

Equitable Development Toolkit Rent Control

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What Is It?

Rent control protects tenants in privately owned residential properties from excessive rent increases by mandating reasonable and gradual rent increases, while at the same time ensuring that landlords receive a fair return on their investment. Sometimes called rent leveling or rent stabilization, rent control helps to prevent displacement in booming economic cycles.

Across the nation, from California to New York, organized and mobilized communities have successfully enacted rent control laws to maintain affordability and prevent tenant displacement. Today, rent control exists in 140 jurisdictions

Community organizing led to the enactment of rent control laws in almost 175 municipalities across the nation by the early 1980s. During the more conservative political climate of the past two decades, rent control has been weakened by landlords and the real estate lobby. Today, rent control survives in approximately 140 jurisdictions. In escalating real estate markets such as Seattle, Boston, San Francisco, Hoboken (New Jersey), and other cities where neighborhoods are anticipating or experiencing rampant gentrification, rent control is re-emerging in policy debates as an effective tool for maintaining affordability and preventing tenant displacement.

Why Use it?

Rent control maintains the affordability of existing housing stock as reinvestment occurs, stabilizing existing tenants so that they, too, will benefit from improved neighborhoods, along with landlords, developers, and new residents.

Renters are particularly vulnerable to displacement in times of gentrification. In disinvested communities, rents are often low due to poor housing stock. When reinvestment occurs, landlords often sell their property or significantly increase rents to benefit from the changing market. In either case, tenants with modest incomes are displaced.

Additional benefits from using this tool include:

- **Maintenance of decent, affordable housing.** One of the goals of rent control is to provide affordable housing in good condition. Rent control facilitates this by providing landlords with incentives to make improvements on their property, denying rent increases to landlords who are not in compliance with health and safety codes and reducing rents when landlords cut back on existing services.
- **Enhanced capacity of community members to advocate for policies** that foster diverse, stable, mixed-income communities. Community organizing in Cambridge, Massachusetts, and Baltimore, Maryland has resulted in permanent citywide tenant and housing organizations to address future issues.

Massachusetts

The cities of Boston, Brookline, and Cambridge had rent control until 1994 when it was abolished through a public referendum. Following the end of rent control, rents in gentrifying neighborhoods increased from 50-150 percent, displacing thousands of local residents.

Beyond considering rent control as a new tool, communities that already have rent control must be vigilant in defending it. In Massachusetts, the cities of Boston, Brookline, and Cambridge had rent control until 1994, when it was abolished through a public referendum. Following the end of rent control, rents in gentrifying neighborhoods increased from 50-100 percent, displacing thousands of local residents and exacerbating the existing affordability crisis.

How to Use it

Get the Facts

Rent control advocates should know the facts about the benefits and burdens of rent control, and be familiar with studies that question the benefits. Landlords and the real estate lobby frequently cite such studies, arguing the negative impacts of rent control. Oftentimes these studies are flawed due to methodological errors. In reviewing these:

- **What are the variables being studied?** Are there more important ones that should have been included or variables that should not be included? The problems that landlords attribute to rent control, if and when they exist, are often caused by factors other than rent control.
- **Does the research use the same set of variables** when looking at rent controlled vs. non-rent controlled municipalities? A common error is the use of unmatched samples. For example, it does not make sense to compare rent-controlled urban areas with non-rent controlled suburban or rural ones. (For an example of landlord-sponsored research using arbitrarily unmatched samples, see the Smith article in the Resources section.)

Landlord Strategy

The real estate industry sponsors scores of studies designed to show the negative effects of rent control. Landlords use these studies to influence elected officials and the public through press releases, mailings, and testimony at public hearings

In addition to being prepared to respond to anti-rent control arguments, it is important to have and proactively disseminate the facts and figures that support rent control. How many residents have been or will be displaced without some form of rent stabilization? How many elderly with fixed incomes live in the community? College students? Teachers? Health care workers? Police and firefighters? What stories can be told to put a face on the residents that will be impacted by the adoption or lack of rent control?

For a discussion of arguments typically made for and against rent control, see the Challenges section.

Draft a Strong Rent Control Law

Rent control is only as strong as the law that creates it. Therefore, it is important to draft legislation that provides broad protection for tenants. Equally important, rent control law must be legally sound. Rent control legislation is often subject to legal challenge once enacted; some laws have been struck down by courts as unconstitutional.

Key provisions to consider in drafting a rent control law include:

Be Precise!

Precision in the defining of terms and regulatory procedures makes rent control laws easier to interpret and administer and less vulnerable to legal challenge.

- **Preamble.** Most rent control laws contain an introduction (or preamble) that describes why the law is being enacted. Some places require that certain conditions exist in the housing market to make rent control permissible. If this is the case, the Preamble should state that the purpose of the law is to

respond to those specific conditions. For example, some laws cite the lack of affordable housing, low vacancy rates, and other housing emergencies.

