

# 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

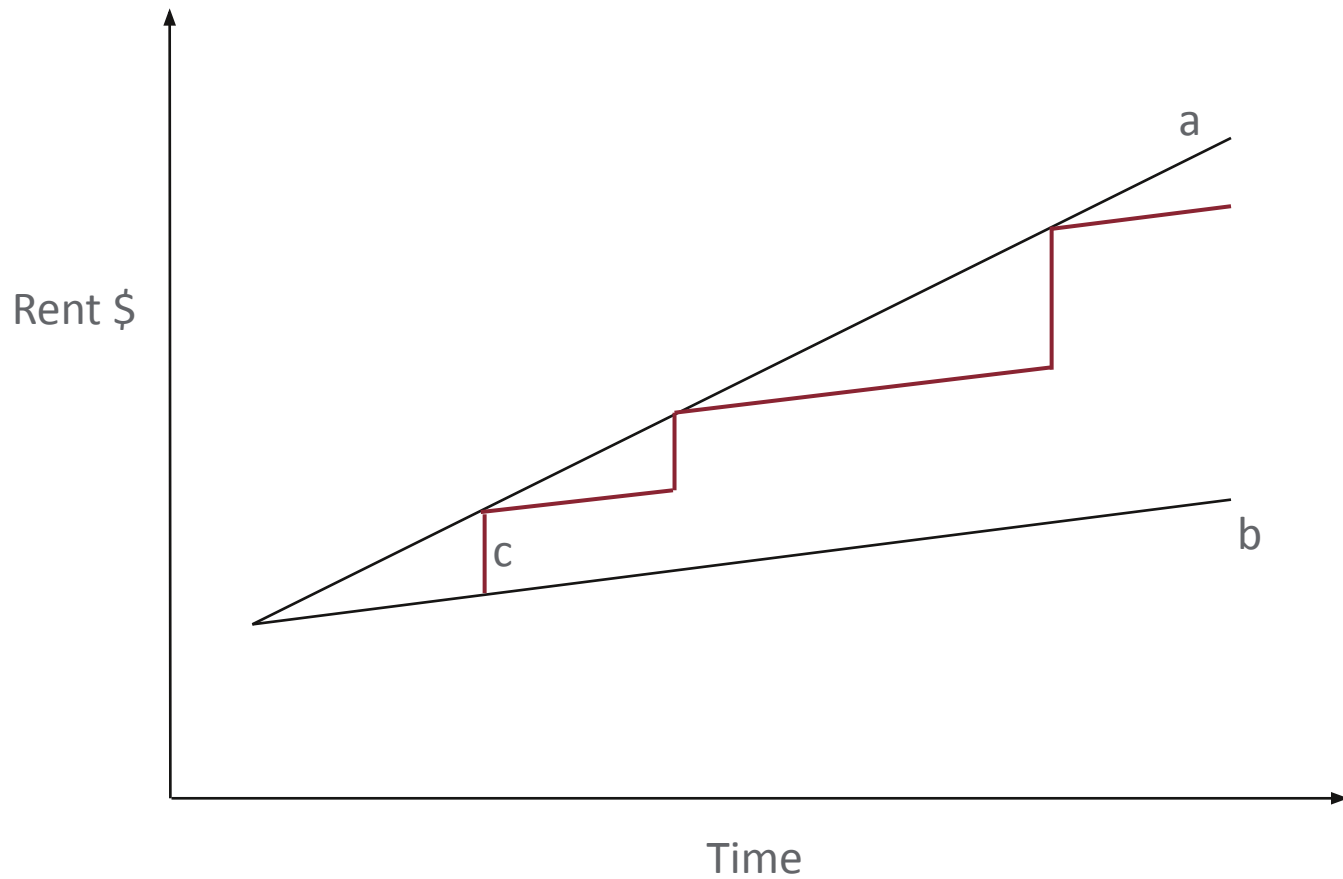
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- Permanent decontrol
- Full vacancy decontrol
  - Upon vacancy, owner can raise rents without limit
- Partial vacancy decontrol
  - Upon vacancy, owner can raise rents above the cap, but not unlimited
- NYC “luxury decontrol”
  - Permanent decontrol,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

