Feature

The High Cost of Leaving

With rent control and stabilization at death's door, landlords are giving tenants damn near anything they want to just scram.

By Robert Kolker

The bidding took about twelve minutes, and by some estimates, Robert Manocherian, the trim, dashing young nephew of New York Health & Racquet Club owner Freydun Manocherian, paid about a million more than he should have. But it isn't every day that the city unloads an apartment building on Park Avenue. A handful of the people living in the run-down thirteen-story tower on a tony block near 75th Street showed up at this municipal auction, back in the spring of 1994, and watched as Manocherian beat out three other investment groups with his $4.175 million bid. And afterward, when he shook hands with the tenants whose below-market rents had helped propel this building into tax debt in the first place, the new owner of 823 Park put his best face on. "I'm very pro-tenant," Manocherian told them. "Really, I'm a nice guy."

But within weeks, Manocherian filed an application with the state asking permission to kick everyone out and demolish the place. And since then, as that application has inched its way through the state bureaucracy, the fortyish landlord has methodically set about the grim but entirely legal business of purging the building. After a slew of successful eviction proceedings and deaths by natural causes, the population of 30 at 823 Park has dwindled to 16. To the remaining holdouts, Manocherian is dangling a couple of carrots: for the thirteen rent-stabilized tenants, a check for $1.75 million to divvy up; for the three rent-controlled tenants, lifetime leases in nearby luxury buildings. "Let's understand one thing: We gain absolutely nothing from a delay," says Manocherian's lawyer, Gary Rosenberg. "Every day this goes on, we lose money."

To some of these tenants, a buyout might seem like a get-out-of-jail-free card; New York's rent-control and rent-stabilization laws have changed in ways that have made it harder and harder to hang on to a cheap apartment. But so far, they've snubbed his offers. Instead, they've hired David Rozenholc -- a former partner at the politically connected law firm Fischbein Badillo -- who made his bones foiling the plans of developers like Donald Trump and Peter Kalikow.

In 1997, the stout, bearded lawyer won million-dollar buyouts for each resident of a brownstone blocking the Museum of Modern Art's expansion. And last summer, he scored what could be the biggest per-apartment buyout in history, getting $1.14 million for each of the five remaining rent-controlled tenants of the Cottages, a Depression-era garden-apartment community on Third Avenue.

James Austrian, a consultant hired by developers to negotiate tenant buyouts, calls Rozenholc "one of the toughest S.O.B.'s in the business." Says Michele de Milly, a real-estate-P.R. executive who has worked for the Manocherians in the past, "When any landlord hears that he's involved in a project, they moan."

"If I had a Park Avenue apartment," Rozenholc says coyly, "I wouldn't give it up, either."

There are hundreds if not thousands of these deals being haggled all over Manhattan. Chinks in the state's amended rent-protection laws have helped put rent deregulation well within the grasp of local landlords. And it couldn't have happened at a better time, with the rental market oven-hot. Hefty apartment buyouts that once seemed preposterous now look like win-win deals to landlords who are dying to see turnover in their buildings.

Tenant attorney Sam Himmelstein has brokered buyouts ranging from $10,000 to six figures per apartment, with the most common figure ranging between $25,000 and $30,000. But the potential to maximize profit is astonishing. "I've seen apartments go from $1,800 a month regulated to $10,000 unregulated," he says. "Let's say you pay a tenant $60,000. You can raise the monthly rent by $5,000 and get this money back in one year. If you knew for sure you could invest that on Wall Street and make this kind of money in one year, wouldn't you?"

As this negotiation-and-settlement tango continues, rent regulation's long-predicted demise draws closer and closer. And the sound of political gunfire is curiously absent. "Most of Manhattan below 110th Street is experiencing deregulation upon vacancy," says tenant lawyer and former Rent Guidelines Board executive director Timothy Collins, whose own firm handles up to 50 buyouts a year. "Rent regulation will largely disappear in Manhattan in the next five to ten years."

