

20-3366

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

COMMUNITY HOUSING IMPROVEMENT PROGRAM, RENT STABILIZATION ASSOCIATION OF
N.Y.C., INC., CONSTANCE NUGENT-MILLER, MYCAK ASSOCIATES LLC, VERMYCK LLC,
M&G MYCAK LLC, CINDY REALTY LLC, DANIELLE REALTY LLC, FOREST REALTY LLC,
Plaintiffs-Appellants,

v.

CITY OF NEW YORK, RENT GUIDELINES BOARD, DAVID REISS, CECILIA JOZA, ALEX
SCHWARZ, GERMAN TEJEDA, MAY YU, PATTI STONE, J. SCOTT WALSH, LEAH
GOODRIDGE, SHEILA GARCIA, RUTHANNE VISNAUSKAS,
Defendants-Appellees,

N.Y. TENANTS AND NEIGHBORS, COMMUNITY VOICES HEARD, COALITION FOR THE
HOMELESS,
Intervenors.

On Appeal from the United States District Court for the Eastern District of New York,
No. 1:19-cv-4087 Before the Honorable Eric R. Komitee

BRIEF FOR HOUSING LAW AND POLICY SCHOLARS AS AMICI CURIAE IN SUPPORT OF DEFENDANTS-APPELLEES AND AFFIRMANCE

AARON THOMPSON*
WILMER CUTLER PICKERING
HALE AND DORR LLP
350 S. Grand Ave, Suite 2400
Los Angeles, CA 90071
(213) 443-5300
*admission to be filed

ALAN SCHOENFELD
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street,
New York, NY 10021
(212) 230-8800

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, amici curiae state that no party to this brief is a publicly held corporation, issues stock, or has a parent corporation.

STATEMENT OF COMPLIANCE WITH RULE 29(A)(2)

Pursuant to Rule 29(a)(2) of the Federal Rules of Appellate Procedure, amici curiae state that all parties to this appeal have consented to the filing of this brief.

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Braschi v. Stahl Associates Co.,
74 N.Y.2d 201 (1989).....3

*Federal Home Loan Mortgage Corp. v. New York State Division of
Housing & Community Renewal*,
87 N.Y.2d 325 (1995).....3

Lingle v. Chevron U.S.A. Inc.,
544 U.S. 528 (2005).....25

Manocherian v. Lenox Hill Hospital,
84 N.Y.2d 385 (1994).....3

Pennell v. City of San Jose,
485 U.S. 1 (1988).....25

Resolution Trust Corp. v. Diamond,
45 F.3d 665 (2d Cir. 1995)3

Rosario v. Diagonal Realty, LLC,
803 N.Y.S.2d 343 (2007).....3

Tribeca M. Corp. v. Haller,
2003 WL 22174420 (N.Y. Civ. Ct. Aug. 22, 2003).....3

OTHER AUTHORITIES

Ault, Richard W. et al., *The Effect of Long-Term Rent Control on
Tenant Mobility*, 35 J. Urb. Econ. 140 (1994).....8

Bartlett, Sheridan, *The Significance of Relocation for Chronically
Poor Families in the USA*, 9 Env’t & Urbanization 121 (1997)13, 14

Barton, Stephen E., *The Success and Failure of Strong Rent Control in the City of Berkeley, 1978 to 1995*, in Rent Control 88 (W. Dennis Keating et al., eds., 1998)10

Bogges, Lyndsay N. & John R. Hipp, *Violent Crime, Residential Instability and Mobility: Does the Relationship Differ in Minority Neighborhoods?*, 26 J. Quantitative Criminology 351 (2010)23

Brennan, Maya, Washington, D.C.: The Center for Housing Policy, *The Impacts of Affordable Housing on Education: A Research Summary* (2011)16, 18

Bures, Regina M., *Childhood Residential Stability and Health at Midlife*, 93 Am. J. Pub. Health 1144 (2003).....13, 15

Diamond, Rebecca et al., *The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco*, 109 Am. Econ. Rev. 3365 (2019)9, 10

Frazier, Irene J., *Relationships of Pupil Mobility to Reading Achievement and Intelligence Test Results of Educationally Disadvantaged Children*, 31 Dissertation Abstracts Int’l 1508 (1970)16

Freeman, Lance & Frank Braconi, *Gentrification and Displacement: New York City in the 1990s*, 70 J. Am. Plan. Ass’n 39 (2004).....8, 9

Gilderbloom, John & Lin Ye, *Thirty Years of Rent Control: A Survey of New Jersey Cities*, 29 J. Urb. Affs. 207 (2007)11

Gilman, S. E. et al., *Socio-Economic Status, Family Disruption and Residential Stability in Childhood: Relation to Onset, Recurrence and Remission of Major Depression*, 33 Psych. Med. 1341 (2003).....15

Goetz, Edward G. et al., *Minneapolis Rent Stabilization Study* (2021)25

Guzman, Carolina & Rajiv Bhatia, *Anticipated Effects of Residential Displacement on Health: Results from Qualitative Research 1* (2005)12, 14

Gyourko, Joseph & Peter Linneman, *Equity and Efficiency Aspects of Rent Control: An Empirical Study of New York City*, 26 J. Urb. Econ. 54 (1989).....9, 12

Harkness, Joseph & Sandra J. Newman, *Housing Affordability and Children’s Well-Being: Evidence from the National Survey of America’s Families*, 16 *Hous. Pol’y Debate* 223 (2005).....13

Heskin, Allan D. et al., *The Effects of Vacancy Control: A Spatial Analysis of Four California Cities*, 66 *J. Am. Plan. Ass’n* 162 (2000).....10, 11

Kasarda, John D. & Morris Janowitz, *Community Attachment in Mass Society*, 39 *Am. Socio. Rev.* 328 (1974).....19

