



Testimony for Hearing November 14, 2023

RE: **Rent Control** in all its forms:

H.1304 and S.872 An Act enabling local options for tenant protections

H.2103 and S.1299 An Act enabling cities and towns to stabilize rents and protect tenants

H.1360 and S.891 An Act to restore Boston's governmentally-involved housing

H.1319 An Act limiting rent increases and creating a rental arbitrator

H.3744 An Act petition for a special law authorizing the city of Boston to implement rent stabilization and tenant eviction protections

H.1381 An Act providing for rent regulation and control of evictions in manufactured housing parks in the town of Athol

Prepared for

The Joint Committee on Housing, Massachusetts General Court, State House, Boston
November 17, 2023

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Funded by

The members of MassLandlords, Inc.
a 501(c)6 nonprofit trade association whose mission is
to create better rental housing in Massachusetts.

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Executive Summary

On the basis of communication with members, member polling and MassLandlords staff assessment, MassLandlords, Inc. takes the following positions:

By Bill

- H.1304 and S.872 An Act enabling local options for tenant protections OPPOSE
- H.2103 and S.1299 An Act enabling cities and towns to stabilize rents and protect tenants OPPOSE
- H.1360 and S.891 An Act to restore Boston's governmentally-involved housing OPPOSE
- H.1319 An Act limiting rent increases and creating a rental arbitrator OPPOSE
- H.3744 An Act petition for a special law authorizing the city of Boston to implement rent stabilization and tenant eviction protections OPPOSE
- H.1381 An Act providing for rent regulation and control of evictions in manufactured housing parks in the town of Athol NEUTRAL

By Position and Topic

- Support
 - N/A. The alternative to rent control is rental assistance, discussed below.
- Oppose
 - H.1304 and S.872 An Act enabling local options for tenant protections
 - H.2103 and S.1299 An Act enabling cities and towns to stabilize rents and protect tenants
 - H.1360 and S.891 An Act to restore Boston's governmentally-involved housing
 - H.1319 An Act limiting rent increases and creating a rental arbitrator
 - H.3744 An Act petition for a special law authorizing the city of Boston to implement rent stabilization and tenant eviction protections
- Neutral
 - H.1381 An Act providing for rent regulation and control of evictions in manufactured housing parks in the town of Athol.
 - (Why neutral on this one bill? It's a fundamentally different dynamic when a renter owns the building and is paying rent for land and utilities only. Even so-called mobile homes are not really mobile once they settle in place. This raises the difficult question of competing property rights, where the landowner essentially holds the homeowner over a barrel. Given our limited resources, we make no further comment here. If you require assistance with this matter, please reach out directly.)
- What's missing?
 - Long term: We need further zoning reform in Massachusetts to create more housing.
 - Short term: We need to further expansion of rental assistance.
 - Learning point: Local control will not improve housing supply. Local control gave us zoning and other arbitrary restrictions on housing supply such as rent control.

Membership Polling

MassLandlords, Inc. is a nonprofit that was launched in 2014. Since then, we have grown to serve over 2,400 dues-paying businesses headquartered in more than 300 municipalities across the commonwealth, with site traffic of over 300,000 unique individuals yearly. **Our mission is to create better rental housing** by helping owners rent their property and by advocating for better laws. Each week we deliver networking and training events over Zoom. Each month we deliver an in-person event and a 30-page, full color newsletter. Available 24/7 are a host of cost-saving and educational services. In 2019, we launched the Certified Massachusetts Landlord Level One™, the first of three levels of our new professional certification for individual owners and managers. **Our average member owns 19 units. Half our members own fewer than 6 units. In total, we have direct connections to over 45,000 renter households.**

Each member is asked regularly to participate in our ongoing survey on “public policy priorities.” We use this data, in combination with our economic analysis, to study aspects of housing policy and to make recommendations for reform. Our policy priority survey uses “score voting,” where each participant scores each policy area. A “0” means “strongly opposed to this idea.” A “100” means “strongly in support of this idea.” “50” is a point of indifference.

Our members consistently vote “oppose rent control” as a top policy priority. Two-thirds of members rate “oppose rent control” a 90 in importance or higher. 85% of members rate “oppose rent control” a 75 or higher.

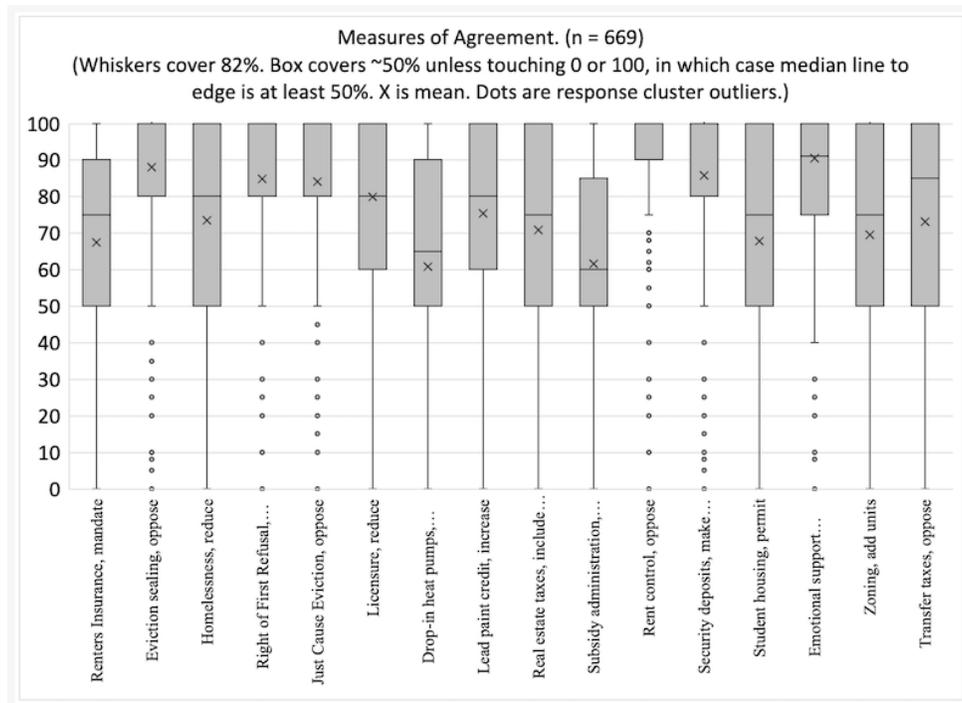


Figure 1. The high, small solid bar for “Rent control, oppose” (6th from right) shows that 82% of members rate this issue a 75 or higher in importance. These proposals are highly partisan pro-renter, anti-housing provider.

