Rent Control

Key Policy Components and Their Equity Implications

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July 2021

Rent control has a long and hotly debated history. Although rent control has been shown to increase stability and affordability for tenants in controlled units, some studies have found that these benefits are offset by greater costs in the uncontrolled rental market because of reductions in the overall supply of rental units (Diamond, McQuade, and Qian 2018; Sims 2007). Critics also question whether the benefits of rent control truly reach renters with low incomes and renters of color who face the greatest affordability challenges (Ault and Saba 1990; Gyourko and Linneman 1989; Sims 2007).

Even still, many tenants, tenants' rights groups, and community organizers support rent control and believe in its ability to balance power between renters and landlords. As such, rent control has reemerged as a potential tool to address the housing affordability crisis in the US. In 2019 alone, New York, California, and Oregon passed statewide rent control laws or laws that allow cities to enact their own regulations (Rajasekaran, Treskon, and Greene 2019). Additional efforts for new regulations or challenges to preemption (when states do not allow cities to enact their own rent control ordinances) are expected or under way in 2021 in Colorado, Illinois, Massachusetts, Minnesota, Nevada, and Washington state (NMHC 2020).

In this brief, we detail the various components of rent control that determine the regulations' impact on the equitable provision of affordable housing. To identify these components, we pull from academic literature, document review, and interviews with 23 key stakeholders that include community leaders, tenant advocates, policymakers, landlords, and developers. We also gather evidence from

newspaper articles across the US about rent control reforms to identify common barriers, changes to regulations, and innovative ways of implementing rent control to close loopholes and improve outcomes for low-income tenants, both in and outside rent-controlled units. A project advisory group oversaw this work (members are listed in the acknowledgments section below).

This brief also serves to inform our broader body of work on rent control and inclusionary zoning,[1] which will include an empirical study that estimates the impact of rent control reforms on the overall supply of housing, the supply of housing that is affordable to households with low and moderate incomes, and access to opportunity for households with low incomes and households of color.

We find that different groups of stakeholders have diverging views on the efficacy of rent control in promoting equitable housing outcomes:

- While landlords, for-profit developers, and real estate industry representatives are skeptical of rent control's ability to provide affordable housing for renters with low incomes and renters of color, many tenant advocates and housing policy researchers disagree and feel that policy loopholes or weak regulatory coverage is to blame when rent control fails to improve housing affordability.
- Tenant advocates support rent control over other, more supply-driven policies like inclusionary zoning, partly because they feel that rent control plays a crucial role in mitigating power imbalances between tenants and landlords and in increasing civic engagement, which is often overlooked in traditional quantitative research. They also feel that rent control does a better job of providing housing that is affordable to families with low incomes and that other supply-driven policies create housing that is affordable to households with more moderate incomes.
- Vacancy decontrol, which allows landlords to raise rents to market rate or exclude units from regulation after a vacancy, creates an incentive for landlords to displace current tenants and encourages them to select tenants who are more mobile and often have higher incomes. Many jurisdictions have enacted tenant protections such as just-cause eviction requirements to mitigate the negative impacts of vacancy decontrol. However, landlords have found so many loopholes around these protections that vacancy control may be the only way to truly ensure the stability and rights of tenants in rent-controlled units.
- Policy enforcement, compliance, and education are important and often overlooked program components that are necessary to ensuring equitable tenant outcomes. The same rent control regulation may work differently in one jurisdiction versus another if one has a strong protective body in place that helps enforce the rules and support tenants and landlords and the other does not.

Rent Control Regulations

"Rent control" is a loose term used to cover a spectrum of rent regulations. These regulations can vary from hard caps on maximum rents (often associated with traditional rent control) to limits on the amount that rent can increase over time (a method that is often referred to as rent stabilization and is popular currently).

The distinction between these terms generally reflects differences in first- and second-generation regulations. First-generation policies were associated with federally imposed rent ceilings in response to constrained housing markets during World War II. While this iteration of strict rent control largely disappeared by the 1950s, the second generation emerged in the 1970s in response to mass tenant organizing and growing housing cost burdens. Unlike the blunt rent caps associated with the first generation of policies, this iteration was more moderate—it had caps that shifted yearly and often had hardship provisions, including allowing landlords to petition to increase rents for capital improvements if they were not receiving "reasonable returns."

The following decades were marked by heavy lobbying against rent control by the real estate industry and early economic research suggesting that rent control negatively affected construction rates and property maintenance.[2] Significant backlash against rent control and a wave of statewide preemptions followed (box 1).