- **Applicability.** Every rent control law has a section that specifies the types of dwellings covered by the law. The goal should be to cover as many tenants (i.e. dwellings) as possible and to keep the number of exceptions to a minimum. Some laws exempt one or more of the following: hotels, owner-occupied buildings below a certain number of rental units (usually two or three), co-ops and condominiums, single family homes, government controlled housing, newly constructed apartment buildings (permanently or for a limited amount of time), and health care facilities.
- **Registration.** It is important that there be a public record of all rental units covered by rent control. Therefore, the rent control law should require landlords whose property is covered by the law to register their buildings and rent rolls with the administrative agency charged with enforcement (e.g. Rent Board, Office of Rent Administration). Some laws require landlords to pay registration fees based on the number of rental units they own. These fees are often used to finance the operations of the agency (see [Financing Rent Control](#)).
- **Definition of Terms.** Definitions for the terms used in the law - such as *landlord*, *tenant*, *rent*, *property*, *dwelling*, *allowable annual increase*, *capital improvement*, and *rent board* - should be clear and precise.
- **Administration.** This section describes the agency that will be responsible for administering and enforcing the law. Usually it is a *Rent Board* or municipal *Office of Rent Administration*, with staff who are either appointed or elected. The provision that defines the membership of the agency should expressly provide tenants with fair and adequate representation. In Lynn, Massachusetts, for example, tenants demanded a Rent Control Board made up of 50 percent low- and moderate-income tenants and 25 percent homeowners. This stipulation should also indicate eligibility for membership, length of terms, and the powers and duties of the board.
- **Establishment of Rent.** This section is the heart of the rent control law because it sets the amount of permissible annual rent increases. Some laws establish a *base rent* (usually the rent that existed at a certain date) upon which to base future rent increases. In setting the rate of allowable increases, different formulas are used. Some laws automatically grant landlords a *fixed percentage* annually, which the governing body may amend from time to time. Other laws grant landlords an annual increase based on the increases in the *Consumer Price Index* (CPI) as established by the U.S. Department of Labor. A number of rent laws grant authority to the administrative agency (e.g. Rent Board, Office of Rent Administration) to calculate the annual increase using a local variation of the CPI. When using a CPI formula to set the rate of annual increases, include a maximum percentage to better protect tenants during periods of high inflation.

It is also important to include "substantial compliance" and "no diminishment of services" provisions in the law. These measures allow the administrative agency to deny rent increases to landlords who are not in compliance with health and building codes, and to reduce rents when landlords cut back on existing services.

- **Vacancy Decontrol.** Vacancy decontrol undermines rent control because they allow landlords to raise rents well above the allowable annual increase when a tenant moves out. Sometimes, decontrol permanently removes the units from rent control, leading to a complete phase out. Therefore, ideal

rent control law would not allow vacancy decontrol and would require rent controls for vacant units.

However, the political reality is that legislative bodies often include vacancy decontrol provisions as a concession to landlords. In this situation, the best regulation for tenants is a fixed percentage increase upon vacancy. In New York City, the ordinance allows 20 percent. Less desirable provisions, such as those in California, New Jersey and elsewhere, allow rents to be raised to market levels before coming under rent control again. Permanent vacancy decontrol provisions are the most problematic.

- **Capital Improvement Surcharge.** One goal of rent control is to maintain affordable housing in good condition. Therefore, rent control laws usually provide landlords with incentives to make improvements on their property by allowing capital improvement surcharges (i.e. additional income from tenants to cover the cost of improvements). Since tenants pay these surcharges, it is important to guard against excessive, long-term increases. Capital improvement surcharges should not be added to the tenant's base rent, and they should be time-limited and capped at a reasonable level. The law should include clear application procedures, and require the landlord to meet specific filing, evidence, and notice requirements. Tenants should be provided a right to review and challenge the landlord's application.

Ideally, surcharges should be granted only for improvements that add to the value and substantially extend the useful life of the landlord's property, and should exclude amounts paid for incidental repairs and regular maintenance which are currently deductible under guidelines in 26 U.S.C.A., Section 263 of the Internal Revenue Service Code. Some laws require a landlord to first spend an amount equal to a certain percentage of the buildings assessed value before allowing the landlord any capital improvement surcharges.

- **Other Types of Surcharges.** Beyond capital improvement, other types of surcharges should be resisted or limited. Some laws allow surcharges for extraordinary increases in landlord expenses for items such as taxes and fuel. While they are designed to be temporary in nature, they often become permanent due to administrative laxity. It is better to factor in these costs when establishing the allowable rate of annual rent increases, or deal with them under landlord hardship (see below), than to include them as another tenant surcharge.
- **Landlord Hardship Appeal- Definition of Fair Return.** Court decisions require that rent control laws provide landlords with a procedure for claiming "hardship" (generally defined as less than a "fair return" on investments). Without a hardship appeals procedure, a rent control law will likely be found unconstitutional. In defining the procedure, require detailed rules of evidence that include strict proof of the landlord's income and expenses, the financial history of the building complex, and other books and records applicable to its operation. Different approaches can be used to define "fair return." The two most common are "return on equity" formulas, and those based on a percentage or maintenance level of "net operating income." (For a thorough examination of "fair return" formulas, see the Barr and Keating guide and the *Helmsley v. Ft. Lee* case in the Resources section.)
- **Non-Waiverability Clause.** Landlords sometimes weaken rent control by putting waivers of rent control rights in tenant leases or rental agreements. To protect tenants against these waivers, include a non-waiverability clause in the rent control law that prohibits such waivers or modifications.

