

STRENGTHENING COMMUNITIES THROUGH RENT CONTROL AND JUST-CAUSE EVICTIONS:

CASE STUDIES FROM BERKELEY, SANTA MONICA, AND RICHMOND



CONTENTS

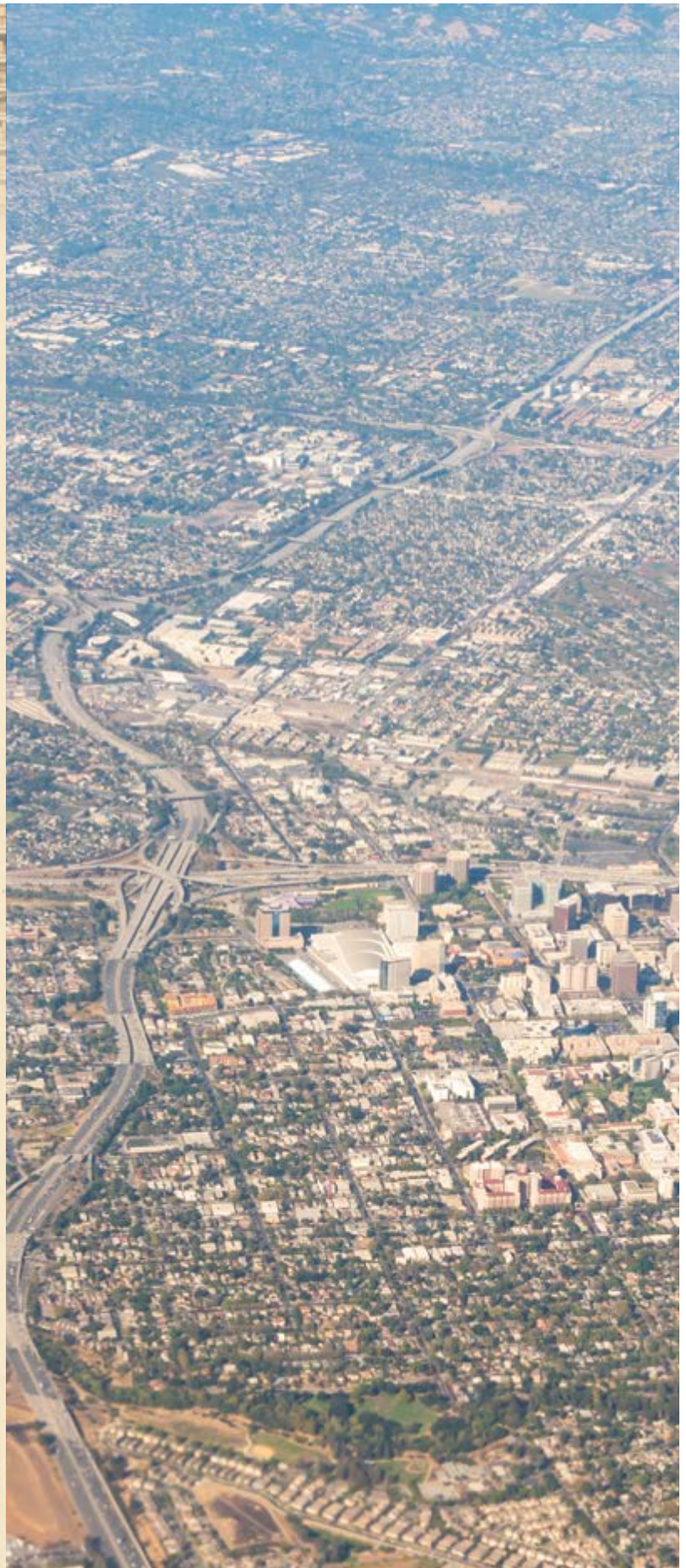
Statewide Tenant Protections Map	3
Executive Summary.....	4
Introduction.....	5
Refuting Common Arguments Against Rent Control: Learning from Berkeley, Santa Monica, and Richmond.....	6
Recommendations for Strong Tenant Protections	14
An Effective Policy Approach	15
Best Practices for Rent Board Administration	16
Endnotes.....	17
Bibliography.....	18
Appendix	19

Published by: Urban Habitat

Urban Habitat works to democratize power and advance equitable policies to create a just and connected Bay Area for low-income communities and communities of color.

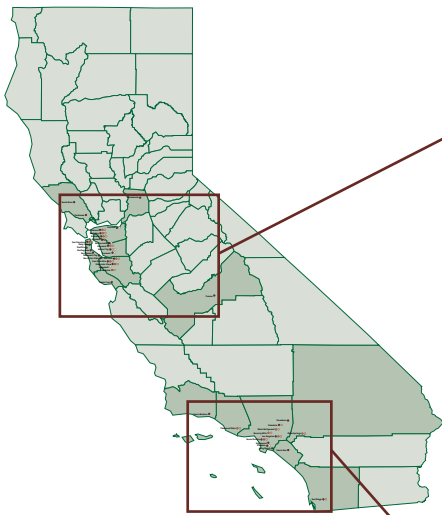
We confront structural inequities impacting historically disenfranchised communities by bringing a race and class lens to the forefront of transportation, land use, and housing policies.

Authored by:
Leslie Gordon, Urban Habitat



STATEWIDE TENANT PROTECTIONS MAP

Tenant movements, along with city-administered rent control, just-cause eviction, and mediation programs are growing in California.



LEGEND

- Tenant Rights Movements
- Rent Control
- Just Cause
- Mediation

EXECUTIVE SUMMARY

Rent control movements are growing and gaining momentum in California. Whether through the ballot or by lobbying local city councils, tenants increasingly identify as an organized political class fighting to respond to the current housing crisis and to build a powerful tenant-based movement.

However, certain interest groups continue to argue against the efficacy of rent control and just-cause evictions policies. Urban Habitat's ongoing research on regional shifts in the Bay Area has already pointed to the tremendous hardships that low-income and working-class people face as housing costs spike and they are confronted with unaffordable rents, poor housing conditions, and no-cause evictions. **While rent control and just-cause eviction policies are essential to stabilizing communities, a strong current of misinformation threatens the implementation of these vital policies.**

The goal of this policy report is to investigate and challenge common arguments against rent control and just-cause evictions. Urban Habitat studied rent boards and policy outcomes in Berkeley, Santa Monica, and Richmond to assess the effects of the most robust programs, and to detail the work and resources required for building a new rent board.