BOX 1

Preemption and Restriction of Rent Control at the State Level

In the 1980s and 1990s, conservative state legislators from the American Legislative Exchange Council[a] led efforts to preempt rent control legislation in cities, counties, and other jurisdictions—with great success (Goetz et al. 2021). At the same time, many existing rent control policies were repealed or weakened through state-level legislation. While more than 200 municipalities have enacted some form of rent regulation, rent control is outlawed by the majority of states in the country. As of 2020, 31 states had preempted local use of rent control.[b] Some researchers argue that these statewide restrictions prevented rapid policy responses during the COVID-19 pandemic and impeded local housing policy advocacy (Greene, Ramakrishnan, and Morales-Burnett 2020). Examples include the following:

- **Dillon's Rule.** While this does not explicitly preempt rent control, local governments in Dillon's Rule states are required to make their case to the state government before enacting rent control. The states with Dillon's Rule are Alaska, Nevada, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia as of 2020.[c]
- **Costa-Hawkins Rental Housing Act.** This California law requires vacancy decontrol, prevents rent caps on units built after 1995, and exempts single-family homes and condominiums from coverage.
- **Ellis Act.** This state law, also in California, allows landlords going out of business to evict tenants and convert those units into ownership units such as condominiums.

This trend of statewide rent control restriction has been challenged in recent years as local tenant advocates are finding ways to work around state preemption to get rent stabilization policies on local

ballots. For example, although Minnesota technically preempts rent control, housing advocates in St. Paul were able to collect the signatures needed to put a citywide rent stabilization measure on the ballot this coming November.[d]

[a] Maya Dukmosova, "The Secret History of Illinois's Rent Control Prohibition," Chicago Reader, May 16, 2017, https://www.chicagoreader.com/chicago/illinois-rent-control-prohibition-history/Content?oid=26517042.
[b] "Rent Control Laws by State," National Multifamily Housing Council, September 2, 2020, https://www.nmhc.org/research-insight/analysis-and-guidance/rent-control-laws-by-state/.
[c] "Rent Control Laws by State," NMHC.
[d] Katie Galioto, "With 9,000 Signatures in Hand, St. Paul Housing Advocates Campaign for Rent Control," *Star Tribune*, June 15, 2021, https://www.startribune.com/with-9-000-signatures-in-hand-st-paul-housing-advocates-campaign-for-rent-control/600068443/.

Rent control has two primary goals: preventing rapid rent increases and keeping qualifying units below market rate. However, rent control has also been used for addressing concerns surrounding speculative real estate investment, maintaining economic and racial diversity, and providing renters with housing habitability and stability (Chew and Treuhaft 2019). Instead of relying on government subsidies, rent control uses private landlords and developers as stakeholders responsible for the provision of affordable housing. This theory of change is similar to that of inclusionary zoning, a policy whose components we explore in "Inclusionary Zoning: How Different IZ Policies Affect Tenant, Landlord, and Developer Behaviors" (Stacy et al. 2021).

The impact of rent control regulations depends on the institutional features of the policy and the local housing market conditions where they are implemented (Been, Ellen, and House 2019). For instance, some rent control policies allow for vacancy decontrol. Other policies ban vacancy decontrol and thus yield different results (Nagy 1997). Studies that treat all rent control regulations the same may mask the heterogeneous effects of different policies and limit their ability to inform policy and improve lives. Therefore, it is important to study not only rent control broadly but also how it is designed and implemented.

Rent Control Policy Components

Iterations of policy enactment and reforms over time have made the specific features of rent control and their implementation vary widely between jurisdictions. Understanding the diversity of policy components and their potential effect on affordable housing supply is essential to creating equitable and targeted programs.

Rent control regulations generally have five policy components, as seen in table 1 and discussed in greater detail below.

TABLE 1

Components of Rent Control Regulations

Component of regulation	Definition
Permitted rent increases	The maximum rent or increase in rent that a landlord can charge to a tenant and how such increases are determined (e.g., pegged to the consumer price index, a flat increase, the consumer price index plus a percentage, a nominal amount, or decided by board).
Types of housing covered	Characteristics that make rental housing ineligible for rent regulation. Examples may include new market-rate construction, buildings built after a set year, inclusion after a certain number of years post-development (e.g., 10 years after construction), developments with substantial recent renovations, or properties under a certain unit count.
Unit decontrol	The process through which a unit or building becomes deregulated. This includes vacancy decontrol, by which a unit is raised to market rate or becomes unregulated after vacancy, as well as condominium conversions and building sales, by which landlords convert or sell their properties to remove them from the market.
Exceptions to rent caps	Individualized increases granted to owners under certain conditions, such as cost pass-throughs for improvements or appeals for right to fair returns.
Tenant protections	Many program features incentivize tenant harassment and evictions. Recent policies have included just-cause eviction and protection against harassment by landlords.

Source: Authors' compilation of rent control regulations.