Kerbow, David, *Patterns of Urban Student Mobility and Local School Reform* 20 (1996)16, 18

Levine, Ned et al., *Who Benefits from Rent Control? Effects on Tenants in Santa Monica, California*, 56 *J. Am. Plan. Ass’n* 140 (1990).....10

Newman, Kathe & Elvin K. Wyly, *The Right to Stay Put, Revisited: Gentrification and Resistance to Displacement in New York City*, 43 *Urb. Stud.* 23 (2006)6, 7, 9, 21

Oishi, Shigehiro et al., *The Socioecological Model of Procommunity Action: The Benefits of Residential Stability*, 93 *J. Personality & Soc. Psych.*, 831 (2007)20

Pastor, Manuel et al., *USC Dornsife Program for Environmental and Regional Equity, Rent Matters: What are the Impacts of Rent Stabilization Measures?* (2018)24, 25

Reynolds, Arthur J. et al., *School Mobility and Education Success: A Research Synthesis and Evidence on Prevention* 22 (2009)17

Sampson, Robert J. & W. Byron Groves, *Community Structure and Crime: Testing Social-Disorganization Theory*, 94 *Am. J. Socio.* 774 (1989).....23

Sampson, Robert J. et al., *Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy*, 277 *Sci.* 918 (1997).....21

Sampson, Robert J., *Collective Regulation of Adolescent Misbehavior: Validation Results from Eighty Chicago Neighborhoods*, 12 *J. Adolescent Rsch.* 227 (1997).....19, 22

Sampson, Robert J., *Linking the Micro- and Macrolevel Dimensions of Community Social Organization*, 70 Soc. Forces 43 (1991).....21, 22

Sampson, Robert J., *Local Friendship Ties and Community Attachment in Mass Society: A Multilevel Systemic Model*, 53 Am. Socio. Rev. 766 (1988)19

Sandlin, Ruth Ann, *Residential Mobility: Differential Effects of Mediating Variables on Ninth Graders’ School Adjustment*, 49 Dissertation Abstracts Int’l 2161 (1989)16

Scanlon, Edward & Kevin Devine, *Residential Mobility and Youth Well-Being: Research, Policy, and Practice Issues*, 28 J. Socio. & Soc. Welfare 119 (2001).....*passim*

Schieman, Scott, *Residential Stability and the Social Impact of Neighborhood Disadvantage: A Study of Gender- and Race-Contingent Effects*, 83 Soc. Forces, 1031 (2005)19

Simpson, Gloria A. & Mary Glenn Fowler, *Geographic Mobility and Children’s Emotional/Behavioral Adjustment and School Functioning*, 93 Pediatrics 303 (1994)17

Sims, David P., *Out of Control: What Can We Learn from the End of Massachusetts Rent Control?*, 61 J. Urb. Econ. 129 (2007)10, 11, 12

Temple, Judy A. & Arthur J. Reynolds, *School Mobility and Achievement: Longitudinal Findings from an Urban Cohort*, 37 J. School Psych. 355 (1999)16

Tucker, C. Jack et al., *“Moving On”: Residential Mobility and Children’s School Lives*, 71 Soc. Educ. 111 (1998).....16

Voight, Adam et al., *The Longitudinal Effects of Residential Mobility on the Academic Achievement of Urban Elementary and Middle School Students*, 41 Educ. Researcher 385 (2012)17

Weich, Scott & Glyn Lewis, *Poverty, Unemployment, and Common Mental Disorders: Population Based Cohort Study*, 317 British Med. J. 115 (1998).....14

Wood, David et al., *Impact of Family Relocation on Children's Growth, Development, School Function, and Behavior*, 270 J. Am. Med. Ass'n 1334 (1993)17

Wyly, Elvin et al., *Displacing New York*, 42 Env't & Plan. A 2602 (2010).....6, 7, 8

INTEREST OF AMICI CURIAE¹

Amici curiae are housing law and policy scholars who have written, researched, and extensively studied the effects of rent regulation, including rent stabilization and rent control. Amici are professionally committed to fair and equitable housing law and the better understanding of the effects of and justifications for rent regulations. Through their collective experience, amici have substantial knowledge of the effect of rent regulation in a variety of communities nationwide, including in New York City.²

The following housing law and policy scholars have approved this brief:

Hilary Botein
Associate Professor, School of Public Affairs
Baruch College, City of New York

Karen Chapple
Professor and Chair, City and Regional Planning; Carmel P. Friesen Chair in
Urban Studies
University of California, Berkeley

Lance Freeman
Professor, Urban Planning
Columbia University

¹ Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), amici affirm that no party or counsel for a party authored this brief in whole or in part and that no person other than these amici or their counsel has made any monetary contributions intended to fund the preparation or submission of this brief.

² Institutional affiliations are provided for identification purposes only.

Edward G. Goetz
Professor, Urban and Regional Planning
University of Minnesota

Kimberley Johnson
Professor, Social and Cultural Analysis
New York University

Thomas J. Sugrue
Julius Silver Professor, Social and Cultural Analysis and History
New York University

Elvin Wyly
Professor, Geography
University of British Columbia

Sharon Zukin
Professor Emerita, Sociology
City University of New York

INTRODUCTION AND SUMMARY OF ARGUMENT

The district court held that the Rent Stabilization Law (RSL) challenged in this lawsuit is rationally related to the legitimate government objective of achieving housing stability. Amici—housing law and policy scholars—submit this brief to explain why the academic scholarship supports that conclusion.