The 823 Park Avenue battle, then, is a variation on a story that's playing out all over town: Excited by Manhattan rents that have leaped as much as 50 to 60 percent in the past five years, landlords are eyeing their regulated buildings more ravenously than ever. Every New York real-estate era has its tales of Bad Landlords who badger and harass rent-protected tenants into moving. But as this market becomes too hot to ignore, even legitimate landlords are looking to ease their regulated tenants out. More and more, filing for eviction is merely foreplay for a buyout. Over time, this is how rent regulation is likely to die in Manhattan -- not with landlords playing poor to an audience in Albany but with landlords writing checks to tenants; not with the bang of a controversial new law going into effect but with a cash-muffled whimper.

The groundwork for the revolution was laid back in 1997, when Albany's rent-law revision slapped a slow death sentence on rent-stabilized apartments. Stabilized tenants have always paid incremental increases every few years, but now the law allows rents to lurch up by 20 percent once the stabilized tenant leaves. And as soon as monthly rents nudge past $2,000, landlords can charge market rate -- *whatever they want* -- to the next tenants. As if that weren't incentive enough, the new law also relaxed the rules against demolitions, adding loopholes to ease the last one or two rent-controlled tenants out of apartment buildings facing the wrecking ball. "Landlords have been more aggressive about buyouts because the change in legislation has made it more difficult for some tenants to protect themselves," says Aby Rosen, president of RFR Holding, the company that, after a two-year legal battle, paid a total $5.7 million to clear out the Cottages.

Moguls like Manocherian dream of buying regulated buildings that aren't making a dime -- understanding that it's easier these days to empty and mow down a building. But tenant lawyers like Rozenholc also have some leverage here as they gum up developers' timetables with litigation. They know that in this market, the landlords might pay top dollar for them to go away.

In less sexy locations than the Cottages, RFR Holding typically forks over between $80,000 and $150,000 to buy out a rent-stabilized tenant and up to $200,000 to buy out a rent-controlled tenant. "Look, this is a booming community," Rosen says. "In a couple of years, will there be a market to build? Who knows? So you do what you can now. You've got to move fast. And in these buildings, for someone who's one of the last leftovers, it can be a really great deal."

Of course, these standoffs tend to drag on. Herbert Bronstein, a retired museum administrator who lived in a rent-controlled $150-a-month one-bedroom tenement in Murray Hill, was bought out by his landlord five years ago for $200,000. It took six years in court for his lawyer, Kent Karlsson, to drive up the landlord's buyout price from an initial offer of $50,000. Bronstein is still amazed by the wait. "I turned to Kent once and said, 'It's like *Jarndyce* v. *Jarndyce* in *Bleak House,* where both sides are fighting forever,' " he says. "Kent said, 'Exactly. Nothing's changed,' and then he joked, 'And thank God for it!' "

By the time the landlord paid Bronstein and two other holdout tenants to leave, thirteen others (many of whom were also represented by Karlsson) had moved out for less money. "There were some immediate buyouts," Bronstein remembers. "The landlord tried to settle with me directly and cut the lawyer out. I said no, but the landlord did do that with one person -- and Kent took him to court and got his fee."

With his buyout, Bronstein could afford to buy a thirty-fourth-floor one-bedroom apartment on the Upper East Side. "I have a beautiful, unobstructed view," he says. And for a two-bedroom Murray Hill rental on the site of Bronstein's old building, the same landlord is now charging $3,500 a month.

To get tenants to clear out without holding up construction deadlines or going to court, developers have taken to retaining third parties to help deregulate buildings as quickly and quietly as possible. Arthur Zabarkes, a former director of New York University's Real Estate Institute, has created a sort of sideline to his development-consulting practice, hiring himself out as a middleman to help broker these building turnovers. "I jokingly introduce myself to people as someone who evicts people for a living," he says.

It's a job that takes some detective work. Before making anyone an offer to leave, Zabarkes culls information on tenants' ages, salaries, and living situations. To ferret out the rent-regulation cheats -- the illegal subletters, non-primary residents, and other breakers of arcane renters' rules -- he'll check the phone company's reverse directory to see if the people with phone lines in the building match the names on the lease. He'll talk to the doorman or super to see if they've noticed the absence of certain tenants around the building lately. He'll hire private investigators to check each tenant's credit reports -- to see how they're spending their money and where. Typically, he says, as much as 30 percent of any given regulated building contains people who can be evicted legally.