- **Anti-Eviction and Anti-Retaliation Protection.** In those municipalities where tenants are not covered by strong local or state "eviction for good cause" and "anti-retaliation laws, such protections should be included in the rent control law. Eviction regulations should spell out the specific conditions that must be met and the procedures that must be followed to evict a tenant. The law should also give tenants protection against landlord retaliation in response to tenants asserting their rights under the rent control law, including organizing or joining a tenants organization or making good faith complaints to the landlord, administrative agency or other public officials.
- **Enforcement.** The law should include strong enforcement provisions, including *criminal penalties* for violating the ordinance, *remedies* for tenants who suffer damages due to violations, and the right to *administrative, legislative and judicial* review. Some rent control laws allow appeals of rent board decisions to go directly to the courts; others may require appeal to a local governing body (e.g. city council) prior to filing a lawsuit.

Several rent control laws are available for review on the Internet. California has two excellent examples:

- [Berkeley](#)
- [Santa Monica](#)

In addition, a model rent control law will soon be available from the New Jersey Tenants Organization (NJTenantsOrg@excite.com).

Build and Mobilize Support

Building and then mobilizing a broad base of support for rent control is critical to using and maintaining the effectiveness of this tool. In addition to renters, enlist support from other individuals and organizations committed to affordable, mixed-income, multi-racial communities. Rent control campaigns have found outspoken allies among public officials, small homeowners, labor unions, student groups, mental health organizations, elderly groups, women's organizations, and faith-based communities. National organizations such as the NAACP or ACORN can also provide support to local efforts to achieve rent control, as well as links to organizations in other jurisdictions that have successfully passed or defended rent control laws. A media strategy and other activities designed to get the word out are also essential to building public will in support of rent control.

Evaluate Opportunities

Rent control laws have been passed by governing bodies with the political courage to enact protections for tenants against excessive rent increases and inevitable displacement, and by the electorate through initiative campaigns and referenda. There are pros and cons to either strategy, some of which are discussed in the Emily Achtenberg article below.

An initiative campaign in Berkeley, California led to the passage of a rent control law. Initiative campaigns were also conducted in Lynn and Cambridge, Massachusetts. While these efforts failed to directly result in passage of rent control laws, they resulted in the establishment of citywide tenant organizations and laid the foundation for eventual success in passing rent control.

Sustain Progress

Passing a rent control law is only the first step in stabilizing renters. The new law must be monitored in its implementation and enforcement to ensure its effectiveness. For example, it is important to obtain fair and

adequate tenant representation in the appointment or election of agency staff (e.g. Rent Control Board members, Rent Administrator). Advocates must also be vigilant in evaluating ongoing support for rent control and defending against anti-rent control attacks. The Achtenberg article below suggests establishing a permanent tenant organization to monitor the law and keep tenants and other supporters informed of developments that threaten tenants.

More on Using this Tool.

Emily Achtenberg's article entitled "Organizing a Rent Control Campaign" discusses additional issues relevant to structuring a rent control campaign based on the lessons learned by tenant organizations in Massachusetts. Among other topics, she comments on the importance of political education, organizational development, choosing appropriate strategies and running an initiative campaign.

Challenges

The strongest opposition to rent control comes from landlords and the real estate lobby. Following are some of the arguments typically made against rent control, along with counterarguments:

Against: Public policies should not interfere with the functioning of the free market or property rights of owners.

For: The free market does not operate in a fair and efficient manner in providing for everyone's well-being or compensate for extreme inequities in income and wealth. For most of the past century, private housing developers have consistently failed to provide a sufficient supply of decent affordable housing. In fact, virtually all of the low-income housing built during the past half century has been constructed with public subsidies or built by non-profit organizations. Furthermore, contemporary rent control laws are "moderate" in that they provide for rent increases that cover operating costs, provide a fair rate of return on the landlord's investment, and often exempt new construction.

The alleged "magic" of the market—that invisible hand that is supposed to automatically set the "right" prices—is sometimes wrong. Or more specifically, the market needs certain protections and conditions in place before it works properly—protections and conditions that are often missing in older and lower-income neighborhoods.

Ada Focer, Boston-based journalist

Against: Rent control leads to greater deterioration and abandonment of rental property by reducing the amount of income available to landlords for repairs and maintenance, making it more economical to abandon the building.