First, five decades of robust academic attention confirm that the RSL rationally and effectively advances the aim that New York courts have ascribed to it since the New York State Legislature enacted it over five decades ago: “to ameliorate the dislocations and risk of widespread lack of suitable dwellings.” *Manocherian v. Lenox Hill Hosp.*, 84 N.Y.2d 385, 395 (1994); *see also Braschi v. Stahl Assocs. Co.*, 74 N.Y.2d 201, 212 (1989) (describing the goals of rent control as “preventing dislocation and preserving family units”).³

Second, the academic literature confirms that *even with* the RSL and its benefits to housing stability, renters in New York City remain plagued by involuntary dislocation. Thus, there is no doubt that housing instability has not

³ *See also Federal Home Loan Mortg. Corp. v. N.Y.S. Div. of Hous. & Community Renewal*, 87 N.Y.2d 325, 332 (1995); *Resol. Tr. Corp. v. Diamond*, 45 F.3d 665, 676 (2d Cir. 1995) (quoting *Manocherian*, 84 N.Y.2d at 395); *390 W. End Assocs. v. Harel*, 744 N.Y.S.2d 412, 416 (2002) (citing *Manocherian*, 84 N.Y.2d at 395); *Rosario v. Diagonal Realty, LLC*, 803 N.Y.S.2d 343, 354 (2007) (same); *Tribeca M. Corp. v. Haller*, 2003 WL 22174420, at *5 (N.Y. Civ. Ct. Aug. 22, 2003) (noting that the Legislature does not favor dislocation and citing *Manocherian*).

only been a problem in the past, but also that it would grow worse in the future if the RSL did not exist.

Third, academic research shows that combating involuntary dislocation with rent regulation creates housing stability that then creates a host of positive effects for renters, other individuals in the community, the community as a whole, and even landlords. Renters (and particularly poor renters) experience widespread displacement from housing shortages and rising prices. The RSL seeks to address involuntary dislocation by helping renters stay in their homes longer. When renters stay in their homes longer, it helps them be more physically and psychologically healthy, and helps their children obtain greater educational achievement. In addition, renters with stable housing are more likely to be supportive of their communities, and have more and stronger ties to other community residents. Housing stability is also linked to lower violent crime, because of the stronger social cohesion that results. Conversely, housing instability has been linked to higher violent crime in some cases. The government has a legitimate state interest in deploying the RSL to promote the benefits of housing stability.

Fourth, contrary to what Plaintiffs and their amici argue, the economic literature is far from settled about whether the RSL depresses the housing market, and nothing in the literature challenges the fact that the RSL achieves the different

legislative aim of promoting housing stability. Accordingly, even if the Court were to assume the truth of Plaintiffs' allegations that the RSL depresses the housing market, Plaintiffs' complaint nonetheless could not have survived Defendants' motion to dismiss because the RSL's effect on the housing market would not vitiate the rational basis for the government's action (*i.e.* promoting housing stability). The Legislature is best suited to weigh competing interests, including about the existence or magnitude of other policy effects of rent stabilization laws.

Because this rent stabilization law is rationally related to the legitimate government objective of achieving housing stability, the Court should affirm the district court's judgment.

ARGUMENT

I. INVOLUNTARY DISLOCATION IS A PERVASIVE PROBLEM IN NEW YORK

Over the past several decades, academics have studied how the New York City housing market (especially gentrification) involuntarily displaces renters. These studies confirm that renters of every type (young, old, poor, affluent) suffer from extensive involuntary displacement, that regulations intended to protect them (like public housing, rent control, and rent stabilization) are helping to reduce the problem, but that those regulations do not cover a sufficient portion of New York City's rental stock to fully ameliorate the problem.

Several seminal papers confirm that renters are involuntarily displaced in substantial numbers in New York City. From 1989 to 2002, for instance, about 6% to 10% of renters in New York City were involuntarily displaced. Those figures were revealed in a quantitative and qualitative analysis published by Kathe Newman and Elvin Wyly in 2006. *See Newman & Wyly, The Right to Stay Put, Revisited: Gentrification and Resistance to Displacement in New York City*, 43 *Urb. Stud.* 23, 51 (2006). When that analysis was updated less than five years later, it revealed that the percentage of involuntarily displaced renters exceeded 10% in 2002, exceeded 13% in 2005, and exceeded 12% in 2008. *See Wyly et al., Displacing New York*, 42 *Env't & Plan. A* 2602, 2608 tbl. 1 (2010).⁴

Involuntary displacement affected poorer households even more dramatically. In 2002, 2005, and 2008, at least 15% of renters in poverty who moved had been involuntarily displaced. *See Wyly et al., supra*, at 2608 tbl. 2. Poverty, householder age, and income-adjusted rent burden statistically reinforce one another to increase the likelihood that a renter would be involuntarily displaced. *Id.* at 2616.

⁴ Specifically, in 2002, 10.41% (45,190/337,835) renters were involuntarily displaced; in 2005, 13.26% (46,900/353,522) renters were involuntarily displaced; and in 2008, 12.37% (38,313/309,670) renters were involuntarily displaced. Wyly et al., *supra*, at 2608 tbl. 1.