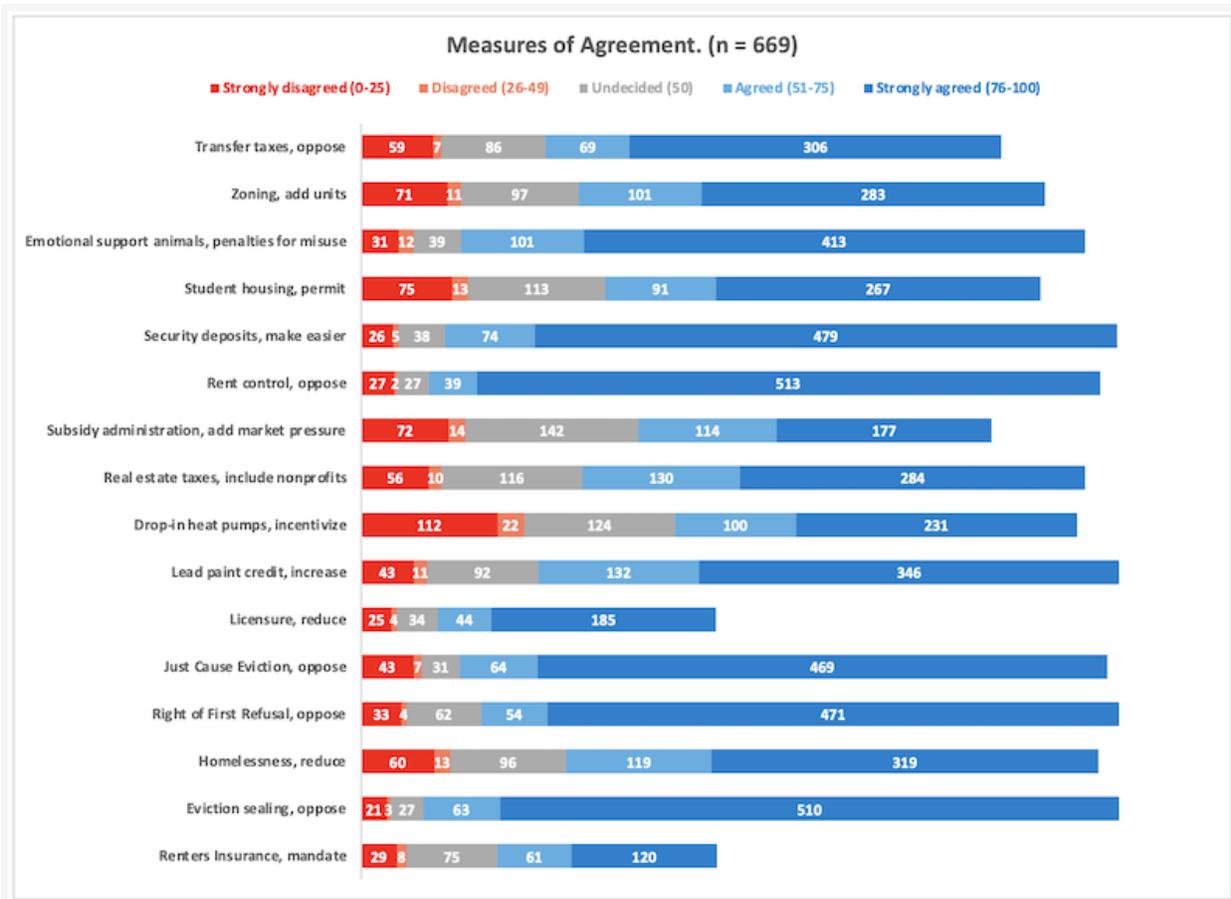


Figure 2. An alternative view of the same data in the above graph. "Rent control, oppose" is here 6th from the top.

Flaw One: Local Option Rent Control Would Redistribute at least 1.3% of State Budget from Non-rent control Towns to Rent control Towns

Massachusetts municipalities are funded to varying degrees by real estate taxes, which were lower under rent control. Rent control reduced assessed values, and with lower assessed values came lower real estate tax revenue. Our commonwealth uses a "State Aid" formula (sometimes called "Cherry Sheets") for redistributing resources among towns to ensure that each community has a budget for schools and municipal operations. If a town or city becomes weaker through loss of local real estate tax revenue, then the State Aid formula automatically redistributes revenue from stronger towns to the weaker town.

For example, consider the City of Boston, which is currently very strong. Boston's Fiscal Year 2024 (FY24) budget shows \$3 billion of revenue from net property tax (73% of budget). The forecasts for FY25 and

FY26 show net property tax increasing in real terms and as a percentage of municipal revenue¹. This is consistent with the broader trend since 2002, when net property tax was only 52% of revenue. Property tax from all sources – residential, commercial and industrial – is the driver of Boston's municipal operation and will be for the foreseeable future, absent rent control. (As discussed below, rent control on residential property has a spillover cost to nearby commercial and industrial property.)

Because of its presently strong real estate tax revenues, Boston needs and therefore receives relatively little State Aid. Boston State Aid for FY24 was projected to be only 3% of city revenue. Net State Aid to Boston has been decreasing over the last twenty years as real estate has grown in value.

This is true of other wealthy towns. For example, consider Weston, where 90% of the town's \$93 million budget comes from property taxes. Only 5% of Weston's FY24 budget will be state aid. Weston is not known for rental housing. Cambridge is, but Cambridge is likewise wealthy: only 6% of revenue will be State Aid. Somerville is likewise wealthy and full of rentals: only 6% of revenue will be State Aid.

The same is not true of gateway cities. In fact, most of the communities with a lot of rental housing rely on State Aid. Springfield and Lowell each will receive 62% of FY24 municipal budget from State Aid. Worcester will receive 47% of FY24 budget in the form of State Aid.

Rent control is known to have reduced assessed values by approximately 20% of municipal levy. David Autor studied Cambridge before and after rent control was repealed in 1994². The analysis is quite complex, but there are two main take-aways:

- Rent control had what economics call *negative externality*, meaning buildings that were rent-controlled lost assessed values, but so did buildings nearby. This so-called "spillover" effect meant entire regions of Cambridge had reduced assessed value just because they were close to run-down rent controlled properties.
- The total losses in assessed value in Cambridge were \$1.8 billion in 2008 dollars, out of a total of \$10.0 billion of assessed value (15% of possible levy).

If we apply the same de-rate to levies in Boston, Cambridge and Somerville, we can see municipal revenue for those three towns will fall a combined \$577 million. The FY24 State budget is \$56 billion, so this represents an even 1% of state budget being redistributed from towns without rent control to Boston, Cambridge and Somerville.

Municipality	Total Budget FY24 (\$)	Property Taxes as a Percentage of Total Budget	Cost to State Aid of Rent Control in 2023 dollars (\$)
Boston	4,239,900,000	73%	469,200,000
Cambridge	881,757,000	54%	71,482,414
Somerville	337,300,000	72%	36,357,567
			577,039,981

¹ <https://content.boston.gov/sites/default/files/file/2023/09/FY24%20Full%20Budget%20Document.pdf> figure 71 Multi-Year Revenue Forecast, page 58.

² Housing Market Spillovers: Evidence from the end of rent control in Cambridge Massachusetts, National Bureau of Economic Research, June 2012.

If other towns enact rent control, the cost to State Aid will increase. Remember also that rent control requires a bureaucracy, so municipal budgets enacting rent control will be further strained by increased expenses.



Figure 3. On Feb 22, Sheila Dillon, Chief, Office of Housing Stability, City of Boston said, speaking about what would become H.3744, ""We know that Cambridge and Somerville are very very interested in having some form of rent stabilization. I think -- I know they are watching what happens here very closely. If the legislature approve this, I would betcha that they would file something very very quickly."

Allowing a town or city to enact rent control would be giving it unilateral power to increase its own State Aid. We would make this a major point of contention in any attempt to enact local control. This State Aid formula is why rent control was repealed by statewide ballot in 1994, despite local support for rent control in Boston, Brookline and Cambridge. **The other towns did not want to pay into this failed system. Landlords were effective at communicating this problem then.**

Flaw Two: Rent Control creates Unlawful Disparate Impact on the Basis of Race.