Among the brief's key findings:

- ◆ Rent control and just-cause evictions policies have protected social and economic diversity in Berkeley and Santa Monica, despite the pressures of vacancy decontrol-recontrol and the Ellis Act.
- ◆ Policymakers should not assume a positive relationship between landlord profits, and property maintenance and local tax payments. The Berkeley Rent Stabilization Board has shown that less than 10% of rent increases went back into the community through reinvestment and taxes.
- ◆ Rent control and just-cause evictions must be utilized as one prong of a protect, preserve, and produce housing strategy. Rent control and just-cause evictions help preserve affordable housing and protect tenants, but the production of affordable housing remains critical to broader success.
- ◆ Rent control and just-cause evictions should be understood as anti-displacement measures with implications beyond housing policy. Displacement causes reverberations beyond individuals and families; local school districts, businesses, and governments are negatively affected when their students, employees, and constituents leave abruptly.
- ◆ Tenant groups and policymakers should work to repeal Costa-Hawkins, which has been the most serious threat to strong rent control since its permanent implementation. New legislation should exempt new construction from rent control, but the "new" designation would expire after a specified number of years, at which point the unit would become subject to rent control.



INTRODUCTION

The current housing crisis across California and the Bay Area has caused sky-high rents and home prices, widespread displacement, and significant increases in homelessness. For those reasons, it is a major topic of interest among California's elected officials and government agencies, residents, media outlets, and non-profit organizations.

Urban Habitat has researched and reported on the regional and equity implications of the housing crisis, finding that **low-income communities and communities of color are increasingly living at the expanding edges of the region**, while those that have stayed in the urban core are doubling up or tripling up in homes, or facing housing instability and homelessness.¹ Despite these troubling and far-reaching effects, local and state leaders have not done enough to preserve and produce affordable housing and to protect tenants. While tenants' rights groups know that rent control and just-cause evictions are the most effective tools for the immediate stabilization of rents and communities, many cities are reluctant to implement these policies.

Broadly speaking, the goals of rent control and just-cause eviction policies are to preserve social and economic diversity, provide tenants with stable and affordable rents, maintain a variety of housing types, and protect tenants from sudden and unjust evictions. Despite the reasonableness of these goals, rent control and just-cause evictions remain unpopular among certain interest groups. This report aims to respond to arguments that are commonly deployed against rent control and just-cause eviction policies.

Urban Habitat completed case studies of the rent boards in Santa Monica and Berkeley, as representative of long-established programs,

and in Richmond, to provide information about the process of establishing a rent board. A rent board typically comprises five to nine elected or appointed commissioners and a professional staff that determine and pass annual rent increases, maintain a rent registry, mediate disputes between tenants and landlords, and provide expert advice to tenants and landlords. Urban Habitat interviewed eight key players, including staff and commissioners, about rent board operations and policy outcomes (please refer to Appendix A for list of interviewees).

Urban Habitat continues to support rent control and just-cause eviction campaigns across the Bay Area as part of the growing statewide tenants' movement. Nineteen California cities have already established binding rent control and/or just-cause eviction policies. In the Bay Area, Berkeley, East Palo Alto, Hayward, Los Gatos, Oakland, San Jose, and San Francisco have established rent control and just-cause eviction policies; Richmond and Mountain View passed rent control and just-cause eviction policies in 2016 through voter referenda. In May 2017, delegates at the California Democratic Party Convention took a historic vote in support of rent control and just-cause eviction by passing [Resolution 17-05.81](#) ("Expressing the Support of the California Democratic Party in Protecting Renters from No-Fault Evictions and Illegal or Excessive Rent Increases and Support Rent Stabilization").



REFUTING COMMON ARGUMENTS AGAINST RENT CONTROL: LEARNING FROM BERKELEY, SANTA MONICA, AND RICHMOND

Permanent rent control ordinances passed in the cities of Santa Monica and Berkeley in 1979 and 1980, respectively. These ordinances were passed by ballot initiative shortly after California voters passed Proposition 13, which dramatically reduced property taxes for owners, but did not subsequently reduce rents for tenants.

While these ordinances have been modified many times since their passage, the core policies of rent control and just-cause evictions have been defended by the courts again and again—in fact, Berkeley’s rent control ordinance made it to the U.S. Supreme Court in 1986 and was upheld. Richmond’s rent control and just-cause evictions policies are new; voters passed these policies by ballot initiative in November 2016. The California Apartment Association’s (CAA) efforts to challenge these policies in court have been wholly unsuccessful.

In the following pages, Urban Habitat reports its findings from three case studies.

High profits for landlords

At the core of the rent control and just-cause evictions debate is a contest over private property rights and the “free” market. Landlords’ primary concern is that rent control will limit their ability to make decisions about their private property, undermine their profits, and prevent them from making maximum returns. However, rent control ordinances *always* allow for “fair returns,” or they would not be constitutional (the courts have upheld the constitutionality of rent control time and time again). The literature on rent control offers several definitions of fair returns, but minimally, “it is agreed that rents must be periodically

adjusted to enable landlords to cover their increased operating and maintenance costs without undue long delays or lags in such rent increases.”² Beyond that, fair-return standards could be cash-flow levels, return on gross rent, return on equity, return on value, percentage of net operating income, or maintenance of net operating income (NOI).

The Berkeley Rent Stabilization Board argues that Bay Area tenants are paying “economic rent” to landlords that goes far beyond fair returns.³ Because housing has become both scarce and deeply commodified in the Bay Area, landlords are profiting from unearned income that “results from simple ownership of a scarce good rather than from activities that produce goods and services or improve their quality.”⁴ The literature supports the regulation of scarcity rent, arguing that “in such markets, low-cost producers gain windfall profits...regulation in these situations can be based either on the effect of scarcity rents on income distribution—i.e., distributive justice—or on the creation of externalities—when rising rents lead to evictions and forced relocations, for example, and include costs that are not counted in the market.”⁵ A housing crisis, such as the current one in the Bay Area, is “the most important reason for rent regulation [because it is] created by the large swings in demand that take place in many housing markets

over relatively short periods of time, in contrast to the length of the process by which competitive markets increase the supply of low-priced housing.”⁶ Put differently, it takes a long time to produce new housing—especially compared to the accelerated rate at which rents increase in a tight housing market—and regulation is justified for mitigating these market failures.

Indeed, the National Apartment Association’s 2015 nationwide survey of rental apartments shows that the “SF-Oakland-Fremont metro area had both the highest Net Operating Income (NOI) and the highest Greatest Possible Rent (GPR).”⁷ In the Bay Area, NOI was \$18.60 per square foot, as compared to a low of \$4.80 per square foot in the Dayton, Ohio metropolitan area.⁸ The Berkeley and Santa Monica rent boards have both concluded that high rents in their jurisdictions are not a response to higher rental housing operating and maintenance costs, nor to inflation.

