



# Testimony for Hearing February 22, 2023

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**RE: Rent Control or Stabilization  
Eviction Protections or “Just Cause Eviction”  
Docket #0408**

**Prepared for**

The City Council Committee on Government Operations, Boston  
Feb. 21, 2023

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## Executive Summary

The City Council are obligated to their constituents to vote against the Mayor’s proposed form of rent control in Docket #0408 submitted Feb. 13, 2023. The Mayor dissembles when she states that her system is a third-generation or Oregon-style scheme. The Mayor has proposed a second-generation system exactly like what was suffered in Cambridge during the 1970s, ’80s and early ’90s. Under the proposed plan, Boston residents of color especially will be irreparably harmed in their applications for rental housing, even despite strong state protections against personal racism, due to an easily foreseeable exacerbation of systemic racism. The Mayor’s proposal would benefit the kind of wealthy and well-connected people she appointed to the Rent Stabilization Advisory Committee, and organizations like theirs, both when they apply for rental housing and when they buy distressed income properties for themselves. An alternative form of rent control is already available to the council in Massachusetts General Law Chapter 40P. Combined with short-term improved response of our safety net and long-term zoning reform in Boston and surrounding communities, the council can meet any imaginable renter stabilization objective without Docket #0408.

## **Legislative History**

This proposal would re-enact rent control, a failed policy that was attempted in Cambridge, Brookline and Boston from the 1970s to the mid-1990s.

Rent control was repealed in 1994 by a statewide ballot initiative, which created General Law Chapter 40P. This initiative succeeded despite local support for rent control because of the state aid formula. Towns with rent control, in the case of 1994, Cambridge specifically, had rent control regimes that did not keep pace with inflation, imposed eviction oversight and discouraged renovation of old buildings. Over many years of enforcement, this system led to a decline in assessed values, a reduced tax base and increased state aid. The towns and cities without rent control did not want to pay for this policy.

## **What is Oregon-style Rent Control?**

Oregon enacted its version of statewide rent control and just cause eviction on Feb. 28, 2019.

Under this plan, the Oregon Department of Administration recognizes a Consumer Price Index increase and publishes that on their site for all to see. Any rent increase can be this CPI increase plus 7%. The additional amount accounts for local market variations.

So as not to discourage renovation, Oregon provides a clear and objective 90-day notice plus one month relocation fee for any renter displaced due to renovation.

Oregon has a form of just cause eviction that follows an objective “three strikes” paradigm. So as not to discourage leasing up to renters with housing barriers, just cause protections do not apply during a one year trial period at the start of a tenancy.

## **How is the Boston Proposal Different from Oregon?**

In her letter to you, the Mayor wrote that her proposal is “modeled on successful policies in California and Oregon.” This is misleading. For the sake of simplicity, we will focus on Oregon only.

## **Oregon Would Allow 14%, Boston Would Allow 0%**

Whereas Oregon has a rent cap of CPI + 7%, the Mayor proposes in Section 2(e) that “The City may provide for fair return standards for the regulation of rent.” This means the CPI can be set aside and someone will examine the income statement for a property to decide whether any rent increase is justified.

Based on lived experience in Cambridge, we know this decision would be made by the rent control board called for in section 2(g). The board would be able to set a rent increase of 0% (i.e., deny a rent increase) for any reason. As happened in Cambridge, the board was used to penalize political outsiders.

**The Mayor seeks to appoint an unelected, unaccountable board specified in section 2(g).** The office of the Mayor already has too much power. Do not give it more.

## **Oregon Renovates Old Buildings, Boston Would Probably Not**

Whereas Oregon provides for a clear and objective 90-day notice and one month relocation fee for a renter displaced by renovation, Boston cannot know what rules may be in place, what fees may be charged, or whether renovation will even be allowed to take place.

New construction, exempted under the Mayor's proposal, is not the same as renovation. New construction is defined as only ground up construction, an additional rental unit, or conversion from industrial or commercial to residential use.

