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Issue Brief

Why Zohran Mamdani's "Freeze the Rent" Policy Won't Get Past NYC's Rent Guidelines Board

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Introduction

Central to Zohran Mamdani's campaign to become New York City's next mayor was his pledge to freeze rent on the city's nearly 1 million rent-stabilized apartment units. As part of his general emphasis on affordability, the incoming mayor focused particular attention on these units, which provide housing to some 2.5 million New Yorkers—nearly 30% of the city's population.[1]

The key vehicle for implementing such a policy move is the city's Rent Guidelines Board (RGB), a nine-member body that is required to vote annually on whether to adjust rents on stabilized units.[2] Since its founding in 1969, the years 2015, 2016, and 2020—during former mayor Bill de Blasio's tenure—constitute the only three occasions when RGB voted to "freeze the rent" by denying landlords the right to raise rents for the next calendar year.[3] During the past four years of the Eric Adams administration, the board allowed an increase each year, totaling a 12% increase in rents during Adams's time in office (less than the rate of inflation).[4]

Of the nine members appointed to RGB, the law mandates that two represent the interests of tenants, two represent the interests of property owners, and that the remaining five, who must have "at least five years of experience in either finance, economics, or housing,"[5] represent the general public interest. Eight of the members serve for fixed terms, varying in duration from two to four years, while the chair of the board serves at the pleasure of the mayor and thus can be replaced at any time.[6] At the expiration of their terms, the members automatically hold over and "continue in office until their successors have been appointed and qualified."[7]

At present, six of the board's members are holdovers whose terms are expired. The mayor, therefore, may reappoint or replace these members at any time.[8] In the final weeks of December 2025, Mayor Adams, who has vocally opposed Mamdani's demand for a rent freeze,[9] appointed four new members to the board, ensuring his appointees make up a majority of the board before he leaves office at the end of the year. Presumably, Adams's appointees would be skeptical of Mamdani's insistence that the board must hold rents flat in each of the coming four years, making a rent freeze unlikely in the first two years of the new mayor's tenure.

Now that Adams has made these appointments before he departs, Mamdani, upon taking office, will hold the power to appoint a new chair to the board. He will also have the ability to replace one current member whose term expires on the last day of 2025, as well as the chance to replace another member whose term expires at the end of 2026.[10] Based on the duration of terms listed on RGB's website, the earliest that Mamdani would be able to obtain a board majority of his own appointees would be January 1, 2028—two years into his mayoral term.[11]

Faced with the possibility of inheriting a board dominated by Mayor Adams's appointees, Mamdani has suggested that he would look for ways to oust members who do not favor his agenda. In a well-publicized interview, the mayor-elect stated: "My approach to the use of power will be to actually utilize it. What I mean by that is you look at Republicans, they seem to have no limits in their imagination or how they want to use power. And as Democrats, it's like we're constructing an ever-lowering ceiling."[12]

The mayor-elect left unspecified what such a use of power might entail, but it begs the question: What potential options could the incoming mayor pursue to challenge the outgoing mayor's board appointments and to effectuate a more expedited change in RGB's membership?

There is little precedent for what such a move could look like. A former RGB staffer and historian of the board went on record to clarify that a mayor attempting to remove board members prior to the expiration of their terms would be unprecedented in the board's half-century-plus history, as would be so-called midnight appointments by an outgoing mayor in an effort to frustrate the policy priorities of an incoming mayor.[13]

Mamdani would be swimming in unchartered legal waters, although several potential options represent the most likely avenues of recourse that the incoming mayor might pursue.

First, the mayor could seek to remove sitting board members, by arguing that they lack the requisite qualifications for service on the board or by seeking for-cause removal under the provisions of the RGB statute. As discussed herein, existing legal precedent suggests that such an attempt would encounter significant legal pushback from courts.

Alternatively, the mayor could attempt to collaborate with the city council on a legislative rewrite of the portion of the NYC Administrative Code that establishes RGB. Were such an effort successful, it could potentially remove the for-cause standard for board-member removals and replace it with an at-will standard. Doing so could allow for immediate mayoral removal of board members—similar to how the chair of the board currently serves at the mayor's discretion.

But it could also open up a Pandora's box. Rather than increase mayoral control over RGB appointments, such a legislative rewrite would be just as likely to open opportunities for the city council to carve out a more robust and invasive role in the RGB appointment and removal process, thereby weakening mayoral power.

I explore these various alternatives in depth below.