Older poor people are at especially elevated risk. Studies confirm that “[d]isplacement disparities increase dramatically with householder age.” Wyly et al., *supra*, at 2616. In fact, “the median age for displaced renters was *a full decade* beyond that of” renters moving for any other reason. *Id.* (emphasis added) (the median age for involuntarily displaced poor renters was 46 versus 35 for renters moving for other reason). Specifically, researchers interviewing “residents and community leaders in 2003” found that “older women were consistently identified as being at heightened risk.” *Id.*

The figures demonstrate extensive involuntary displacement in New York City. Yet they likely underestimate the problem. These studies rely on the New York City Housing and Vacancy Survey (NYCHVS), a survey conducted by the U.S. Bureau of the Census approximately every three years.⁵ But this dataset fails to account for those who leave the city, fall into homelessness, or double-up with friends or relatives. Newman & Wyly, *supra*, at 29. The data also exclude evictions and other legal dispossessions. *Id.* If these figures were included, the

⁵ The NYCHVS samples approximately 18,000 housing units in New York City, and asks households a wide range of questions pertaining to demographic characteristics, employment, housing conditions, and mobility. Newman & Wyly, *supra*, at 29. In particular, the survey asks “residents who recently moved into the unit to choose the primary reason (from a list of more than 30 options) for their relocation.” *Id.* Newman & Wyly defined “involuntarily displaced” to mean forced to move due to “cost considerations; landlord harassment[; or] displacement by private action” other than eviction.” *Id.*

already consequential numbers of involuntary dislocations would be far higher than reported. *See* Wyly et al., *supra*, at 2620.

These high displacement figures exist *despite* the protections afforded by the RSL. But they prove that housing instability is a widespread systemic problem calling for legislative intervention.

II. RENT STABILIZATION LAWS BENEFIT INDIVIDUALS AND COMMUNITIES BY PROMOTING HOUSING STABILITY

A. Rent Stabilization Promotes Housing Stability

An extensive body of literature demonstrates that rent stabilization increases housing stability, both in New York City and elsewhere. In particular, New York City's RSL has significantly increased housing stability. Data from as early as 1968 show that the RSL explains 80% of the difference in tenure between rent-controlled and non-rent-controlled housing. *See* Ault et al., *The Effect of Long-Term Rent Control on Tenant Mobility*, 35 J. Urb. Econ. 140, 156 (1994). Data from the 1990s further confirm that rent regulation itself reduced housing mobility in both gentrifying and non-gentrifying areas alike. *See* Freeman & Braconi, *Gentrification and Displacement: New York City in the 1990s*, 70 J. Am. Plan. Ass'n 39, 50-51 (2004) (demonstrating "that rent regulation reduces housing turnover among disadvantaged renters"). That trend continued in the 2000s. *See* Wyly et al., *supra*, at 2614-2616. And in the 2000s, additional information—showing not only *to* where survey participants moved, but also *from* where they

moved—demonstrated that even during the housing market upheaval from 2005 to 2008, involuntary displacement was still less likely for residents of rent-stabilized units. *Id.* at 2616.

Poorer renters especially benefit from the RSL, although housing stability is good for everyone. In the 1990s, a full *fourteen out of fifteen*—over 93%— poor renters in gentrifying neighborhoods benefited from rental regulation. *See Newman & Wyly, supra*, at 41. About 40% of those poor renters benefited from the type of rent-stabilized housing at issue in this case. *Id.* at 43 tbl. 6. Later studies confirm that “rent regulation reduce[d] housing turnover among disadvantaged residents.” Freeman & Braconi, *supra*, at 50-51. So it is simply false that, in New York City, “rent control frequently benefits the wealthy while doing little to help the poor.” Brief for Amicus Curiae National Association of Realtors In Support of Plaintiffs-Appellants 24-25, ECF No. 107 (“Realtors Br.”).

And this well-proved phenomenon applies nationwide, not just in New York City. Studies of communities all over the country under all sorts of rent-stabilization schemes show the link between rent regulation and housing stability.⁶

⁶ *See, e.g.,* Diamond et al., *The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco*, 109 *Am. Econ. Rev.* 3365, 3381 (2019) (finding that without rent control, “a large share” of renters would have otherwise left San Francisco); Gyourko & Linneman, *Equity and Efficiency Aspects of Rent Control: An Empirical Study of New York City*, 26 *J. Urb. Econ.* 54, 71 (1989) (explaining how rent controls incentivize tenants to

California is a good, analogous example. Tenants in rent-controlled apartments in San Francisco are significantly more likely to be able to stay in their homes than tenants in non-controlled housing. Diamond et al., *supra*, at 3381 (finding rent-controlled tenants between 2.62% to 8.42% more likely to remain in San Francisco). Santa Monica’s rent control program increased the tenure of renters by two and a half years. Levine et al., *supra*, at 142 (finding a 2.3 year tenure increase eight years after program’s adoption). Ten years after Berkeley introduced rent control, the percentage of tenants in their homes for over six years jumped from 20% to 33%. See Barton, *The Success and Failure of Strong Rent Control in the City of Berkeley, 1978 to 1995*, in *Rent Control* 88, 96 (Keating et al., eds., 1998). Meanwhile, the number of tenants who had been in their apartments less than fifteen months fell from 44% to 31%. *Id.* In general, California cities with vacancy control—under which rent cannot change between tenants—had 10.1% less renter turnover between 1985 and 1990 than cities

stay in their homes in the long term, with an “increasing level of benefits” over time); Heskin et al., *The Effects of Vacancy Control: A Spatial Analysis of Four California Cities*, 66 J. Am. Plan. Ass’n 162, 167 (2000) (finding a “significant” difference in the reduction of renters who moved over the five years prior to the study between renters in vacancy-controlled and non-vacancy-controlled apartments); Levine et al., *Who Benefits from Rent Control? Effects on Tenants in Santa Monica, California*, 56 J. Am. Plan. Ass’n 140, 142 (1990) (“Length of tenure has increased, while lower-income tenants and the elderly have benefited most.”); Sims, *Out of Control: What Can We Learn from the End of Massachusetts Rent Control?*, 61 J. Urb. Econ. 129, 144-145 (2007).

without control. Heskin et al., *supra*, at 170. In contrast, when Massachusetts eliminated rent control in the 1990s, average renter tenure decreased by nearly two years, a 30% reduction from the mean. Sims, *supra*, at 45. Experiences with rent-stabilization laws nationwide therefore parallel New York City's beneficial experience with the RSL.⁷