Renovation is what happens all the time within existing building frames. A three-decker is collapsing so it is gut renovated and tacked up. An oil furnace dies, pipes freeze and burst, and the walls are torn open for repairs.

What housing provider can meet the overriding crisis of the day, climate change, where a rent control board stands between them and the installation of ducting and heat pumps?

**The Mayor has only placeholder text around renovation. The clear intent is to place renovation decisions in the hands of the rent control board.**

## **Oregon Makes "Just Cause" Objective, Boston Would Be Subjective**

Whereas Oregon provides for a one year "trial period" during which bad renters can be removed under current law, Boston would require housing providers grant life estates starting on day one.

**The Mayor seeks to encourage small landlords to sell out.**

## **Why Was Cambridge's Rent Control Racist? Why is Boston's the Same?**

The Mayor proposes to prohibit landlords from increasing rent by the rate of inflation. Furthermore, the Mayor proposes to restrict the means by which landlords may recover possession of a rented dwelling unit (so-called "just cause eviction"). The two together would effect a form of rent control that we have already tried in Massachusetts.

Massachusetts had rent control in some communities for roughly 25 years. Housing providers hated it for many reasons and worked to repeal it. We repealed rent control in 1994. Economists have since studied Massachusetts as a "natural experiment" on whether rent control is good or bad. We now know what landlords in 1994 could not have known: Rent control is bad for its racist disparate impact.

Proponents of rent control argue that rent control will prevent renters, especially renters of color, from being displaced. This is true, in the sense that rent control helps anyone who has an apartment the day the law is passed. There are studies and research on this. The anti-displacement picture is clear. But this is not the whole picture.

The problem becomes visible when we consider applicants for new housing over decades of a rent control regime. We know from researching Massachusetts' own history that rent control hurts applicants of color far in excess of any transient stabilization benefit.

In 2007, David Sims, Economics Department at Brigham Young University, published "Out of control: What can we learn from the end of Massachusetts rent control?", J. Urban. Econ. 61 (2007) 129-151. Among many other findings, this one stands out:

**Only 8% of renters of color occupied rent controlled units, even though 22% of the residents in those cities were residents of color.** There was a clear adverse disparate impact against renters of color during rent control.

The adverse disparate impact was caused by rent control. The Economist magazine further studied the situation. In the article "Rent Control: The Morning After<sup>1</sup>," the Economist showed that **when rent control was repealed, the number of people of color in formerly controlled housing doubled** to be more equal to what you'd expect based on the city population.

### ***What was going on?***

Normally, landlords can increase rent to offset perception of risk, including credit, income and criminal history for marginal applicants. Under rent control, especially with just cause eviction, landlords hold units vacant longer waiting for applicants with high credit, high income and no history of minor criminal record. Such applicants will tend to be disproportionately and unfairly white. There is a Black–white wealth gap, and much more systemic racism, that disadvantages people of color on rental applications. There doesn't need to be any personal racism at all for systemic racism to appear.

In America, and in Boston, no less, we have long had a Black–white wealth gap and rental-application gap.

- The Economic Policy Institute shows the 2018 median household income was \$41,692 for Black households and \$70,642 for white households.<sup>2</sup>
- ApartmentList shows Black households are twice as likely to be evicted as white households.<sup>3</sup>
- The Urban Institute shows 21% of Black households have a FICO credit score above 700, whereas 50% of white households do.<sup>4</sup>
- A report from the Sentencing Project shows Black Americans constitute 53% of drug convictions, despite representing 14% of drug users.<sup>5</sup>

**Rent control and just cause eviction together drive landlords toward tougher screening metrics.** And the numbers in America, and in Massachusetts, no less, differ unfairly by race.