Massachusetts had rent control in some communities for roughly 25 years. Housing providers hated it for many reasons and worked to repeal it. We then did repeal rent control (some would say unexpectedly) 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 that 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 hurt 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 12% of renters of color occupied rent-controlled units, even though 24% 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*³, the Economist showed that **when rent control was repealed, the number of people of color in formerly controlled housing doubled** to be 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 not people of color. 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.

The Economic Policy Institute shows the 2018 median household income was \$41,692 for Black households⁴ and \$70,642 for white households. ApartmentList shows Black households are twice as likely to be evicted⁵ as white households. The Urban Institute shows 21 percent of Black households have a FICO credit score above 700⁶, whereas 50 percent of white households do. And a report from the Sentencing Project shows African Americans constitute 53 percent of drug convictions⁷, despite representing 14 percent of drug users.

³ <http://www.economist.com/node/161526>

⁴ <https://www.epi.org/blog/racial-and-ethnic-income-gaps-persist-amid-uneven-growth-in-household-incomes/>

⁵ <https://www.apartmentlist.com/research/rental-insecurity-the-threat-of-evictions-to-americas-renters>

⁶ <https://www.urban.org/urban-wire/breaking-down-black-white-homeownership-gap>

⁷ <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 personal discrimination protections, rent control and just cause eviction together drove landlords toward tougher screening metrics. And the numbers in America and in Massachusetts no less differ unfairly by race.

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). To allow only a little rent control in just one town hurts everyone in all towns, in exactly the same way exclusionary zoning has hurt us: It reduces supply there, drives people out of town and makes housing more expensive everywhere else. As the reverend Dr. Martin Luther 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.



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.



Flaw Three: G.L. Chapter 40P Already Allows Rent Control

General Laws Chapter 40P Section 4 allows any town or city to have rent control under a few conditions. These are conditions landlords can live with because we wrote this law, which was enacted in 1994 when rent control was "repealed."

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 a town 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. 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 month." But they didn't. And you know what? We don't mind if towns interpret this limit liberally. "Per day" would grant broad discretion to regulate rents. And this would be fine with us.

The whole point of Chapter 40P is that it turned rent control into a form of rental assistance. This is similar to the form of rent control in the United States Housing Choice Voucher Program, sometimes known as Section 8. We are all in favor of helping renters. We just need to make sure we can still afford to provide housing. These rent control bills do the opposite: they delete a workable, already allowed form of rent control.

Flaw Four: Rent Control is not about Rents, It's about Maintenance

Housing requires constant upkeep. The costs for materials and labor increase with inflation. In some years, inflation is very high. This is why all the rent control proposals before the committee require a board or arbiter to intervene if housing costs rise faster than wages. But the result is that properties become undercapitalized and eventually unsafe. This effect is well studied. Developers swooped in to buy the distressed assets and waited for rent control to be repealed. Or in the case of the Boston bill, developers have written in exemptions for themselves.

Note that anywhere the consumer price index (CPI) is mentioned, that is a distraction price. The rent board would by design have the authority to stop rent increases based on landlord net income ("they are earning too much"), inflation ("wages have not risen as much") or caprice ("I don't like that landlord").

In 1985, Boston Mayor Ray Flynn ordered a survey of boarded up properties because the problem had become so severe. Hundreds of properties containing thousands of units are known to have been boarded up. Here is just a sample of the records we have collected:

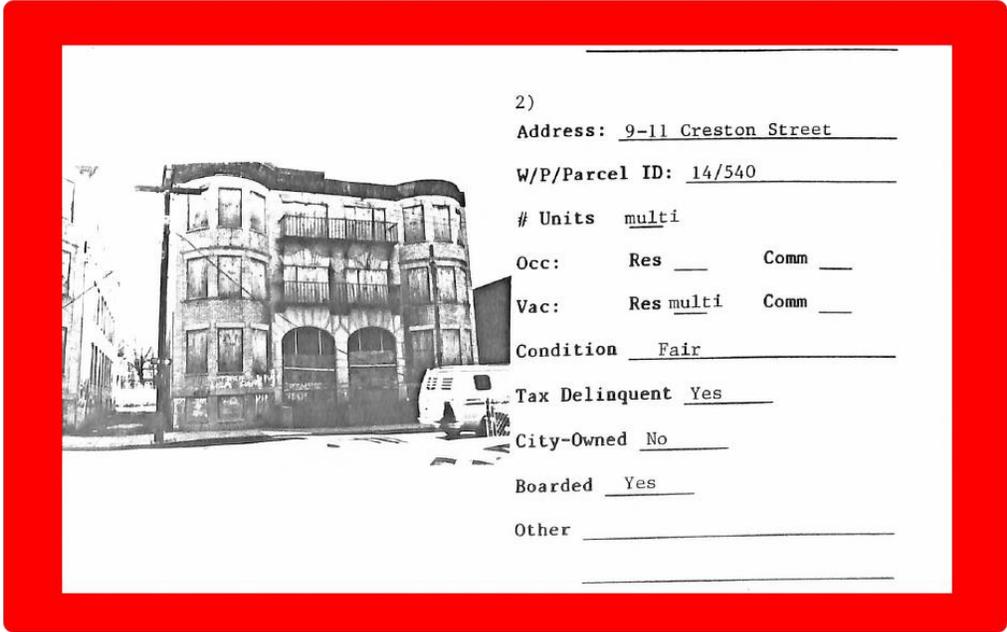


Figure 4. Boarded up, dilapidated buildings are just one of the negative consequences of rent control. If landlords can't recoup their costs, they will allow properties to fall into disrepair, eventually abandoning them. This image comes from North Dorchester, and there are hundreds more like it. (License: public domain - city of Boston report for mayor Raymond Flynn 1985)

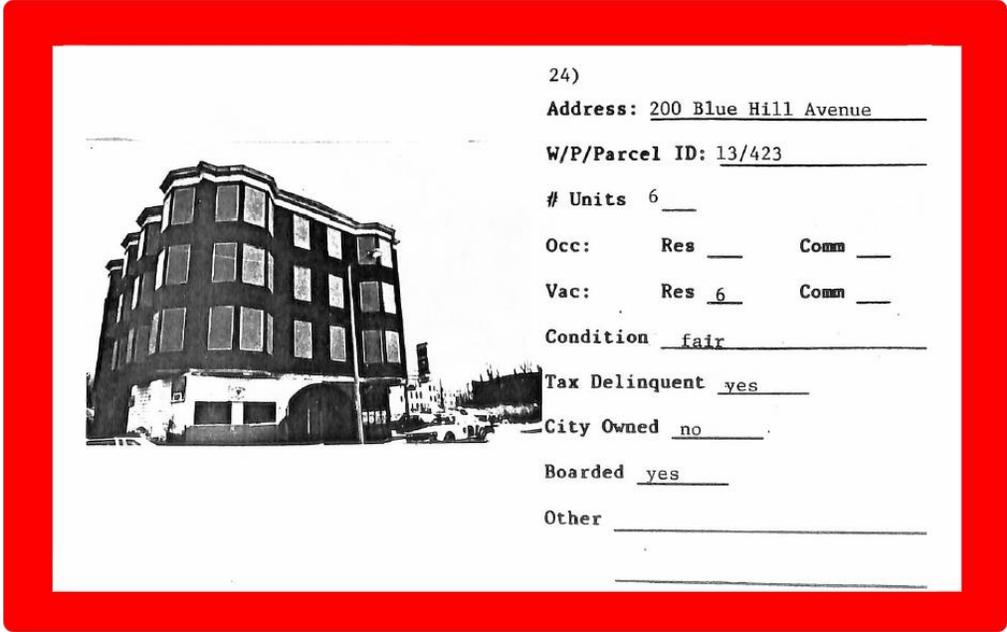


Figure 5. 200 Blue Hill Ave., Roxbury (License: public domain - city of Boston report for mayor Raymond Flynn 1985)