As shown in Figure 1 (below) in 2010, East Bay landlords were already generating far higher returns on their properties than were other landlords in the western region. Given that the median rent for a two-bedroom apartment in Berkeley increased from \$1,500 in 2010 to \$2,600 in 2017, one can extrapolate how much NOI has increased since 2010. This comes at great cost to tenants, as they pay the price for scarce affordable housing without gaining the investment benefits that landlords enjoy as property values rise.

Also important, Berkeley’s 2013 report on rent control and vacancy decontrol finds that despite unusually high returns on properties in Berkeley, only 6% or less of increases in rent have gone towards annual expenditures on renovations, and less than 4% of increases in rent have gone towards additional taxes. This means that additional rent, and expenditures on maintenance and renovation, do not have the positive relationship many have argued. It also means that additional rent collected is not circulating through and stimulating the local economy.

Finally, the extent of landlords’ returns on their properties is reinforced by the fact that, in 2016, not a single Santa Monica landlord submitted an Individual Rent Adjustment (IRA) petition; in Berkeley only 37 landlords did so, which comprises 1.3% of all landlords (~2,800).^{9 10} These numbers are typical for both programs. Tracy Condon, Executive Director of the Santa Monica Rent Control Board, affirms that because landlords would have to prove that they are not receiving fair returns on their properties, they have no grounds for submitting IRA petitions.

Limited loss of rental units

The potential loss of rental units and subsequent increases in rental rates are top concerns among those skeptical about rent control. However, most “mom and pop” landlords do not withdraw from the rental market to avoid rent control. During the first decade after the passage of rent control, Berkeley lost 3,309

Figure 1. Median Operating Expenses & Net Income for Surveyed Apartment Buildings in 2010 from the Institute of Real Estate Management



(Source: Report on Rent Stabilization and the Berkeley Rental Housing Market 15 Years after Vacancy Decontrol, 2013).

units due to the loss of residential hotel rooms and the conversion of rental units to owner-occupied units.¹¹ A comparative study showed that the adjacent cities of Kensington, Albany, and Oakland also lost units, demonstrating that “the loss of units turns out to be a general trend in stable census tracts in Northern Alameda County, not something that is unique to Berkeley.”¹² The unit losses in Berkeley were a fraction of a percent more than they were in adjacent cities, and only 1.3% of its total rental housing stock in 1980, which is not a credible argument against rent control.¹³

The Ellis Act passed in 1985 and gave landlords the legal right to evict their tenants in order to leave the rental business. Berkeley has seen fewer Ellis Act evictions than has Santa Monica. Since its implementation in 1986, only 431 rental units have been removed from Berkeley’s rental market through the Ellis Act, as opposed to 2,123 in Santa Monica.^{14 15} In 2016, for example, 11 units in Berkeley were affected by Ellis Act filings, while 90 units were affected in Santa Monica.^{16 17} According to Condon, Ellis Act filings are typically completed by new owners who intend to condense two or three units into a single unit because single-family homes are somewhat scarce in Santa Monica.

It is critical to clarify that the units lost through Ellis Act evictions are a direct outcome of the Ellis Act itself. The Ellis Act is not a part of rent control, but a separate policy that resulted from landlord organizing. Some of these evictions are protests against rent control, but many units are taken off of the rental market for other reasons. Overall, Ellis Act evictions in 2016 comprise a fraction of a percent of rent-controlled units in Santa Monica (~27,594) and Berkeley (~19,000). Given that the loss of rental units represents less than one percent of total available units, and that not all losses

A comprehensive 1998 report by Berkeley’s Planning and Development Department looks at rent control’s effects on new construction in Berkeley and concludes that “the best available evidence shows that rent control had little or no effect on the construction of new housing.”

are attributed to rent control, it is highly unlikely that this would increase rents and worsen the rental market for tenants. These losses also do not outweigh the benefits rent control provides to a wide majority of renters. Santa Monica recently completed a survey about the Ellis Act to get more information about when and why landlords choose to file.

Vacancy decontrol-recontrol creates perverse incentives for landlords to sharply increase rents. Vacancy decontrol became law with the passage of Costa-Hawkins, and means that rents can be reset at market rates with new tenancies, though rents are controlled for the duration of the new tenancy (hence, vacancy decontrol-recontrol). Condon explains that when one unit vacates in a multi-unit property, the landlord may push up the rent as high as possible during the decontrol period. She has seen a trend among Santa Monica landlords of renovating units after a tenancy to justify spiking the rent during decontrol. Once units have been decontrolled and are rented at market rate, they turn over much more quickly due to high demand in these desirable areas, which accelerates the process of raising rents via decontrol. Fifty percent of tenants in decontrolled units have moved into Santa Monica in the last five years.¹⁸

No impact on new construction

The argument that rent control discourages new construction is common, despite the fact that Berkeley and Santa Monica’s original ordinances exempted newly-constructed units from rent control. Berkeley’s 1980 ordinance exempted units that were built after June 3, 1980, as its advocates realized that rolling back rents on newly constructed units was not a viable model.¹⁹ Similarly, Santa Monica’s 1979 ordinance exempted rental units built after the adoption of rent control on April 10, 1979 (though not units converted after its adoption).²⁰ Since the passage of Costa-Hawkins at the state level, any units built after February 1995 are exempted from rent control. Opponents of rent control defend this law by asserting that the existence of rent control discourages new construction because landlords are afraid of the possible future implementation of rent control and decreased profitability. It is, therefore, important to clarify that even before the passage of Costa-Hawkins in 1995, rent control laws in Santa Monica and Berkeley exempted new construction.

A comprehensive 1998 report by Berkeley's Planning and Development Department looks at rent control's effects on new construction in Berkeley and concludes that "the best available evidence shows that rent control had little or no effect on the construction of new housing."²¹ Analyzing new construction across the decades, the report shows that building permits hit their highest levels since 1971 in 1989—nine years after the passage of rent control.²² It asserts that "private-sector interest in building in Berkeley changes with economic conditions," and has more to do with the availability of financing than rent control.²³ Land use policies, such as zoning laws, also have a significant impact on new construction.