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<sup>1</sup> <http://www.economist.com/node/161526>

<sup>2</sup> <https://www.epi.org/blog/racial-and-ethnic-income-gaps-persist-amid-uneven-growth-in-household-incomes/>

<sup>3</sup> <https://www.apartmentlist.com/research/rental-insecurity-the-threat-of-evictions-to-americas-renters>

<sup>4</sup> <https://www.urban.org/urban-wire/breaking-down-black-white-homeownership-gap>

<sup>5</sup> <https://www.sentencingproject.org/wp-content/uploads/2016/01/Reducing-Racial-Disparity-in-the-Criminal-Justice-System-A-Manual-for-Practitioners-and-Policymakers.pdf>

**Despite strong protections against personal discrimination, rent control worsens systemic racism.**

This work builds on extensive research in this field, including Heikki Loikkanen’s “On Availability Discrimination under Rent Control,” *Scan. J. Econ., Sep., 1985, Vol. 87, No. 3, pp. 500–520*. Loikkanen gives us the ability to predict exactly how much systemic racism will result from rent control. The answer is bad for all rent control proposals, mitigated only to the extent rent control is curbed or restricted. We might as well not have it.

With the data available publicly, any rent control system would be immediately challengeable under Title VIII of the federal Civil Rights Act of 1968 (the Fair Housing Act). It doesn’t matter which buildings are exempt or not, or whether the allowable rent increase is above or below CPI. These refinements are the proverbial rearranged deck chairs on the Titanic. Rent control is not a solution on any scale. To allow only a little rent control in just one town hurts everyone in all towns: It reduces supply there, drives people out of town and makes housing more expensive everywhere else. Plus, as Dr. King wrote from jail, “Injustice anywhere is a threat to justice everywhere.” We must work diligently to eliminate systemic racism in Massachusetts and to correct the housing market by statewide – not local – action. The legislature and the courts will not allow Boston so called “local choice.”

Rent control helps only those who have an apartment the moment the law is passed. It hurts everyone else forever after.



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Rent control is not “another tool in our toolbox.”  
Rent control is a Band-Aid applied to the dirty wound, a sledgehammer to the leaking faucet, a flamethrower to the unmowed lawn that is our housing crisis. Housing providers and experience are strongly opposed to rent control.

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**How Does the Mayor’s Proposal Benefit the Wealthy & Well Connected?**

Given the above discussion about how rental applications work, Boston housing providers should be expected to hold units vacant longer, waiting for the perfect applicant to arrive. This happened in Cambridge. During Cambridge’s rent control years, many well-off individuals infamously occupied rent controlled housing. This includes Cambridge Mayor Ken Reeves, 1992 to 1995, who lived in a spacious rent controlled apartment, and state Supreme Court Justice Ruth I. Abrams, who also lived in rent controlled housing.

So who would propose such a backwards scheme? The Mayor's appointees on the Rent Stabilization Advisory Committee are not disadvantaged renters. Nor are they residential landlords. The appointees are primarily well-connected and institutional campaign donors. And weighted by dollars, they are preeminently real estate developers.

As of March 16, 2022, shortly after the Rent Stabilization Advisory Committee was announced, the Massachusetts Office of Campaign and Political Finance identified 17 of the 25 appointees as previous or current personal contributors to Massachusetts political races:

- a. Kathy Brown, Coordinator at Boston Tenant Coalition, had given \$135.
- b. Carolyn Villers, Executive Director at Mass Senior Action, had given \$140.
- c. Lauren Song, Senior Attorney at Greater Boston Legal Services, had given \$175.
- d. Kimberly Sherman, President of Related Beal, had given \$500.
- e. Beyazmin Jimenez, Abundant Housing Massachusetts Board President, had given \$770.94.
- f. Karen Chen, Executive Director at Chinese Progressive Association, had given \$1,352.
- g. Megan Sandel, Associate Professor of Pediatric Medicine at Boston University, had given \$1,500.
- h. Chanda Smart, CEO at Onyx, had given \$1,700.
- i. Michael Kane, Executive Director at HUD Tenant Alliance, had given \$3,415.
- j. Lisa Owens, Executive Director at Hyams Foundation, had given \$4,125.
- k. Jeanne Pinado, Vice President of Capital Markets at Colliers International, had given \$5,004.
- l. Joe Kriesberg, President of Massachusetts Association of Community Development Corporations, had given \$7,260.
- m. Curtis Kemeny, CEO and President of Boston Residential Group, had given \$13,835.50.
- n. Dermot Doyne, local landlord and business owner had given \$18,250.
- o. Josh Zakim, Founder and Executive Director at Housing Forward MA, had given \$19,407.
- p. Kirk Sykes, Managing Partner at Accordia Partners had given \$40,513.
- q. Brian Kavogian, Managing Director (or Partner) of National Development, had given \$143,482.35.



