

# Navigating A Sea Change In Rent Algorithm Regulation

By **Jonathan Meer and Angela Sekerka** (December 12, 2025)

Across the country, housing providers have been closely watching the lawsuit between the U.S. Department of Justice and RealPage Inc., a property management software company.

The proposed settlement, announced on Nov. 24, imposes sweeping restraints on RealPage's technology and data-sharing practices aimed at remedying alleged harms to competition in the housing rental market.

This decision will affect housing providers that use RealPage and other property management software companies that use similar data-sharing practices to optimize rental prices. Further, it appears to be part of a larger trend, with new laws being proposed and enacted to limit the use of algorithmic data and methodologies in setting housing rental prices.

This trend is illustrated by a new law in New York, increased federal attention on pricing in rental housing and proposed federal legislation. Going forward, landlords will have to adapt to these new limitations on the usage of data that is not their own in setting rental prices.



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## **U.S. v. RealPage**

The use of property management software companies such as RealPage allows landlords to share information about occupancy rates and rents with the company, after which it recommends rental rates based on an algorithm.

In *U.S. v. RealPage Inc.*, the DOJ accused RealPage of suggesting rental rates higher than those in a free market based on confidential information from other landlords, through using software features designed to limit rental rate decreases to align pricing among competitors, and via hosting meetings attended by representatives from competing companies at which competitively sensitive information was shared.

RealPage has denied any wrongdoing, maintaining that it provides immense value for housing providers and renters and that many of the product changes requested by the DOJ were already planned by the company.

The DOJ has made clear that it filed suit against RealPage because of concerns about pricing coordination between unaffiliated landlords in violation of federal antitrust laws. Concerning this settlement, Gail Slater, who leads the DOJ's Antitrust Division, stated in a Nov. 24 press release: "Competing companies must make independent pricing decisions, and with the rise of algorithmic and artificial intelligence tools, we will remain at the forefront of vigorous antitrust enforcement."

The settlement focuses on RealPage's collection, use and dissemination of nonpublic information from unaffiliated landlords.

Per the proposed judgment, within 180 days, RealPage must cease using current or historical unaffiliated property data in runtime operations of revenue management products and is barred from training models on such data.

The settled antitrust claims relate to the revenue management products, including RealPage revenue management products that use competitively sensitive information. The order restricts the sharing of any unaffiliated landlord's data, even if made anonymous, with other RealPage users.

If approved by the U.S. District Court for the Middle District of North Carolina, the settlement will require RealPage to remove or redesign features that limited price decreases or aligned pricing between competing users of the software in furtherance of the DOJ's goal to eliminate unlawful pricing coordination.

Similarly, the pricing recommendations must rely exclusively on a property's specific information, and RealPage cannot prohibit or impede users from rejecting price recommendations.

In addition, the settlement proposal states that RealPage's software could no longer use information about current leases to train its algorithm and requires a court-appointed monitor for three years.

### **New York's Law on Algorithmic Rent-Setting**

Algorithmic rent-setting has also recently been addressed in New York. New York state's S. 7882 reflects a complementary legislative approach that targets the coordinating function at the core of algorithmic rent-setting.

The law, enacted on Oct. 16, and set to take effect Dec.15, defines and prohibits devices and services that collect cross-landlord rent and supply data, create algorithms using the data, and recommend rental prices, renewal terms, or occupancy levels.

It renders unlawful both the facilitation of agreements among landlords not to compete via such coordinating functions and the act of setting rents or lease terms based on those recommendations.

The issues in the proposed judgment against RealPage, and requirements of data firewalls, restrictions on shared nonpublic inputs and feature-level constraints that restore property-specific autonomy, mirror the New York law's focus on algorithmic coordination by landlords, which is alleged to inhibit competition.

New York is not the only jurisdiction that has looked at pricing algorithms and their impact on the rental market. Several cities have similar bans, such as Philadelphia and San Francisco, which enacted ordinances in 2024.

In the past six months, other cities have banned the use of price-fixing rental algorithms, such as Berkeley, California; Jersey City, New Jersey; Minneapolis; Providence, Rhode Island; San Diego; and Seattle.

The state of California's ban on certain pricing algorithms is not limited to rental housing; it applies to all industries operating in the state.

Bills introduced in other states also seek to ban the use of consumer data in pricing,

including New Jersey and Illinois. Likewise, although vetoed by the governor, Colorado's Legislature passed a law that would have prohibited the sale or distribution of algorithmic devices intended for use by two or more landlords in the same market to set or recommend rental amounts.