According to a *New York Times* interview with the current mayor of Berkeley, for example, there are 4,000 new apartments in the city's pipeline.²⁴ Several news reports indicate that Santa Monica has struggled to build new multi-unit properties, but these problems are attributed to local zoning laws and approval processes, with no mention of rent control.²⁵ There are, however, significant rates of renovation among existing apartments, which suggests that landlords feel confident that they will receive returns on capital investments. As another example, Los Angeles, which also has a rent stabilization ordinance, saw a 61% increase in new construction in the past year, with 10,000 new units built from July 2016 to June 2017.²⁶ The causal factor behind new construction rates in the Berkeley, Santa Monica, and Los Angeles regions does not seem to be rent control.

Limited harassment and habitability issues for tenants

The argument that landlords will not profit sufficiently under rent control to re-invest in maintenance and renovation is common. The extension of this argument is that lower landlord profits will diminish the overall quality of the housing stock. Economic theory says that the housing market will not reach equilibrium because the "price ceiling" will prevent supply from meeting demand; it also says that the "price ceiling" will discourage landlord reinvestment in their properties. However, rent-control policy in California has never acted as a price ceiling because it includes automatic increases tied to the Consumer Price Index (CPI) or another measure. Different rent boards calculate annual increases differently, but boards do pass rent increases every year.

Deeper investigation into the housing market shows that housing markets are far from perfect markets due to slow supply-side responses to price, landlord monopoly power, and the high costs of exiting the rental market.²⁷ Newer economic models offer more complex depictions of the housing market and help explain why the traditional supply-demand-price ceiling graph is inaccurate. Beyond the fact that rent control is not a price ceiling, "adjustments to rent control policy can eliminate serious maintenance problems. The depreciation consequence can be reduced by provisions that allow rent increases to cover rising maintenance costs..."²⁸ While landlords' pro formas should account for maintenance costs and inflation, rent control ordinances in both Santa Monica and Berkeley allow landlords to pass-through some capital improvement costs to tenants to encourage renovation. They also allow landlords to petition for individual rate adjustments (IRAs) if they are not getting fair returns on their properties. Landlords can "bank" rent increases if they do not implement them the year they are eligible and decide to implement them later. The Richmond Board also allows landlords to petition for IRAs.

Harassment and habitability are sometimes problems for tenants under rent control, but these issues are often consequences of vacancy decontrol-recontrol. A 2009 Berkeley tenant survey found that 61% of tenants in rent-controlled units report that their unit is in excellent or good condition. Only 8% report that their unit is in poor condition. In such a tight housing market, Berkeley has seen an increased demand for support and services from its rent board, while Santa Monica has seen a shift in the type of support and services needed. In the late 2000s, Berkeley saw 8,000 to 10,000 people per year; since 2010, this number has increased to 12,000. Since 2009, demand for staff services in Santa Monica has remained relatively stable at 13,000 people per year, but recently there have been more habitability concerns related to construction. In response, the board passed new regulations regarding rent reductions during construction periods. According to Joseph Brooks and Tracy Condon, habitability issues are best mitigated through a strong relationship with code enforcement and the strengthening of tenant protection laws through the city council. Santa Monica, for example, strengthened its tenant harassment ordinance in 2014 to provide more protections relating to illegal entries, landlords' photography of units, and right of entry.

No decrease in property values

Continued increases in property values in Santa Monica and Berkeley clearly demonstrate that rent control does not threaten a city's desirability or property values. According to census data, Berkeley's median value of owner-occupied units nearly doubled from 2000 to 2010, increasing from \$380,200 to \$731,100. From 2010 to 2015, home values increased another 1.4% to \$741,900. Santa Monica's median home value increased 4.5% from 2010 to 2015, reaching \$1,030,500. Unlike Berkeley and Santa Monica, Richmond's median home value decreased by 23% from 2010 to 2015, due to the foreclosure crisis in California; the effects of rent control in Richmond are yet to be seen. The snapshot of property values in these three cities turns the critics' argument on its head, demonstrating that property values respond to many variables and that rent control has not been shown to reduce property values within a city.

Cost-neutral programs for cities

There is a perception that establishing a rent control board is so expensive it will affect a city's general fund, which could reduce funding for essential services, such as schools, police, and fire. However, the most robust rent boards, those in Santa Monica and Berkeley, are cost-neutral to their respective cities. Both rent boards collect fees from landlords of rent-controlled units that cover all operating costs. They also have high rates of compliance among landlords. Santa Monica and Berkeley preemptively determine the next year's operating budget and then set landlord fees at a rate that will cover operating costs; this way, general funds are not used. Both boards also have reserves, which help cover unanticipated costs. According to its website, Santa Monica's FY17-18 budget is \$5,181,693, which covers approximately 27,594 rent-controlled units and employs 25.9 full-time staff. Its 2017 annual registration fee is \$198 per unit, or \$16.50 per month. Berkeley's posted FY17-18 budget is \$5,100,000, which covers approximately 19,000 rent-controlled units and employs 22.35 full-time staff. Its 2017 annual registration fee is \$270 per unit, or \$22.50 per month.

Loans from the general fund are only made when a program is first launching and has not yet collected fees to cover its costs. Richmond, for example, is using a loan from the general fund to get the rent

board up and running, and has agreed to repay the loan once it has collected landlord fees. The only exception to this rule in the Santa Monica Rent Board's 38-year history, according to its Executive Director, was in the late 1980s when the rent board had to certify all rents as per the 1986 Petris Act. The Petris Act required jurisdictions with a rent registry program to certify permissible rent for every eligible unit according to a specific process; the certification process was a tremendous amount of work, and the board took a loan from the general fund to complete the work (and repaid the loan in a timely manner).

As an example of the expense of establishing a rent board, Richmond's startup costs for seven months of FY16-17 are \$1,150,433. For the entirety of FY17-18, its costs are \$2,425,35. These budgets allow the board to register and monitor the 24,457 rental units subject to just-cause evictions and the 8,368 units subject to rent control. Richmond chose a flat fee for landlords, whereby all landlords will pay an annual fee per unit of \$47 for FY16-17, and \$98 for FY17-18, since the program is putting equal amounts of work into the units subject to just-cause and the units subject to rent control. The operating budget should be relatively stable after FY17-18, though primary labor expenditures and costs will be closely monitored in the early years of the program. The budget allows for 7.5 full-time employees, with a plan to be fully staffed by the end of 2017. Richmond's program costs less than those of Berkeley and Santa Monica because it does not track annual rents for every controlled unit, but registers controlled units and tracks rent increase notices.