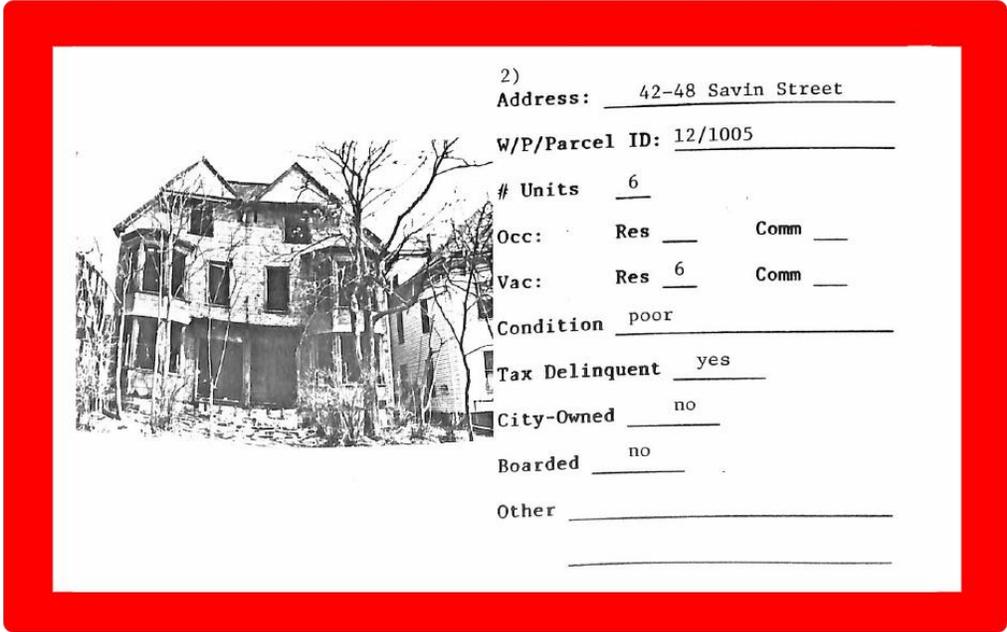


Figure 6. 42-48 Savin St., Roxbury (License: public domain - city of Boston report for mayor Raymond Flynn 1985)

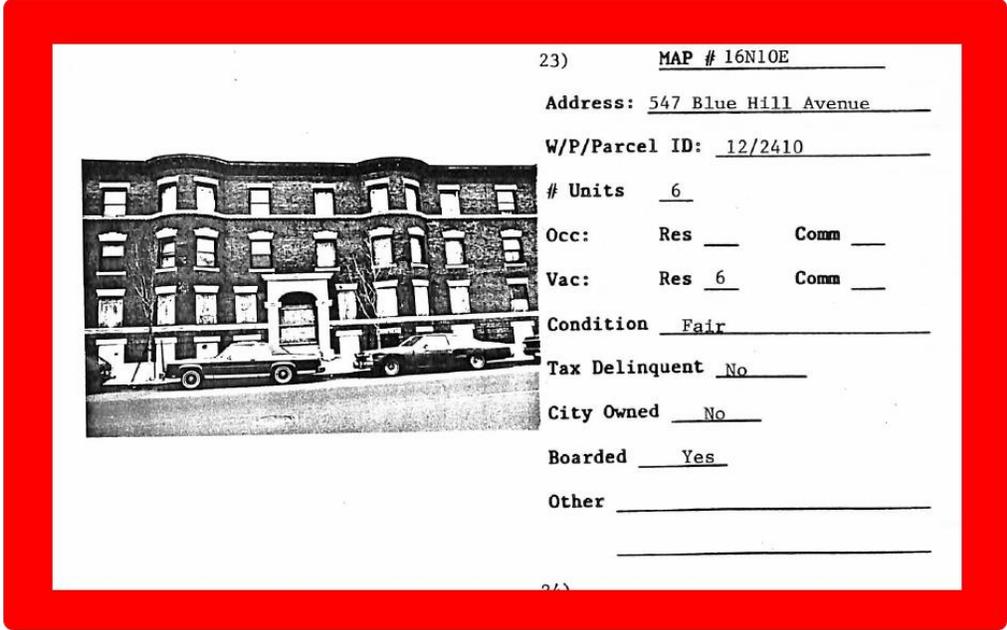


Figure 7. 547 Blue Hill Ave., Roxbury (License: public domain - city of Boston report for mayor Raymond Flynn 1985)

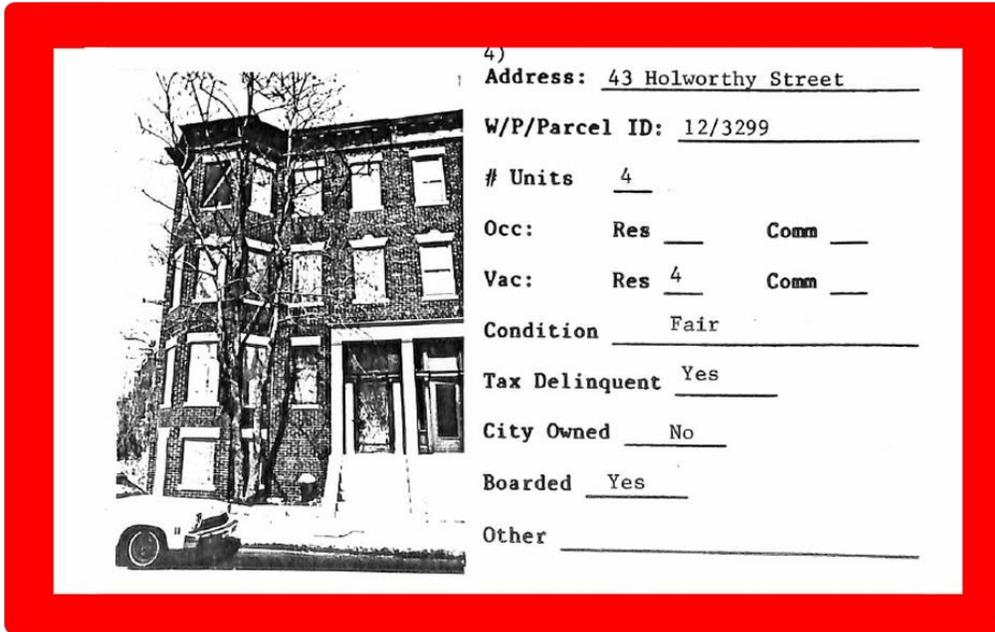


Figure 8. 43 Holworthy St., Roxbury (License: public domain - city of Boston report for mayor Raymond Flynn 1985)

The American Institute for Economic Research 2009 study shows the data on maintenance are very complex. Some newer properties don't fare so badly, but older properties are especially harmed. They found that pre-1947 buildings in Manhattan, for instance, were found to be 8.96% more likely to be structurally unsound than their equivalent uncontrolled counterparts. New buildings showed no difference. One study found that an average 3% benefit in rent was offset by an average 2% penalty in reduced maintenance, meaning for every dollar the rent board squeezed out of rents, two dollars came out of maintenance. (The remaining one dollar would come out of real estate taxes.)

