Program design options

- Choice of cap
  - Flat pct increase
  - Pegged to CPI
  - CPI + pct
  - Nominal amount
  - Maximum increases

- Decontrol
  - Vacancy decontrol? (full, partial, none)

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  - Pass throughs (maintenance, CI, utilities, property taxes)
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  - Public information
  - Fees to support implementation

curas Center for Urban & Regional Affairs
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Rent cap impacts

- Over time rent control programs reduce rents paid in controlled units
- “Tenure discounts” significant over time
- Rent caps eliminate “rent gouging”
Rent cap impacts

- Rent caps increase residential stability
  - Tenants stay in units longer

- e.g., San Francisco:
  - Rent control increases stability 20%
    - Large share of those still in their units would have otherwise moved out of SF
    - Stability effects stronger for older households & for longer-term residents
    - Stability effects stronger among BIPOC tenants

- Consistent research finding

Source: Diamond et al., 2019
Four approaches
- Determined by rent board
- Flat percentage increase
- Variable increase
- Variable with upper/lower limits
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Rent Increase Cap (current)</th>
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<tbody>
<tr>
<td>St. Paul, MN</td>
<td>3% flat increase</td>
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Rollbacks

- Setting of base rent retroactive to date before beginning of rent control program
  - Typically 6 months to one year
- Addresses time lag between announcement of rent controls and their application
- To head off anticipatory rent increases by property owners
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Decontrol

- Permanent decontrol
- Full vacancy decontrol
  - Upon vacancy, owner can raise rents without limit
- Partial vacancy decontrol
  - Upon vacancy, owner can raise rents above the cap, but not unlimited
- NYC “luxury decontrol”
  - Permanent decontrol, ended in 2019
Impact of vacancy decontrol

- Little research done
- Three NJ studies show no different in rents between cities with and without rent control
  - Authors suggest it is vacancy decontrol…
- Berkeley study in 2013:
  - tenants moved in pre-1999: avg rent = $780
  - Vacancy decontrolled HHs avg. rent = $1,436
Rent $

Time

(a) Unregulated rents
(b) Regulated rents
(c) Regulated rents with vacancy decontrol
(a) Unregulated rents
(b) Regulated rents
(c) Regulated rents with vacancy decontrol

Consequences & incentives

- An incentive to evict?
- An incentive for tenant to remain in unit?
- Disincentive for maintenance?
- Incentive to take units out of rental market?
Examples of vacancy decontrol

- Approximately ½ of rent control programs in 1980s had some form of vacancy decontrol

- 2017 Newark: vacancy decontrol up to 20% depending on how much spent to upgrade unit

- 2019 NYC:
  - Eliminates luxury decontrol
  - Eliminates partial vacancy decontrol
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May property owners ‘pass-through’ extraordinary costs to tenants, allowing rent increases above the cap amount?

- Allows flexibility to accommodate special circumstances
- and to allow ‘fair and reasonable return’ (which courts require)
- Require a system of petition and adjudication
Pass-throughs

- Most typically for capital improvements, property taxes, utilities

Policy design questions:
- What percent of cost can be passed on?
- How is it amortized?
- Is there an upper limit?
- Who makes the determination if it is allowable?
Most common form of pass-through

- Can provide strong incentive for building improvements
- Requires working definition of capital improvement (v. normal maintenance)
- Some cities condition CI pass-through on judgment of good faith maintenance
- **NYC:**
  - **MCI:** major capital improvements
    - Must be approved by rent board
    - Amortized over 12.5 years, subject to 2% cap overall
  - **IAI:** individual apartment improvements
    - Need not be approved

- **San Francisco:**
  - Owners in buildings with 5 or fewer units can pass through 100% of CI, subject to 5% annual cap
  - Owners of bigger buildings can only pass 50%, subject to 10% annual cap

- **DC:** up to 20% for building wide improvements, 15% for other
“FAIR AND REASONABLE RETURN”

- Required by Courts
- Often in place of specific pass-throughs
- “Fair return” defined in many different ways
  - Hoboken, NJ: 6% above maximum interest rate on local savings account
- Can be made contingent
  - On health and safety compliance
  - Building code compliance
  - Reasonable purchase price
Preferential rents and banking

