporarily relocating tenants if they cannot remain safely in the home during retrofit work. Risks to tenants: However, landlords have been known to misuse these plans to harass and permanently displace tenants, or to avoid this process entirely by conducting unpermitted and dangerous construction work.
<p>Enforcement</p>	<ul style="list-style-type: none"> Existing tenant protections: There is no enforcement agency for California’s statewide Tenant Protection Act. Risks to tenants: Violations of rent caps, eviction protections and construction regulations should be monitored by Los Angeles’ Housing Department, but the efficacy of the department is stymied by insufficient funding and staffing. The primary means of prosecuting violations of tenant protections is individual legal battles, which places the burden on tenants to navigate complex legal processes with little help from city authorities.

Table 3. Chicago

<p>Rent Stabilization</p>	<ul style="list-style-type: none"> Existing tenant protections: Tenant protections are notably weaker in large part because rent stabilization is preempted at the state level. Risks to tenants: Landlords can raise rents at the end of a lease term without limit and without reason, giving them the ability to pass all costs of decarbonization onto tenants.
<p>Eviction Protections</p>	<ul style="list-style-type: none"> Existing tenant protections: N/A Risks to tenants: Chicago does not have just-cause eviction protections, permitting property owners to terminate a lease at the end of its term without reason or for any reason, including decarbonization.
<p>Construction Regulations</p>	<ul style="list-style-type: none"> Existing tenant protections: Chicago has laws against unpermitted construction work and can penalize violators with stop work orders, penalties and civil lawsuits. Risks to tenants: The efficacy of these enforcement mechanisms is contingent on swift action by the Department of Buildings (DOB), which is known to respond slowly and ineffectively.

Enforcement

- Existing tenant protections: Relies on a complaint-based rather than proactive system for inspections, meaning code violations are only fixed if tenants make complaints to the DOB.
- Risks to tenants: A 2018 audit of the DOB revealed that the agency 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. Chicago's Housing Department only provides tenants with information on their rights but does not have an enforcement branch, leaving tenants dealing with violations of their rights to rely largely on self-help advice or legal services.

Policy Recommendations

Passing strong tenant protections can prevent rent increases, displacement, and harassment stemming from building decarbonization efforts. State and local governments must also develop enforcement mechanisms and provide funding to ensure that those rights are upheld. While the specifics of policies will vary from jurisdiction to jurisdiction, the following recommendations can be used as a blueprint for advancing tenant-centered decarbonization across the country.

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: 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: 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.

Read the full report at [\[LINK FOR SAJE PAGE\]](#). For more information, contact Chelsea Kirk, Director of Policy and Advocacy at ckirk@saje.net.