Contesting Board-Member Qualifications

In addition to the usual conflict-of-interest rules governing New York City employees, RGB members are subject to numerous additional requirements.[14] First, the five "public members" must have had "at least five years experience in either finance, economics or housing." The purpose behind such a qualification is to ensure that members have adequate experience and the requisite knowledge to make informed decisions about rent stabilization in the city.

Second, board members cannot also be a "member, officer or employee of any municipal rent regulation agency or the state division of housing and community renewal," nor can they "own . . . or manage . . . real estate covered by this law" or serve as "an officer of any owner or tenant organization."[15] The purpose here is to prevent landlords of rent-stabilized units from being in the self-dealing position of influencing the rates of their own units, as well as to govern other potential conflicts. Notably, no restrictions prevent tenants who live in rent-stabilized units from serving on the board.[16]

Arguing that one or more of Adams's RGB appointees lack the requisite qualifications for board membership could provide a potential avenue for Mamdani to challenge the outgoing mayor's appointments. A member appointed in violation of these qualifications and restrictions, in theory, could be subject to removal by a court. The qualifications, however, are broad and vague, and a court has never removed a member for failure to meet the law's service requirements.

These qualification provisions have scarcely been tested in RGB's half-century history, with the only examples coming from the early 1990s. In the first case, the qualifications of a board member, lawyer Ellen Gesmer, were challenged based on the argument that, as one of the board's public members, she lacked the requisite five years' experience in finance, economics, or housing. It was also alleged that she lacked impartiality and was biased toward tenants, given that some of her legal work involved tenant advocacy.

In its 1990 holding, the New York Supreme Court (a trial-level court) held that Gesmer's 11 years of experience as an attorney overseeing housing-related legal issues—even though it was not full-time work on housing business—satisfied the board's experience requirements. The court also rebuffed the impartiality argument, stating: "Neither absolute impartiality in landlord–tenant matters nor any other of plaintiff's proposed criteria has a basis in the plain meaning of the Administrative Code, and we decline to read any such additional qualifications into the Administrative Code."[17]

In the second case, the Rent Stabilization Association attempted to have Oda Friedheim, a tenant representative member of the board, removed based on the argument that she served as an officer in a tenant organization. The New York Supreme Court sidestepped the merits of the case, holding instead that a quo warranto action from the state attorney general was the sole means through which title to public office could be contested in New York State.[18]

"Quo warranto" is a common law term that stands for "by what authority," meaning that it is a legal writ to inquire as to what authority an individual holds title to a particular office. It is used solely to test an individual's legal right to hold an office, *not* as a means to evaluate performance in office or to investigate whether an official has potentially committed misconduct in office.[19]

Based on these court holdings, it appears that, outside NYC's baseline conflict-of-interest rules for public officers (governed by the Conflicts of Interest Board), any removal due to lacking qualifications or for possessing disqualifying conflicts of interest would likely necessitate movement from the attorney general under a quo warranto action—thereby taking it out of the hands of city officials and putting it in the hands of the state. The quo warranto argument has never been addressed by an appellate court,[20] and it would be unprecedented for the new mayor to assert an ability to attack the validity of appointments of his predecessor.

Given this backdrop, attempts to challenge the qualifications of board members could prove difficult—especially since "absolute impartiality" has not been upheld as a standard of evaluation for RGB members. The involvement of political entities beyond the mayoral office (such as the state attorney general) would inject further uncertainty into the process.

Seeking For-Cause Removal

If the mayor cannot remove a member for lack of qualification, he would have to attempt to remove the member on a for-cause basis. For-cause protection generally means that a mayor can remove the member only when he has good reasons to do so and after the member is given a right to defend himself against the charges that form the grounds for his removal.

New York's Public Officers Law (POL), first enacted in 1909, governs various attributes of holding public office in the Empire State. Under POL, there is "no authorization for removal of appointive city officers for cause."[21] But it has long been recognized that cities can "establish a procedure for removal of these officers."[22] It is well settled that New York's Municipal Home Rule Law permits, among other things, the establishment of the "mode of selection and removal" for public officers and employees.[23]

The NYC Administrative Code states that board members may be removed only for cause and "not without an opportunity to be heard in person or by counsel, in his or her defense, upon not less than ten days notice."[24] In addition to not defining "for cause," the statute does not specify details about how such a removal hearing would be conducted or who would preside.