Controlled litigation costs

Alongside the concern about utilizing general funds, there is a twin concern that establishing a rent board will expose the city to unmanageable litigation costs. While it is true that the three rent boards have experienced litigation, rent control ordinances statewide have been upheld time and again by the courts, and the boards have staffed themselves in ways that manage the cost of litigation. The California Apartment Association (CAA) sued Richmond immediately after the rent control and just-cause evictions ordinance passed, but the court denied CAA's lawsuit and request for a temporary restraining order, allowing rent control to stand. Board Commissioner Emma Gerould says that the primary outcome of the

lawsuit was that the board chose to allocate more money to the litigation budget. The Richmond Rent Board recently contracted with a private attorney to provide legal services through the end of FY17-18 for no more than \$110,000. Santa Monica continues to face high levels of litigation due to a local landlord group called Action Apartment Association that continuously engages the board in lawsuits.

According to Condon, the key to managing litigation costs is for the rent board to have its own general counsel and staff attorneys, rather than relying on the city attorney's office for legal services. The Santa Monica Board has one general counsel and two staff attorneys in its legal unit; it sets aside \$50,000 for legal costs in its FY17-18 operating budget and \$41,000 in its restricted funds. Berkeley has three staff attorneys in its legal unit, and sets aside an additional \$4,000 for miscellaneous legal costs. By staffing themselves this way, the rent boards limit their litigation spending to attorneys' salaries and any miscellaneous costs.

Public accountability

Some critics worry that appointed boards are not sufficiently democratic and are not accountable to voters. Rent boards can either be appointed or elected, depending on the city's charter and language in the rent control ordinance. Even when commissioners are appointed by the mayor, the mayor has been elected through a democratic process, and voters can hold the mayor accountable for his/her appointments. In Berkeley and Santa Monica, commissioners are elected. In Richmond, due to a restriction on boards and commissions in its city charter, commissioners are appointed by the mayor. Its board is composed of five members, of which "no more than two can own or manage property or be realtors."²⁹

All three rent boards have been established with a certain amount of autonomy and separation from the city, which may concern some elected officials and voters. The rent boards' budgets, for example, are not approved by the city council but are developed by the executive director of the board and approved by board commissioners. This has been understood by some as an "unaccountable rent board with a blank check for spending." The rent boards' authorizing ordinances, however, specify that they can only fund their "reasonable and necessary expenses" and that

Renters are generally lower-income than homeowners, so the policy broadly targets the appropriate demographic. According to 2015 American Community Survey data, in all three cities, the median income among homeowners is two to three times that of renters.

they must comply with all relevant state and local laws. In all three cities, rent board meetings are open to the public, their meeting minutes and packets are posted online, they offer a wealth of resources on their websites, and they operate walk-in offices where landlords and tenants can consult experts on questions and concerns. This structure allows for some insulation against political volatility and fluctuations, such that council members or mayors hostile to rent control would not be able to undo legislation passed by the voters, while also constraining the board's scope. The Richmond Board is the least autonomous, and will more extensively share resources with and utilize other city departments in an effort to keep down costs. Condon says that the more autonomous structure has worked well in Santa Monica, and the board continues to enjoy the strong support of voters and the City Council.

Protects vulnerable renters

Rent control is not means-tested, which some perceive as an advantage and others as a disadvantage. Condon asserts that all renters, regardless of income, are deserving of steady and predictable rents. Furthermore, "one practical reason for this broad-base policy is the difficulty of verification of tenant incomes when a large number of units are covered."³⁰ Renters are generally lower-income than homeowners, so the policy broadly targets the appropriate demographic. According to 2015 American Community Survey data, in all three cities, the median income among homeowners is two to three times that of renters. In Berkeley, median household income among renters is \$40,047, as compared to \$123,095 among homeowners. In Santa Monica, the figures are \$63,476 versus \$132,076, and in Richmond, renters' income is \$40,355 versus \$77,492 for homeowners.

Social and economic diversity was successfully maintained during the period of strong rent control in Berkeley and Santa Monica. Berkeley tenant survey data from 1988 shows that rent-controlled units housed 30% very low-income non-students, 16% low-income non-students, 22% student households, and 32% non-student households with incomes moderate and above.³¹ In Santa Monica in 1998, rent control maintained 6% of units as affordable to extremely low-income households, 19% to very low-income, 58% to low-income, 13% to moderate-income, and 4% to higher-income (see Figure 2).³² Berkeley's strict rent-control period ended in the early 1990s as landlords gained political momentum, took control of the rent board, and allowed for significantly higher annual general adjustments. This shift in power was consolidated by the passage of Costa-Hawkins at the state level, which exempted single-family homes, condominiums, and all units built before February 1995 from rent control and allowed vacancy decontrol-recontrol.

Berkeley's 2009 tenant survey shows that rent control, despite the Ellis Act and Costa-Hawkins, still helps house extremely low, very low, and low-income residents. Though pre-1999 tenancies have a higher rate of low-income tenants (ranging from extremely low, to low), post-1999 tenancies still comprise 56% low-income residents, with 38% of this group being very low-income and 20% being extremely low-income.³³ The median income for these tenants

is \$45,000. Pre-1999 tenancies in Berkeley include 37% disabled or senior tenants, and the median age is 49. Post-1999 tenancies include 17% disabled or senior tenants, and the median age is 30.³⁴ Rent control continues to provide tenants with stability and more affordable rents, and it protects significant numbers of low-income and vulnerable renters. As shown in Figure 3 (on page 13), it is vacancy decontrol that has benefitted younger, higher-income tenants at the expense of elderly, disabled, and/or low-income tenants.

Neighborhood stabilization

Some critics of rent control point to tenant stability as a disadvantage, even though homeowner stability is universally lauded as a public good. These critics argue that tenant stability keeps units off the market for long periods of time, and prevents renters from upgrading their housing because they prefer lower housing costs. However, evictions and other forms of displacement affect local businesses, school systems, and government agencies, as their employees, clients, and constituents find themselves homeless, in new neighborhoods or cities, and/or with long commutes. The Urban Institute, for example, has researched the effects of housing instability on school-aged children and found that it leads to frequent school moves, increased absenteeism, and lower test scores.³⁵ Just as it is considered desirable for homeowners to be stable and constant, the same arguments can be made for renters: tenant stability creates positive outcomes for families, neighborhoods, and local governments. A 2012 Santa Monica Rent Board report explains that tenant stability matters in two important ways: "it defines a neighborhood's character, affecting its desirability to prospective residents, and it defines how a city sees itself—as a stable, engaged community or a more transient society."³⁶

As explained in the means-testing section of this report, reports from Berkeley and Santa Monica show that rent control provides stability to the tenants who need it most: those who are elderly, disabled, and/or low-income. In Berkeley, approximately 14% of renters are long-term tenants who have not experienced decontrol; among this group, two-thirds are low-income and one-third are elderly or disabled.³⁷ Berkeley tenants who moved in after

Figure 2. Comparison of Affordability of Market-Rate Rental Units in Santa Monica by Income Category, 1998 vs. 2016

Income Category	1998		2016		Change (+/-)
	Units	%	Units	%	
Extremely Low (30%)	1,176	6.3	5	0	-99.6%
Very Low (50%)	3,554	19.0	115	0.6	-96.8%
Low (60%)	4,657	24.9	183	1.0	-96.1%
Low (80%)	6,174	33.0	518	2.8	-91.6%
Moderate (110%)	2,402	12.8	1,911	10.2	-20.4%
Higher (>110%)	756	4.0	16,016	85.6	2,018%

(Source: Santa Monica Rent Control Board Annual Consolidated Report, 2016).