Ultimately, there can be no real dispute that rent stabilization laws promote housing stability, and it appears that there is none. Plaintiffs concede it. *See* JA73 (Compl.) ¶¶ 142, 144 (“[T]enants fortunate enough to obtain rent-stabilized units stay in them Longer tenancy duration among regulated renters is plainly illustrated in the City’s 2017 HVS data.”); Brief And Special Appendix For Plaintiffs-Appellants 64-65, ECF No. 75 (“Pls. Br.”); Brief of the National Association of Home Builders as Amicus Curiae In Support of Plaintiffs-Appellants 11, ECF No. 93 (“Home Builders Br.”); Realtors Br. 23-24 (never disputing that rent stabilization helps tenants stay in units they would otherwise be required to vacate). The National Association of Realtors amicus brief admits that “rent control in New York City tripled the expected duration of a tenant’s

⁷ Researchers have hypothesized that rent stabilization may increase housing by not only preventing excessive rent increases and arbitrary evictions, but also by giving transparency to renters about their future increases, allowing them to budget more effectively. Gilderbloom & Ye, *Thirty Years of Rent Control: A Survey of New Jersey Cities*, 29 J. Urb. Affs. 207, 216 (2007).

residence.” Realtors Br. 23. And Plaintiffs’ amici generally rely on economic literature that readily acknowledges that rent stabilization results in housing stability.⁸

B. Housing Stability Benefits Rent-Stabilized Individuals

At a minimum, individuals benefit from housing stability (and suffer from instability) economically, physically, psychologically, and educationally.

1. Housing stability benefits individuals economically

The economic impact of housing stability is clear; instability “can result in increased rents, displacement, and even homelessness.” Guzman & Bhatia, *Anticipated Effects of Residential Displacement on Health: Results from Qualitative Research* 1 (2005).

2. Housing stability benefits individuals’ physical health

Housing stability also benefits renters’ physical health. The economic injuries caused by residential displacement “can have indirect adverse effects on human health by causing poverty, loss of social support, and substandard living arrangements.” Guzman & Bhatia, *supra*, at 1.

⁸ See Home Builders Br. 16 (citing Gyourko & Linneman, *supra*, at 71 (finding that “the length of tenancy duration rises significantly with the renter’s rent control benefits”)); *id.* (citing Sims, *supra*, at 144-145 (explaining that rent deregulation (*i.e.* removing rent control) causes a sizable increase in the number of renters that move away)); Realtors Br. 20 (same).

Children feel these consequences most acutely. “[P]oor children who live in areas with more affordable housing fare better” and are “rated as being in better health by their parents.” Harkness & Newman, *Housing Affordability and Children’s Well-Being: Evidence from the National Survey of America’s Families*, 16 Hous. Pol’y Debate 223, 247 (2005). And the consequences of housing stability or instability in childhood ripple through adulthood—a 2003 paper found “a significant association between childhood stability and an individual’s self-perceived health at midlife,” and that “[r]esidential stability in childhood had a strong, significant, positive association with global health.” Bures, *Childhood Residential Stability and Health at Midlife*, 93 Am. J. Pub. Health 1144, 1147 (2003).

3. Housing stability improves individuals’ psychological health

Academic research consistently shows that renters without stable housing suffer from psychological instability and substantial stress at higher rates.⁹ The economic difficulty of housing instability is “strongly associated with both onset

⁹ Bartlett, *The Significance of Relocation for Chronically Poor Families in the USA*, 9 Env’t & Urbanization 121, 123 (1997) (citing Leff et al., *Environmental Factors Preceding the Onset of Severe Depressions*, 33 Psychiatry 293 (1970)) (“Leff and her colleagues, examining the life events preceding depressive illness, found that 45 per cent of depressive patients had moved in the preceding year. Of the 20 stressful events uncovered, relocation was among those most frequently experienced . . .”).

and maintenance of common mental disorders.” Weich & Lewis, *Poverty, Unemployment, and Common Mental Disorders: Population Based Cohort Study*, 317 *British Med. J.* 115, 118 (1998). Increased depression often follows moving homes. *See* Bartlett, *supra*, at 123. After a move, “there is more alcohol abuse, family violence, marital breakdown and more accidents and disease for both parents and children.” *Id.* (citing Sluzki, *Disruption and Reconstruction of Networks Following Migration/Relocation*, 10 *Fam. Sys. Med.* 359 (1992)) (“Sluzki, in a review of the literature, claims that personal stress and family conflict are unavoidably connected with relocation.”). These consequences “are not short-term but tend to be deeper and more enduring.” *Id.*

Relocation also causes “the breakdown of social networks.” Bartlett, *supra*, at 123. Oft-relocated individuals are more likely to lose former social connections and struggle to find “social support” in new neighborhoods. *Id.* They often have “little personal involvement in their new neighbourhoods and communities.” *Id.* Residential stability, on the other hand, helps build “social cohesion and social capital.” *See* Guzman & Bhatia, *supra*, at 4. Long-term tenants feel “a strong connection with the neighborhood,” build social networks, and “invest[] in their community.” *Id.*

And, as with physical consequences, the psychological consequences of housing instability hit children the hardest. “Extensively mobile children are more

likely to be psychiatrically hospitalized [and] more likely to initiate drug and alcohol use.” Scanlon & Devine, *Residential Mobility and Youth Well-Being: Research, Policy, and Practice Issues*, 28 J. Socio. & Soc. Welfare 119, 128 (2001). Mobile children have “[i]ncreased rates of depression and higher rates of suicidal behavior.” *Id.* (citations omitted).¹⁰ Indeed, there is “considerable evidence that risk for childhood depression increases in the years following family disruption and frequent moves.” Gilman, *supra*, at 1350. Frequent mobility can also harm children’s self-concept and self-esteem. *See* Scanlon & Devine, *supra*, at 128. Residential stability during childhood, on the other hand, helps to empower children to build strong social networks, during childhood and beyond. *See* Bures, *supra*, at 1144.¹¹

¹⁰ *See also* Gilman et al., *Socio-Economic Status, Family Disruption and Residential Stability in Childhood: Relation to Onset, Recurrence and Remission of Major Depression*, 33 Psych. Med. 1341, 1350 (2003) (“Our analyses revealed that low [socio-economic status], family disruption, and residential instability [*i.e.* housing instability] in childhood predict an increased risk of major depression.”).