As of March 16, 2022, the Massachusetts Office of Campaign and Political Finance identified 21 of the 25 organizations represented by appointees as previous or current contributors, via their employees, to Massachusetts political races:

- a. Employees disclosing that they worked for the Harvard Joint Center for Housing Studies gave in aggregate \$70.
- b. Employees disclosing that they worked for Abundant Housing Massachusetts gave in aggregate \$368.
- c. Employees disclosing that they worked for Mass Senior Action gave in aggregate \$936.
- d. Employees disclosing that they worked for the HUD Tenant Alliance gave \$1,368.
- e. Employees disclosing that they worked for the North Atlantic States Regional Council of Carpenters gave \$1,425.
- f. Employees disclosing that they worked for Onyx gave in aggregate \$1,475.
- g. Employees disclosing that they worked for Accordia Partners gave in aggregate \$1,805.
- h. Employees disclosing that they worked for City Life/Vida Urbana gave in aggregate \$4,526.
- i. Employees disclosing that they worked for the Massachusetts Association of Community Development Corporations gave in aggregate \$6,645.
- j. Employees disclosing that they worked for the Hyams Foundation gave in aggregate \$7,328.
- k. Employees disclosing that they worked for the Chinese Progressive Association gave in aggregate \$7,670.19.
- l. Employees disclosing that they worked for Housing Forward MA gave in aggregate \$8,026.
- m. Employees disclosing that they worked for the Boston Teachers Union gave in aggregate \$15,362.58.
- n. Employees disclosing that they worked for Related Beal gave in aggregate \$15,381.
- o. Employees disclosing that they worked for the 1199 SEIU gave in aggregate \$18,443.84.
- p. Employees disclosing that they worked for Boston Residential Group gave in aggregate \$18,485.

- q. Employees disclosing that they worked for Urban Edge gave in aggregate \$19,494.46.
- r. Employees disclosing that they worked for the Greater Boston Legal Services gave in aggregate \$48,969.
- s. Employees disclosing that they worked for Colliers International gave in aggregate \$88,330.12.
- t. Employees disclosing that they worked for National Development gave in aggregate \$308,222.
- u. Employees disclosing that they worked for Boston University gave in aggregate \$597,780.57.

If someone were in the market to purchase distressed properties, they could hardly do better for themselves than to enact a subjective rent control scheme. Rent control would drive mom and pop housing providers to sell under duress. If such an investor were well enough connected to sit on the rent control board, or have sway there, they could pick and choose which properties to hammer down.

City Life/Vida Urbana, to cite one example, have demonstrated their interest both in political appointment and in real estate acquisition. They were appointed to the Rent Stabilization Advisory Committee twice (once directly, via Helen Mathews-Turner, and once discreetly, via prior executive Lisa Owens.) Furthermore, with the help of the Mayor and others, City Life/Vida Urbana co-acquired 114 apartments across 36 buildings in East Boston on Oct. 14, 2022<sup>6</sup>.

## **What is the 40P Alternative form of Rent Control?**

Under existing law, Boston could have rent control for its constituents at the next council meeting. And this rent control would be legitimately helpful to its residents without any harmful side effects, corruption or landlord ire. All the council would have to do is create a plan compliant with General Law Chapter 40P. There are two conditions specified in the law. These are conditions landlords can live with because we wrote the petition that became law.