Figure 3. Income Needed to Afford a Market-Rate Unit in Santa Monica in 2016

No. of Bedrooms	HUD Affordability Factor	Household Size Adjustment Factor	Without Vacancy Decontrol		With Vacancy Control		Income Difference
			Median MAR	Income Needed	Median MAR	Income Needed	
0	0.3	0.7	\$772	\$44,114	\$1,411	\$80,629	\$36,514
1	0.3	0.8	\$883	\$44,150	\$1,815	\$90,750	\$46,600
2	0.3	0.9	\$1,116	\$49,600	\$2,400	\$106,667	\$57,067
3	0.3	1.0	\$1,438	\$57,520	\$3,032	\$121,280	\$63,760

(Source: Santa Monica Rent Control Board Annual Consolidated Report, 2016).

vacancy decontrol have higher incomes and are still paying more of their incomes towards rent. Santa Monica does not administer a tenant survey as Berkeley does, but since decontrol, Santa Monica’s general population has shifted to one that is both higher-income and pays more of its income towards rent. The more tenants are rent-burdened, the less likely they are to be able to afford a mortgage in the future; higher rents and more deeply cost-burdened renters will expand and reproduce the renter class. The Santa Monica Rent Board’s 2016 annual report makes no equivocations about the importance of stability and rent control for low- and moderate-income tenants: “Except for people in high-income categories, vacating a unit they’ve lived in a long time would likely mean leaving Santa Monica altogether.”³⁸

No effect on crime rates

There is no data linking rent control and just-cause evictions to increased crime rates in Santa Monica or Berkeley. Richmond has not had the policy in place long enough to collect data on rent control and crime levels. The arguments connecting rent control and just-cause evictions to criminal behavior and criminals are based on fear-mongering that relies on racist and classist language and stereotypes. Some landlords misunderstand the purpose and administration of just-cause evictions. Just-cause for eviction does not mean that tenants cannot be evicted under any circumstances; to the contrary, in all three case study cities, the policy specifies

exactly which circumstances justify eviction. Jay Kelekian, Executive Director of the Berkeley Rent Board, explains: “If a tenant is engaging in criminal activity in the rental unit, there is a very clear remedy for that.”

In certain situations in Berkeley and Santa Monica, landlords give tenants a warning and tenants are allowed a short period of time to fix the problem before being served with an eviction notice. Kelekian acknowledges that some landlords have complained about eviction procedures, but these complaints have come from a small minority of landlords and do not call into question the merits of the policy overall. Condon explains that when evictions do happen, the court fast-tracks eviction proceedings to make sure that matters are resolved in a timely manner. Last year in Santa Monica there were 141 evictions, which comprise less than one percent of units covered by just-cause eviction policies. Furthermore, eviction protections have been shown to protect vulnerable renters, as evidenced by the passage of Measure RR in Santa Monica in 2010. Measure RR extends just-cause protections to all multi-family properties; requires landlords to give notice and reasonable time to tenants to correct an alleged lease violation, nuisance activity, or denial of lawful access before beginning an eviction proceeding; and limits landlords’ ability to evict terminally ill, elderly, or disabled tenants. Since its passage, evictions for reasons other than non-payment of rent were cut in half.³⁹



RECOMMENDATIONS FOR STRONG TENANT PROTECTIONS

This report's findings affirm the efficacy of rent control and just-cause evictions in protecting a city's social and economic diversity. **Data from Berkeley and Santa Monica show that rent control and just-cause evictions, on balance, continue to protect vulnerable renters and hold down rent prices.**

These outcomes should be reproduced in Richmond. Furthermore, the negative outcomes so often attributed to rent control seem to be primarily motivated by vacancy decontrol and the Ellis Act, not rent control itself. Vacancy decontrol, in particular, has distorted the system, skewing rent control towards moderate-income households and creating perverse incentives for landlords to push out tenants and spike rents. **The policy focus at this point should be to reform vacancy decontrol, not throw out rent control.**

The core of this debate is philosophical: Is the "free" market the best way of distributing goods and services, or should the government ensure that people's basic needs are met? **To what extent should we venerate private property rights, in law and practice, over the right to housing?**

Nevertheless, there is room for agreement among those on opposing sides of the philosophical divide. We are unequivocally experiencing a housing crisis which calls for immediate government action to protect those who are bearing the brunt of the crisis: tenants. There are two economic arguments that justify rent control which may help convince those who are loyal to market-oriented rationales. As explained in the harassment and habitability section, the housing market simply does not work for

low-income and working-class people due to slow supply-side response, landlord monopoly powers, and the high costs of exiting the rental market. The slow supply-side response creates scarcity-rent situations, where landlords reap huge profits simply for owning property, not for re-investing in those properties or stimulating the local economy. Furthermore, speculative real estate practices distort the market by creating demand and inflating prices. These are market failures that require government action. Of course, in addition to practical and economic rationales, there is a moral imperative for implementing rent control and just-cause evictions. As Urban Habitat has already reported, "the great transformation currently underway across the Bay Area raises the specter of a future defined by social, economic, and political divisions."⁴¹

This report asserts that rent control and just-cause evictions policies are one tool to counteract this resegregation, which is affecting where people live, their quality of life, and their sense of security, stability, and belonging in the Bay Area. If Bay Area residents and elected officials truly value diversity in all its forms, as they insist they do, they will not hesitate to support and pass rent control and just-cause eviction policies across the region. Urban Habitat's specific policy and administrative recommendations are in the next two sections.