¹¹ “Childhood social networks are developed and maintained through multiple dimensions of residential stability, including living in the same neighborhood throughout childhood and having a stable family environment. Residential stability may increase children’s community-based ‘social capital’—their connections to social and institutional networks—by giving them the opportunity to develop strong social and community ties. Strong social networks in childhood may carry over to adulthood, indirectly influencing an adult’s ability to establish supportive social networks.” Bures, *supra*, at 1144.

4. Housing stability correlates with greater educational achievement among children

Kids with stable housing do better in school. “On balance, the reviewed studies provide strong evidence that residential mobility negatively affects academic well-being.” Scanlon & Devine, *supra*, at 129. “Residential mobility reduces academic performance, increases the likelihood of grade retention, and reduces high school completion rates.” *Id.* “These effects worsen with cumulative moves, with ‘hyper-mobile’ students having the greatest academic impairment.” *Id.*¹² An “extensive body of research” demonstrates this “significant relationship between residential mobility and decreased academic performance.” *Id.* at 125.¹³

¹² See also Brennan, Washington, D.C.: The Center for Housing Policy, *The Impacts of Affordable Housing on Education: A Research Summary 1* (2011) (“Studies also confirm the negative impact of residential moves—especially frequent moves (sometimes known as hyper-mobility), moving during key educational time periods, and moves by non-intact families. Potential explanations for these negative consequences include disruptions in the children’s instruction caused by changing schools, excessive absenteeism related to the move, an inability to study quietly and without chaos during the move, stress caused by the move, disruption of peer networks (for older children), and interference with the development of close personal relationships (for younger children).”).

¹³ Frazier, *Relationships of Pupil Mobility to Reading Achievement and Intelligence Test Results of Educationally Disadvantaged Children*, 31 *Dissertation Abstracts Int’l* 1508-1509 (1970); Sandlin, *Residential Mobility: Differential Effects of Mediating Variables on Ninth Graders’ School Adjustment*, 49 *Dissertation Abstracts Int’l* 2161 (1989); Temple & Reynolds, *School Mobility and Achievement: Longitudinal Findings from an Urban Cohort*, 37 *J. School Psych.* 355-377 (1999); Tucker et al., “Moving On”: *Residential Mobility and Children’s School Lives*, 71 *Soc. Educ.* 111-129 (1998); see also Kerbow, *Patterns of Urban*

The harms to mobile children are concrete. Frequent mobility hurts test scores, grade point averages, and the “use of special education services.” Scanlon & Devine, *supra*, at 125 (collecting nine studies). Increased mobility also leads to “higher levels of grade retention,” which is correlated with failure to complete high school: “[C]hildren who move three or more times are more likely to repeat a grade than are more residentially stable children.” *Id.* at 126.¹⁴

Student Mobility and Local School Reform 20 (1996) (“As we follow the trajectories of students who move several times across their elementary school years, we find that their achievement growth is less than that of their stable counterparts. These differences increase as the number of school changes accumulates. Students experiencing numerous moves fall further behind their stable counterparts as their education progresses. The gap is approximately one full year of growth by the sixth year for those students who change schools four or more times.”); Reynolds et al., *School Mobility and Education Success: A Research Synthesis and Evidence on Prevention* 22 (2009) (“The meta-analysis and additional analyses do reveal that frequent school mobility for urban school children is consistently linked to lower school achievement and higher school dropout across a wide range of specifications. Inferences are strongest for the frequent movers.”).

¹⁴ Simpson & Fowler, *Geographic Mobility and Children’s Emotional/Behavioral Adjustment and School Functioning*, 93 *Pediatrics* 303-309 (1994); Wood et al., *Impact of Family Relocation on Children’s Growth, Development, School Function, and Behavior*, 270 *J. Am. Med. Ass’n* 1334-1338 (1993); see also Voight et al., *The Longitudinal Effects of Residential Mobility on the Academic Achievement of Urban Elementary and Middle School Students*, 41 *Educ. Researcher* 385, 386 (2012) (noting that “[t]here is evidence to suggest that residential moves are associated with failure to complete high school,” and citing a study finding that “residential mobility at all levels of schooling is associated with a lower probability of high school graduation”) (citing Haveman et al., *Childhood Events and Circumstances Influencing High School Completion*, 28 *Demography* 133-157 (1991)).