Under common law, it is traditionally understood that for-cause removal requires that any charges be "specific and definite."[25] It is also commonly understood that for-cause removal requires a finding that officials were "incompetent, faithless, corrupt or inattentive to the public trust with which they are clothed."[26] This standard bears resemblance to the generally accepted federal law standard governing for-cause removal for federal government officials, which traditionally necessitates a finding of inefficiency, neglect, or malfeasance (known as the INM standard).[27]

The New York case law elucidating the precise contours of what constitutes "for-cause" removal is relatively limited. In a 1908 decision, the New York Supreme Court Appellate Division held that "just cause" for removal of a public officer exists when the charges are not "merely trivial" but of a "serious nature affecting the rights and interests" of a municipality.[28] Further, the charges must be "made in good faith," not as "a mere pretext for removal," and "they [must be] of a substantial nature, showing some neglect of duty on part of the officer or something which materially affects his official acts, or his standing and character."[29]

The court's holding supports the notion that for-cause removal does not mean mere run-of-the-mill policy disagreements or minor breaches of conduct, but rather something of a "substantial nature"—again echoing what has become the INM standard at the federal level.

Courts, however, have refrained from trying to specifically enumerate the precise types of conduct that would qualify as sufficient cause for removal. In 1967, the Eastern District of New York, in a case involving the removal of a New York judge, denied a claim that for-cause removal standards should be "void for vagueness."[30] In the words of the court, "it would be impossible to enumerate in any statute all the possible grounds and circumstances justifying the removal."[31]

In a footnote, the court pointed to Section 36 of the Public Officers Law, which lists misconduct, maladministration, malfeasance, and malversation in office as constituting cause for removal.[32] While Section 36 of POL applies only to state, town, and village officers—rather than city officers—it nonetheless provides some guidance as to the prevailing for-cause standard for public officers in New York. Indeed, Section 36 of POL can be seen as a sort of state analogue to the federal INM standard.

In a 1969 case, the Court of Appeals (New York's highest court) likewise held that for-cause removal standards were not void for vagueness, while also elucidating what constitutes "cause." The court noted that "cause" has been defined as including "corruption, general neglect of duty, delinquency affecting general character and fitness for office, acts violative of law inspired by interest, oppressive and arbitrary conduct."[33]

The court further held that it was widely recognized that "the degree of incompetency or malconduct which amounts to sufficient cause for removal must of necessity, within certain established limits, rest somewhat in the sound discretion in the officer [or body] in whom the power of removal is vested."[34] But the court further held that this discretionary leeway was not without limits:

> Although the body which exercises the power of removal is vested with broad discretion where the term "cause" is not defined, it is manifest that the power cannot be exercised arbitrarily. The phrase "for cause" clearly means "legal cause"—some cause affecting or concerning the ability or fitness of the incumbent to perform the duty imposed upon him.[35]

Thus, as in the New York case law cited above, the court defined "for cause" as rising to a level of substantial misconduct or implicating one's fitness for office—once again, echoing the federal INM standard—rather than mere policy disagreements or minor infractions.

RGB is constituted as an independent body charged with determining the annual adjustment of rents based upon a series of objective factors that the board is required, by law, to weigh and consider. Attempting to remove a member who disagrees with the mayor's preferred outcome or his policy vision is likely to be met with significant resistance from the courts.

Legislatively Rewriting RGB's Removal Provisions

Another potential option for the new mayor would be to pursue a legislative rewrite of the NYC Administrative Code to remove the for-cause removal standard for board members and replace it with an at-will standard. Doing so would require the collaboration and acquiescence of the New York City Council.

Section 6 of the New York City Charter states: "The mayor, whenever in his judgment the interest shall so require, may remove from office any public officer holding office by appointment from a mayor of the city, except officers for whose removal other provision is made by law."[36] In this case, the RGB authorizing statute is the requisite "other provision" of law that introduces the for-cause removal standard for board members.[37]

But this need not be set in stone if the city council would pass a revision of the statute. Already, the chair of the board serves at the mayor's pleasure and is removable at will; the rest of the board members could be similarly situated.[38]

While such a route might hold some surface appeal, it is potentially fraught with downside political risk. Seeking to collaborate with the city council on a legislative rewrite of RGB's for-cause removal standard could cause a host of problems for the incoming mayor. Council members would likely use the opportunity to insert themselves into the appointment and removal process for the board, rather than merely rubber-stamp the mayor's preferred form of statutory rewrite.

I.e., rather than granting *more* mayoral control over RGB by giving the mayor the power not only to appoint board members but also to remove them at will, the council would likely seek to claw back more influence and power for itself regarding board membership.

For instance, in a manner analogous to the U.S. Senate's "advice and consent" power, the city council could merely allow future mayors to nominate board members who would then be subject to a vote by the council to confirm their nomination. The council could also demand a greater role in any removal decisions. This type of emergency surgery on the selection and removal process for board members would almost certainly disrupt the balance of interests—between landlord, tenant, and public members—that the board is designed to protect.