In many cases, the rent boards explicitly denied maintenance. We have scanned over 7,000 pages of minutes from the rent control years. There are innumerable examples of landlords asking for permission to make repairs and being denied.

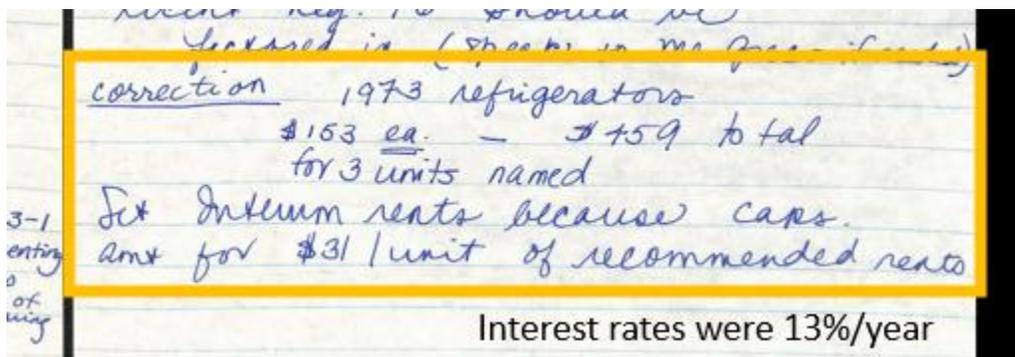


Figure 9. Minutes from the March 2, 1983 Cambridge rent board meeting show the owner of 38-44 Shepard St. was denied permission to replace ten year old refrigerators. This request was remanded for further hearing and delay by a vote of 4-0.

The role of developers in lobbying for rent control has been well documented by us in the context of Boston's bill. **In H.3744 developers are exempted.** Twelve of the 25 appointees to Boston's rent stabilization advisory committee (RSAC) were developers. (Massachusetts has both for-profit and non-profit developers.) Developers have a particular interest not just in exempting themselves, but also in creating a particularly brutal rent control regime for landlords. Landlords being forced to sell distressed assets at bargain basement prices will create more opportunity for developers. The developers who participated in the RSAC are also all significant donors to Boston political races:

- Kimberly Sherman, president of Related Beal: personally donated \$500. Related Beal employees in aggregate had donated \$15,381.
- Chanda Smart, CEO at Onyx: donated \$1,700.
- Jeanne Pinado, vice president of capital markets at Colliers International: gave \$5,004. Colliers employees altogether donated \$88,330.12.
- Joe Kriesberg, president of Massachusetts Association of Community Development Corporations, gave \$7,260.
- Curtis Kemeny, CEO and president of Boston Residential Group, gave \$13,835.50. BRG employees donated \$18,485.50.
- Dermot Doyne, local landlord and business owner, gave \$18,250.
- Emilio Dorcelly, CEO of Urban Edge, donated nothing personally, but Urban Edge employees in aggregate donated \$19,494.46.
- Joe Byrne, Executive Secretary-Treasurer for the North Atlantic States Regional Council of Carpenters, donated nothing personally, but the carpenters altogether donated \$1,425.
- Kirk Sykes, managing partner at Accordia Partners, gave \$40,513.
- Brian Kavoojian, managing director (or partner) of National Development, gave \$143,482.35. National Development employees altogether gave \$308,222.

Not one landlord organization was on the RSAC.



The alignment on rent control between progressives and developers is a "Baptists and bootleggers" moment. During Prohibition in the 1920s, Baptists wanted temperance because they believed in it. And bootleggers wanted temperance because they could make money from it.



Flaw Five: Just Cause Eviction Helps Bad Renters Harm Neighbors

All the rent control proposals have an implicit or explicit provision to restrict evictions. This is necessary to prevent landlords terminating tenancies just to raise the rent. We strongly oppose this. The so-called "just cause eviction" provisions attempt to enumerate all the possible reasons that a tenancy may be terminated, but do not include terminating a tenancy at will for "no fault." "No fault eviction" is a legal term that has nothing to do with whether a renter is good or bad. Any time a landlord and a renter end up in court, one or both parties has done something very bad. This is why the legislature created and sustains the tenancy at will, which allows an owner to terminate for no fault, which simply means, "no reason stated." This is also why the legislature has allowed renters innumerable counterclaims to defend against no-fault.

Consider the Smoking Case of Gwendolyn Property Management v. Goodwin, Johnson

In 2021, Gwendolyn Property Management took two of its tenants, Lisa Goodwin and Timothy Johnson, to court. The company was seeking possession of the unit after the tenants allegedly violated the lease by smoking on the premises.

Goodwin and Johnson, who had lived at the Webster property for 18 years, both admitted that they had smoked on the property in the past, but claimed they had switched to vaping. The lease they signed in 2019 included the MassLandlords no-smoking addendum, which has very careful definitions of what constitutes smoking. ("Smoking shall include the inhaling, exhaling, breathing, carrying, or possession of any lighted cigarette, cigar, pipe, other product containing any amount of tobacco, marijuana, or other substance.")

The property manager visited in July 2020 and smelled a strong cigarette odor coming from the third floor, where the defendants lived. Furthermore, Haley Ruggieri, a downstairs tenant, testified that she had smelled smoke and saw the defendants smoking starting in early 2020, noting that the smoke was cigarette smoke, not vapor from a vape pen. She also stated she saw cigarette butts around the defendants' vehicles. Other witnesses also stated they had smelled a strong odor of cigarettes coming from the defendants' apartment.

In April 2021, the tenants were served a notice to quit for violating the lease and smoking on the property. The property management company lost its case, because the judge apparently did not understand the difference between smoking cigarettes and vaping and did not believe the witnesses.

A no-fault case was filed after the for-cause case looked doomed. This case was won by the landlord. The property was rendered smoke free once again.

Just cause eviction restrictions allow all kinds of bad behaviors, including smoking, to continue uncorrected.

Case Study in Failure: George Tarvezian

In Cambridge in 1991, the state's vague and empowering rent control law had got so bad that some landlords did not want to rent out what they perceived as undercapitalized housing (e.g., junk). George

Tarvezian was one such landlord. He could not get approval to make needed repairs or to evict bad renters, so he started refusing to rent out his property, letting each unit stay vacant as it became vacant.

The rent board hated George, and being an unelected and unaccountable body, could act with impunity. The legislature had foolishly granted such broad power to the rent board (as is being asked in H.2103, S.1299, H.1304, S.872 and H.3744) that there is nothing the rent board could not do. They had the power to control landlord behavior. They told George to rent his apartments. He refused again. So the rent board ordered the Cambridge Police to arrest him. They did!

George spent six months in jail and was fined \$3,000 in 1991 dollars. **As a result of rent board actions, George stopped being a landlord and additional affordable housing disappeared.** Others followed suit, going so far as to paint their buildings with a warning to others not to own property in the city.