### **Federal Attention on Algorithmic Pricing in Rental Housing**

These developments have not occurred in a vacuum. Indeed, the federal government's concern about algorithmic price coordination has been ongoing. On Dec. 17, 2024, the Council of Economic Advisers estimated that coordinated algorithmic pricing imposes approximately \$3.8 billion in annual costs on renters, with average overcharges of about \$70 per unit per month.

In a March 1, 2024, statement of interest, the Biden administration noted the price-fixing agreements it saw as unlawful. Filed by the DOJ and the Federal Trade Commission in the action *McKenna v. Yardi Systems*, which was pending in the U.S. District Court for the Western District of Washington, the statement advised as to concerns of price fixing when algorithms are used for pricing, even if they are only making a price recommendation.

The CEA report specifically mentioned the DOJ's lawsuit against RealPage and the allegations of monopolization of the software market used by landlords to price apartments. The concerns that algorithmic pricing weakens competition are reflected in the proposed DOJ judgment against RealPage, with the proposed settlement terms requiring certain guardrails on the data and prohibiting a RealPage customer from using unaffiliated data.

### **The Proposed End Rent Fixing Act of 2025**

To further address concerns about alleged price coordination among landlords, Congress is now considering the End Rent Fixing Act of 2025, proposed on Nov. 19. If passed, this would make it per se unlawful under both the Sherman Act and the Federal Trade Commission Act for landlords to use services that coordinate rental housing prices.

The bill's definitions closely track the practices targeted in the RealPage judgment related to the collection of rental price data and the corresponding algorithmic processing and training used to generate pricing recommendations. It would authorize enforcement by the FTC, the attorney general, and state attorneys general, and create a private right of action with treble damages and fee shifting to enforce the law.

If enacted, it would nationalize the core tenets against rent coordination via shared data and algorithms, as reflected in New York's S. 7882 and the DOJ's settlement with RealPage.

### **Next Steps for Landlords**

The government's current focus on lowering the cost of rental housing involves closely scrutinizing how landlords are using data to set rents. The RealPage judgment is the latest example of the growing concern about the usage of data and artificial intelligence algorithms by landlords in setting rental pricing.

The New York state law described herein, coupled with the federal law, reflects this effort to limit landlords and software vendors in their overall usage of data, in particular with AI model training.

Government entities are hoping that this stricter data governance will promote a greater

variety of pricing options for consumers. While the New York law does not prohibit landlords from using historical or contemporaneous pricing data, it does prohibit the pooling of data provided by other property owners.

Thus, it seeks to make landlords more autonomous in setting pricing based on the data that it has collected.

As one of the most prominent civil actions involving an algorithm at the center of a price-fixing case, *U.S. v. RealPage Inc.* is significant across many industries. Housing providers, in particular, will face immediate and far-reaching challenges as a result of this litigation's outcome.

Many housing providers have relied on revenue and property management software companies to streamline operations and assist with setting and determining rents for years, enabling them to keep abreast of frequent market fluctuations and occupancy changes in multifamily housing communities.

In the absence of rent-pricing services from companies like RealPage, housing providers may return to the common yet problematic practice of having leasing agents cut deals with prospective residents.

This practice could lead to an increase in allegations of housing discrimination when different applicants are offered different rental rates based on the subjective decisions of individual staff members.

Housing providers should be aware of the RealPage settlement, the New York law, specific city ordinances and the proposed federal legislation, and be ready to implement changes to their rental pricing policies and practices. Further, based on the DOJ/RealPage settlement and new laws in this area, housing providers should anticipate fair housing testing regarding rental pricing.

Fair housing testers are individuals trained to identify, document, and eliminate instances of housing discrimination by posing as prospective renters and contacting or visiting apartment communities.

If two fair housing testers — one who divulges membership in a protected class — were to contact a property and inquire about the same unit type on the same day and receive different rental rates, this could possibly form the basis of a housing discrimination complaint filed with the U.S. Department of Housing and Urban Development or a city or state human rights commission.

Landlords should consider revising rental pricing policies and practices, training staff on those revisions and ensuring that properties are ready to be tested.

These precautions can confirm that employees provide consistent rental rate information to applicants and those making phone or online inquiries during the transition in rental pricing practices post-*U.S. v. RealPage*, thus avoiding allegations of housing discrimination in connection with rental pricing.

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