The first condition is that a municipality must reimburse owners for the difference between market rents and controlled rents. This is sensible. In all the talk about rent control, no one has ever mentioned real estate tax control, insurance premium control, plumbing bill control, or any other measure that would balance the equation for operators of real estate. Housing is expensive. If a municipality wants to limit what a renter pays in rent, the municipality must make up the difference to the owner. Although easy in principle, in practice this would mean Boston would have to come up with funding for the program. We can't change economics. Someone has to pay for housing.

The second condition under 40P is that rent control cannot be applied in certain circumstances. Read the law for yourself on this one. It says, "nor may such regulation apply to any rental unit that is owned by a person or entity owning less than ten rental units or that has a fair market rent exceeding \$400." \$400 per what? This is our mistake. The landlords of that era probably meant to write "\$400 per

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<sup>6</sup> <https://www.boston.gov/news/acquisition-and-expansion-affordable-housing-east-boston-announced>

month.” But they didn’t. And you know what? We don’t mind if you interpret this limit liberally. “Per day” would grant rent control for units less than \$12,000 a month. Who would object to such an interpretation? Not us. A plan under Chapter 40P would require no additional legislative approval.

## **What Else Needs to Happen to End the Housing Crisis?**

The Metropolitan Area Planning Council’s zoning atlas shows zoning for many towns on the basis of not just intended zoning, but actual limitations accounting for floor-area ratios, setbacks and parking requirements. It shows half of Boston is zoned effectively single family. Zoning reform is the long-term solution. We mean density, not just where Boston has already done more than its fair share, but density in neighboring communities through coordinated statewide action.

We know there are many households in Boston unable to pay rent today, such that zoning reform is no immediate help. For these households, the rental assistance safety net must work. This is why MassLandlords is currently going into **year two of litigation** against the Department of Housing and Community Development over their having lost 47,000 of the 151,000 applications for pandemic rental assistance as of January 2022.

There is no shortage of examples of other states and communities across the United States taking such steps to reform single-family zoning. California and Oregon lead the way among states creating laws intended to expand housing through **zoning reform**.

California has passed<sup>7</sup> a slew of recent bills, packaged as Building Opportunities for All, that allow property owners to subdivide parcels in two in order to build extra dwellings, such as duplexes and accessory dwelling units (ADUs). Another bill gives municipalities the option to rezone neighborhoods in transit-rich and/or urban/infill areas to allow increased density of up to 10 homes per parcel. Other new laws in California allow residential housing to be built on commercially and retail-zoned properties, enable housing density increases, and provide support for affordable housing projects, among other measures.

Oregon passed a law in 2019 disallowing cities with populations of more than 10,000 people from preventing duplex and townhouse construction on single-family zoned land.

**Isn’t it strange the Mayor has hardly mentioned zoning reform at all?** It’s almost as if zoning boards keep demand high just so developers can come in with large amounts of money to purchase special permits.

In 2020, Minneapolis, Minn., became the first major U.S. city to ban single-family zoning in every neighborhood as part of its Minneapolis 2040 comprehensive plan. The policy bans the prohibition of building duplexes and triplexes on single-family zoned land citywide. Washington, D.C., has taken recent steps to allow the construction of ADUs in most residential zones.

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<sup>7</sup> <https://masslandlords.net/two-new-california-laws-aim-to-boost-housing-supply/>

In Massachusetts, the Housing Choice Law passed in 2020 was a start. We still urge our state legislators to seek zoning reform similar to that in other states. We must extend Housing Choice Law provisions instead of considering ineffectual rent control policies such as the one currently proposed. Boston could take a major step forward by enacting duplex as of right.

## **How Much Will Housing Providers Oppose the Mayor's Plan?**

On the basis of communication with members, member polling and MassLandlords staff assessment, MassLandlords, Inc. takes the following positions (note: our members are largely not developers):

Our members consistently vote “oppose rent control” as a top policy priority. (Specifically, we’re polling members on the Mayor’s form of rent control.) Two-thirds of members rate “oppose rent control” a 90 in importance or higher. Eighty-five percent of members rate “oppose rent control” a 75 or higher. The only issues of equal importance are “oppose just cause eviction,” which is perceived as a form of rent control, and “oppose right of first refusal,” a similar effort to cause mom and pop housing providers to sell under duress.