To better understand these policy components and their implications for stakeholder behaviors, we interviewed 23 community leaders, tenant advocates, policymakers, landlords, researchers, and developers. Opinions varied on which policy components had the largest effect on the supply of affordable housing and overall housing supply. The components most frequently mentioned as important by interviewees were permitted rent increases, harassment and eviction protections, vacancy decontrol and building sales, and the housing types included in the regulation (table 2).

TABLE 2

Rent Control Policy Components Most Frequently Mentioned, by Stakeholder Group

Urban planners	Politicians	Landlords and developers	Nonprofit developers	Housing policy researchers	Tenant advocates and organizers
Permitted rent increases	Permitted rent increases	Unit decontrol	Types of housing covered	Permitted rent increases	Unit decontrol
Tenant protections	Types of housing covered	Permitted rent increases	Permitted rent increases	Unit decontrol	Permitted rent increases
Unit decontrol		Types of housing covered		Exceptions to rent caps	Tenant protections

Source: Authors' interviews with rent control policy stakeholders.

Permitted Rent Increases

The rate at which landlords can increase rents is a core component of a rent regulation. Increases are set using a fixed formula determined by a state or local housing agency, or they are determined each year or in some other interval by a rent control board. Programs with formula-based rent increases use a few common methods to set their yearly increases, such as the following:

- increases equal to the full amount of the annual consumer price index (e.g., Los Angeles; Newark, New Jersey)
- increases equal to a percentage of the annual consumer price index (e.g., West Hollywood, California; Cambridge, Massachusetts)
- changes in the cost of living throughout the duration of a lease (e.g., Jersey City, New Jersey)

Annual rent increases can also be influenced by the political landscape within a jurisdiction if rents are set by elected or appointed rent boards. For example, in New York City, the Rent Guidelines Board is made up of nine members, all appointed by the mayor, who vote on yearly rent increases. A recent report found large differences in the average yearly increases between administrations, with current Mayor Bill de Blasio's board much more likely to vote for freezes compared with the board appointed by former Mayor Michael Bloomberg (Stein 2021). One landlord of small properties whom we interviewed stated that what small local landlords perceived as overly restrictive rent control boards and measures cause those unable or unwilling to accept lower profits to sell.

We don't have big, giant Jared Kushner–type guys like they have in New York. I wouldn't be surprised to see those guys come here if people like me say, "Oh, screw this. This isn't worth it. I don't want to deal with all these rent boards telling me what to do and what I can charge. I can't get rid of somebody that's screwing around in the neighborhood or causing trouble and having the cops called on them all the time. I'll just sell them. I'll sell them to Jared Kushner and let people deal with him."
—Landlord

A more recent form of rent control, referred to as antigouging statutes, sets high maximum rent increase caps statewide. Used in California and Oregon, antigouging measures aim to prevent both gentrification and homelessness caused by steep rent hikes, which occur disproportionately in lower-cost units and for low-income renters.[3] California and Oregon rent caps—at 7 and 5 percent plus inflation, respectively—are higher than the typical yearly rent increases of 1 to 3 percent allowed in other rent-controlled jurisdictions.

Some housing policy researchers and developers believe that antigouging caps allow for needed flexibility within markets and will not hinder construction and that the simplicity eases the administrative burden of statewide implementation. But in California, tenant organizers stated that Assembly Bill 1482, California's antigouging policy, was too high to prevent displacement of low-income and economically precarious renters. One tenant advocate explained, "Increases of only 2 or 3 percent are what often cause people to lose their homes." This raises the largely unstudied questions of what level of yearly rent increase allowance improves housing stability and how this decision affects low-income renters and renters of color. Pinpointing the optimal yearly increase is particularly important because rent control does not include participant-level targeting, which is discussed more in box 2.

BOX 2

The Role of Means Testing in Rent Control

Because rent control is a blanket policy without a targeting mechanism, such as the means testing or income restrictions used in inclusionary zoning, some policymakers and researchers have questioned whether rent control can even be considered an affordable housing policy solution. As one member of our project's advisory group reflected, "Affordability is a measure of price relative to income; rent control only addresses price." We outline common sentiments for and against means testing policies shared by interviewees below.

Critics, including real estate lobby representatives and some housing policy researchers, argued that its lack of targeting makes rent control inefficient and provides subsidies for tenants who do not necessarily need them.

- "You could have a doctor and their partner making $300,000 a year benefiting from the lower rent and caps, whereas someone making minimum wage is forced into a more expensive unit. It doesn't truly ensure low-income renters are the beneficiaries."
- "[In Washington, DC,] we have a lot of couples and singles that earn more than families and are bidding on the same homes. Rent control supports residents without any attention paid to income."