His next step is to pump the building's super for gossip, trying to gauge who might accept an overture for a buyout. "Am I dealing with a cranky 80-year-old, or am I dealing with a sweet 24-year-old who's lucky to have the apartment?" he says. "I divide people into categories: Those I think are most likely to leave would be the younger ones and the ones paying the highest rent." The overall goal, he insists, is to keep tenants whistling even after showing them the door. "I virtually become one of their relatives -- I want them to be happy in their new apartments. I have people who call me and say, 'Gee, the oven's burner doesn't seem to work.' I have a tool kit, my Milwaukee half-inch power drill, and lots of drill bits and plaster -- because I would fix apartments for people who didn't have a clue about fixing their own things. Sometimes my wife wonders if I don't have a new family."

James Austrian, another turnover artist, has spent more than two decades specializing in clearing vast swaths of real estate with buyouts; his greatest hits include the midtown sites of the IBM corporate headquarters and Philip Johnson's AT&T tower (now the Sony Building). To pull it off -- to get a tenant to settle without a fight -- he's become something of a hybrid salesman-broker-Santa Claus. He'll offer to move you to a neighboring market-rate building, where his client would gladly bankroll an annuity to cover the difference in rent. He'll give you the down payment on a new home. If you're skittish about plunging into the city's insane housing market, he'll scout places himself, sending you photos or videos of prospective apartments. Will he pay your moving costs? Of course.

And if it turns out that what you really want to do is to leave town, he's your man. Austrian has been known to fly tenants to Florida for a week, direct them to the front door of a brand-new condo, and announce that if they agree to settle, he'll put a new Chevy in the driveway. It's a bit of a Bob Barker moment, and few people say no.

"Someone once told me they had family in Trinidad and couldn't get them visas," Austrian says. "Well, I have no authority over this, but I know people who are lawyers and people in government. So I made it happen. To the tenant, it was priceless."

A good chunk of today's buyouts can be chalked up to Sherwin Belkin -- a landlord attorney who untangles rent-regulation issues for the Milsteins, the Rudins, Harry Macklowe, and Trump. A tall, soft-spoken lawyer who publishes a newsletter with tips for landlords looking to take every advantage of the rent-regulation rules, Belkin figures that his firm single-handedly evacuated 500 apartments in 1998. He expects the same kill rate in 1999. "In my experience," he says, "it's the very rare tenant who has no price."

This spring, after almost two years of wrangling, Belkin paid to move the last tenant out of a twelve-unit building in the East Fifties. The final buyouts were six figures per tenant. "Had they fought me and had I won," he says, "I still would have had to pay each of these people $60,000" -- following the formula set by the law governing the demolition of rent-regulated buildings. "I paid more. Why did I do that? The hearing could have taken months, and then more months for a decision. The appeal could take a year or more. Tenants could then appeal it to State Supreme Court." Unwilling to watch the boom blow by, Belkin's client ponied up.

The mammoth Cottages settlement -- now something of a Holy Grail for tenant lawyers -- is just an inflated version of the same story: Itching to break ground, a developer was willing to pay a bundle for the ability to build right away. In situations like this one, Rozenholc bases his bargaining not on what the apartments are worth but on what the developer has to lose. "Let's assume a landlord is sitting there losing value on a $10 million investment that he's doing nothing with," Rozenholc says. "He's losing a potential revenue return of, say, 9 percent on that $10 million, or $900,000. In addition, he's paying to maintain the existing building and insure it, so he's losing about a million a year. Then I calculate what it costs the landlord to keep the tenants there for five years -- $5 million. In addition, he's missing out on the stock-market and the development boom. If there's a 50-50 chance I'll win, then I make a decision -- I weigh what my clients are giving up, and I weigh what I'm giving him."

Divide $5 million among five tenants, and you get a million dollars apiece. Rozenholc got each of the Cottages tenants more than that -- minus his one-third commission. Good deal, right?

Tell that to Leslie Youngblood, the 79-year-old retired Navy commander who gave up his Cottages apartment in return for a check and a "comparable" rental apartment. He now lives in a sixth-floor one-bedroom on York Avenue. Instead of a vast garden, he has a view of Sotheby's.

