

Rent Control Committee Presentation

Jersey City Property Owners Association

October 2, 2019

Core Issues in the Rent Control Environment

- 1) Rent control is not affordable housing, it is consumer protection legislation that prevents gouging in a housing supply emergency**
 - No income guidelines for rent control housing – everyone in the defined housing stock is protected
 - No public subsidy for rent control tenants – the property owner bears the cost of rent control through unrealized income and reduced property value

 - 2) Rent control delivers benefits where they are not needed and burdens other property owners**
 - Vacated units under rent control go to the most fit applicant, who receives the discounted rent regardless of income, often resulting in high-earning households paying under-market rents. This deprives the city of that household contributing its fair share of property taxes.
 - Unrealized tax revenue from rental properties has a substantial impact on the City. A recent study by the Liberty Board of Realtors, which maintains Newjerseyrealestatetaxes.com, showed that between revaluations, ratables on rent control properties increased by only 7% while other property values increased by 45%, causing a more than \$13 million annual loss to the City.
 - When rent control properties fail to generate their fair share of taxes, the burden of supporting City services falls to the single-family and condominium owners, as commercial properties pay tax based on a revenue formula. Additional taxes on small property owners cause loss of value, which results in property tax appeals.
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3) Rewards for re-investment under Jersey City's capital improvement provision improve the housing stock and have encouraged renovation that significantly rewards residents and the City at large

- Renovated properties reduce impacts of conditions issues, resolving a wide array of issues including upgraded electrical service, lead paint remediation, efficient energy usage and more
- While rent control generally devalues properties by constraining appreciation, capital improvement increases add value back and result in higher assessments which increase tax collection.
- Called a "perverse incentive" to move tenants out in a recent report, there are no known cases of harassment to create vacancy. While we understand the concerns about protecting tenants, the law adequately recognizes harassment as a crime, and violators should be prosecuted; but a prophylactic governance undermines the tax equity and free market principles that maintain balance in the marketplace.
- Capital improvement programs encourage sustaining rent-controlled apartments that would otherwise be demolished or converted to single-family homes, condominiums or short-term rentals. Jersey City has lost 3100 of these units to Airbnb registrations alone, eliminating previously accessibly priced housing, plus an estimated 3000 additional units.
- Suggestions that capital improvements be pre-approved by the rent leveling office signal a level of affirmative regulation that cannot be sustainable. The office currently does not respond to landlords or tenants in a timely fashion, and adding additional steps will chill the market and create litigation. Instead, requiring that documents are filed with the office for review and maintaining harsh consequences for violations will provide sufficient tenant protection against excessive rent increase.

4) A high-performing, predictable regulatory environment is essential

- Most apartment owners are in substantial compliance if for no other reason than poor management and violations are costly and bad for business
 - Understandable requirements that are consistently, equitably and reasonably applied enable responsive management practices
 - To quote the Waterfront Project, "rent control cannot be managed affirmatively by a rent leveling office." Compliance must be the responsibility of the property owner in the form of filings and disclosures. There was once the presumption of compliance and now there is the presumption of non-compliance, which burdens owners unnecessarily and confuses tenants. Added disclosure will cure the information gap issue tenants may suffer while maintaining a reasonable regulatory environment that is sustainable by the current office.
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- Tenant notifications of their rights under rent control can be improved to assure that they can reasonably identify whether property owners are operating consistent with the obligations and so that tenants understand where they can bring complaints and concerns. The following notification points will provide sufficient ability for tenants to understand they are under rent control and be able to access assistance from the rent leveling office:
 - Rent Controlled units must have disclosure within the lease
 - Property owners must deliver a specific disclosure notice about rent control and contact information for the rent leveling office each time a new lease or lease renewal is issued. The City may also require the notice to include contact information at social service agencies such as the Waterfront Project at its discretion.
 - Rent Controlled buildings must feature a plaque on the mailboxes declaring they are rent controlled and that records may be reviewed and complaints may be registered at the rent leveling office.

5) As a result of staff transition and policy adaptation, application of the rent leveling ordinance is confusing or inequitable

- The reorganized rent leveling office has caused disruption as standards and practices have changed
 - Recent changes to reporting documents and inconsistent applications of the law – including the refusal to accept registrations, which disables property owners from getting financing or leaves them out of compliance with their lenders and changes to reporting documents – should be subject to review by this Committee.
 - The rent leveling office is unfairly targeting owners who are in substantial compliance instead of attacking the unregistered owners who are, by definition, the greater offenders
 - Tenants and landlords should perform under similar legal standards, as the law provides them equal protection. However, as recent cases have shown, the rent leveling office is inviting tenants to challenge rents on a haphazard basis, accepting some proofs, denying others and making determinations autocratically, violating the principle of equal protection.
 - Recent lawsuits determined – for now – that the rent leveling office’s perspective on “deferred rent increases” was incorrect and its definition of “equity” as the basis for hardship increases was correct. In both cases, reasonable accommodations can be made on both sides, respectively to a) prevent pricing abuses during property transfers and b) acknowledge contributed value over time as part of the base equity equation
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6) Recommendations on generating applicable comprehensive data and universal registration

- The rent leveling office must prioritize registration and compliance before it can make general presumptions about the rent control environment
- Encouraging registration through amnesty can be effectively combined with current policies to assure registration
- Extending the look-back period to 6 years similarly creates a workload that the rent leveling office could not meet, and, in any event could create the consequence of inappropriate rent rollbacks due to poor record keeping at the office. If such an expansion were to occur, it must be accompanied by a phase in, as landlords that are currently in compliance could find themselves out of compliance despite performing under the ordinance
- The rent leveling office has suggested that it require registration from exempted properties, adding to its already unmanageable workload and creating compliance activity where none is needed. Registration at time of expiration of exemption is sufficient.

7) The rent control ordinance and rent leveling office cannot be expanded to govern conditions issues nor should it undertake burdensome registration activity outside of its purview or the public interest

- The rent leveling office is not a social service agency or a tenant advocacy. It is a dispassionate function of government that, at its heart, protects tenants from pricing abuse. Adding hearings on conditions issues to the rent leveling board's is redundant to existing roles. While the entry point for many tenants with conditions issues is the rent control ordinance because it provides them with rent relief, the core issue is the condition of the unit and not non-compliant pricing. Asking a rent leveling board that admits it does not currently even have the capacity to register the units that should be under its authority seems to undermine its opportunity to succeed at its current mission of re-organizing the rent leveling effort. Instead, there should be a greater commitment to enforcement and fines for offenders.
 - The recommendation to create a publicly searchable database of all rent-controlled units in Jersey City with rents listed would expose sharing personal information about tenants, invading their privacy and exposing them to online investigations and mischief. Instead, maintaining records for review within the rent leveling office asserts needed controls.
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8) National lending and policy implications facing Jersey City

- A recent HUD report questions whether Fannie Mae and Freddie Mac should be backing loans in jurisdictions with rent-control laws. The Administration urges the Federal Housing Finance Agency (FHFA), the regulator for Fannie Mae and Freddie Mac, to “revisit ... underwriting criteria” for loans on multifamily properties where rent-control laws “or other undue impediments to housing development” are in place. If such lending standards change, additional debt expenses will lead to property devaluation, further pressuring the fiscal circumstances in Jersey City.
 - Use of the Department of Labor’s Consumer Price Index Category U (CPI-U) which measures the increase in costs related to housing, is a more reasonable standard by which to raise rents rather than the general CPI, which measures an unrelated “basket of goods.”
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