On the other hand, tenant advocates and other researchers believe its broad application is essential to rent control's strengths. They say rent control, used as a consumer protection policy, encourages neighborhood stability, reduces bureaucracy and administrative costs, and eliminates potentially exclusionary renter vetting requirements.

- "Means testing isn't the issue. Everybody needs low-cost housing if you want a better society. [If you use means testing,] then what happens to people who are middle income and they lose their jobs? We want to make housing less of a commodity and more of a community asset, or we're not going to have stable communities. We don't have communities because people can't stay where they are."
- "[Inclusionary zoning] is very heavily means-tested, but that has created so many procedural hurdles that make it difficult for people to access housing. I think [the lack of means testing] is a strength of rent control because there aren't these procedural hurdles or the hurdles of discrimination, having to provide documentation—it's just a normal person trying to find housing."

Types of Housing Covered

The most common criteria used to determine whether a property is covered by a rent control regulation are the age and size of the property and the landlord's portfolio. Policymakers generally try to include as much of the rental housing stock as possible within the regulation. Broad inclusion is then often challenged by the developer and real estate lobbies that believe rent control may dampen new development, unfairly burden small landlords, or reduce their profit margins. These negotiations and subsequent trade-offs have meant that most rent control policies exempt new construction, exempt buildings constructed after a certain date, or offer a grace period before a building is incorporated into the controlled stock.

Some tenant advocates and housing policy researchers stated that excluding new or more recently constructed buildings unnecessarily limits rent control's coverage. The number of apartment units constructed, they contend, is more strongly linked to existing exclusionary land-use policies, market conditions, and economic cycles than it is to rent control. Indeed, research comparing jurisdictions in New Jersey with and without rent control found no relationship between rent control and the number of units constructed (Gilderbloom and Ye 2007). Another study comparing construction rates before and after the end of rent control in the Massachusetts localities of Boston, Brookline, and Cambridge found the policy did not significantly affect short-term construction rates (Sims 2007). Such findings could suggest that the reduction in rental units found in other studies is driven predominantly by condominium conversions rather than by reduced construction, although this question requires more research.

Tax exemptions are also used to add units in recently constructed buildings to the controlled stock, and this opt-in method addresses fears of stymied construction. For example, the Affordable New York program, commonly referred to as 421-a, provides developers with a subsidy to place their units under rent regulation. Similarly, the city's J-51 exemption and abatement program subsidizes renovations or conversions of industrial or commercial spaces into apartments under the condition the buildings remain stabilized for 20 years.[4] Tax exemption programs incentivize additional controlled housing supply. However, one housing policy researcher and advocate described the exemptions as overly generous and "a monumental giveaway to developers," as rents are still initially set at market rates and arguably "produce rent-stabilized housing that's not necessarily affordable at all." Rent control provisions can also be placed temporarily on buildings that were developed using other tax credits or exemptions but are transitioning to market rate (box 3).

BOX 3

Placing Expiring LIHTC Properties under Rent Control Can Prevent Rapid Rent Increases

The Low-Income Housing Tax Credit (LIHTC) program is one of the largest federal sources of new affordable rental housing in the US. Tax credits are given to private and nonprofit developers to build or rehabilitate projects so long as a portion of units are kept affordable (usually accessible to residents whose incomes are below 60 percent of the area median income) for 15 to 30 years, at which point the developers can convert the units to market rate. Many of these affordability requirements are set to expire, with more than 485,000 LIHTC units set to reach 30 years between 2020 and 2029.

Now, some states and jurisdictions are trying to prevent rapid rent increases from displacing LIHTC tenants—disproportionately people with low incomes, people of color, and seniors—by placing these buildings under rent stabilization. In Massachusetts, state legislators placed these buildings under temporary rent stabilization, creating a rent cap on government-assisted properties in the first three years after their affordability requirements expire.[a]

[a] Bob Katzen, "Beacon Hill Roll Call: Nov. 23–27, Retain Affordable Housing (S 2190)," *Somerville Times*, December 8, 2009, https://reading.wickedlocal.com/article/20091208/NEWS/312089414.

Most rent control regulations limit coverage by the number of units within a building and generally exclude small buildings and single-family homes. This limit is intended to exclude small landlords, who are more likely to own these properties and to sell or convert their properties into condominiums. This exclusion raises equity concerns; single-family homes have become an increasingly larger share of the rental housing stock, particularly in racially diverse neighborhoods, and their tenants are more likely to have children living in poverty (Pfeiffer, Schafran, and Wegmann 2020). And some large landlords own many small units, allowing them to evade rent control regulations. Washington, DC, uses an alternative approach that bases coverage on the size of the owner's portfolio, rather than on the number of units within a building, in an attempt to exclude small landlords from regulation. Similarly, California's 2019 Tenant Protection Act differentiates between small landlords and investors by ensuring that real estate investment trusts and corporate owners of single-family rentals are included in the coverage.