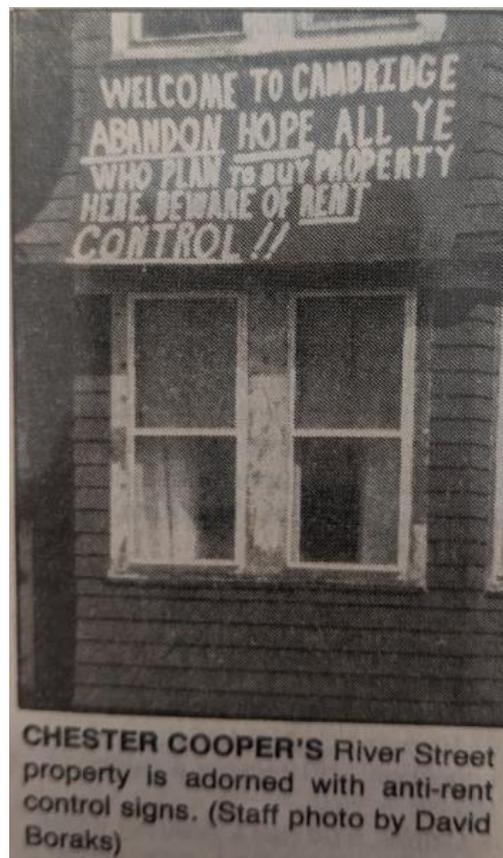


Figure 10. *The Cambridge Chronicle*, Thursday December 6 (believed 1991), showing another landlord warning others not to buy property in Cambridge.

Case Study in Failure: Laura and Vincent Bologna

"We were young," says Laura, describing the decision the newlyweds made to purchase and restore the abandoned rooming house, which once upon a time (as Laura describes it) "had been beautiful." In addition to 310 Harvard Street, the Bolognas bought a house in Somerville, hoping to pay the mortgage from rental income.

They obtained the necessary permits and restored 310 Harvard Street to its original Victorian-era condition. The property had a carriage house at the rear, and that was where the Bolognas lived so that they could rent out the main building.

“We rented it to a mother and daughter,” says Vincent. “They paid six months’ rent, and then they sued us for overcharging.”

The mother and daughter were Krenie and Maria Stowe. Not long after moving in, the Stowes went to the Cambridge rent control board and alleged that the Bolognas’ property was subject to rent control. The board agreed and ruled that all eight units in 310 Harvard Street were rent controlled.

The Bolognas had to pay damages, including damages from the error they made handling the security deposit, an error that triggered the treble-damages-plus-legal-fees provision of the summary-process statute. From the Cambridge rent control board, the Bolognas took their case to the Superior Court and from there to the Appeals Court. Interested readers can read the case here: *Stowe v. Bologna*, 32 Mass. App. Ct. 612 (1992).

The Appeals Court affirmed the judgment in the amount of \$35,991.20 plus \$28,019.62 in legal fees. Representing doctors Maria and Krenie Stowe was Attorney Mark D. Stern, one-time counsel for the Tenants First Coalition.

Damages plus the Stowes’ legal fees made for a grand total of \$64,010.82.

But that was not all. In addition to paying the Stowes’ lawyers, the Bolognas had to pay their own counsel until the New England Legal Foundation (NELF) stepped in to help. Unfortunately for the Bolognas, NELF was unable to persuade the Supreme Judicial Court to overturn the decision.

Then they had to pay the Stowes’ lawyers \$30,000.00 for the appeal. It was little consolation that this figure was \$50,000.00 less than those lawyers had requested.

So Laura and Vincent Bologna were stuck with not only the \$64,000.00 arising out of the Superior Court case, but an additional \$30,000.00 because they tried, unsuccessfully, to appeal. As a direct result, they could not make payments on their other house in Somerville. They saw it go into foreclosure, and sought bankruptcy protection.

The just cause eviction protections that aided and abetted the Stowes are exactly what is being called for in H.2103, S.1299, H.1304, S.872 and H.3744.

As a result of rent board actions, Laura and Vincent stopped being landlords and additional affordable housing disappeared.



Figure 11. This is the building at 310 Harvard St in Cambridge hand restored by the Bolognas. Their renters took advantage of them, didn't pay rent for five years, couldn't be evicted and illegally sublet at market rent. The Bolognas were fined \$64,000 by the rent board, had another \$30,000 in attorney fees, and ultimately lost the house to bankruptcy. They are not landlords anymore. in <https://goo.gl/maps/Kv3j2qrnFxFMFA5U9>

Case Study in Failure: Helen and Peter Petrillo

A well-known case of rent control disaster is memorialized on Magazine Street in Cambridge. Helen and Peter Petrillo owned a three-unit at the corner of Magazine and Chestnut Streets. Their daughter, who lived elsewhere, survived a fire in her home. So the Petrillos moved themselves into their basement, creating a fourth unit down there, and gave their owner-occupied unit upstairs to their daughter and her family.

The neighbors noticed the Petrillos creating this fourth basement unit and dropped the dime to the rent control board. The rent board, eager for the chance to "create" more affordable housing, inspected the basement unit and found it lacking adequate ceiling height. Rather than order the Petrillos to vacate the basement and live somewhere up to code, they ordered the Petrillos to jack up the house at their expense. This kind of arbitrary power is what is being called for in H.2103, S.1299, H.1304, S.872 and H.3744.



Figure 12. An official city marker remembers Peter Petrillo, dead of heart attack following a rent board order to jack up this building. CC BY-SA 4 MassLandlords Ericb.

What about the toll on elderly homeowners?

I want to thank Jeff Jacoby for taking to task the hypocritical doctors in Cambridge ("Liberals' arguments can kill you," op ed, Jan. 26). How foolish for these people to suggest that the end of rent control will result in the deaths of current tenants.

The orderly end of rent control will cause little disruption if the professional rent control advocates, their legislative supporters and people like these doctors would stop whining about its defeat and begin to work with people like Denise Jillson at the Massachusetts Homeowners Coalition to develop a state-funded program to cushion the elderly tenants without destroying the elderly landlord.

I am a 78-year-old widowed Cambridge homeowner. The tyranny of the professional rent control advocates forced my husband Peter and me to defend our right to allow our daughter and her husband and children to live with us after their house was destroyed by fire.

The tenants, politicians and professional advocates tried to force us to register our three-family, owner-occupied home with the rent control board because my husband and I moved into the

finished basement so that our daughter and her family could live with us. We won, but the battle was tremendously stressful and expensive. The victory was even more costly because the stress of dealing with a bureaucracy ultimately killed my husband. He died of a heart attack at the height of the battle.

When I went before the Cambridge City Council and pleaded for relief, I was told to "bury your husband. There is nothing we can do for you." I wonder where these concerned doctors were when the old rent control system was imposing strain on small-property owners.

My loss is not the "what if" kind suggested by these doctors; my loss is the kind that I live with every day.

HELEN PETRILLO
Cambridge

...

Please include your name, address and daytime telephone number. Letters should be 200 words or less; all are subject to condensation.

Mail address: Letters to the Editor, The Boston Globe, Boston MA 02107-2378.

The Internet address: letter@globe.com

Figure 13. This letter to the editor was published in the Boston Globe February 7, 1995 after rent control was repealed as the legislature extended rent control provisions two years for elderly renters and renters with a disability.

Specific Problems with H.3744 (Boston-Wu) not already mentioned

Boston's proposal would allow it to create a rent control board and detailed ordinances. The proposed scope is to restrict:

- renovations,
- condo conversions,
- evictions and
- rent prices.

