

## **URBAN LAND INSTITUTE (ULI) NEW YORK TESTIMONY ON J-51 MODERNIZATION**

*Joint Legislative Public Hearing  
Fiscal Year 2027 Executive Budget Proposal  
Topic: Housing*

*Submitted by Urban Land Institute (ULI) New York*

Chairpersons, distinguished legislators, and members of the committee, thank you for the opportunity to submit written testimony for the Joint Legislative Public Hearing on the Fiscal Year 2027 Executive Budget Proposal, focused on Housing.

My name is Helen Hwang, Chair of Urban Land Institute New York. ULI is the oldest and largest network of multidisciplinary real estate and land use experts in the world with over 45,000 members representing developers, owners, managers, lenders, planners, attorneys, architects, and civic leaders. Across this group, our members collectively oversee tens of thousands of multifamily units, including fully regulated, mixed-income, and market-rate buildings.

We appreciate the Governor's efforts in the Executive Budget to strengthen and reactivate the J-51 tax abatement program. The proposal includes several long-overdue improvements. However, as currently drafted, J-51 will still fall short of its intended purpose: to promote the preservation and safe maintenance of the existing housing stock by offsetting the cost of qualifying capital improvements. The program's policy objective is not merely aesthetic modernization, but compliance-driven reinvestment, encouraging owners to undertake important rehabilitation and legislatively mandated work that might otherwise be deferred due to cost. In practice, J-51 frequently supports building-wide systems upgrades and code-required safety measures, including façade stabilization and restoration required under Local Law 11 (FISP), structural corrections, waterproofing, and other work necessary to cure violations and maintain habitability standards. J-51 can also be used to support energy efficiency upgrades to help buildings comply with Local Law 97 and reduce the use of polluting fossil fuels and ease the load on our electricity grid. By providing an abatement tied directly to eligible improvement expenditures, the City effectively converts mandatory compliance obligations into economically feasible capital projects, aligning regulatory enforcement with long-term housing preservation. At its core, J-51 protects the housing stock. When buildings cannot fund basic reinvestment, residents ultimately bear the consequences through deteriorating living conditions, safety risks, and the gradual loss of affordable homes. A modernized program ensures that working New Yorkers can remain in safe, well-maintained housing while preserving affordability without requiring new public subsidies.

If New York is serious about keeping existing housing habitable, addressing deferred maintenance, and reducing the number of unoccupied rent-stabilized apartments, the program must be made accessible and usable. It is important that the program serves as a true preservation incentive and meets its goal, to authorize a real estate tax abatement for alterations and improvements for the purposes of preserving habitability in affordable housing. Based on extensive input from owners, managers, attorneys, and practitioners, ULI New York respectfully submits four key recommendations.

## 1. Expand Eligibility to Reach More Buildings with Genuine Financial Need

As currently drafted, eligibility remains narrow, particularly for buildings that fall between deeply affordable housing and market-rate housing. This excludes a large swath of buildings that need reinvestment—especially mixed-income, outer-borough, and older rent-stabilized properties that often function as naturally occurring affordable housing – providing attainable rents without ongoing public subsidy – where reinvestment is becoming increasingly difficult under current operating conditions. Without the ability to increase rents, and with no cost relief on the horizon, owners of these buildings usually will defer capital improvements and systems upgrades, putting these buildings at further risk of neglect and disrepair. Preservation is the most cost-effective affordable housing strategy available to New York.

We propose several alternative eligibility pathways—any of which would expand the pool of buildings in need and increase the program’s effectiveness:

**A. Weighted-Average AMI Approach:** As currently drafted, the J-51 proposal would specifically exclude rent-stabilized buildings that do not meet the 50% of unit threshold, even if rents on those units are well below the 80% AMI measure. Instead of this all-or-nothing approach, we feel eligibility should be based on a sliding scale that weighs the AMI distribution of units. This incorporates affordability without creating cliffs that exclude buildings with deep affordability but slightly lower percentages of qualifying units. Housing policy should reflect the reality that many buildings house residents across multiple income bands. A weighted approach better protects mixed-income communities from destabilization.

**B. Pro-Rata Benefit Based on Percentage of Affordable Units:** If a building does not meet the 50% threshold, at the very least it should still be able to participate in the program on a prorated basis. This simple structure allows more buildings to qualify without sacrificing necessary guardrails needed to maintain the integrity of the policy.

**C. Expense Burden Tests:** When nearly all rental income is consumed by operating costs, the ability to maintain safe housing is directly compromised. An estimated 200,000 rent-stabilized units are operating under conditions of negative net operating income, creating significant barriers to reinvestment and threatening the long-term stability of the housing stock.<sup>1</sup> Buildings with extremely high expense ratios—such as those spending more than 90% of rent on operating costs before taxes—face acute reinvestment constraints and should be considered eligible.

**D. Rent-Per-Square-Foot Test:** A simple, transparent metric—rent roll divided by building square footage—reveals whether a property is financially distressed. This avoids manipulation and correlates directly with operating feasibility. This approach directs benefits to buildings where tenants are most vulnerable to declining housing quality.

The unifying principle behind all these options is straightforward: expand eligibility to the buildings that truly need relief.