For: The major causes of housing deterioration and abandonment are due to factors associated with the decline of urban economies generally, including the disappearance of manufacturing; a sharp drop in employment opportunities; rapid turnovers and declines in population; lack of new business investments; redlining by banks and insurance companies; crime; and poor municipal enforcement of housing codes. Furthermore, there is no evidence of significant abandonment in Santa Monica, Berkeley, and the other 14 California cities with rent control, or in the 120 rent-controlled communities in New Jersey. Conversely, abandonment has been prevalent in cities without rent control, such as Detroit, Cleveland, East St. Louis, St. Louis, and Chicago. In addition, almost all rent control laws deal with this issue by providing landlords with incentives to make improvements and requiring compliance with local health and safety codes. (For an exhaustive study of rent control's impact on maintenance, see Gilderbloom readings in the Resources section.)

Against: Rent control discourages new construction.

For: A multitude of factors influence new construction, including zoning and building codes; interest rates; cost of land and labor; vacancy rates; and others. In New Jersey, the most heavily rent-controlled state in the

country, there has been no significant difference in the rate of new construction in rent-controlled vs. non-rent controlled communities. And, in New York State, there was actually more construction in rent-controlled cities. Moreover, the issue of new construction can be addressed in the rent control law itself by exempting it from rent control, as long as the law also contains anti-eviction protections for tenants in existing housing. In New Jersey, state law exempts new construction from rent control. (For additional discussion of arguments on both sides of this issue, see Downs, Barretto, Gilderbloom and Vitaliano readings in the [Resources](#) section).

Against: Rent control shifts property tax burdens to non-rent-controlled properties because it limits landlord income, depressing the value of the property, thereby reducing assessments and shifting the tax burden to businesses and individual homeowners.

For: The fact that rent control limits the amount of income a landlord can receive does not mean that there is a decline in the value of rental property; the value simply does not increase as greatly as it could without rent control. A number of studies show that apartments significantly appreciate in value whether or not they are rent controlled, and that rent control is not a major variable in causing tax shifts. Tax shifts occur as frequently in both rent controlled and non-rent controlled communities for a variety of reasons other than rent control. (For further discussion of this issue, see Gilderbloom and Kahn readings in the [Resources](#) section).

Against: Rent control provides an unnecessary subsidy to non-poor tenants.

For: Some middle-income and affluent tenants do benefit from rent control, but this is true of any social policy that provides universal coverage. For example, the mortgage interest deduction on federal tax returns is available to all homeowners regardless of income. As a result, wealthy homeowners also receive this tax subsidy and it is often much greater due to larger mortgages and the ownership of more than one home. More importantly, the overwhelming majority of tenants is not affluent, but rather of low and moderate income. The average tenant income is almost half that of the average homeowner's. In California, Massachusetts, New Jersey and New York, nearly half of all tenants cannot afford the average cost of a two-bedroom apartment.

Success Factors

Broad-based Coalition Building. As case studies demonstrate, successful efforts to pass or defend rent control require broad, multi-racial coalitions. In some instances, untraditional allies have been enlisted to lend critical support. Allies have included public officials, small homeowners, labor unions, student groups, mental health organizations, elderly groups, women's organizations, the faith-based community, and national organizations, and others.

Organized and Mobilized Communities. Winning rent control will take dedicated leaders with a commitment to organize. The New Jersey Tenants Organization developed several key [organizing principles](#), that have succeeded in more than municipalities. (See below.)

Sustained Community Engagement. Rent control campaigns are a lengthy process, often followed by drawn-out court challenges. And, the struggle does not end with securing the law; rent control face repeated attacks years later with measures or amendments introduced to weaken its effectiveness. Sustained community engagement is essential. Some cities have established permanent tenant or housing organizations to facilitate ongoing participation.

“Each of the statewide groups fighting for rent control were led by scores of individuals who entered the housing movement with a radical vision and extensive organizing experience gained from the political struggles of previous decades. And most important, these leaders understood that however noble a cause, it is doomed without solid, mass-based, grassroots organizing.”
Mitch Kahn, Director of Organizing, NJTO

Comprehensive Communications Strategy. Strategic use of the media, including radio, television, newspapers, newsletters, and the Internet, is essential to educating the public about the issues, building public will in support of renter stabilization and countering anti-rent control propaganda.

Timing. Assessing economic and political opportunities is critical. Good timing is absolutely necessary to a successful campaign to pass or defend rent control.

New Jersey Tenant Organization Organizing Principles

- **The goal of organizing is to win power.** Power should not be viewed as a negative thing. It is essential that you have enough of it to accomplish your goals.
- **People are best organized when common problems affect their self-interest.** When quality of life is at stake, people are more willing to organize. All organizing materials (meetings, newsletters, flyers, press releases, etc.) should stress the practical value of organizing and the specific problems you hope to solve.
- **Your major task as an organizer is to build a strong democratic organization that can channel its members' energy in effective ways.** People sit up and take notice when a strong organization mounts a public campaign for social justice. The old saying "there is strength in numbers" is one that

should guide you. While your opponent may have more money, you can mobilize more people. Collective action increases your power as tenants.

