

# Program design options

## Choice of cap

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

## Decontrol

- Vacancy decontrol? (full, partial, none)

## Rent cap exceptions

- Pass throughs (maintenance, CI, utilities, property taxes)
- “fair or reasonable return”
- “banked” increases
- Limits to exceptions (max increases)

## Housing stock exemptions

- New construction (rolling or fixed)
- Small buildings (single family homes, 2-4 unit buildings)
- Owner-occupation

## Compliance & education

- Tenant or petition driven
- Monitoring
- Dispute resolution
- Public information
- Fees to support implementation

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# Rent cap impacts

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

# Rent cap impacts

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- 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

# RENT CAPS

- Four approaches
  - Determined by rent board
  - Flat percentage increase
  - Variable increase
  - Variable with upper/ lower limits

<b>Jurisdiction</b>	<b>Rent Increase Cap (current)</b>
St. Paul, MN	3% flat increase
Los Angeles, CA	100% of CPI (minimum limit is 3%, maximum limit is 8%)
Oakland, CA	100% of CPI
Richmond, CA	100% of CPI
Sacramento, CA	CPI + 5%
San Francisco, CA	60% of CPI, maximum 7%
San Jose, CA	5% flat increase
Santa Ana, CA	The lesser of 3% or 80% of CPI
Washington, DC	CPI + 2% (max 10%); Elderly/disabled 100% CPI, max 5%
Camden, NJ	100% of CPI, maximum 6%
Hoboken, NJ	100% of CPI
Jersey City, NJ	The lesser of a) 4% or b) pct. difference between CPI 3 months prior to the end and 3 months prior to the beginning of the lease term.
New Brunswick, NJ	Housing component of CPI (2.8% in 2022)
Newark, NJ	100% of CPI, maximum increase of 4%
Trenton, NJ	Housing component of CPI, updated every 6 months
New York City (RS)	Administered annually through Rent Board. Usually under 2%
State of California	CPI + 5%
State of Oregon	CPI + 7%

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# Rollbacks

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- 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

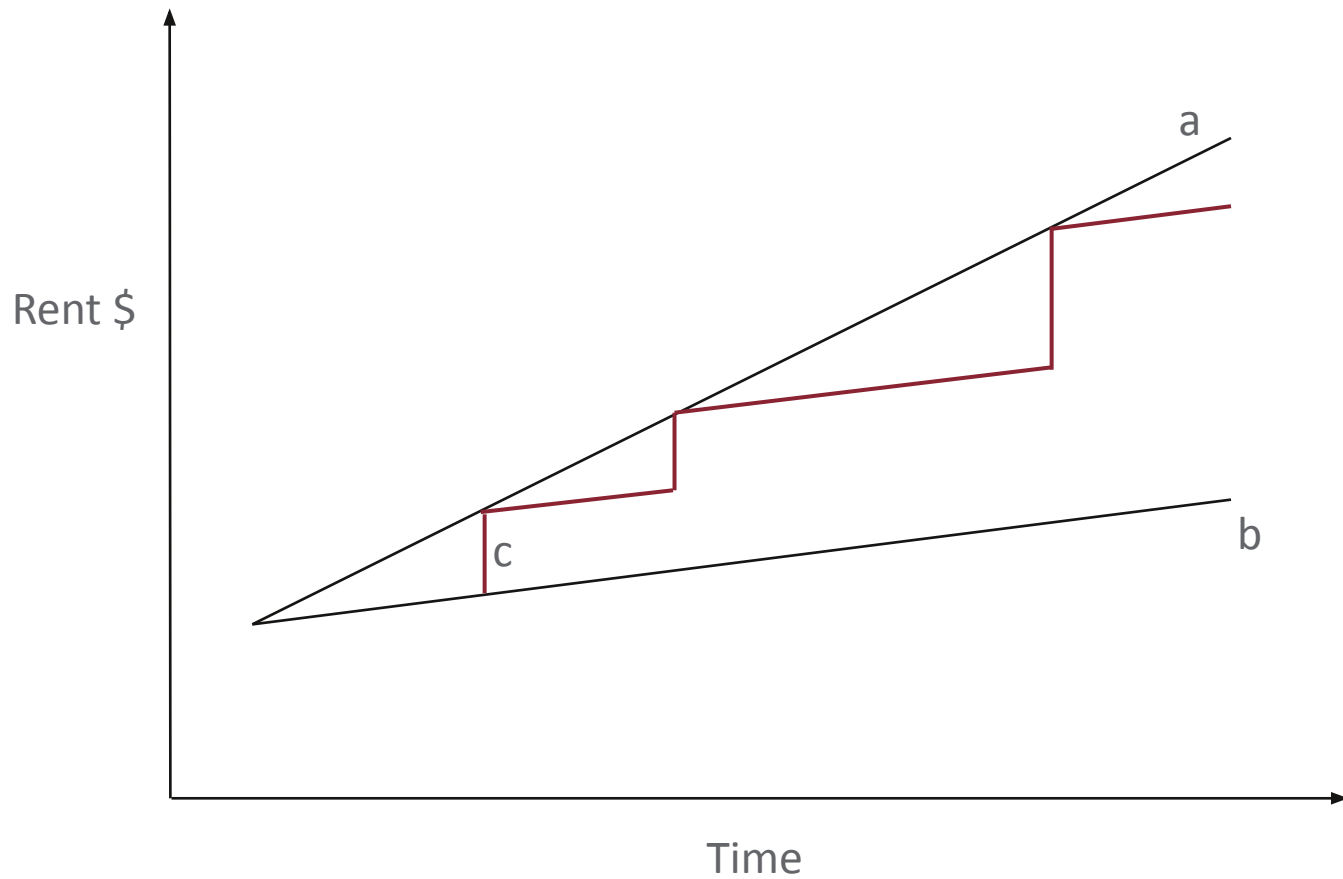
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- Permanent decontrol
- Full vacancy decontrol
  - Upon vacancy, owner can raise rents without limit
- Partial vacancy decontrol
  - Upon vacancy, owner can raise rents above the cap, but not unlimited
- NYC “luxury decontrol”
  - Permanent decontrol,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