Stories abound from property owners who became caught up in rent control boards’ bureaucratic webs and lost thousands, or their property, or both.

Jim Regan, a longtime landlord in Boston, well recalls the rent control decades and the board appointed to oversee rent control laws. “You were petrified [to go before the board],” he said.<sup>8</sup> “I remember, for example, a fridge would break down, you’d have to go out and buy a new refrigerator. It would take you three to six months to get a decision whether or not you could get more money because you put a new refrigerator in there.”

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<sup>8</sup> <https://masslandlords.net/the-conditions-of-massachusetts-rentals-under-rent-control-a-retrospective/>

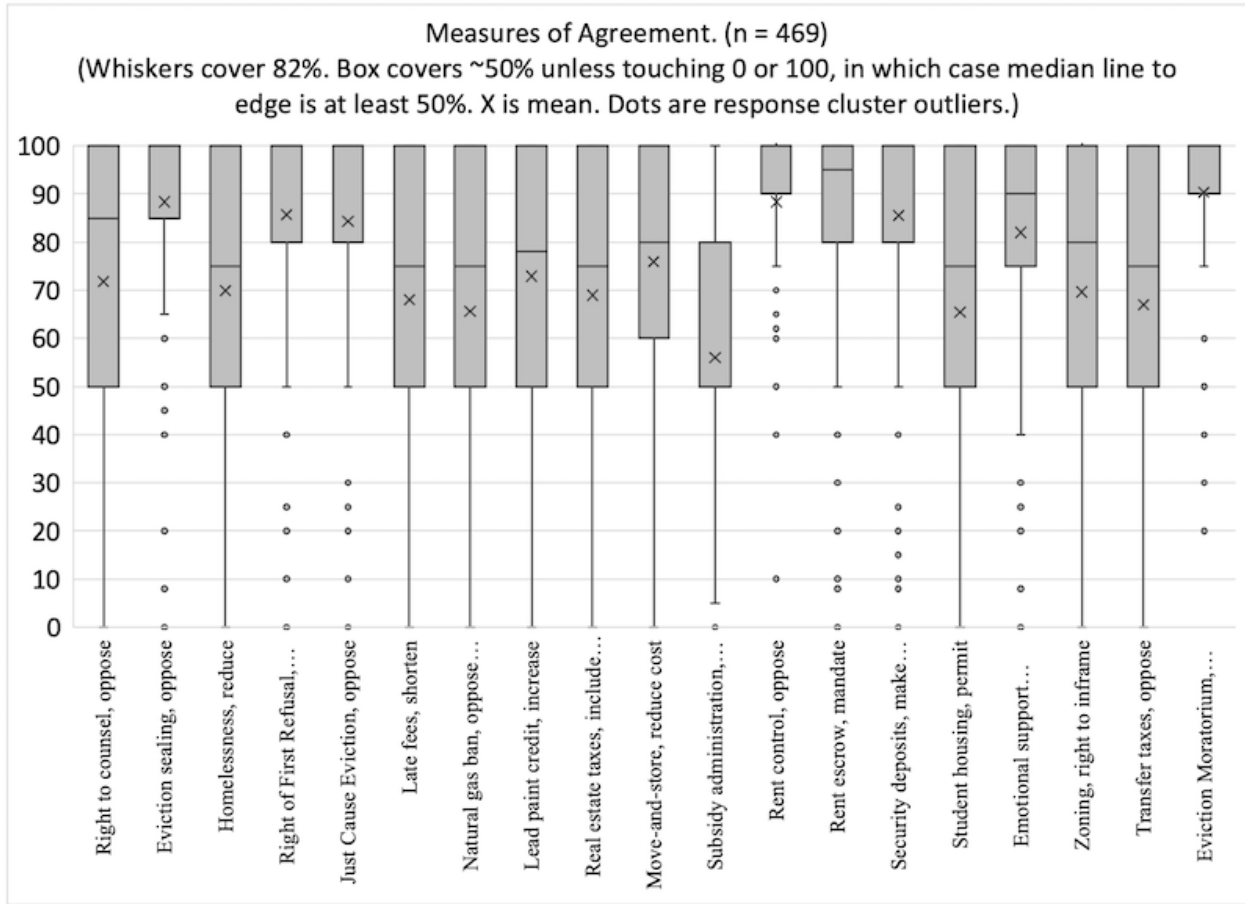


Figure 1. The high, small solid bar for "Oppose rent control"(8th from right) shows that 85% of members rate this issue a 75 or higher in importance. Likewise but less strongly for "just cause eviction" (5th from left).