- **Be creative and flexible in the methods that you use. Use tactics that work, throw out tactics that don't.** Tactics should be chosen wisely and abandoned when they no longer serve. Tactics that prolong conflict without resolution become unbearable burdens. You want to use some tactics that work quickly. Try to win short-term victories while working for long-term solutions. Quick victories build the membership's morale and give the organization the spark to take the struggle to the next level. Tactics may include direct action, such as sit-ins, marches, rent strikes, and legal challenges.
- **The Need for Tenant Unity.** Your opponents will attempt to break your unity; you must be prepared to maintain it. Remember that all actions must have wide support. Unity multiplies your power. Division always reduces your chances of winning.
- **No Nonsense.** Adopt a serious attitude in your dealings with public officials. Do not accept promises if past agreements were broken. Make public officials earn your trust. They are not your friends unless they prove it. Do not make excuses for their lack of commitment or failure to act as promised. This will undermine organizing efforts. Be formal when communicating with public officials until they have earned your support. Remember, if you want them to take care of business, you must demonstrate that you mean business!
- **Use the Media.** Keep the press informed of all your activities and cultivate a relationship with the reporters who cover your campaign. Issue press releases and hold press conferences when you have important news. Keep the focus on the human drama. Your goal is to win support from the larger community, and you can do this by showing that what you are doing will provide real help to real people. Keep your message simple and genuine.
- **Know More!** Learn all you can about rent control. Understand the legal constraints in your city or state. Develop a critical understanding of how your municipal government works. Know the key players and elected officials and the interests they represent. Point out opponents' weaknesses and mistakes. Develop an understanding of the issues that will be debated and be prepared to counter arguments you will face.
- **Understand the Electoral Process.** Elected officials are empowered to legislate rent control laws and therefore, one of your primary targets. It is important to understand every aspect of municipal elections, including the initiative and referendum process (if used in your community). Be prepared to get involved in local elections, keeping in mind restrictions on the electoral activities of 501 (c)(3) organizations

Do not shy away from conflict. Your opponents will not just hand you what you want because it is the right thing to do. Their interests are different than yours and they act accordingly. Conflict is normal in organizing for social change. Be resolute and remain calm.

Financing

Cost to the Jurisdiction

In most jurisdictions, an administrative agency such as a Rent Board or an Office of Rent Administration is established to administer and enforce rent control laws. The costs of operating the agency are borne by the agency, the local government, or by both. These costs may include:

- a paid full-time executive director, rent administrator, and other staff such as an administrative assistant;
- compensation for members who are elected or appointed to such boards (some agencies are staffed by volunteers);
- an attorney for the agency;
- facilities and other services.

These costs are usually funded through the municipality's regular budgetary process or through special funds created to maintain the operation of these agencies (such as revenue generated from administrative fees). For example, in New York, a state agency (the Division of Housing and Community Renewal) administers the rent control law and operating costs are subsumed in the state budget. In some jurisdictions, the rent control law requires landlords to pay registration fees based on the number of rental units they own and these fees are then used to finance the operations of the agency (see above: [Draft a Strong Rent Control Law](#)).

Cost to Landlords

Rent control denies unlimited, excessive rent increases, thus limiting profits. Rent control does, however, allow for annual increases that provide owners a fair return on investment with sufficient income to maintain property in a satisfactory manner (i.e. income sufficient to cover operating costs and to make repairs in compliance with health and building codes).

Rent control laws usually include provisions that protect a landlord's investment in these ways. For example, the law usually defines "fair return" and provides landlords with a "hardship" appeal process if circumstances change and the landlord is no longer receiving a fair return on the investment (see [Draft a Strong Rent Control Law](#)).

Policy

Like most public policies enacted by state or local legislative bodies, rent control is susceptible to local economic conditions and the political climate. As discussed below, it has come under frequent attack over the years.

The Current Political Viability of Rent Control

Community Advocacy. Nationally, outside the main rent-controlled regions, there has been little demand for rent controls due to the relatively low inflation rate and rising vacancy rates of the past decade. However, in hot local real estate markets such as Seattle, Boston, San Francisco, Hoboken (New Jersey) and other cities where neighborhoods are experiencing or anticipating gentrification, rent control is re-emerging in policy debates as a tool for preventing exorbitant rents and tenant displacement.

Anti-Rent Control Activity. In the midst of the more conservative political climate of the past two decades, the real estate industry lobby and its political allies have carried out a major offensive against rent control. Today, rent control survives in approximately 140 jurisdictions. At the national level, the National Apartment Association and the National Multi-Housing Council have encouraged and provided assistance to their state affiliates involved in anti-rent control campaigns. Activity is also occurring at the local level. In New York City, for example, the landlords' Rent Stabilization Association has conducted expensive lobbying campaigns to gut local rent regulations each time the law has come up for renewal, as well as contesting annual rent adjustment guidelines. In New Jersey, the New Jersey Apartment Association, a landlord trade association, has encouraged legal challenges, voter referenda, and the filing of massive tax appeals. California landlords have filed lawsuits and sponsored statewide initiative and referendums to undercut rent control.