"I despised those bastards and still do," Youngblood says of RFR. "I want nothing to do with them. I mean, what the hell -- I had 625 square feet at the Cottages, and with the garden outside, I had another 200 square feet. In good weather with the door open, I could have 50 people in there. They gave me this mealy-mouthed promise: 'We're going to do everything we can to get you a comparable apartment.' I said, 'What do you mean? There's no such thing as this kind of garden apartment in New York City anymore!' "

For almost two decades, the Jack Parker Corporation has all but ignored the hundreds of rent-stabilized apartments in its inventory. They were leftovers from the family-owned real-estate company's lucrative co-op conversions -- anybody who didn't want to buy back in the late seventies and early eighties was allowed to stay and keep renting. About 400 of these rentals are in prime Manhattan neighborhoods. But last year, the company tried an experiment: Vice-president Robert Skolnick picked five tenants at random and sent them an innocuous letter about "exploring any options available" regarding their units. "Some of the rents we receive don't even cover the maintenance we pay to the co-op board," Skolnick says. "Any prudent owner would want to stop the bleeding."

Four of the tenants turned down buyout offers right away. But one elderly couple in a two-bedroom, two-bathroom apartment on the Upper East Side took the bait. After months of negotiations, they moved out of town in March, with Jack Parker picking up the tab. Skolnick won't divulge the amount of the buyout, but it stopped the hemorrhage: The couple's rent-regulated existence was losing the company $700 a month (or $8,400 a year) on maintenance and taxes -- not even counting the potential market-rate-rental income.

Skolnick wasted no time sending letters to all his tenants. So far, three more have accepted buyouts. "This is a win-win situation," he adds.

It's a familiar formula to Kevin Singleton, general manager of Rockrose Development, whose 1,000 or so rent-regulated apartments make up about a quarter of its inventory. "We regularly talk to our regulated tenants about the possibilities of a buyout," he says. Between moving costs and other services, he estimates, tenants get between $20,000 and $50,000 to walk away.

In non-demolition situations, Aby Rosen also pays up to $50,000 to reclaim an apartment in RFR's inventory of 1,000 or so rent-regulated units. "We also pay relocation costs and moving expenses," he says. "With older people, we sometimes help move them into an old-age home."

The New York State Tenants & Neighbors Coalition surmises that a few thousand rent-regulated apartments are deregulated each year. How many of these spring from buyouts? Since neither tenants nor landlords benefit from publicizing settlements, the terms -- even their existence -- often remain private. "I don't do these deals without confidentiality agreements," says Robert Goldstein of Borah Goldstein Altschuler & Schwartz, one of the city's biggest landlord firms. "You don't want the tenant telling other tenants how much you gave -- whether it's high *or* low."

Which means, quite possibly, that once rent regulation gives up the ghost in Manhattan, none of us will hear about it.

The application to tear down 823 Park has languished in the halls of the state Division of Housing and Community Renewal (DHCR) for five years now. David Rozenholc has contested it from several different angles, forcing the developer to make many of his business records public. In May, a dozen of the tenants had the pleasure of watching Robert Manocherian squirm under cross-examination -- as their lawyer all but accused him of falsifying documents to conceal his uncle Fred's involvement in the project. (Rozenholc still isn't really sure why Robert wanted to shield Fred this way.)

When your boiler is, at best, unreliable and your lawyer charges $300 an hour, a squirming landlord is only a modest consolation. In the past five years, tenants have been denied roof access and basement storage space; the aging lobby, just steps from East 75th Street, has grown shabbier. The façade's bricks are crumbling, leaving steel beams exposed to the rain. Mercia Bross, 71, has lived for 30 years at 823 Park with her husband, who is now fighting cancer. As the fight drags on, she's started thinking about the cost of a new apartment. "I'm worried," she says, "because prices are going through the ceiling."

"This is a kind of Homeric saga," says tenant-association co-chair David Redden. "My next-door neighbor is well into her nineties. She's lived here since the forties. This is not a game."

Rozenholc has not yet advised his clients to take money to leave. But if his track record counts for anything, down the road he could make these tenants very, very rich. "People think we're ripping off the capitalists?" he barks. "The truth is, we're not ripping them off enough."
