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'Cool Homes for All' Legislation Causing Heated Discussions

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Extreme heat has increasingly become one of New York City's most significant public health concerns. In response, the New York City Council recently enacted the *Cool Homes for All* legislation (Local Law 23 of 2026), mandating that owners of covered residential buildings provide cooling capable of maintaining indoor temperatures at or below 78 degrees Fahrenheit during the "cooling season" (June 15 through September 15).

Unlike prior initiatives that incentivized voluntary installation of air-conditioning units or expanded access to cooling centers, the legislation transforms cooling from a tenant amenity into a mandatory building service, imposing affirmative obligations on landlords comparable in many aspects to the City's long-standing requirements governing heat and hot water (*see* NYC Admin. Code § 27-2028).

The law further directs the New York City Department of Housing Preservation and Development ("HPD") to promulgate implementing regulations governing installation standards, tenant notices, extension applications, and other aspects of compliance.

With enforcement beginning in 2030, landlords will be responsible not only for providing qualifying cooling equipment, but also for installing, maintaining, repairing, and replacing that equipment throughout its useful life. Failure to comply will constitute a Class C immediately hazardous violation under the Housing Maintenance Code.

Although critics and practitioners have focused much of the discussion surrounding the legislation on its public health objectives, they have devoted considerably less attention to the practical challenges associated with implementation.

The legislative record demonstrates that the Council repeatedly grappled with concerns involving electrical infrastructure, implementation costs, energy consumption, and the unique challenges presented by New York City's aging housing stock. Yet many of those concerns remain only partially addressed by the enacted legislation.

As owners begin preparing for the 2030 compliance deadline, several significant questions remain. Among them are whether owners of rent-regulated housing possess meaningful mechanisms to recover compliance costs; how the cooling mandate will interact with Local Law 97's greenhouse gas emissions limits; whether older multifamily buildings possess sufficient electrical infrastructure to support universal cooling; whether the city's electrical grid can accommodate increased demand; and why the legislation establishes a separate compliance framework for the New York City Housing Authority ("NYCHA"), the City's largest residential landlord.

While many of these questions will ultimately be answered through HPD rulemaking, agency guidance, or future litigation, the legislation itself, and the extensive legislative record preceding its enactment, provides important insight into how the City intends to balance these competing considerations.

Rent-Regulated Housing and the Cost of Compliance

Perhaps the most immediate question facing owners is not whether cooling must be provided, but how compliance costs may be recovered, particularly in rent-regulated housing.

Local Law 23 applies to rent-regulated apartments but conditions an owner's obligation on the tenant's consent to necessary improvements and associated costs, consistent with state law. To obtain that consent, owners must provide notice that installation of a cooling system may result in an increase to the regulated rent.

The legislation therefore contemplates that owners may recover some compliance costs, but leaves owners to rely on existing cost-recovery mechanisms rather than creating a new avenue for reimbursement.

Existing Division of Housing and Community Renewal ("DHCR") rules provide limited options for cost recovery for owners. In electrical-inclusion buildings, owners may collect authorized air-conditioner surcharges (*see* Fortieth Annual Update of Section B of Supplement No. 1 to Operational Bulletin 84-4). An owner-installed air conditioner may also qualify as an Individual Apartment Improvement ("IAI"), subject to tenant-consent and cost recovery limits (*see* DHCR Operational Bulletin 2024-2).

Under standard IAI rules, owners may recover up to $30,000 in eligible improvement costs, or up to $50,000 in qualifying vacant apartments, through monthly rent increases amortized over a specified period. These remedies, however, primarily address individual units, not the building-wide electrical work Local Law 23 may necessitate.

Many older buildings may need new electrical service, panels, risers, and feeders, apartment wiring, or centralized cooling systems before cooling can be provided safely and adequately. Such work may qualify as a Major Capital Improvement ("MCI"), as it confers a building-wide benefit. DHCR recognizes qualifying electrical rewiring and, in some cases, centralized cooling systems as eligible MCIs.

Qualifying MCI costs may be recovered through temporary rent increases calculated based on the approved cost, building size, and apartment room count, subject to the 2% annual cap and other applicable regulatory limitations.