While these anti-rent control activities have largely failed to abolish rent control, they have eroded its effectiveness in many places. For example, the enactment of *vacancy decontrol* provisions in the overwhelming majority of the nation's rent control laws is a direct result of the anti-rent control lobby.

A Brief History of Rent Control

Rent control first appeared in the United States in the early 1900s as a tool in dealing with wartime housing emergencies and rent gouging in tight housing markets. However, during the 1950s, rent controls were phased out in all areas of the country except New York.

The climate of political protest during the civil rights movement and anti-war demonstrations of the 1960s set the stage for a wave of tenant organizing in many cities and a revival of rent control. The Harlem rent strikes of 1963 received national attention and the Chicago Tenants Union mobilized thousands of renters to fight slum conditions. In New York, the Metropolitan Council on Housing organized tenants to secure legal rights, property maintenance and rent control. By 1968, similar organizing was taking place in Boston, Cleveland, San Francisco, Philadelphia, Milwaukee, St. Louis and Newark. In 1969, 67 major rent strikes took place in 29 cities across the nation. By the end of the decade, tenants in Boston won passage of a municipal rent control law, and, in New Jersey, the first statewide tenants' organization - the New Jersey Tenants Organization (NJTO) - was formed to win passage of statewide protective tenant legislation and local rent control ordinances.

By the mid-1970s, the fight for rent control became galvanizing issue for tenant organizing in many parts of the United States including California, New Jersey, New York, Massachusetts, Baltimore, Maryland, Seattle, Washington and Washington, D.C. The economic and political climate of this era made the battle for rent control timely and winnable.

The inflationary pressures brought about by the Vietnam War and the OPEC oil embargoes placed economic hardships on increasing numbers of working families. In many areas of the country, rent increases far exceeded wage increases and a growing shortage of affordable housing exacerbated the crisis. Politically, there was an infrastructure of progressive tenant organizations led by skilled organizers who were able to mobilize large numbers of tenants. Groups such as the NJTO, the Metropolitan Council on Housing (NYC), the New York Neighborhood and Tenant Coalition (NYSTNC), the California Housing Action and Information Network (CHAIN) and the Massachusetts Tenants Organization (MTO) coordinated successful local and statewide rent control campaigns. This surge of tenant activism led to the formation in 1980 of a national umbrella organization - the National Tenant Union (NTU). The NTU was instrumental in successfully coordinating a national campaign to defeat the Reagan administration's repeated attempts to deny federal Community Development Block Grants (CDBG) to any municipality that had a rent control law.

Successful community organizing led to the enactment of rent control laws in almost 175 municipalities nationally by the early 1980s. Today, rent control survives in approximately 140 jurisdictions.

Case Studies

Most of the major campaigns to enact rent control laws were conducted in the 1970s and early 1980s. With the exception of the Hoboken case (which illustrates rent control advocacy efforts since 2000), the following case studies are from that period. Although they are somewhat dated, each of these case studies contains important insights and lessons that are still relevant today.

Hoboken, New Jersey. In Hoboken, a community undergoing major gentrification, tenants have repeatedly organized and successfully defeated attempts to weaken rent control. Hoboken's rent control ordinance was enacted in 1972. Tenants and others successfully beat back vacancy decontrol measures in 1989 and 1994. Then, in 2000, there was a series of efforts to pass anti-rent control amendments such as eliminating owner-occupied two-family units from rent control and imposing market rates on HUD and state subsidized housing. The community mobilized and secured almost 2,000 signatures in two weeks - twice what was needed to get the issue on the ballot. The City Council subsequently withdrew the proposed amendments. (see below)

Santa Monica, California. Rent control was passed in Santa Monica in 1979. The case study compares the first, failed attempt with the second, successful campaign one year later. Defeated 47 percent to 53 percent in 1978, rent control advocates came back in 1979 stronger, wiser, better organized and financed to pass rent control 54 percent to 46 percent, while simultaneously electing pro-rent control city council members.

Baltimore, Maryland. The two case studies on Baltimore, written by participants in the rent control campaign, focus on the strategies used to build a multi-racial coalition in support of rent control. The first case study discusses the passage of rent control through a voter-approved charter amendment and the keys to success; the second chronicles activities after passage and highlights lessons learned. Later challenged in court, the new law was struck down as unconstitutional. But, the mobilization in support of rent control laid the foundation for development of a citywide housing organization.

San Francisco, California. Tenants in San Francisco eventually won a rent control law, but there were many hurdles along the way. This case study documents the role that money played in the 1979 initiative campaign and how landlords used the media to defeat this early attempt to win rent control.

The Santa Monica, Baltimore, and San Francisco case studies were excerpted with permission from John Gilderbloom, Editor. *Rent Control: A Source Book* San Francisco : Foundation for National Progress. The Hoboken case study was developed by Mitch Kahn for PolicyLink .