# Impact of vacancy decontrol

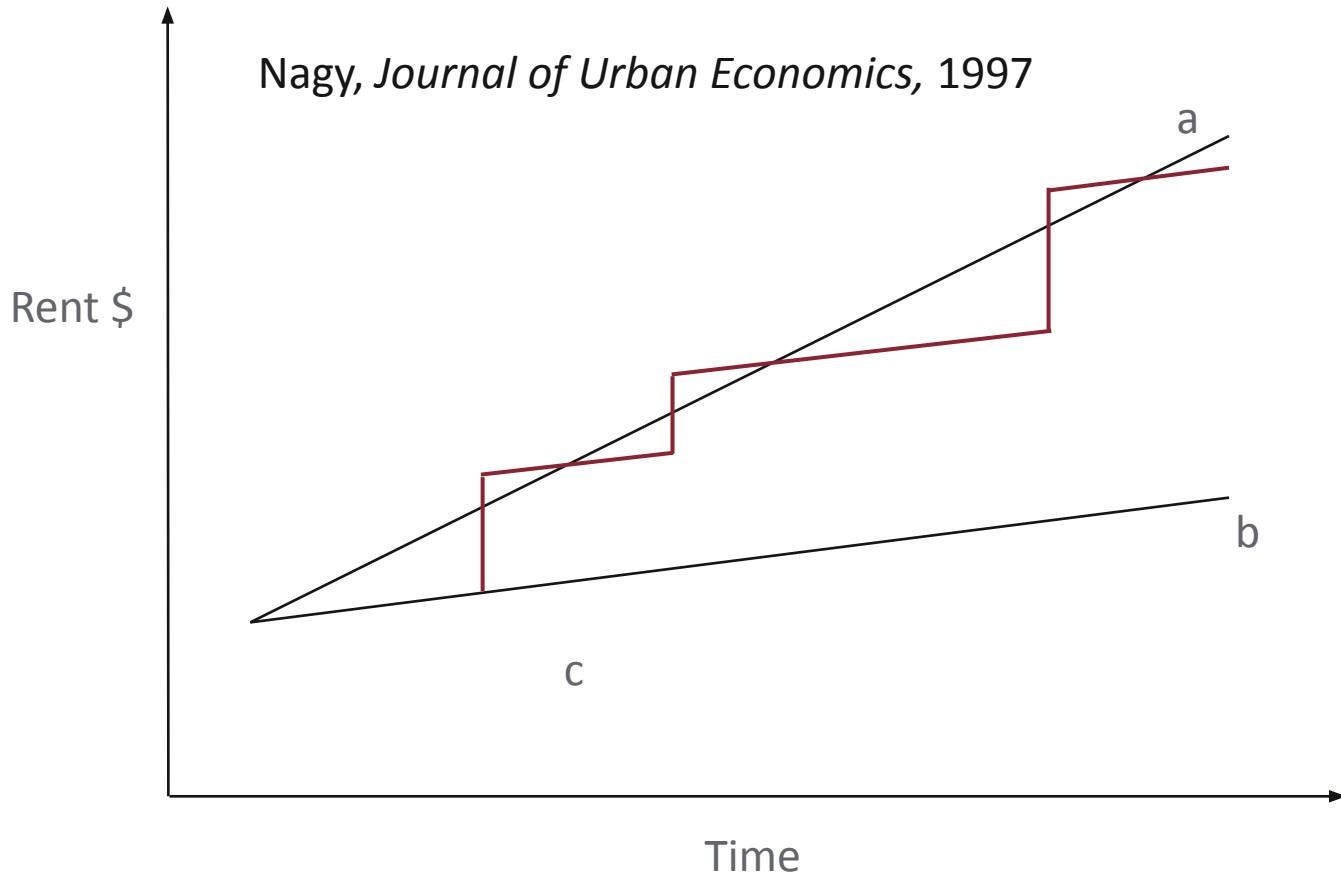
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- Little research done
- Three NJ studies show no different in rents between cities with and without rent control
  - Authors suggest it is vacancy decontrol...
- Berkeley study in 2013:
  - tenants moved in pre-1999: avg rent = \$780
  - Vacancy decontrolled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