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<sup>1</sup> Willis, Mark A. “HSTPA and the Challenge of Preserving NYC’s Unsubsidized and Subsidized Affordable Housing Stock.” Testimony before the New York City Rent Guidelines Board, April 10, 2025. NYU Furman Center.  
[https://furmancenter.org/files/Preservation\\_Challenges\\_RGB\\_testimony\\_Version\\_III\\_April\\_10\\_040925\\_revised\\_041825\\_\(1\).pdf](https://furmancenter.org/files/Preservation_Challenges_RGB_testimony_Version_III_April_10_040925_revised_041825_(1).pdf)

## 2. Modernize Administrative and Compliance Requirements

Even buildings that qualify for the program will be faced with tremendous administrative hurdles that owners are overwhelmingly telling us will be severe barriers to entry. Administrative complexity delays urgently needed repairs and building improvements, prolonging unsafe or outdated housing conditions.

**A. Violation Clearance Requirements:** Requiring all code violations to be cleared at the time of application is unrealistic, particularly in large or older buildings where access to tenant units to take on repairs may be challenging. Allowing reasonable cure periods allows repairs to happen while not holding up approval of J-51 program benefits. New York State’s Major Capital Improvement (MCI) Abatement program allows grace periods; J-51 should as well.

Furthermore, the violation clearance requirement should only be applicable for those violations directly related to the eligible construction, not totally unrelated violations. For example, if the J-51 application is for façade or boiler work, an elevator violation should not impede the granting of J-51.

**B. Notice Requirements:** The multi-step, building-wide posting and individual notice requirements that are being proposed were not part of the program historically and are misaligned with the fact that tenants do not incur rent increases under J-51. Overly complex notice requirements may create unnecessary confusion for residents, particularly since J-51 does not authorize rent increases. Streamlined communication enhances transparency, supports resident understanding, and allows needed building improvements to proceed without delay.

**C. Fee Burdens:** Application fees can be prohibitively high, most notably for buildings with numerous apartments, effectively shutting out the very properties the program is designed to help. The intent behind J-51R is commendable, but in practice the high cost of access penalizes exactly the type of affordable housing the program was designed to support. For example, a garden style building that houses seniors and other tenants on fixed incomes with more than 2,000 units would need to pay an application fee of approximately \$150,000 to apply for J-51. Some of these large complexes simply do not have the capital available for such a substantial upfront fee. There should be a needs-based test for applicants in similar financial circumstances.

Reducing administrative friction will significantly increase program uptake.

## 3. Expand Certified Reasonable Costs (CRC) to Reflect Today’s Needs—Including Unit Renovations

The CRC schedule currently focuses heavily on major building systems but ignores unit renovations entirely. Every vacant rent-stabilized apartment represents a home unavailable to a New Yorker in need. Today, an estimated 25,000 to 50,000 rent-stabilized apartments are being warehoused — intentionally left vacant and unavailable for rent — even as New York faces one of the tightest housing markets in decades. If restored, these homes could materially improve the city’s rental vacancy rate, which currently stands at just 1.4 percent.<sup>2</sup> J-51 reform presents a critical opportunity to restore vacant rent-stabilized apartments to safe, habitable conditions and return them to the housing supply. Allowing incentive dollars to support rehabilitation of offline units would help restore habitable housing and reinforce the existing housing supply. Rehabilitating vacant apartments is often the fastest and most cost-effective way to return homes to the market without constructing a single new building. Other qualified investments should also be considered

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<sup>2</sup> Michael Cembalest, **Eye on the Market – 2026 Outlook** (J.P. Morgan Asset Management, Feb. 5, 2026).

<https://assets.ipmprivatebank.com/content/dam/ipm-pb-aem/global/en/documents/eotm/supply-and-the-mam.pdf>

related to modern operations of buildings such as intercoms and camera systems which are essential to operating secure buildings.

#### **4. Remove or Modify the Requirement That J-51 Units Be Subject to Additional Rent Regulation**

Policies that discourage participation ultimately reduce reinvestment in housing — leaving tenants in aging buildings with fewer improvements and fewer restored units. All rent-stabilized apartments are already effectively permanently regulated under the Housing Stability and Tenant Protection Act (HSTPA) and many market-rate units are now subject to Good Cause Eviction. Imposing additional rent regulation requirements on buildings that can theoretically utilize J-51 only hinders owner participation without creating any new tenant protections.

In our conversations with our members and other market participants, the overwhelming concern entering J-51 is that the program would subject market units—not currently under the jurisdiction of the Rent Guidelines Board—to new permanent limits on rent increases. This fear will be a primary driver of low program adoption. Modern exemption programs, such as 485x, exclude market units from the purview of rent regulation, so a modern J-51 should not be any different. Clarifying or removing the requirement that J-51 triggers new layers of rent regulation—beyond what already applies—would meaningfully increase participation without loosening tenant protections. The goal should be maximizing building participation so that more tenants benefit from safer, modernized housing.

#### **Conclusion: A Modernized J-51 Can Stabilize Buildings, Reopen Units, and Protect Tenants**

New York faces a severe housing maintenance crisis and ongoing housing shortage, extremely limited supply of workforce housing, rising expenses, capped rents, escalating insurance and tax burdens, aging buildings, and tens of thousands of vacant rent-stabilized units trapped by economics.

J-51 is one of the very few tools available to stabilize this housing stock. Put simply, the question is not whether these buildings will need reinvestment — it is whether that reinvestment happens proactively through policy or reactively through crisis.

The recommendations we propose — expanding eligibility, streamlining application and eligibility requirements, modernizing qualified costs, and eliminating rent-regulation requirements that would deter participation in J-51 — are practical, data-driven, and aligned with the policy goals of housing preservation, tenant protection, and increased housing supply.

We thank the Legislature and the Governor for prioritizing this issue in the Fiscal Year 2027 Executive Budget and stand ready to assist in crafting a version of J-51 that can truly work.

Thank you for your consideration. We welcome the opportunity to collaborate further.