

## Touro College Jacob D. Fuchsberg Law Center

---

From the Selected Works of Michael E Lewyn

---

2019

### Market Urbanism blog posts - first half of 2019

Michael Lewyn



Available at: <https://works.bepress.com/lewyn/182/>

# New York State's Property Tax Cap

JANUARY 31, 2019 BY MICHAEL LEWYN

One reason for California's high housing costs might be Proposition 13. This law, passed by referendum in the 1970s, [may discourage](#) housing production in two significant ways.

First, under Proposition 13, all housing- even vacant land- is taxed at its original purchase price rather than its current value. By artificially capping taxes on vacant land, this part of Proposition 13 ensures that a landowner does not suffer as much from keeping land vacant as it would under another tax system.

Second, by reducing local property taxes, Proposition 13 forced municipalities to rely on other sources of revenue, such as sales taxes. Because retail shops bring in more sales tax revenue than residential uses, this law gave California towns an incentive to favor the former. \*

New York's Gov. Cuomo has recently proposed a tax cut that buys popularity for state lawmakers on the backs of municipalities. In 2011, the state [passed a law](#) to limit local governments' property tax increases to 2 percent or the rate of inflation, whichever is lower. This cap was originally temporary, but Cuomo now proposes to make it permanent. A bill implementing Cuomo's proposal was recently [passed by the State Senate](#), but has yet to be voted on by the State Assembly. Historically, the cap has not included high-cost New York City, but that may change. If the cap does include New York City, will it have the same results as Proposition 13?

Probably not, for two reasons. First, the tax cap, unlike Proposition 13, does not artificially favor property purchased long ago, and thus does not discourage people from selling their property. Second, New York State [has to consent](#) to sales tax increases, so municipalities don't have as much of an incentive as their California counterparts to favor land uses that bring in lots of retail revenue. On the other hand, new retail shops will increase sales tax revenue even if a town does not increase rates.

Having said that, I oppose property tax caps for a reason unrelated to housing costs. It seems to me that one level of government should not be buying votes with another's taxes. That is, if the state wants to cut taxes, it should do so in a way that cuts state spending, rather than mandating that a lower level of government cut taxes and spending. Otherwise, one level of government gets the credit for tax cuts and another gets the blame for service cuts- a way of doing things that takes advantages of voters' ignorance.

\*In addition, California relies heavily on impact fees on developers, which increase the cost of housing. But impact fees are less common in New York suburbs due to their [uncertain](#) status under New York law.

---

# Evidence that home-sharing doesn't raise rents

FEBRUARY 27, 2019 BY MICHAEL LEWYN

A common argument against Airbnb and similar home-sharing companies is that they raise rents, because every apartment used for short-term rentals could be used for long-term rentals. [A recent paper](#) by a Spanish Ph.D. candidate suggests otherwise.

The paper focused on Santa Monica, California where, in 2015, the city adopted an ordinance restricting home-sharing. This city's ordinance was successful in reducing Airbnb listings- especially listings of complete apartments, which cities are most likely to regulate (as opposed to spare rooms in a residence used by an Airbnb host).

If the anti-home sharing argument was valid, rents should have gone down. Instead, rents rose in Santa Monica by the same amount as they rose in other Los Angeles suburbs that do not regulate home-sharing to the same extent.

---

## Big Media Gets Big Buildings Wrong

FEBRUARY 28, 2019 BY MICHAEL LEWYN

While reading someone else's work, I recently ran across an article by David Cay Johnston of the New York Times, claiming that overseas oligarchs turning apartments all over the world into unused "ghost apartments". In [this article](#), Johnston writes: "In Paris, for instance, one apartment in four sits empty most of the time."

This claim struck me as so astonishing that as to be implausible, for the simple reason that in other "global" cities vacancy rates are much lower. For example, in New York only 9 percent of housing units are vacant, and most of those units are currently for sale or rent.\* Even this vacancy level should not be particularly astonishing, since cheaper American cities often have higher vacancy rates. For example, Houston has an 11 percent vacancy rate, and Atlanta has an 18 percent vacancy rate.

After googling "one in four paris apartments vacant" I found an article [claiming](#) that 26 percent of apartments in *four* Paris arrondissements (neighborhoods) is vacant- a **much** narrower claim, comparable to an assertion that one in four midtown Manhattan apartments is vacant. One would think that a journalist as distinguished as Johnston would know the difference between "Paris" and "some parts of Paris."