This form of rent control would have little to no predictability for owners. It uses the "fair return standards" used in the 1970s and 1980s. This requires owner to provide a statement of income before the rent board authorizes a rent increase.

There is a lot of advocacy around a distraction price, which is that allegedly rents can always increase by inflation plus six percent. That is purposely misleading.

First, there is a cap such even in high inflation years, landlords will be held below market. There is no recognition whatsoever that landlords need to keep pace with real estate taxes, insurance, repairs and more each year. Second, the rent boards will decide how much of a return on investment is fair. Rent increases at or below inflation may be denied if the owner is perceived as making too much money.

Landlords would be forbidden from terminating a tenancy in order to renovate. Landlords would also be forbidden from relocating a renter temporarily, renovating, and putting them back at a higher rent. This guarantees our properties will fall behind on capital improvements.

Developers, who represented half of the bill drafters, stand to gain enormously. When rent-controlled properties are undercapitalized and allowed to rot, landlords eventually sell out at distressed prices.

This proposal has very little to do with helping low-income renters. It has a lot to do with beating down old owners and their buildings so that developers can redevelop the lots. And it has a lot to do with Boston not wanting to pay for the needed rental assistance.

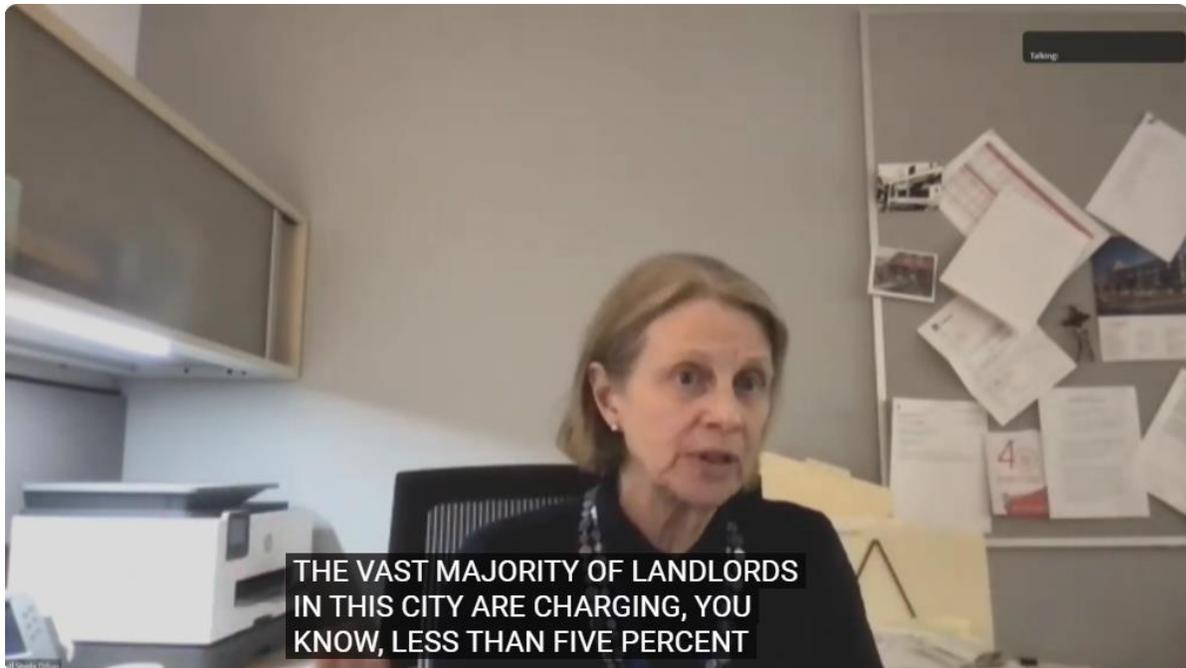


Figure 14. Sheila Dillion, Chief, Office of Housing Stability, addressing Boston City Council Feb 22, 2023 about how the vast majority of landlords are not raising the rent too fast. So why do we need this policy?

A point-by-point rejection of this bill is online:

(b) The City, on an annual basis, may set an annual maximum percentage rent increase for rental units covered by this section, based on the change in the consumer price index, plus six percent, or a maximum percentage increase of ten percent, whichever is lower.

This is politically clever distraction pricing. Further on, we see the Rent Control Board can and will override this objective-sounding formula.



Read More:

<https://masslandlords.net/policy/bills/193-h3744-an-act-for-a-special-law-authorizing-the-city-of-boston-to-implement-rent-stabilization-and-tenant-eviction-protections/>

Specific Problems with H.1304 S.872 (Connolly-Eldridge) not already mentioned

This bill shares the same motivation as the 2024 ballot initiative for which signature gathering was suspended November 10, 2023. There is no statewide appetite for rent control, and progressive political action committees (PACs) at the national level declined to fund the initiative. This is because opposition to rent control is strong and growing, and the facts are on the opposition's side.

It Gives Local Control of Decisions That Should Be Statewide, Which Will Worsen Housing Inequity

Dividing a statewide issue into local control can be problematic on many levels. This is exactly the problem we see with zoning, where many choose lovely single family lots as their preferred zoning, with the result that no one without the means to own can live in that community. This is wrong. Enabling local control to address the statewide problem of unaffordable housing will exacerbate the problem, balkanizing regulations, disincentivizing investment in some towns but not others, and promoting unequal housing opportunity from community to community. This is one reason why the state legislature enacted the Housing Choice Act and MBTA Communities Acts earlier last session, because local control of housing policy is not working.

Anti-Displacement Zones Invite Unlawful Redlining

This bill would create “anti-displacement zones,” in which municipal governments could opt to regulate rent and eviction specifically in designated areas with low-, moderate- or middle-income residents at risk of displacement. This proposal would be akin to encouraging the racist former practice of “redlining,” by allowing towns and cities to literally draw a red line around poor areas, and exempting wealthy areas from regulation. The disparate impact on people of color, described above, would be profound and would represent a big step backwards in achieving equitable housing, not just for renters, but also owners and especially owners of color.

Ensures Rent Controlled units will go to Wealthy Renters

During the 1970s–1990s, rent controlled units were occupied by wealthy residents. This included Cambridge Mayor Ken Reeves, 1992 to 1995, who lived in a spacious rent-controlled apartment, and state Supreme Court Justice Ruth I. Abrams. This is because landlords who could not be assured of making repairs needed to rent to someone certain to take care of the place and certain to pay whatever rent was allowed.

Subsection 4(d) states: “Any city or town that adopts this section *may* (emphasis added) ensure that dwelling units governed by such measures are only eligible for those individuals or households who meet income-based eligibility requirements as provided for by the city or town.” This subsection is clearly an attempt to correct past failings of rent control by means testing, because too many rent controlled dwellings

The flaw with this suggested subsection is that it allows the *option* of means testing with the word “may” instead of requiring it with the word “shall.” This was one of the most flawed deficiencies of

former rent control laws. To attempt to correct it by voluntary compliance shows that these proposed changes to Ch. 40P were written in ignorance. If there is one place in the whole bill where you would put a strong protection in place, it would be here.

Repeats Rent Board Abuses of the 70s, 80s and 90s

Subsection 4(e) allows towns and cities to establish boards to oversee local rent and eviction regulation. During rent control of the 1970s through '90s, local boards were increasingly appointed to govern rent control. These boards levied notoriously stringent regulatory thresholds for landlords, and were, according to the history we have collected (see above), rife with corruption and favoritism.