Gentrification Leads to Attack on Rent Control

Hoboken, New Jersey

Hoboken, New Jersey is not just the birthplace of Frank Sinatra. It is now one of the hottest gentrification sites in the nation. For most of the last century, Hoboken was a small, industrial city made up of tightly knit working-class, multi-ethnic neighborhoods, with tenants making up 70 percent of the population. Most of its housing consisted of two, three, and four family brownstones and small tenements. During the 1970s, Applied

Housing, a for-profit development firm with a progressive reputation, built 5,000 units of affordable housing with public subsidies. A few other for-profit developers followed suit with smaller projects. This new housing gave the city a needed refurbishing and allowed the social fabric of the community to remain intact. Non-subsidized housing, including owner-occupied, two family houses, were covered by rent control. The city's rent control ordinance, enacted in 1972, allowed rent increases coinciding with the Consumer Price Index (CPI) but in no case could increases exceed 7.5 percent. Long-time residents welcomed what appeared to be "gentrification with a human face."

However, things began to change in the early 1980s. Hoboken is just a stone's throw from Manhattan, a five-minute drive through the Holland Tunnel, a quick ferry trip across the Hudson River, or a five-minute train ride on the PATH connects the two cities. The overheated New York City real estate market made Hoboken a prime area for gentrification. Compared to Manhattan rents, young professionals considered the cost of Hoboken housing a steal. There was a sharp increase in co-op and condominium conversions, favored tax treatment for developers, a wave of new upscale restaurants and shops, and a suspicious increase in arson incidents in older properties. Because of the city's strong rent control law and governmental controls placed on the subsidized housing, displacement of the existing tenant population was moderate, but municipal services to the city's poorer residents were given lower priority and began to decline.

By year 2000, the influx of more affluent people swelled Hoboken's population, and what remained of Hoboken's affordable housing stock was coveted by those who had not yet cashed. This required a significant attack on the city's rent control ordinance. In February 2000, Hoboken Council Member Stephen Hudock led efforts to amend the city's rent control ordinance in two fundamental ways. The first amendment would eliminate owner-occupied two-family units from rent control. This was quite significant because in New Jersey such tenants are not covered by the state's Eviction for Cause Law. Without local rent control protection several thousand Hoboken tenants could be priced out of their apartments in a month's time at the expiration of their leases.

A second amendment dealt with the more than 5,000 units of HUD and State subsidized housing. Landlords of these properties had announced their intention to take advantage of HUD's "expiring use" policy which would allow them to impose market rents on these units after pre-paying mortgages they held for at least 20 years. Tenants assumed that since government regulation ended, these properties would come under the jurisdiction of the rent control law at the current rents. However, an amendment supported by the Mayor and several City Council members would allow the owners of these properties to fully decontrol 30 percent of the units at the expiration of their government contracts and allow gradual decontrol on the remaining 70 percent. A long-time resident, Phyllis Spinelli, told the council, "by offering free market vacancy decontrol to this class of landlord, you are taking official action to dismantle Hoboken's affordable housing."

*"Why is the destruction of rent control an objective of city policy?"
Daniel Thumspen, tenant leader*

This was not the first time that city officials attempted to enact draconian vacancy decontrol measures. In 1989 and 1994 tenants beat back similar attempts by threatening a public referendum. Tenant leaders Daniel Thumspen and Annette Illing decided to carry out the same strategy this time around and began to call for the issue to be put on the ballot. In a city with a large tenant majority, these amendments would most certainly be defeated. Thumspen stated, "Why is the destruction of rent control an objective of city policy? Is it not rather an objective of a small minority who would profit at the expense of thousands of others?"

Shouldn't such a major change be put on the ballot as thousands have demanded?" Other residents, including some homeowners, saw these amendments as leading to permanent changes in the nature of the community. One resident, Jean Forest, noted that by enacting these changes Hoboken would "close its doors to the working families who have been the backbone of this town."

In spite of public outcry, the Mayor and Council passed the amendments in March 2000. Tenant leaders immediately responded by launching a petition drive to get the issue put on the ballot. Tenants took advantage of a state law which stipulated that if a prescribed number of signatures could be gathered within 20 days of the council vote, the issue must be placed on the ballot. Tenant leaders gathered almost 2000 signatures in a two-week period, double the number needed. Mayor Anthony Russo and the five city councilmen who supported the amendments were facing almost certain repudiation of their vote at the polls. Hundreds of tenants continued to flood city council meetings. The supporters of the anti-rent control amendments began to waver. Councilman Hudock, who originally sponsored the amendments, moved to rescind them and the council concurred. Pro-tenant Council Member Tony Soares stated, "they blinked...that's all I'm going to say...they blinked they blinked!"