# Impact of vacancy decontrol

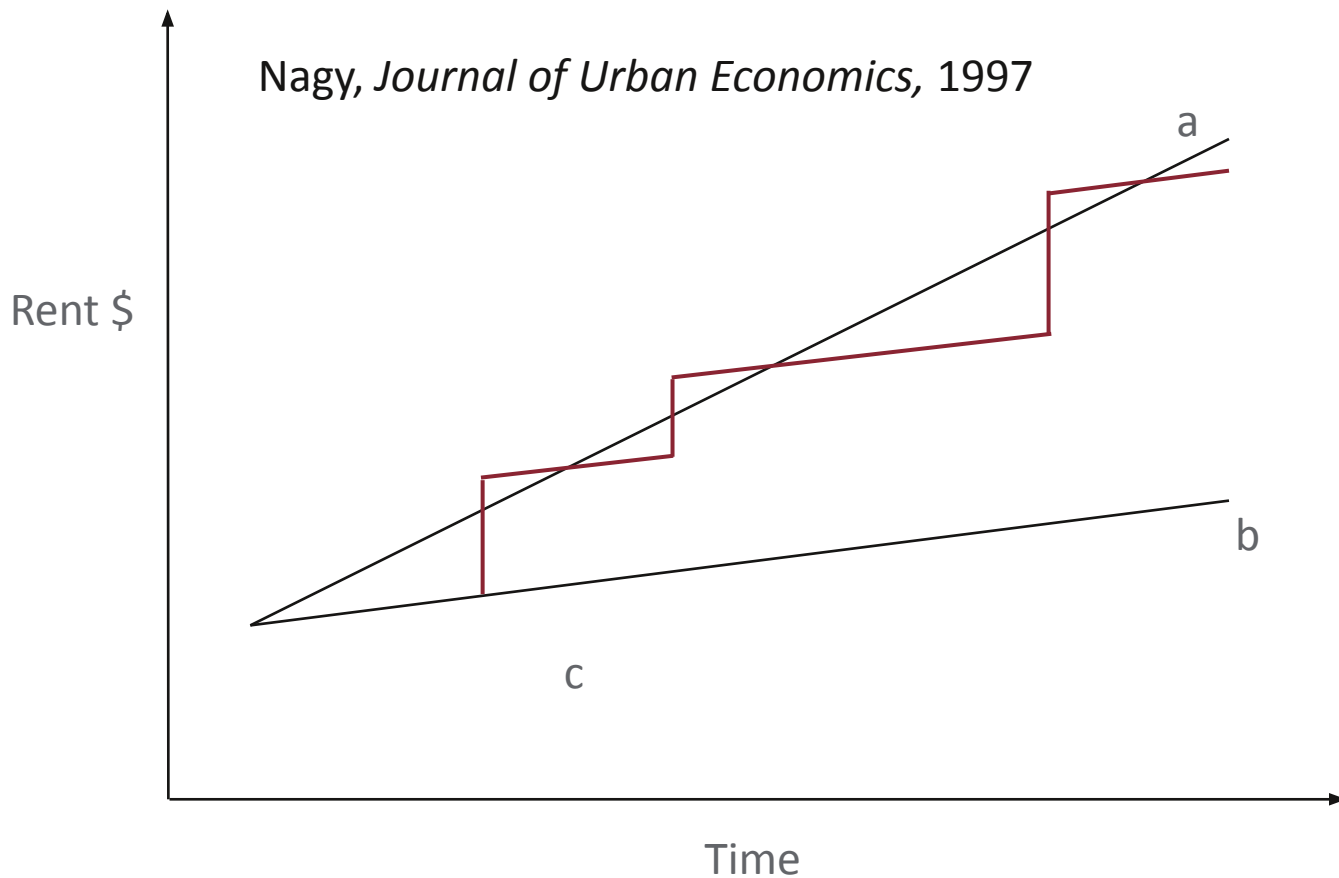
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- Little research done
- Three NJ studies show no different in rents between cities with and without rent control
  - Authors suggest it is vacancy decontrol...
- Berkeley study in 2013:
  - tenants moved in pre-1999: avg rent = \$780
  - Vacancy decontrolled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

WE SUPPORT SPANISH, MANDARIN, CONTACT US IN OTHER LANGUAGES.

AS OF SEPTEMBER 2021

GUIDE TO OAKLAND RENTAL  
HOUSING LAW  
Rent Control and Eviction Protection



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
- Specific, effective, reasonable penalties
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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