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, as reported in [this article](#). "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."

Would Eliminate Move-in Fees and Brokerages

In addition to rent control, this proposed bill would also promotes local regulation of move-in fees, allowing tenants to make installment payments for last month's rents and security deposits. The potential problems with this proposal are many, foremost the increased risk for landlords of opening a lease with a fraction of a security deposit and last month's rent in hand. In such cases, the monetary incentive is removed for tenants to comply with lease provisions, to care for the dwelling and to remain through the lease duration.

This provision would also result in higher rents as landlords forgo the risk of partially unpaid security deposits and last month's rents. Landlords would make up for this in an increased rental price. This is already taking place as landlords are increasingly moving away from security deposits and raising rents to cover the equivalent cost. This is due to the monetary risks and confusion built into the existing security deposit law. Adding an installment option to last month's rents would multiply the trend.

To replace a security deposit and last month's rent within the monthly rental price would equal an increase of 16%, or 1/6 (2 months divided by 12 months in a year) of annual rent. For an apartment renting for, say, \$1,500, that equals a \$240 increase per month.

Finally, to "prohibit the business of finding dwelling accommodations for a fee" would allow towns to ban brokerages. Brokers can be expensive, yes, but they can also do useful work for people looking for renters or apartments. Sometimes the landlord hires a broker, sometimes the renter. We should allow the market to provide an alternative way to find housing in this time of great scarcity.

Specific Problems with H.2103 S.1299 Rogers-Jehlen not already mentioned

Rent Roll Backs Cancel Contracts and Invalidate Investments

Section 4(b) would roll back rental amounts in rent-controlled units to the monthly rate that was charged 12 months prior to a municipality's acceptance of this ordinance.

Imagine a property owner who just finished investing in improvements to rental properties on the basis of offsetting some of the cost with recently raised rent revenue. Now that property owner is ordered to lower rents back to their former rate, potentially losing tens of thousands of dollars per order of the municipality.

Landlords would rightfully be outraged by this compelled revenue forfeiture and it would result in numerous legal challenges.

Further, this provision would require a town or city to nullify and rewrite legally established contracts, a legally questionable action in itself in this setting.

Finally, as with other forms of rent control, this proposed ordinance would have a similar effect of deterring rental upkeep and renovations.

Specific Problems with all of the other bills

We have tried to focus our testimony on those bills that seem to have the most traction. There is nothing better to find in the rest of the rent control bills, H.1360 S.891 or H.1319. Our general comments on rent control apply to these bills same as the rest.

A Return to Rent Control is Not the Answer

Rent control is not the answer to a shortage of housing in Massachusetts, nor is it an effective measure for increasing affordable housing. Our past attempts at implementing rent control, in the 1970s into the 1990s, has demonstrated its fecklessness in addressing the housing conundrum.

Worse, the rent control legislation being proposed is written in a way that would result in duplicating the most poignant failures of that former ineffective experiment.



"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>



Better Solutions to Housing Shortage

Alternatively, we recommend a two-tiered approach to alleviating the housing crisis and encouraging growth in affordable housing statewide.

First, in the short term, we need rental assistance, and it has to work even for people the state deems unworthy. The nature of a safety net is it catches everyone. MassLandlords is suing the Executive Office of Housing and Livable Communities to enforce a release of public records that would shed light on the agency's uneven and confusing distribution of rental assistance. One-third of applications were lost as of early 2022 and half rejected, and the problems are largely still with us. We hope the data that we seek might provide information that could assist agencies in correcting and improving rental assistance so that more renters can remain in their homes.

Eviction filings went down by half when rental assistance was properly funded.

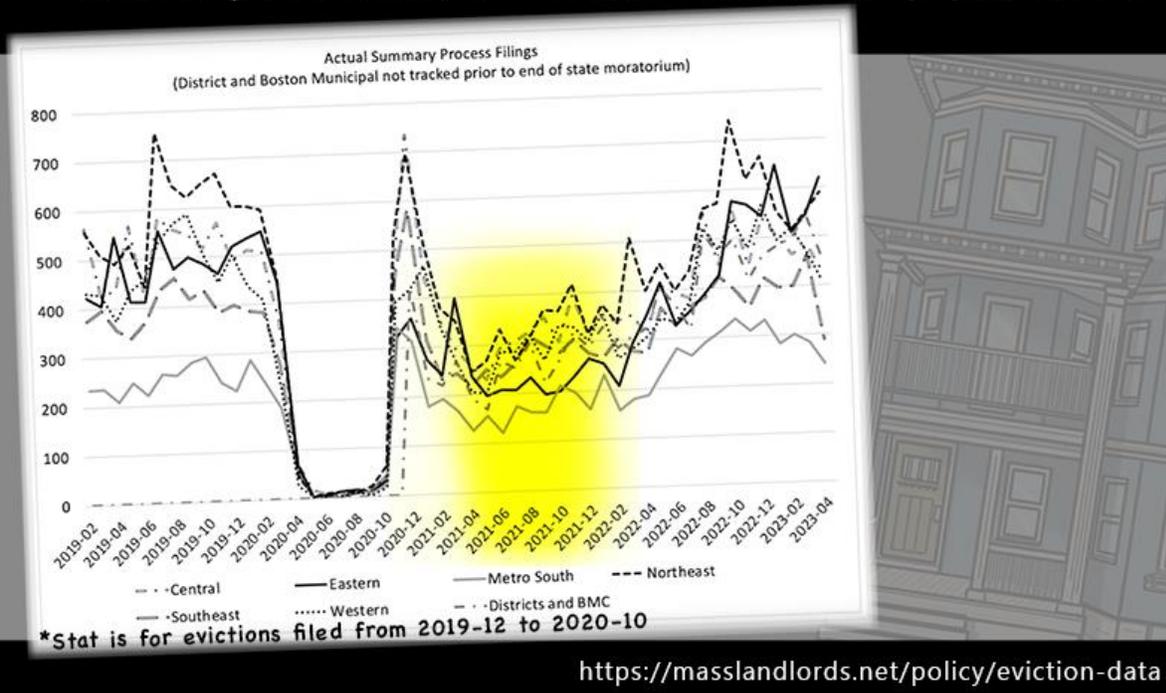


Figure 15. Rental assistance works! Eviction filings went down by half during the pandemic. Forced move-outs (levies of execution) went down by 90%. It must be properly funded and there must be the ability to apply upstream of court, and these two things will make a dramatic improvement in the day-to-day lives of tens of thousands of good renters.

Second, in the long term, we need lots more housing. MassLandlords has long advocated for reform of the state's zoning laws. Specifically, we promote reform of outdated single-family zoning laws. This does not mean ending single-families, but it does mean freeing property owners who choose to build multi-families or accessory dwelling units on their property. As long as their plans comply with building code, there should be no obstacle we cannot overcome on zoning reform. Homeowners who choose to have a single-family house on a lot with several acres should be free to, of course. But those who choose to benefit by offering housing options on their lots should have that option too.

Single-family zoning laws disallow such options. By doing so, these laws deter growth in affordable housing that could be substantial.

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](#) 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 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.

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.

In Massachusetts, the [Housing Choice Law](#) passed in 2020 was a start. We urge our legislators to seek zoning reform similar to that in other states and that extends Housing Choice Law provisions instead of considering ineffectual rent control policies such as the one currently proposed.

All of these rent control bills would only move us backward in the pursuit of equal housing opportunity and ought not pass.