Unfortunately, the anti-rent control members of the city council hardly let the dust settle before they introduced a new amendment that would again weaken the rent control ordinance. This one would grant landlords unlimited vacancy decontrol in the subsidized buildings once a subsidized tenant vacated. Again, tenants mounted pressure to successfully beat back this initiative. However, state regulatory agreements concerning the subsidized buildings have done much to undermine the Hoboken Rent Leveling and Stabilization Board's local jurisdiction of this matter. Local tenants found themselves fighting on two fronts, battling against pro-developer politicians locally, and the state government. Because the issue of "expiring use" has statewide impact, particularly in communities undergoing gentrification, the New Jersey Tenants Organization and other statewide housing advocacy groups joined the battle and filed suit against Applied Housing, the largest owner of these Hoboken properties, and the N.J. Department of Community Affairs. The suit's goal is to void agreements that will allow 75 percent of these units to eventually go to market rents. As of this writing (December, 2001), the case is still pending.

In the meantime, Hoboken tenants won another significant battle when a court decision overruled a provision in rent control law which placed a time limit of two years for tenants to recoup illegal rent overcharges. Undaunted, the anti-rent control council members introduced a modified version of this provision one month after the court ruled it illegal. Tenant leader Thumpson stated the obvious, "this encourages lawlessness by giving the landlord a prize if he can get away with charging illegal rents for a certain amount of time." Again, an outpouring of tenants at council meetings and intensive tenant lobbying was successful in defeating this new attack on the rent control law.

In June 2001, David Roberts, a council member who played a key role in defeating the anti-rent control initiatives, was elected mayor. However, political alliances can shift quickly in a gentrified market and Roberts received considerable support from a key developer. So Hoboken tenants are vigilantly waiting and prepared for the next attack on rent control to unfold.

Resources

Rent Control Legislation and Ordinances

A model rent control law will soon be available from the New Jersey Tenants Organization (NJTenantsOrg@excite.com).

Significant Court Decisions on Rent Control

Block v. Hirsh, 256 U.S. 135 41 S. Ct. 458.65 L.Ed. 865 (1921).

Early U.S. Supreme Court decision which required an emergency to exist as a legal basis for rent control.

Nebbia v. New York, 291 U.S. 502, 54 S. Ct. 505, 78 L. Ed. 940 (1934).

U.S. Supreme Court overturned *Block* stating that a "rational basis" was sufficient for regulatory legislation such as rent control.

Wagner v. Newark, 24 N.J. Super.467, 132,2d 794 (1957).

N.J. Supreme Court ruled that municipalities did not have the power to enact legislation on rent control which it construed as a statewide matter. Such power could only be granted by state enabling legislation.

Inganamort v. Fort Lee, 62 N.J. 521, 303 A.2d 298 (1973).

N.J. Supreme Court ruled that local municipalities had the police power to enact rent control ordinances in response to local housing conditions. Possible rationales could include exorbitant rents, prevalence of substandard housing, and housing shortages-low vacancy rates. This decision overturned *Wagner*. However, a number of other state legislatures still prohibit local rent control without enabling legislation.

Birkenfeld v. City of Berkeley, 17 Cal. 3d 129, 550 P. 2d 1001, 130 Cal. Rptr. 465 (1976).

California Supreme Court ruled Berkeley 's 1972 rent law unconstitutional.

Brunetti v. New Milford, 68 N.J. 576, 594, 350 A 2d 19,28 (1975).

Hutton Park Gardens v. West Orange, 68 N.J. 543, 564, 350 A.2d1, 12 (1975).

Troy Hills Village v. Parsippany, 68 N.J. 604 350 A 2d 34 (1975).

These three cases are known as "the rent control trilogy." The Court established three important principles in these cases which have had influence in the crafting of rent controls throughout the U.S. These decisions (1) placed the burden of proof on landlords to demonstrate that municipalities had no rational basis for rent control; (2) stated that a rent control law did not have to include all of a landlord's costs increases in the allowable annual rent increase as long as the law provided hardship appeals; and (3) in assessing hardship, landlords must be provided with a "just and reasonable" return on their investment.

Helmsley v. Fort Lee, N.J. Sup. Ct. No.5 A 163-167 (1978).

N.J. Supreme Court affirmed that landlords are entitled to "prompt, fair, and efficacious administrative relief" when applying for hardship increases, and the court provided a conceptual definition of "fair return" and outlined constitutional methods for calculating it. Its recommended approach was the use of a "fair net

operating income ratio" formula. It also found return on investment or equity formulas constitutional but found approaches based on market value unconstitutional.

Fisher v. City of Berkeley, 475 U.S. 260 No. 84-1538. (1985).

Landlords challenged the City of Berkeley's rent ordinance claiming it violated anti-trust law. This case worked its way up through the California courts and was ultimately appealed to the U.S. Supreme Court which ruled that Berkeley's (and by implication all local) rent control ordinance did not violate anti-trust law. This was the last major court decision on rent control.

NOTE: Not listed here are a number of state and federal cases which allow government agencies to preempt from rent control, properties that they own, manage, finance, or subsidize.

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