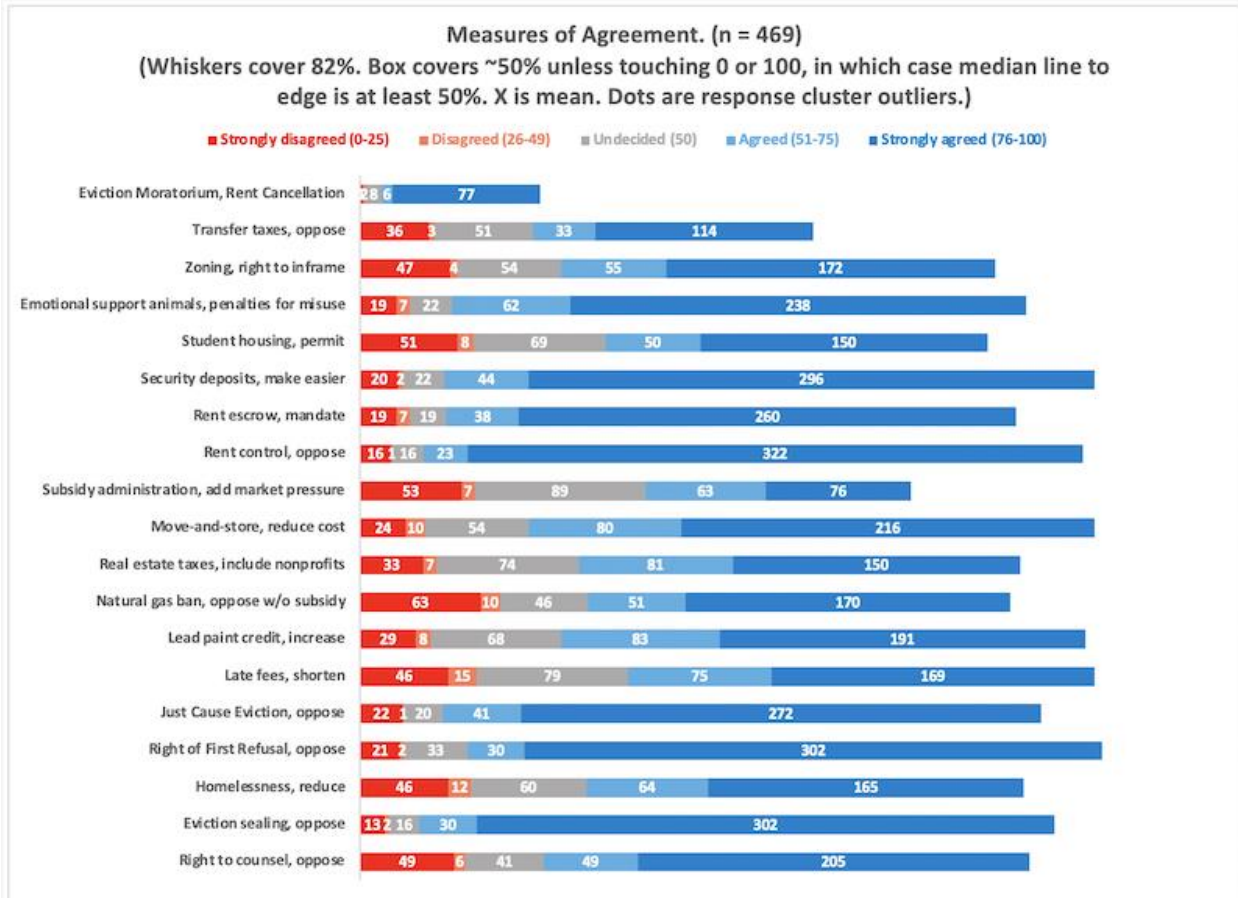


Figure 2. An alternative view of the same data in the above graph.

## Will the Mayor’s Form of Rent Control Help Create Housing in Boston?

No. Paul Krugman says it best:



"The analysis of rent control is among the best-understood issues in all of economics, and -- among economists, anyway -- one of the least controversial. In 1992 poll of the American Economic Association found 93 percent of its members agreeing that 'a ceiling on rents reduces the quality and quantity of housing.' "

**Paul Krugman, New York Times, Reckonings; A Rent Affair**

<https://www.nytimes.com/2000/06/07/opinion/reckonings-a-rent-affair.html>



## **Okay, But Rent Control Has Never Killed Anyone, Right?**

Actually, it has. You'd be right to say the following example is overstating its case, but the following is a good example of what the Mayor's unelected, unaccountable rent control board would do to housing providers.

During rent control in Cambridge, owner-occupied housing with fewer than four units was not subject to rent control. Peter and Helen Petrillo lived in a three-unit house at 391 Magazine St. in Cambridge that had an unfinished basement. They had owned the home since 1953, according to a land deed on file with the state. When their adult daughter's family lost their home due to fire, the Petrillos finished the basement to allow their displaced relatives a place to live.

This didn't sit well with some of the Petrillos' neighbors, who may have been upset that their dwellings were subject to rent control while the Petrillo home was not. The neighbors contacted the rent control board about the new basement apartment, which in turn deemed the Petrillo home a four-unit dwelling. This made it subject to rent control.

Further, the board said that the basement apartment was not up to code because the ceiling was too low. The Petrillos thought they could turn the basement back into an "unfinished" space and go back to having a three-unit housing structure, but the board had other ideas.