Although Local Law 23 recognizes that compliance may require significant electrical upgrades and other "major capital improvements," it does not provide that such work automatically qualifies as a MCI under DHCR's separate regulatory framework. Rather, MCI eligibility remains subject to DHCR's existing requirements and depends on the nature, scope, and documentation of the work. Even when applicable, recovery remains subject to monetary limitations.

Police Power or the Next Regulatory Takings Debate?

New York courts have long recognized that housing maintenance requirements enacted pursuant to the City's police power, including those governing heat, hot water, lead paint remediation, and other minimum housing standards, constitute valid exercises of governmental authority to protect the public health, safety, and welfare (*see Health Dept. of City of New York v Rector of Trinity Church in City of New York*, 145 NY 32, 32 [1895]).

Likewise, courts have consistently held that increased compliance costs, diminished profitability, or a reduction in property value, standing alone, do not establish a compensable taking (*see Seawall Assoc. v City Of New York*, 74 NY2d 92 [1989]). Instead, regulatory takings claims are generally evaluated under the *Penn Central* balancing test (*Penn Central Transportation Co. v. New York City*, 438 US 104 [1978]).

Local Law 23 neither authorizes a physical occupation of private property nor deprives owners of economically beneficial use. Rather, like the City's longstanding heating requirements, it regulates the conditions under which residential housing may be operated in furtherance of legitimate public health objectives. Accordingly, a facial challenge to Local Law 23 would face substantial obstacles.

The cooling mandate, however, presents one notable distinction. Existing heating regulations generally require owners to maintain infrastructure already present in virtually every residential building. Compliance with Local Law 23, by contrast, may require owners to construct entirely new infrastructure.

Many pre-war residential buildings were constructed decades before air conditioning became commonplace and were never designed to support universal cooling. Compliance may therefore require significant infrastructure improvements before qualifying equipment can safely operate.

Those distinctions may become relevant under the economic impact prong of the *Penn Central* analysis. Although compliance costs alone generally do not establish a taking, Local Law 23 must be evaluated within the broader regulatory framework governing residential housing, including the Housing Stability and Tenant Protection Act of 2019 (“HSTPA”), Local Law 97’s emissions requirements, and other extensive housing regulations.

While no single requirement in the legislation may independently constitute a taking, owners may argue that the cumulative economic effect of these mandates is relevant to the constitutional analysis.

Whether those distinctions ultimately alter the outcome remains uncertain. Existing precedent strongly suggests that Local Law 23, by itself, is a valid exercise of the City’s police power. Nevertheless, because compliance may require substantial building-wide infrastructure improvements not implicated by the City’s longstanding heat and hot water requirements, future challenges may present factual circumstances that New York courts have not yet considered.

What About Reducing Emissions Pursuant to Local Law 97?

Local Law 97 requires most buildings exceeding 25,000 square feet to satisfy greenhouse gas emissions limits, with more stringent emissions caps taking effect in 2030, the same year the cooling mandate becomes fully effective.

Although Local Law 97 does not regulate electricity consumption directly, the additional energy required to provide mandatory cooling may affect a building’s emissions profile depending on the building’s energy sources and overall performance.

During committee hearings, multiple stakeholders questioned how owners could simultaneously provide mandatory cooling while reducing greenhouse gas emissions.

HPD acknowledged the importance of coordinating implementation with the City’s broader decarbonization initiatives, while engineering organizations and affordable housing representatives cautioned that increased cooling demand could complicate compliance, particularly in older buildings.

The Mayor’s Office of Management and Budget (“OMB”) likewise observed that widespread reliance upon window air conditioners may not advance Local Law 97’s long-term objectives and suggested that heat pumps and broader electrification strategies may ultimately prove more effective despite substantially higher upfront costs (*see New York City Council Committee on Housing and Buildings Hearing Transcript [Nov. 12, 2024]*).

The enacted legislation does not expressly reconcile these two regulatory schemes. Instead, it directs HPD to encourage energy-efficient cooling systems and authorizes extensions where compliance requires significant electrical upgrades or major capital improvements.