Manufactured homes, whose 22 million renters and owners in the US are disproportionately lower-income than their single-family and multiunit owner and renter counterparts, are also increasingly covered by rent control policies.[5] A housing policy researcher explained that the addition of manufactured homes to rent control policy coverage in New York via the Housing Stability and Tenant Protection Act of 2019 was an important step toward equitable coverage of housing types in the state. The researcher explained that manufactured homes are generally not as well regulated as large-scale apartment buildings but face similar rent hikes on the land they occupy. "The same investors that were buying up rent-stabilized properties to decontrol them were buying up these manufactured home parks to raise rents on RV tenants," the researcher said. "While manufactured home residents are in some ways homeowners, they are also land tenants."

Removal of Units from Rent Control

Buildings or units are removed from rent control's coverage in two main ways: vacancy decontrol and condominium conversions. Vacancy decontrol is a common method of unit decontrol, with one study of rent regulations in New Jersey finding that three-quarters of all city-level legislation contained some form of vacancy decontrol (Goetz et al. 2021). Similarly, vacancy bonuses allow landlords to raise rents by a much higher percentage than previously allowed by the permitted rent increase, but the units remain part of the controlled stock.

Generally, the landlords, developers, and property management representatives we interviewed support vacancy decontrol because they believe that without it, landlords would not have enough of an incentive or return on investment and that housing supply could be reduced. One landlord believes vacancy decontrol makes rent control more palatable: "The rent control itself is not that big of a deal [if it allows for vacancy decontrol]." But the landlord went on to say that vacancy decontrol does affect tenant selection: "We do like students. Number one, they leave…I always do raise the rents to market rates when they leave. The best tenants are the people that pay the most." In this case, vacancy decontrol rewards landlords for choosing students or highly mobile tenants over longtime community members or families and allows them to subsequently raise rents and prioritize higher-income tenants.

Tenant selection bias is not the only negative impact of vacancy decontrol from the perspective of renters; it is also known to incentivize tenant displacement. One housing researcher and tenant advocate explained: "Laws were improved in New York to get rid of what we call the eviction bonus, which the landlords call the vacancy bonus, that allowed for up to a 20 percent rent increase just between tenants. With that in place, a landlord would be incentivized to churn through tenants." This displacement may be through eviction or other indirect and informal means, such as delayed maintenance or not renewing a lease.

Removing vacancy decontrol was also frequently mentioned by interviewees as being fundamental to positive housing stability outcomes for tenants of color. Studies have shown that cities with vacancy control—places where rent control remains in place at the same level even after a tenant is replaced—experienced an increase in their share of Black and Latinx renters and were generally more affordable to low-income households. Conversely, jurisdictions with vacancy decontrol were less affordable and disproportionally displaced Black renters (Heskin, Levine, and Garrett 2007).

Significant evidence also exists that rent control policies have led to an overall reduction in rental units through condominium conversions, building sales, and owner move-ins (whereby owners evict tenants to occupy the unit or allow a family member to occupy the unit). In San Francisco, rent control was associated with mass condominium conversions, and apartment buildings under rent control were 10 percent more likely to be converted to condominiums than noncontrolled buildings (Diamond, McQuade, and Qian 2018). But some housing researchers say attributing this phenomenon solely to rent control creates an oversimplified causal correlation that ignores other external factors such as fluctuating building costs, shifting demographics, and local land use and zoning policy (Chew and Treuhaft 2019). Now, San Francisco limits condominium conversions to 250 annually. One interviewee

noted, however, that property owners still find ways to work around the policy: "[The way] in which they convert property in cities like San Francisco is to hold property as tenancy in common. So six people will buy a building together, and each will have their own agreements and occupy different units, so they're technically not condos, but they operate like them." Other jurisdictions have passed reforms to address such policy loopholes and prevent decontrol or loss of additional affordable rentals:

- In Mountain View, California, an ordinance prevents condominium conversions until the city has a certain number of apartments in the housing stock.
- In Cambridge, Massachusetts, conversion applications must be submitted three years ahead of time.
- In San Jose, California, selling a property does not trigger any change in rent control, and demolition is the only way a landlord can remove a property.

While some loss of units is inevitable in places with rent control policies that allow deregulation through condominium conversion, building sales, and owner move-ins, program managers stressed that localities need to assess and project net controlled unit counts to ensure well-funded and sustainable programs. For example, many jurisdictions—including San Jose and Berkeley in California—levy yearly per unit registration fees on all stabilized units to pay for local government rent stabilization programs. This means that funding for successful program operation and implementation depends on maintaining a somewhat stable count of controlled units.