- Preferential rents:
  - Lower than maximum-allowed rent increase

- Can owners “bank” and recover them later?
  - Do preferential rents become basis for calculating future increases?
  - Limit to the amount ‘cashed in’ by owners?
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By building size
By owner-occupation
By date of construction
By affordability restrictions
By building size

- Small buildings
  - e.g., NYC excludes buildings with 5 or fewer
  - Jersey City exempts 3 or fewer
- Often framed as “mom and pop” or small-time operators
  - DC exempts 4 or fewer AND owned by an individual
- Single family home exemption
  - Growing investor ownership of SFH rentals complicates the picture
By owner occupation

- Owner occupation in 2 to 4-unit buildings
- Owner or family member occupation
- Controversial and contested
By date of construction

- New construction exemption, justified by
  - fear of dampening rate of housing construction
  - expectation that new buildings rarely provide housing for low-mod renters
- Exemption tied to a fixed date or to a fixed number of years
New construction exemptions

- Tied to a specific date
  - Oakland, 1983
  - NYC, 1974
  - LA, 1978
  - Washington, DC, 1975

- or rolling
  - Newark, NJ, length of initial mortgage or 30 years, whichever is less
  - New Brunswick, NJ, same as Newark
  - Takoma Park, MD – 5 years (& only upon petition)
  - State of Oregon – 15 years
Other

- Buildings with affordability requirements
  - LA: units with “government imposed regulatory agreement...” guaranteeing affordability
  - Rents are already regulated

- Luxury exemptions
  - MA exempted up to 25% of units at the high end of the market
  - NJ cities have / had luxury exemptions defined by rent amount
  - NYC eliminated its luxury exemption in 2019
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Rent Boards

- Hear & decided petitions
- Hear & resolve disputes
- Set/enforce rent caps
- Oversee registration of regulated units
- Report annually to Council/Mayor
- Develop/managed public information materials
## Example rent boards

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<thead>
<tr>
<th>City</th>
<th>Members</th>
<th>Tenants</th>
<th>Landlords</th>
<th>Homeowners</th>
<th>Other</th>
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</thead>
<tbody>
<tr>
<td>Los Angeles</td>
<td>7</td>
<td>0</td>
<td>0</td>
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<td>7</td>
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<tr>
<td>Oakland</td>
<td>9</td>
<td>2</td>
<td>2</td>
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<td></td>
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*Center for Urban & Regional Affairs*
Most laws require initial registration

- Record of unit attributes
- Base rent
- Services provided
- Penalties for unlawful increases
- Right of action for injunctive relief and damages
- Powers given to City Attorney and/or rent board.
  - In SF, tenant rights organizations, too
NOTICE & ENFORCEMENT

- Registration of units
- Specific, effective, reasonable penalties
- Encourage / increase compliance
**NOTICE & ENFORCEMENT**

- Registration of units
- Specific, effective, reasonable penalties
- Encourage / increase compliance

---

**Oakland workshops, 2021**

- Tenant rights workshop
- Small property owner workshop
- Security deposits (property owner focused)
- Tenant rights workshop in Spanish

(Workshops scheduled monthly)
NOTICE & ENFORCEMENT

- Registration of units
- Specific, effective, reasonable penalties
- Encourage / increase compliance

- **Oakland**
  [https://www.oaklandca.gov/topics/rent-adjustment-program#resources](https://www.oaklandca.gov/topics/rent-adjustment-program#resources)

- **New Brunswick, NJ**

- **Santa Monica, CA**
  [https://www.santamonica.gov/departments/rent-control#RelatedResourceBagPart](https://www.santamonica.gov/departments/rent-control#RelatedResourceBagPart)
Costs

- 1984 study estimated cost of administering laws ranged $2 to $72 per unit per year
  - $5 to $195 in 2002 dollars

- Costs highest in first few years

- Sources:
  - General funds
  - Annual registration fees
  - Petition, hearing fees
Complementary policies?

- e.g., conversion limits
- Eviction and tenant protections:
  - Just cause
  - Harassment prevention
  - Relocation assistance
  - Limiting fees