



## **Hoboken Rent Control Stakeholder Meeting 6/28/22**

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### **Reforming Rent Control in Hoboken**

#### **HOBOKEN RENT CONTROL PROCEDURES AND ENFORCEMENT**

*Data:*

The Hoboken rent control ordinance has become a mash of compromises and regulatory layers that do not provide a predictable enforcement environment nor do they respond to the City's current housing environment. Clearly it is in need of reform if it is to do its job of creating tenants protections while sustaining and sustainable private housing industry.

In order to address these issues in the 2011-2102 period the Council held 9 hearings on rent control over 14 months and heard testimony on each of the standards in the Ordinance. Ultimately very little was changed at that time and in the intervening period the adjustments that have been made are predominately in enforcement regulations and not in the ordinance itself.

Mile Square Taxpayers Association participated in this previous hearing set by providing white paper testimony in advance of each hearing. While we undertook some research during that review, our analysis and suggestions were largely policy-oriented. We are taken aback by the lack of research and policy development – and the misapplication of the weak set of facts referenced – that are a defense for the amendments proposed recently.

As a result, MSTA, through its parent organization Hudson County Property Rights Coalition, is undertaking a three-part education program:

- 1) A study of:
  - a. Increases in incomes over time versus the increases in rents over the same period;
  - b. Comparison of property tax increases in Hoboken versus rents on rent controlled units;
  - c. A census of rent controlled units in Hoboken at the beginning of the period and now, including condominium properties, which are covered by the ordinance but whose maintenance and carrying charges exceed their allowed rents.
- 2) A poll of Hoboken residents on rent control.
- 3) A study of MCI and other applications for increases with some contextual information in some cases.

This information – which by right should have been undertaken by the City and perhaps expanded prior to the introduction of proposing amendments – will provide a fact set from which to make assessments of the success of the rent control ordinance in protecting renters and facilitating property ownership.

Policy:

The proposed amendments lack the definition of fundamental principles that should guide legislative action. Most elementally: who is this ordinance for? Existing residents of Hoboken suffer modest impacts from rent increases – even if the increase is CPI this year, the cost of operating housing has far outpaced rent increases on existing residents. Without the mechanism for increasing rents at vacancy, an even greater portion of the housing would be converted or fall into grave disrepair. And the number of applications for capital improvements is how many and how often are they granted? It is a minuscule number and owners only go through the process if they face catastrophic repair issues.

So these amendments are not for existing residents, whose savings even on a \$1500 apartment – significantly higher than many rent control apartments in Hoboken – from 7.5% to 4% would be only \$52.50 per month, which is far less than the fuel cost increases in the current market.

The vacancy decontrol amendment does not affect one person already living in Hoboken, it simply assures that the person moving in gets a discounted rent, without consideration for the taxpaying property owner or the taxpaying single family and condo owner, who have to pick up the tax burdens for buildings that as a result of this policy pay discounted taxes. Why would we do that? That new

resident is not a candidate for affordable housing, and usually is selected because they have the greatest assuredness of paying the rent, not the person who needs a subsidy for their rent as a result of a low income.

Truly, the balance of interests in Hoboken is to allow for the broadest vacancy decontrol possible, and to focus its efforts to help those in need by creating more affordable housing. It has become a crutch of government to claim that it is supplying affordable housing through rent control when, in fact, the most basic analysis shows this to be untrue. At this stage of Hoboken's development, it cannot afford to hold up false claims for the sake of symbols: it needs real thought and real work to adopt real policies that address real situations.

In order to not constrain maintenance and property improvements and to balance the City's equities, we propose reform of the vacancy decontrol provision of the Ordinance by offering a set of options to the property owner:

- 1) Fair Affordability Option: Minimum rents will be set for vacant for studio, 1, 2 and 3 bedroom apartments. Some of the very old units in Hoboken that have long terms tenants have rents so discounted to market that any percentage increase is meaningless. The minimum rents should be calculated based on COAH or HUD Section 8 standards for affordability.
- 2) Rehabilitation Requirement Option: Vacancy decontrol could be provided as it is in Jersey City, where the rent increase is calculated based on incentivizing the property owner to make improvements to the property. As in Jersey City, this process would not require regulatory activity, but would be based on certification of expenditures and completion of work. But even this process is cumbersome and unnecessary, when the recent rent control adoption in Montclair provides an even better and simpler answer: one decontrol every 5 years upon a vacancy. Or the new rent control ordinance in Asbury Park or the longstanding rent control Ordinance in Englewood, both of which provide full vacancy decontrol.
- 3) Affordability Preservation Option. The property owner may elect only increase the rent by the percentage of annual increases allowed. This will protect units from approaching market prices for units that do not requirement improvements or otherwise are above the affordability standard.

Enforcement:

There is a current program to digitize records from the rent control office so that they are easier to access and determine allowable rents. While we believe this is necessary, the process is still going to suffer from the fact that records are compromised – and a court decision can be referenced for this fact – and so the input information is not going to resolve discrepancies and the application of alternative proofs.

Further, it is widely acknowledged that the rent control office:

- a) Does not have sufficient staff to enforce the current ordinance over the broad market
- b) Cannot react on a timely basis to applications and requests for information
- c) Imposes standards that are not consistent with the Ordinance language (prime example of notification of rent control in leases)

Hoboken's Ordinance was previously found to be unconstitutional as applied in similar circumstances in a case that should be more frequently cited in litigation environments – shame on us for not asserting to property owners their rights to a high-functioning regulatory environment.

Be that as it may, we are recommending a simple fix to the rent control regime that protects all existing tenants as they are right now and creates a future regulatory environment that is predictable:

*New Base Year Application:*

- a) The new base year will commence with each lease signing on a vacant apartment.
- b) After 2 years, the new base year will be the legal base rent.
- c) Base years will run with each individual tenancy.
- d) All applicable increases will be calculated on the new base year.
- e) Upon vacancy, a new base year will be established using the rental amount of the previous tenant.