Tenant Protections

To address the harassment, retaliation, and evictions incentivized through vacancy decontrol and condominium conversions, recent rent control policy reforms and enaction efforts have included tenant protection measures or have been paired with tenant protection ordinances. The most common tenant protection is just-cause eviction, which allows a landlord to file an eviction against a tenant only under certain conditions, usually limited to cases of nonpayment of rent, major and repeated lease violations, or illegal activity. Sometimes just-cause eviction protections apply only to rent-controlled units, and sometimes they are passed as separate regulations that apply to all rental units within a local jurisdiction or state.

Many jurisdictions also differentiate between evictions that are the "fault" of the landlord and evictions that are the "fault" of the tenant. For example, California's and Oregon's statewide tenant protection laws require that when an eviction is the fault of the landlord (e.g., when the landlord intends to sell or withdraw the property, to occupy the property, or to substantially renovate the property), the landlord must compensate the tenant. Compensation can take the form of rent waivers or relocation assistance as a flat fee or a cumulative number of months' rent.

While reducing the incentives for landlords to file formal evictions is crucial, both landlords and tenant advocates acknowledged that landlords have other ways of forcing tenants to move so they can raise rents. One housing policy researcher pointed out, "The landlord doesn't have to evict them, they

can just choose to not renew their lease if they think somebody else will come in and pay more." Formal eviction filings, which are often costly and time-consuming for landlords, are not necessary in the absence of guaranteed lease renewal. Some cities have enacted guaranteed lease renewals to address this.

Landlords may also pressure and harass tenants to leave or reduce services and maintenance to rent-controlled units. "Antiharassment ordinances are really critical," explained a housing policy researcher and tenant activist. "This makes it so tenants are actually able to secure their rights without retaliation. Rent control and guaranteed lease renewal means that you are not going to get evicted because the landlord doesn't like you, or you had a kid, or you moved in with your roommate, or you complained because the heat was out during winter." Closing these loopholes undoubtedly has high administrative costs, and programs will only successfully address these policy gaps if code enforcement, antiharassment, and just-cause eviction enforcement programs are concurrently passed, well funded, and sufficiently staffed. Therefore, removing vacancy decontrol may be the only way to ensure that tenants are not pushed out of units unfairly.

Exceptions to Rent Caps

Exceptions to rent caps, such as the following, were not frequently identified by interviewees and project advisory group members as being likely to have a large effect on overall and affordable housing supply or on differential outcomes for tenants with low incomes or tenants of color:

- **Cost pass-throughs for maintenance or capital improvements.** In some jurisdictions, landlords can request to surpass an allowable rent increase to recoup losses related to building maintenance or improvements. While these provisions were meant to address property quality and maintenance concerns, particularly for small landlords, one landlord representative stated that these exceptions are often difficult to apply for and receive: "Landlords put double-pane windows. They fixed balconies, railings, decks, repaired the roof and made other improvements that they had to make...There is a very complicated bureaucratic process for this owner to go through to justify why they may need an additional $200 a month." Some tenant advocates counter that these improvements and subsequent pass-throughs can be unnecessary and overburden tenants, but regulations that limit the amount a landlord is allowed to recoup and which repairs qualify can also be determined locally.
- **Right to fair return.** To ensure landlords have sufficient cash flow, nearly every jurisdiction has some form of "reasonable" return or guarantees to landlords. These hardship petitions seeking approval to raise rents over the standard permitted rent increases are usually granted, and the subsequent increases are typically calculated as a measure of income the property generates against the approved operating costs and valuation. In Washington, DC, for example, landlords can file a petition if they earn anything less than a 12 percent rate of return on their investment property.

Rent Control's Spillover Effects Can Challenge Unequal Power Dynamics

We find that dominant theories and frequently referenced rent control research still center the basic economic theory that price caps limit supply. Unfortunately, this theory overlooks important positive effects of rent control for tenants, as one tenant advocate explained: "Having stability in your home is crucial for people's lives and futures, as well as their emotional, family, neighborhood ties. I think some of the hidden gems are that the policy does build stronger civic leadership." The stability and subsequent strong social ties resulting from rent control have often created political and social support networks that allowed tenants to increase their engagement and advocate for their rights.

Renters, particularly low-income renters and renters of color, are less politically represented and engaged than are their homeowner counterparts in formal land use, zoning, and overall policymaking processes (Einstein, Ornstein, and Palmer 2019; Trounstine 2020). Tenant advocates we interviewed said renters in regulated units build stronger social networks, tenant associations, and unions. One advocate explained: "Rent control has made a key difference in challenging the power imbalances not only between tenants and landlords but [also in] increasing civic engagement." These organizations, many of which were formed to push for rent control's passage or stronger policy provisions, also provided critical knowledge, resources, and support for renters who had not previously been involved in other forms of housing policy advocacy or formal land-use planning and zoning decisionmaking channels.