And those harms radiate out from the mobile children to their classmates, schools, and teachers. Constant turnover in classrooms forces teachers to “become more review-oriented in their lesson plans” rather than moving steadily forward; this is “disruptive to the flow of instruction for all students” and “decreases the instructional pace for all students in the class.” Kerbow, *supra*, at 22-23. By fifth grade, classes with many mobile students “actually have a level of emphasis equivalent to fourth grade emphasis in stable schools,” and “the mobile schools continue to lag behind their stable counterparts by approximately one grade level throughout [the upper] years.” *Id.* at 24-25. “[T]his ‘flattening’ of curricular pace limits the amount of material to which *all* students are exposed, not just mobile students.” *Id.* (emphasis added).¹⁵

C. Housing Stability Produces Community-Level Benefits

Housing stability benefits not just individuals, but communities. Communities with stable housing are more likely to benefit from the creation of common values between residents necessary for effective social control. *See generally* Sampson, *Great American City* 37 (2013). Residential stability

¹⁵ *See also* Brennan, *supra*, at 2 (“Hyper-mobility . . . poses problems for both the hyper-mobile students themselves and for those around them. In schools with high rates of student mobility, the detrimental impact of moving also affects teachers and stable classmates—perhaps because the hyper-mobile students require a disproportionate share of teacher attention and school resources.”).

motivates greater social integration and cohesion. *See* Schieman, *Residential Stability and the Social Impact of Neighborhood Disadvantage: A Study of Gender- and Race-Contingent Effects*, 83 Soc. Forces, 1031, 1034-1035 (2005).

Studies on criminal behavior and urban areas have “underscored residential stability as [a] critical neighborhood condition because of its impact on social organization.” Schieman, *supra*, at 1034. Neighborhood stability also helps control and prevent adolescent activity that could lead to crime. *See* Sampson, *Collective Regulation of Adolescent Misbehavior: Validation Results from Eighty Chicago Neighborhoods*, 12 J. Adolescent Rsch. 227, 229 (1997). For instance, Black communities in Chicago with the longest residencies “experienced decreasing delinquency rates.” Kasarda & Janowitz, *Community Attachment in Mass Society*, 39 Am. Socio. Rev. 328, 338 n.7 (1974).

Today, an established body of research “focuses on length of residence as the key exogenous factor that influences attitudes and behavior toward the community.” Sampson, *Local Friendship Ties and Community Attachment in Mass Society: A Multilevel Systemic Model*, 53 Am. Socio. Rev. 766, 767 (1988). This research shows that “residential mobility operates as a barrier to the development of extensive friendship and kinship bonds and widespread local associational ties,” because “assimilation of newcomers into the social fabric of local communities” takes time to accomplish. Kasarda & Janowitz, *supra*, at 330.

Thus, “length of residence is a central and crucial factor in the development of ... social bonds.” *Id.* at 338. Those attitudes and behaviors then create macro-level effects on the community as a whole. Sampson, *Systemic Model*, *supra*, at 767.

These macro-level effects can be divided into three categories: (1) residents’ support of their community and each other; (2) social integration and ties between residents; and (3) the reduction of violent crime, which benefits everyone.

1. Stable residents support their communities

People in stable housing take more pro-community action and participate more in neighborhood and community activities. “In every type of community involvement, individual-level length of residence significantly increases participation.” Sampson, *Systemic Model*, *supra*, at 775. Residential stability “fosters ... an identity as a community resident,” which leads to more “pro-community action”—actions that, in general, “are beneficial to the community at large as well as to other community residents.” Oishi et al., *The Socioecological Model of Procommunity Action: The Benefits of Residential Stability*, 93 *J. Personality & Soc. Psych.*, 831, 831-832 (2007). Similarly, housing stability is “a strong positive source of collective efficacy,” which is a measure of social cohesion and willingness to intervene “in support of neighborhood social control” and community norms. Sampson, *Great American City*, *supra*, at 127, 199;

Sampson et al., *Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy*, 277 *Sci.* 918, 921 (1997).

Resident displacement undermines these community-building trends. In New York City, gentrification can displace poor, working class, elderly, and immigrant populations who may have otherwise invested significantly in their communities. Newman & Wyly, *supra*, at 45. These individuals “are torn from rich local social networks of information and cooperation.” *Id.* at 51. And individuals who remain “may suffer as critical community networks and culture” disappear, divesting these communities of the “social capital” they need to thrive. *Id.* at 27.

2. Stable residents integrate socially

Stable communities promote social integration. When a community’s housing is stable overall, its social integration will be strong even if some individuals move away. Sampson, *Systemic Model*, *supra*, at 768 (describing “the role of community-level residential stability in promoting an individual’s social integration into the community”); Sampson, *Linking the Micro- and Macrolevel Dimensions of Community Social Organization*, 70 *Soc. Forces* 43, 45 (1991) (same). Community-level residential stability “directly increase[s] local friendships”; indeed, the “largest predictor of individual local friendships is the length of community residence.” Sampson, *Systemic Model*, *supra*, at 774. And

since “community residential stability has direct positive effects on local social ties,” those ties “in turn increase the level of community social cohesion.”

Sampson, *Dimensions of Community Social Organization*, *supra*, at 47. In other words, long-term residents are more likely to support each other and their communities as a whole. *See* Sampson, *Systemic Model*, *supra*, at 768; Sampson, *Dimensions of Community Social Organization*, *supra*, at 58.

3. Stability reduces violent crime, benefitting everyone

Residential stability correlates to reduced crime,¹⁶ for a few reasons. First, it predicts neighborhood social control. *See, e.g.*, Sampson, *Collective Regulation*, *supra*, at 238-239. That is, “the higher the level of residential stability, the higher the reported levels of collective social regulation.” *Id.* at 238. In turn, that type of community organization reduces the risk of crime. Sampson et al., *Neighborhoods and Violent Crime*, *supra*, at 921. Community organization also helps determine “the ability of a neighborhood to supervise and control adolescent peer groups—especially gangs.” Sampson, *Collective Regulation*, *supra*, at 229. Social control, driven by residential stability, therefore “emerge[s] as a significant inhibitor of adolescent misbehavior.” *Id.* at 241.

¹⁶ To the extent landlords actually reside in the communities in which they own and rent out property, this is a benefit for them too.