AN EFFECTIVE POLICY APPROACH

- ◆ Several interviewees pointed to the importance of a sustained tenants' movement that will protect existing legislation and realize new legislation to best serve tenants and place affordable housing at the core of housing policy. Rent board members in all three cities reported that landlords tend to speak with a clear and unified voice and show up consistently to rent board meetings; because of the nature of the political process, it is vital that tenants continue to show support for these policies, even after their jurisdiction has passed them.
- ◆ Rent control and just-cause evictions should be utilized as one prong of a "preserve, protect, and produce" housing strategy; rent control and just-cause evictions help preserve affordable housing and protect tenants, but the production of affordable housing remains critical to broader success.
- ◆ Rent control and just-cause evictions should be understood as anti-displacement measures with implications beyond housing policy. Displacement causes reverberations beyond individual families; local school districts, local businesses, and local governments are negatively affected when their students, employees, and constituents leave abruptly.
- ◆ Policymakers should not assume a positive relationship between landlord profits, and property maintenance and local tax payments. As shown by the Berkeley Rent Stabilization Board, less than 10% of increased rents went back into the community through reinvestment and taxes.
- ◆ Just-cause evictions should apply to all rental units, even those that are exempted from rent control by state law.
- ◆ Given the current realities of Costa-Hawkins and the Ellis Act, rent control and just-cause evictions must be implemented alongside creative and compassionate local legislation from the city council. Santa Monica's strengthened Tenant Harassment Ordinance and Berkeley's Ellis Act regulations provide good examples of this work.
- ◆ Rent control and just-cause evictions effectively require certain complementary policies. Jurisdictions must also work to pass relocation fee assistance regulations; condominium conversion regulations; and owner move-in regulations. Jurisdictions should also partner with legal aid organizations to provide legal support to tenants regarding rights and eviction defense.
- ◆ Tenant groups and policymakers should work to repeal Costa-Hawkins, which has been the most serious threat to strong rent control since its permanent implementation. New legislation should exempt new construction from rent control, but the "new" designation would expire after a specified number of years, at which point the unit would become subject to rent control.



BEST PRACTICES FOR RENT BOARD ADMINISTRATION

- ◆ An active rent control model is more effective than a passive model. An active program systematically creates a rent registry, which collects information about rental units and rates, proactively distributes educational literature and notices to tenants and landlords alike, and encourages compliance rather than trying to mitigate conflict on the back-end. Santa Monica and Berkeley's active models have been shown to encourage high-compliance rates among landlords, provide education and services to landlords and tenants alike, and ensure that tenants know their rights.
- ◆ Rent boards can be elected or appointed depending on any restrictions on boards and commissions in the city's charter. Elected boards do allow for greater democratic representation and accountability. Boards should be constituted so as to fairly and robustly implement the rent control program.
- ◆ Rent boards should prioritize coordination with city departments—particularly code enforcement and the city attorney's office—to mitigate harassment and habitability issues and to make sure that tenants are living in safe and pleasant housing.
- ◆ Rent boards should hire full-time general counsel and attorneys to their staff to minimize litigation costs while ensuring access to sound legal advice. A staff attorney is also important during the startup process to ensure that establishing the rent board's structure and foundational regulations goes smoothly.
- ◆ Rent boards should publish easily accessible and easy-to-read annual reports online to demonstrate to taxpayers and elected officials the value of rent control and rent boards. Santa Monica's Rent Board's consolidated annual report is a great example.⁴⁰
- ◆ Rent control and just-cause evictions stakeholders should review the results of the Santa Monica landlord survey (once it is available) to gain deeper insights into landlords' perspectives and incorporate those findings into their outreach and education work.

ENDNOTES

1. "Race, Inequality, and the Resegregation of the Bay Area," Urban Habitat, 2016, 3.
2. Keating, W. Dennis, Michael B. Teitz, and Andrejs Skaburskis. *Rent Control: Regulation and the Rental Housing Market* (New Brunswick: Center for Urban Policy Research, 1998), 46.
3. "Rent Stabilization and the Berkeley Rental Housing Market 15 Years after Vacancy Decontrol," Berkeley Rent Stabilization Board, 2013, 9.
4. "Rent Stabilization and the Berkeley Rental Housing Market 15 Years after Vacancy Decontrol," Berkeley Rent Stabilization Board, 2013, 9.
5. Keating, W. Dennis, Michael B. Teitz, and Andrejs Skaburskis. *Rent Control: Regulation and the Rental Housing Market* (New Brunswick: Center for Urban Policy Research, 1998), 20.
6. Keating, W. Dennis, Michael B. Teitz, and Andrejs Skaburskis. *Rent Control: Regulation and the Rental Housing Market* (New Brunswick: Center for Urban Policy Research, 1998), 57.
7. "2015 NAA Survey of Operating Income & Expenses in Rental Apartment Communities," National Apartment Association, 2015, 34.
8. "2015 NAA Survey of Operating Income & Expenses in Rental Apartment Communities," National Apartment Association, 2015, 34.
9. "2016 Consolidated Annual Report Report," Santa Monica Rent Board, 2016, 47.
10. "The Rent Stabilization Program in Review," Berkeley Rent Stabilization Board, 2017, 42.
11. "Rent Control in the City of Berkeley, 1978-1994," Berkeley Planning & Development Department, 1998, 67.
12. "Rent Control in the City of Berkeley, 1978-1994," Berkeley Planning & Development Department, 1998, 72.
13. "Rent Control in the City of Berkeley, 1978-1994," Berkeley Planning & Development Department, 1998, 74.
14. "Summary of Ellis Act Evictions," Berkeley Rent Stabilization Board, 2017, 3.
15. "2016 Consolidated Annual Report Report," Santa Monica Rent Board, 2016, 26.
16. "Summary of Ellis Act Evictions," Berkeley Rent Stabilization Board, 2017, 3.
17. "2016 Consolidated Annual Report Report," Santa Monica Rent Board, 2016, 26.
18. "2016 Consolidated Annual Report Report," Santa Monica Rent Board, 2016, 23.
19. "Rent Control in the City of Berkeley, 1978-1994," Berkeley Planning & Development Department, 1998, 27.
20. "Rent Control Charter Amendment: Section 1801(c)(5)," Santa Monica Rent Board, 2.
21. "Rent Control in the City of Berkeley, 1978-1994," Berkeley Planning & Development Department, 1998, 76.
22. "Rent Control in the City of Berkeley, 1978-1994," Berkeley Planning & Development Department, 1998, 74.
23. "Rent Control in the City of Berkeley, 1978-1994," Berkeley Planning & Development Department, 1998, 74.
24. "California Today: The Housing Crisis Hits Berkeley," *The New York Times*, June 15, 2017.
25. "Santa Monica Loses Another Opportunity for Much-Needed Housing Growth," *Santa Monica Next*, March 10, 2016.
26. "Report: LA Apartment Construction is up 61 Percent," *Curbed Los Angeles*, August 30, 2017.
27. "Rent Control in the City of Berkeley, 1978-1994," Berkeley Planning & Development Department, 1998, 56.
28. Keating, W. Dennis, Michael B. Teitz, and Andrejs Skaburskis. *Rent Control: Regulation and the Rental Housing Market* (New Brunswick: Center for Urban Policy Research, 1998), 46.
29. "Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance," Richmond Rent Board, 2016, 11.
30. Keating, W. Dennis, Michael B. Teitz, and Andrejs Skaburskis. *Rent Control: Regulation and the Rental Housing Market* (New Brunswick: Center for Urban Policy Research, 1998), 10.
31. "Report on the April-May 2009 Survey of Tenants of Registered Rental Units," Berkeley Rent Stabilization Board, 2010, 5.
32. "2016 Consolidated Annual Report Report," Santa Monica Rent Board, 2016, 22.
33. "Report on the April-May 2009 Survey of Tenants of Registered Rental Units," Berkeley Rent Stabilization Board, 2010, 5.
34. "Report on the April-May 2009 Survey of Tenants of Registered Rental Units," Berkeley Rent Stabilization Board, 2010, 5.
35. "Residential Instability and McKinney-Vento Homeless Children and Education Program," Urban Institute, June 22, 2010.
36. "The Impact of Market-Rate Vacancy Increases," Santa Monica Rent Board, 2012, 17.
37. "The Impact of Market-Rate Vacancy Increases," Santa Monica Rent Board, 2012, 17.
38. "2016 Consolidated Annual Report Report," Santa Monica Rent Board, 2016, 13.
39. "The Impact of Market-Rate Vacancy Increases," Santa Monica Rent Board, 2012, 17.
40. See, for example: https://www.smgov.net/uploadedFiles/Departments/Rent_Control/Reports/Annual_Reports/2016%20RCB%20ANNUAL%20REPORT%20-%20FINAL.pdf
41. "Race, Inequality, and the Resegregation of the Bay Area," Urban Habitat, 2016, 15.