Tenants in rent-controlled units, particularly those with strong just-cause eviction protections, may also be more likely than renters in unregulated units to challenge landlord harassment and insist on unit repairs. While landlords, developers, and some housing policy researchers stated that rent control may lead to declines in property maintenance for controlled units, tenant advocates countered that stabilization helps mitigate landlord-tenant power imbalances and gives tenants needed social support. As one tenant advocate explained, "Rent-stabilized tenants will speak up when there's a problem in their building in a way that not-rent-stabilized tenants won't."

Challenges to the Equitable Provision of Affordable Housing Are Tied to External Market Factors

The diversity of stakeholder experiences and opinions, along with largely varied and inconclusive empirical evidence, means that broad statements about the overall efficacy of rent control are unproductive at best. One takeaway is that external economic cycles and local housing market landscapes are more clearly tied to housing production and market-rate supply trends than is rent control alone. One advocate and housing policy researcher emphasized that the housing conditions and racialized market factors that lead tenants and activists to advocate for rent control are overlooked when rent control is causally attributed to decreases in housing affordability and supply:

> It was a convergence of factors that weakened housing affordability over the years. What about gentrification pressures and not enough affordable housing production? What about the financialization of housing—government policies that have fused real estate with Wall Street's financial markets, fueling and deregulating speculation? What about the loopholes and weaknesses in tenant protections, including how landlords gutted rent stabilization? We can observe effects but need to consider the causes more broadly.

Land-use and zoning codes, as well as building codes, were noted as the biggest barriers to increasing production of both affordable and market-rate housing. Increased bureaucratic hurdles such as permitting fees or long and conditional approval processes can slow production and increase costs.

I'm going to say that 40 years ago, when I first started being a building contractor, I could walk into the county building with a plan that was basically three pages. I would walk out with a permit, and it would cost me about $200, in an hour, one hour. Now, it would take you, probably, at least four to six months to get a permit, which would cost you $30,000. —Contractor

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Researchers and policymakers interested in rent control's potential impact on housing supply might also examine the effects of existing land-use and zoning regulations on affordable housing production.

Enacting rent control in tandem with supply-side policy solutions, such as reducing exclusionary zoning and land-use policies, can help address fears of zoning-induced displacement and lead to better place-based planning. A housing policy researcher and advocate explained:

> Good urban planning gets translated very quickly into rent increases. The expansion of transit, sustainability initiatives, all sorts of things that neighborhoods want, you can actually take out the secondary spillover effects of land-use decisions by having strong rent control systems. I have been a critic of up-zonings in working-class neighborhoods in large part because it can have this displacement pressure on neighboring sites. If we had a strong enough rent control system, that would be much less of a concern and we could start having smarter discussions about what we want our land-use systems and growth to look like.

When passed in conjunction with other housing policies to address housing affordability, stability, and sufficient supply, rent control may resolve potential competing housing policy priorities.

Implementation Is Key to Equitable Programs

Decisions about how to administer, enforce, and communicate to renters and landlords about rent control programs are critical to ensuring equitable tenant outcomes. But implementation, enforcement, and tracking are not necessarily part of a regulation itself. We outline examples and considerations in the sections below.

Administration and Enforcement

Decisions about who will govern, administer, and enforce rent control can mitigate or compound existing unequal tenant-landlord power dynamics. For example, Oregon's statewide antigouging rent cap has no formal administrative body that supports compliance. This leaves enforcement to tenants alone, as complaints can be resolved only when a tenant initiates a lawsuit against a landlord. This effectively leaves only the tenants who have the time, background knowledge, and resources to take their landlords to court able to securely enforce this provision.

Even programs with elected or appointed boards or existing governing bodies are generally reliant on tenant-initiated complaints. One program manager noted that renters who are undocumented were less likely than renters with citizenship to use the locality's tenant-initiated system, as the gap between reporting and enforcement leaves ample time for landlord retaliation. In New York, for example, it took the Office of Rent Administration an average of 24 months to get an overcharge case assigned to an examiner.[6]

Education and Program Tracking

Recent rent control policies often have additional features to address negative outcomes from previous policy iterations. While closing loopholes creates targeted policies, it can also make them more complicated. Dense regulations are hard for both landlords and tenants to understand, which can leave landlords to accidentally fall into noncompliance or tenants unable to assert their rights. "There are just all these little loopholes everywhere," a landlord explained. "It's always going to be incremental, and pretty soon, you have people on the side, people that actually provide houses, saying, 'This isn't worth it.'" Oakland, California, counters these concerns by proactively offering rent stabilization workshops for small property owners, along with workshops geared toward teaching tenants their rights under the law.