Speculation has already arisen that the current situation involving RGB could result in the city council "intervening to gain greater say in the board's appointments process, which has previously been reserved to the mayor alone."[39] Putting an open-ended legislative rewrite on the docket would likely only add fuel to this potentially uncontrollable fire.

Notably, RGB is authorized pursuant to Section 4(c) of New York's Emergency Tenant Protection Act (ETPA) of 1974.[40] While RGB predates ETPA (which extended rent stabilization beyond NYC to downstate suburbs that elect to opt in to rent stabilization), a legislative rewrite of RGB's process could arguably necessitate partially amending ETPA at the state level, as well.

It is unclear as to whether a majority of the current council (much less the state legislature) officially supports a rent freeze via RGB—and therefore would be amendable to a statutory rewrite—further complicating the political math.

Conclusion

The options available to the incoming mayor for overhauling the membership of RGB all contain notable drawbacks and potential pitfalls. Attempts to challenge the qualifications of board members have proved unsuccessful in the past and been held to necessitate a quo warranto action by the attorney general. The for-cause removal standard for public officials mostly mirrors the federal INM standard for removing officials—meaning that mere policy disagreements would not qualify as grounds for removal.

A potential legislative rewrite of RGB's removal provisions for board members would seem destined to *reduce* mayoral power vis-à-vis the city council, rather than enhance it. In the end, the incoming mayor's best option may be simply to wait out the two years that it will take to turn over a majority of the board's membership.

Acknowledgments

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Endnotes

1 Janaki Chadha, "From Power Brokers to Protesters: NYC Landlords Prepare for Battle Under Mamdani," *Politico*, Nov. 30, 2025.

2 David Brand, "Could Zohran Mamdani Fire Landlord-Friendly Members of NYC Rent Board if Elected Mayor?" *Gothamist*, Oct. 28, 2025.

3 Ibid.

4 Eduardo Cuevas, "NYC Mayor Adams May Block Zohran Mamdani's Plan to Freeze Rent," *USA Today*, Oct. 29, 2025; U.S. Bureau of Labor Statistics, Geographic Information, Northeast, Consumer Price Index, New York–Newark–Jersey City—August 2025, Historical Data, All Items.

5 New York City Administrative Code, Title 26, Chap. 4, §26-510(a); see also Timothy L. Collins, *An Introduction to the New York City Rent Guidelines Board and the Rent Stabilization System*, NYC Rent Guidelines Board (RGB), rev. ed. (November 2025), 5.

6 RGB, Board & Staff.

7 NYC Administrative Code §26-510(a).

8 Brand, "Could Zohran Mamdani Fire Landlord-Friendly Members?"

9 Jeanmarie Evelly and Patrick Spauster, "As Mayor Adams Looks to Stack Rent Board, Tenant Groups Press Potential Appointees to 'Refuse'," *City Limits*, Nov. 20, 2025; Cuevas, "NYC Mayor Adams May Block Zohran Mamdani's Plan."

10 Cuevas, "NYC Mayor Adams May Block Zohran Mamdani's Plan."

11 According to RGB's authorizing statute, board-member terms start on January 1 after the year of appointment. This means that Mayor Adams's 2025 appointments would start, for purposes of the term tolling date, on Jan. 1, 2026. See RGB, Board & Staff; NYC Administrative Code §26-510(a).

12 Brand, "Could Zohran Mamdani Fire Landlord-Friendly Members?"

13 Ibid. In recent years, extralegal attempts to contest the actions of RGB have been pursued, including in 2023, when progressive members of the New York City Council, alongside activists, opted for "storming the Rent Guidelines Board's stage to stave off significant rent hikes." See Téa Kvetenadze, "NYC Panel Approves Rent Hikes Up to 7% for Regulated Units at Chaotic Meeting; Final Vote Awaits," *New York Daily News*, May 2, 2023. At least one spokesperson for a tenant advocacy group has predicted that council members can be expected to revive this strategy again in the face of a potential RGB refusal to freeze rents in the months ahead. See Cuevas, "NYC Mayor Adams May Block Zohran Mamdani's Plan."

14 Board members are considered "public servants" but not "regular employees" of the city. This, in addition to RGB being seen as a quasi-legislative body that resides outside the city's executive branch, provides some limitation on the application of conflict-of-interest rules to board members. Whereas regular employees are barred from having an interest in any firm

that does business with any agency of the city, board members need simply have no interest in a firm that does business with the specific agency they serve in (in this case, RGB). See Collins, *An Introduction to the New York City Rent Guidelines Board*, 6; see, generally, New York City Charter, Chap. 68: Conflicts of Interest.