A [more recent](#) article claims that only 7.5 percent of Paris apartments are vacant- a lower vacancy rate than that of New York. Moreover, we don't know what the local media means by "vacant." Does this category limited to apartments that are unused 365 days a year? What about units that are rented out now and then through

Airbnb? Or units that are currently being advertised for rent or sale? I suspect that the true number of “ghost apartments” is far lower than 7.5 percent, since in London (another “global city”) [less than 1 percent of housing units](#) are entirely empty.

Why do I care about how many oligarchs own unused apartments in Paris? The “ghost apartment” claim is a common theme of NIMBY activists. Anti-housing commentators argue that new infill will always be bought by foreign oligarchs who will not actually use the apartments; as a result, new housing will never lower housing prices. Of course, this claim contradicts other NIMBY arguments (such as that new housing is terrible because it congests the highways and/or subways, or leads to gentrification by bringing nonpoor people into a poor area).

\*For detailed statistics, go to the Census American [Factfinder](#) site, and click the “Housing” box for New York City.

---

## A great new paper on how government fights walking

MARCH 7, 2019 BY MICHAEL LEWYN

Many readers of this blog know that government subsidizes driving- not just through road spending, but also through [land use regulations](#) that make walking and transit use inconvenient and dangerous. Gregory Shill, a professor at the University of Iowa College of Law, has written an excellent new paper that [goes even further](#).

Of course, Shill discusses anti-pedestrian regulations such as density limits and [minimum parking requirements](#). But he also discusses government practices that make automobile use far more dangerous and polluting than it has to be. For example, environmental regulations focus on tailpipe emissions, but ignore environmental harm caused by roadbuilding and the automobile manufacturing process. Vehicle safety regulations make cars safer, but American crashworthiness regulations do not consider the safety of pedestrians in automobile/pedestrian crashes. Speeding laws allow very high speeds and are rarely enforced.

If you don't want to read the 100-page article, a more detailed discussion is at [Streetsblog](#).

---

## High-Rises and Street Life

APRIL 17, 2019 BY MICHAEL LEWYN

One common argument against tall buildings is that they reduce street life, because the most expensive high-rises have gyms and other amenities that cause people to stay

inside the buildings rather than using the street. Because Manhattan has plenty of high-rises and plenty of street life, I have always thought this was a [dumb](#) argument.

But until recently I've never thought of any way to prove or disprove the argument empirically- until now. It seems to me that if high-rises were bad for street life, places with expensive high-rises would have lower Walkscores than other neighborhoods; I reason that if high-rise residents stayed inside rather than going outside, they would be surrounded by fewer businesses than low-rise neighborhoods.

So do high-rises generally have lower Walkscores? Not in dense areas; for example, 432 Park Avenue, one of Manhattan's most expensive buildings, has a Walkscore of 98. Similarly, Boston's Millenium Tower, a 60-story residential skyscraper, has a Walkscore of 96.

---

## The Truth About “Red Vienna”: Its a YIMBY Paradise!

JUNE 29, 2019 BY MICHAEL LEWYN

One common leftist argument against new housing is the “Red Vienna” argument: the claim that housing can only be affordable in places where the government dominates the housing market. Supporters of this claim like to mention Vienna, where (according to progressive lore) Big Brother builds lots and lots of super-affordable public housing, while the Big Bad Market is not involved. But a recent article about Vienna [states](#) that “one-third of the 13,000 new apartments built in Vienna each year are funded by the government and commissioned by the housing associations.” This means that about 8700 apartments are built every year by the private sector. In a city with 1.8 million people, that's a lot. By contrast, in Manhattan (which has a comparable population) about 3000 housing units were built between 2014 and 2017- far less than Vienna. Even in Houston (which has a slightly bigger population) only 14,653 housing units of all types, or about 3700 per year, were built between 2014 and 2017. In other words, even if not a single unit of public housing had not been built, Vienna would still have built more than twice as many units as high-growth Houston, and about ten times as many as Manhattan. Vienna's affordability is thus an argument in favor of lots more housing, not an argument in favor of NIMBYism.

\*\*END