Tenants and landlords find their administrative burdens eased when localities track data about landlords, rents, and buildings subject to rent control. In San Jose, California, when tenants believed their landlord raised their rent to illegal levels, they had to initiate a petition to the city themselves. This changed in 2015 when the mayor and city council requested the rent stabilization program division to begin a rental property registry that tracked controlled apartments, tenancy, and allowable increases through an online portal. These data were also paired with property-level eviction data. As the program manager explained, "It's helpful because it gives us a little bit more clarity as to what's happening for rent-controlled units…We're not trying to dig up information to use against anybody, we just want to

make sure whatever laws we do have in place are assisting the community." The registry not only shifted the compliance responsibility from the tenant to the city but also gave the city valuable data to track and monitor the program.

Conclusion

Tenant advocates and organizers are leading a push for new rent control policies alongside efforts to repeal statewide restrictions and preemption. This has increased interest in the ability of different program design options to achieve specific housing goals. But even for cities such as New York or San Francisco that have been studied thoroughly, virtually no data or analysis has highlighted the causal effects of reforms over time and how these gradual shifts can result in varying affordable housing outcomes. For example, cities within New Jersey saw their rent control regimes watered down by small changes throughout the early 2000s, making the policy significantly less restrictive (Ambrosius et al. 2015). Yet no one has extensively examined the effects of various reforms across and between jurisdictions on the supply of and access to housing that is affordable for people of color and low-income renters.

To help inform the debate about rent control, we will use what we learned through this qualitative research and employ machine-learning methods to collect data on rent control reforms from newspaper articles across the country. We will then use panel data econometric techniques to estimate the impact of rent control reforms on housing supply, housing affordability, and access to high-opportunity neighborhoods for people of color and residents with low incomes.

Notes

1 Inclusionary zoning is a housing policy that offers incentives or mandates that developers set aside a share of units in new developments to be rented or sold at below-market rates. Some IZ policies also give developers the option of paying an in-lieu fee instead of developing actual affordable units or building the units in a different location from the primary development.

2 See Downs (1988), Friedman and Stigler (1946), Gyourko and Linneman (1989), and Olsen (1972) for examples of these early works.

3 While the speed and scale of implementation for rent control make it effective at quickly addressing private market affordability concerns, there are often immediate negative impacts for renters in the gap between policy passage and implementation. Between California's statewide antigouging bill's passage in September 2019 and its enaction in January 2020, tenants' rights advocates reported increased instances of renter displacement as landlords hiked rents and refused to renew long-term leases in anticipation of the cap.

4 "Tax Abatements and Exemptions FAQ," NYC Rent Guidelines Board, accessed August 14, 2021. https://rentguidelinesboard.cityofnewyork.us/resources/faqs/tax-abatements-exemptions/.

5 Jung Hyun Choi and Laurie Goodman, "22 Million Renters and Owners of Manufactured Homes Are Mostly Left Out of Pandemic Assistance," *Urban Wire* (blog), Urban Institute, August 21, 2020, https://www.urban.org/urban-wire/22-million-renters-and-owners-manufactured-homes-are-mostly-left-out-pandemic-assistance.

6 "New Rent Law Deluges Backlogged Tenant Overcharge Claims," *AmNY*, October 1, 2019, https://www.amny.com/news/new-rent-law-deluges-backlogged-tenant-overcharge-claims-2/.

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Acknowledgments

Support for this brief was provided by the Robert Wood Johnson Foundation's Policies for Action program. The views expressed here do not necessarily reflect the views of the foundation. We are grateful to them and to all our funders, who make it possible for Urban to advance its mission.

The views expressed are those of the authors and should not be attributed to the Urban Institute, its trustees, or its funders. Funders do not determine research findings or the insights and recommendations of Urban experts. Further information on the Urban Institute's funding principles is available at urban.org/fundingprinciples.

Thanks to Yonah Freemark for his technical review of the brief, Meghan Ashford-Grooms and Devlan O'Connor for copyediting, and our project advisory group members who are advising on this body of work:

- Jonathan Cortell, Managing Director, and team, L+M Development Partners
- Chip Filer, City Manager, City of Norfolk, Virginia

- Andrew Fine, Executive Director of Fair Housing, New York City Department of Housing Preservation and Development
- Yonah Freemark, Senior Research Associate, Urban Institute
- Anuj Gangopadhyaya, Senior Research Associate, Urban Institute
- Solomon Greene, Senior Fellow, Urban Institute
- AJ Jackson, Executive Vice President of Social Impact Investing, JBG Smith
- Tamara Jovovic, Housing Planner, City of Alexandria, Virginia
- Dominic Moulden, Senior Fellow for Community Organizing, Democracy Collective
- Jenny Schuetz, Senior Fellow, Brookings Institution
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