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

Nagy, *Journal of Urban Economics*, 1997



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

# Consequences & incentives

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- 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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# Pass-throughs

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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

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- Most typically for capital improvements, property taxes, utilities
- Policy design questions:
  - What pct of cost can be passed on?
  - How is it amortized?
  - Is there an upper limit?
  - Who makes the determination if it is allowable?

# Capital Improvement

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- 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

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- 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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# HOUSING STOCK EXEMPTIONS

- By building size
- By owner-occupation
- By date of construction
- By affordability restrictions



# By building size

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- 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

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- Owner occupation in 2 to 4-unit buildings
- Owner or family member occupation
- Controversial and contested

# By date of construction

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- 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

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- 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

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- 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

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

# Example rent boards

City	Members	Tenants	Landlords	Homeowners	Other
Los Angeles	7	0	0		7
Oakland	9	2	2	5	
San Francisco	5	2	2		1
Newark	5	2	2	1	
Camden	7	2	2	2	1
New Brunswick	5	1	1	1	
New York	9	2	2		5



# NOTICE & ENFORCE MENT

Most laws require initial registration

- Record of unit attributes
- Base rent
- Services provided

- **Registration of units**

- Specific, effective, reasonable penalties
- Encourage / increase compliance

# NOTICE & ENFORCE MENT

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

- 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

TENANT  
PACKET

PROPERTY  
OWNER  
PACKET

Rent A...

25

Suit...

Oak...

Phor...

Fax ...

WI...

Rent Adj...

Mon through Thu...

Fri: Closed\*

\*(Document drop...

AS OF SEPTEMBER 2021

GUIDE TO OAKLAND RENTAL  
HOUSING LAW  
Rent Control and Eviction Protection

WE SUPPORT SPANISH,  
MANDARIN, CONTACT  
OTHER LANGUAGES.



**CITY OF OAKLAND  
RENT ADJUSTMENT  
PROGRAM**  
250 FRANK H. OGAWA PLAZA  
SUITE 5313  
OAKLAND CA 94612  
510-238-3721  
rap@oaklandca.gov  
www.oaklandca.gov/rap

# NOTICE & ENFORCE MENT

- Registration of units
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## Oakland workshops, 2021

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

(workshops scheduled monthly)

# NOTICE & ENFORCE MENT

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## ■ Oakland

<https://www.oaklandca.gov/topics/rent-adjustment-program#resources>

## ■ New Brunswick, NJ

[https://www.cityofnewbrunswick.org/residents/departments/planning\\_development/rent\\_control/index.php](https://www.cityofnewbrunswick.org/residents/departments/planning_development/rent_control/index.php)

## ■ Santa Monica, CA

<https://www.santamonica.gov/departments/rent-control#RelatedResourceBagPart>

# Costs

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- 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?

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