Accordingly, whether the City’s building and electrical infrastructure can support widespread residential cooling without undermining its broader climate objectives remains to be seen.

Can Building and Electrical Infrastructure Handle the Demand?

The legislation’s fixed indoor-temperature requirement also raises engineering concerns that received comparatively little attention during the legislative process. Residential cooling systems are generally sized according to local outdoor design temperatures and anticipated cooling loads.

During periods of extreme heat, such systems may be capable of maintaining indoor temperatures only approximately 15 to 20 degrees Fahrenheit below the outdoor temperature. Accordingly, when outdoor temperatures substantially exceed ordinary design conditions, maintaining an indoor temperature of 78 degrees may require larger or more efficient cooling systems, increased electrical capacity, and costly infrastructure upgrades—particularly in older multifamily buildings that were not designed to support universal air conditioning (*see* Air Conditioning Contractors of America ["ACCA"], *Manual J Residential Load Calculation* [8th ed.]; American Society of Heating, Refrigerating and Air-Conditioning Engineers ["ASHRAE"], *ASHRAE Handbook—Fundamentals* [2025]).

The challenge extends beyond the capacity of individual buildings. Committee testimony also examined whether New York City's electrical grid can support widespread residential cooling. The New York City Independent Budget Office ("IBO") observed that electricity demand already peaks during periods of extreme summer heat and expressed concern that mandatory cooling could place additional strain on the City's electrical infrastructure.

The IBO further noted that increased electricity demand may require greater reliance on "peaker plants"—older, fossil-fuel-powered generating stations that operate during periods of peak demand.

Because many of these facilities are located in densely populated urban neighborhoods, increased reliance on peaker plants raises environmental and public-health concerns that appear to conflict with the City's broader climate objectives (*see* New York City Council Committee on Housing and Buildings, *Hearing Transcript on Int. No*. 994-2024 [Nov. 12, 2024]). These concerns also intersect with Local Law 97.

For many owners, therefore, the challenge may extend well beyond installing cooling equipment. Older buildings may first require substantial electrical upgrades before they can safely accommodate the additional cooling load, while citywide implementation may require corresponding investments in the electrical grid.

Although Local Law 23 authorizes HPD to grant extensions where compliance requires significant electrical upgrades, whether the City's buildings and electrical infrastructure can support widespread residential cooling without undermining its broader climate objectives remains one of the legislation's most significant unanswered questions.

Does The Mandate Apply to the City's Largest Landlord?

Perhaps the legislation's most notable distinction is its treatment of NYCHA, the City's largest residential landlord. Local Law 23 exempts NYCHA from the universal cooling mandate imposed on private owners. Instead, NYCHA must develop a comprehensive cooling plan by January 2028, detailing how it will provide adequate cooling in at least 25 percent of its covered dwelling units by June 1, 2030, when enforcement begins (see NYCHA Sustainability Agenda, Strategy 1.3).

OMB's fiscal analysis provides important context for this distinction. The City projected substantial capital expenditures merely to achieve the initial 25 percent target and recognized that comprehensive retrofits involving heat pumps and electrical upgrades would require significantly greater investment (*see* OMB Fiscal Impact Statement for Proposed Intro. No. 994-A).

The City Council's decision to adopt a phased compliance framework likely reflects the operational and financial challenges associated with modernizing one of the nation's largest public housing portfolios (*see* New York City Mayor's Office of Management and Budget, *Fiscal Impact Statement: Proposed Int. No*. 994-A, at 1–2 [Dec. 15, 2025]).

NYCHA's phased framework nevertheless suggests that similarly situated private owners may warrant comparable flexibility where compliance is complicated by the same electrical, structural, and financial constraints. The *'Cool Homes for All'* legislation represents a significant expansion of residential landlords› maintenance obligations.

At the same time, the statute leaves unresolved practical questions concerning cost recovery, Local Law 97 compliance, electrical infrastructure, implementation in aging buildings, and the treatment of public housing. As HPD begins implementing regulations and owners begin planning for the 2030 compliance deadline, those questions may prove just as significant as the cooling mandate itself.

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