15 NYC Administrative Code §26-510.

16 Collins, *An Introduction to the New York City Rent Guidelines Board*, 7.

17 *RSA v. Dinkins*, RGB / Gesmer, 167 A.D.2d. 179 (Supreme Court, Appellate Division, First Department 1990), app. den. 77 N.Y.2d. affd. 809 (1990); Collins, *An Introduction to the New York City Rent Guidelines Board*, 42.

18 *RSA v. Dinkins*, RGB / Friedheim, N.Y.L.J. p. 22, col. 1 (Supreme Court 1991); Collins, *An Introduction to the New York City Rent Guidelines Board*, 42.

19 Quo Warranto—Right to Public Office, "What Is Quo Warranto?" Attorney General of California.

20 Collins, *An Introduction to the New York City Rent Guidelines Board*, 42 ("The exclusive right of the Attorney General to contest title to office was raised on appeal in the *Gesmer* case as well. The Appellate Division chose to follow the lower court's ruling on the merits—and never addressed this standing issue").

21 New York Attorney General, 1989 N.Y. Op. Atty. Gen. (Inf.) 64 (N.Y.A.G.), 1989 WL 435013; see also N.Y. Pub. Off. Law (Chap. 47 of New York Consolidated Laws), Art. 3, §36.

22 Ibid. Notably, §30 of POL dictates circumstances that create a vacancy in an appointed office, including death, resignation, *removal from office*, termination of residency, and more. The inclusion of "removal from office" lends further support to the recognition that a municipality may implement its own for-cause removal procedures.

23 1989 N.Y. Op. Atty. Gen.

24 NYC Administrative Code §26-510(a).

25 See Cause—Cause only, 4 McQuillin Mun. Corp. §12:321 (3d ed.). The McQuillin municipal treatise is a commonly recognized source of municipal law and procedure cited frequently by New York courts and thus given significant legal weight and credence.

26 Ibid.

27 While the precise meaning of inefficiency, neglect, and malfeasance has been debated by legal scholars, it is generally understood that "neglect" refers to a failure to perform duties in office that results in injury to others, "malfeasance" refers to a wrongful act committed in office, and "inefficiency" relates to a lack of ability or skills to perform the job needed. See Jane Manners and Lev Menand, "The Three Permissions: Presidential Removal and the Statutory Limits of Agency Independence," *Columbia Law Review* 121, no. 1 (January 2021): 6.

28 *People ex rel. Lathers v. Raymond*, 114 N.Y.S. 365, 369 (App. Div. 1908).

29 Ibid., 369–70.

30 *Sarisohn v. App. Div., Second Dep't, Supreme Ct. of State of N. Y.*, 265 F. Supp. 455 (E.D.N.Y. 1967).

31 Ibid., 458.

32 Ibid., 459n3. While a federal court's interpretation of state law is not binding on New York courts, the court's holding nonetheless provides some indications as to how courts generally would likely view for-cause removal under New York law.

33 *Friedman v. State*, 24 N.Y.2d 528, 540 (App. Div. 1969).

34 Ibid.

35 Ibid.

36 New York City Charter, Chap. 1, Sec. 6: Heads of departments; appoint; remove.

37 NYC Administrative Code §26-510(a).

38 The debate over for-cause removal for government officials is also taking place currently at the federal level, with Trump's administration arguing, in the pending U.S. Supreme Court case *Trump v. Slaughter*, that inherent in the president's executive power of appointment is the concomitant power of at-will removal. See *Trump v. Slaughter*, U.S. Supreme Court, Docket No. 25-332. The president's argument is based on a legal concept known as the "unitary executive" theory, which has been propounded by conservative legal scholars for years. See Ilya Shapiro, "Resistance Will Only Make Trump Stronger," *Washington Examiner*, Mar. 14, 2025. The idea of a "unitary executive" is much less prevalent at the municipal government level in the U.S., see Richard C. Schragger, "Can Strong Mayors Empower Weak Cities? On the Power of Local Executives in a Federal System," *Yale Law Journal* 115, no. 9 (2006): 2542, 2546. The theory is also being advanced by the Trump administration. It is relatively unlikely that Mayor Mamdani would pursue such an argument in the case of RGB appointments—and therefore it is not seriously considered here.

39 Cuevas, "NYC Mayor Adams May Block Zohran Mamdani's Plan."

40 Emergency Tenant Protection Act 576/74, §4.