The rent control board, exercising its apparent total control over building use, sent a notice mandating that the Petrillos make their home a legal four-unit building. This would have required the Petrillos to jack the entire house up (at their expense) to remediate the issue of the basement's too-low ceiling. Peter Petrillo suffered a heart attack and died within days of receiving the rent control board's notice.

After Peter's death, Helen Petrillo eventually won against the rent board and did not have to raise the house up. A marker bearing Helen and Peter's names stands in proximity to the house in question.

Rent control more regularly bankrupted landlords (Laura and Vincent Bologna) or sent them to jail (George Tarvezian).



A marker outside the Petrillos' Magazine Street home stands as a reminder of the unaccountable, unelected rent control board in Cambridge.  
Image CC BY-SA MassLandlords



## **Conclusion**

Mayor Wu seeks additional power to appoint an unelected, unaccountable rent control board. She has attempted to mislead us about her plan being materially similar to Oregon or third-generation rent control. She proposes a second generation board exactly like the one that led to a disparate impact on the basis of race in Cambridge. She would deny many Bostonians of color a fair shot at rental housing. Her board could be corrupted to feed properties to those who purchase real estate and access, exactly like the kind of people she appointed to her committee. Meanwhile, the Council has a powerful anti-displacement tool already available in Chapter 40P, which it could use to create a kind of rent control-turned-rental assistance without the legislature. Long-term resolution of our housing crisis requires coordinated statewide action on short-term rental assistance and long-term zoning reform. Whether or not it pursues its own form of rent control under 40P, the council must reject the Mayor's plan.