Second, residential stability has “direct positive effects on local friendship networks, which, in turn, reduce crime.” Sampson & Groves, *Community Structure and Crime: Testing Social-Disorganization Theory*, 94 Am. J. Socio. 774, 781 (1989). This effect exists even when controlling for factors like urbanization and socioeconomic status. *Id.* at 787. Indeed, residential stability is the strongest predictor of friendship and acquaintanceship density—“more than double that of any other variable.” *Id.* at 797. Those local friendship networks then reduce certain crimes (for example, burglary). *Id.* at 790.

In contrast, “residential instability leads to more violent crime over time.” Boggess & Hipp, *Violent Crime, Residential Instability and Mobility: Does the Relationship Differ in Minority Neighborhoods?*, 26 J. Quantitative Criminology 351, 367-368 (2010). A downward spiral can result: residential instability leads to higher crime, which increases instability by driving people from the unsafe community, causing more crime. *See id.* at 367.

III. THE RSL IS RATIONALLY RELATED TO THE LEGITIMATE GOVERNMENT INTEREST OF HOUSING STABILITY, AND PLAINTIFFS’ AMICI ARE WRONG TO ARGUE OTHERWISE

Housing instability is a proven problem, and rent stabilization laws like New York City’s RSL have been proven to lessen it. The RSL is therefore rationally related to a legitimate government objective, as the district court rightly concluded and as this Court should affirm.

Plaintiffs' amici argue otherwise, but they are wrong. In their briefs, the National Association of Home Builders ("Home Builders"), The Real Estate Board of New York, and National Association of Realtors argue that Plaintiffs plausibly alleged that the RSL has no rational basis based on a handful of alleged negative effects caused by the RSL, requiring the district court to deny the Defendants' motion to dismiss. *See* Home Builders Br. 12-13; Brief of Amicus Curiae The Real Estate Board of New York In Support of Plaintiffs-Appellants For Reversal 17, ECF No. 95 ("REBNY Br."); Realtors Br. 18. This is incorrect, for two reasons.

First, while the need for and benefits of laws like the RSL are well established, as described above, there is substantial dispute whether the RSL has *any* of the negative effects that Plaintiffs' amici identify. They claim that rent stabilization hurts new construction (*see* Home Builders Br. 25-27; Realtors Br. 19), but a comprehensive review of the literature regarding rent restrictions on new construction performed in October 2018 found that "[o]n balance, rent regulations do not impact new housing construction." Pastor et al., USC Dornsife Program for Environmental and Regional Equity, *Rent Matters: What are the Impacts of Rent Stabilization Measures?* 13-14 (2018) (citing several studies). This review also concluded that "there is not much evidence to support the notion that moderate rent stabilization impacts new construction." *Id.* A recent February 2021 summary of

additional literature agreed that “there is little empirical evidence to show that rent control policies negatively impact new construction.” Goetz et al., Minneapolis Rent Stabilization Study 36 (2021).

Plaintiffs’ amici also claim that rent stabilization depresses property values (see Home Builders Br. 28-29; REBNY Br. 13), but the academic literature does not support that conclusion, see Pastor et al., *supra*, at 13-14 (explaining that “[m]ore work needs to be done” to prove that property values are reduced by rent stabilization, particularly because certain studies did not control for variables like socioeconomic status or demographic characteristics of tenants).

Even if rent stabilization *might* reduce existing stock by inducing landlords to remove controlled units from the market, rent regulations can prevent that result by prohibiting conversion to ownership units, Pastor et al., *supra*, at 13, 15. In other words, even the supposed detriments of rent stabilization methods can be mitigated effectively—if they actually exist, which is up for debate.

Second, speculation about a law’s negative effects, even accepted as true, does not state a claim that the law lacks a rational basis altogether. Instead, the courts show great “deference to legislative judgments about the need for, and likely effectiveness of, regulatory actions.” *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 544-545 (2005); see also *Pennell v. City of San Jose*, 485 U.S. 1, 12-13 (1988) (describing and rejecting the contention from challengers to San Jose’s rent

regulations that the regulations were “arbitrary, discriminatory, or demonstrably irrelevant” because they affected landlords with hardship tenants differently than others, because the Court has “long recognized that a legitimate and rational goal of price or rate regulation is the protection of consumer welfare”). Even if rent stabilization has some negative effects, as Plaintiffs allege, it has widespread benefits to housing stability (described in detail above) that Plaintiffs and their amici do not and cannot dispute. Indeed, the Home Builders amicus concedes that the district court “properly hypothesized that promoting [housing stability] could be a legitimate government purpose.” Home Builders Br. 11. The unchallenged benefits of housing stability demonstrate that the rent stabilization law is rationally related to a legitimate government objective. If any negative effects do exist, determining whether they outweigh these benefits falls to the Legislature.

CONCLUSION

The judgment of the district court should be affirmed.

Respectfully submitted,

AARON THOMPSON*
WILMER CUTLER PICKERING
HALE AND DORR LLP
350 S. Grand Ave, Suite 2400
Los Angeles, CA 90071
(213) 443-5300

/s/ Alan Schoenfeld
ALAN SCHOENFELD
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street,
New York, NY 10021
(212) 230-8800

*admission to be filed

*Attorneys for Amici Curiae Housing
Law and Policy Scholars*

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), the undersigned hereby certifies that this brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) and 2d Cir. Local Rules 29.1(c) & 32.1(a)(4).

1. Exclusive of the exempted portions of the brief, as provided in Fed. R. App. P. 32(f), the brief contains 5,808 words.

2. The brief has been prepared in proportionally spaced typeface using Microsoft Word 2010 in 14 point Times New Roman font. As permitted by Fed. R. App. P. 32(g), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

/s/ Alan Schoenfeld

ALAN SCHOENFELD
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street,
New York, NY 10021
(212) 230-8800

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