BIBLIOGRAPHY

Anastasia Foster, telephone interview with the author, September 5, 2017.

Alejandro Soto-Vigil, telephone interview with the author, August 2, 2017.

Berkeley Planning & Development Department, "Rent Control in the City of Berkeley, 1978-1994," May 27, 1998. https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/Berkeley_Rent_Control_1978-1994_1998_Planning_Dept_report.pdf.

Berkeley Rent Stabilization Board, "The Rent Stabilization Program in Review," May 1, 2017. https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/8_Staff%20presentation%20power%20point.pdf.

Berkeley Rent Stabilization Board, "Rent Stabilization and the Berkeley Rental Housing Market 15 Years after Vacancy Decontrol," January, 28, 2013. https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/Summary%20of%20Economic%20Studies%20Part%20I.pdf.

Berkeley Rent Stabilization Board, "Report on the April-May 2009 Survey of Tenants of Registered Rental Units," March 15, 2010. https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/Final%20Report%202009%20Tenant%20Survey.pdf.

Berkeley Rent Stabilization Board, "Summary of Ellis Act Evictions," June 21, 2017. https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/INFO_%20Summary%20of%20Ellis%20Act%20Evictions.pdf.

Elijah Chiland, "Report: LA Construction is up 60 Percent," *Curbed Los Angeles*, August 30, 2017. <https://la.curbed.com/2017/8/30/16227758/los-angeles-apartment-development-report-rental-vacancy>.

Emma Gerould, telephone interview with the author, July 27, 2017.

Jason Islas, "Santa Monica Loses Another Opportunity for Much-Needed Housing Growth," *Santa Monica Next*, March 10, 2016 <http://www.santamonicanext.org/2016/03/santa-monica-loses-another-opportunity-for-much-needed-housing-growth/>.

Jay Kelekian, in-person interview with the author, July 28, 2017.

Joseph Brooks, telephone interview with the author, July 13, 2017.

Jonah Engel Bromwich, "California Today: The Housing Crisis Hits Berkeley," *The New York Times*, June 15, 2017. <https://www.nytimes.com/2017/06/15/us/california-today-the-housing-crisis-hits-berkeley.html?mcubz=0&r=0>.

Keating, W. Dennis, Michael B. Teitz, and Andrejs Skaburskis. *Rent Control: Regulation and the Rental Housing Market*. New Brunswick: Center for Urban Policy Research, 1998.

Mary K. Cunningham, Robin Harwood and Sam Hall. "Residential Instability and McKinney-Vento Homeless Children and Education Program," *Urban Institute*, June 22, 2010. <https://www.urban.org/research/publication/residential-instability-and-mckinney-vento-homeless-children-and-education-program>.

National Apartment Association, "2015 NAA Survey of Operating Income & Expenses in Rental Apartment Communities," 2015. <https://www.naa.org/sites/default/files/naa-documents/about-membership/IncomeandExpense2015-EXECSUMMARY.pdf>.

Nicolas Traylor, in-person interview with the author, September 5, 2017.

Paige Roosa, in-person interview with the author, September 5, 2017.

Richmond Rent Board, "Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance," 2016. <https://www.ci.richmond.ca.us/DocumentCenter/View/41144>.

Santa Monica Rent Board, "The Impact of Market-Rate Vacancy Increases," 2012. https://www.smgov.net/uploadedFiles/Departments/Rent_Control/Reports/Vacancy_Reports/Vac_Rept_123111.pdf.

Santa Monica Rent Board, "2016 Consolidated Annual Report Report," March 23, 2017. https://www.smgov.net/uploadedFiles/Departments/Rent_Control/Reports/Annual_Reports/2016%20RCB%20ANNUAL%20REPORT%20-%20FINAL.pdf.

Santa Monica Rent Board, "Rent Control Charter Amendment: Section 1801(c)(5)," November 29, 2014. https://www.smgov.net/uploadedFiles/Departments/Rent_Control/Rent_Control_Law/CharterAmndmnt.pdf.

Tony Roshan Samara, "Race, Inequality, and the Resegregation of the Bay Area," *Urban Habitat*, 2016. <http://urbanhabitat.org/sites/default/files/UH%20Policy%20Brief2016.pdf>.

Tracy Condon, telephone interview with the author, July 27, 2017.

APPENDIX A: LIST OF ADVISORS FOR THIS REPORT

List of Interviewees

City of Berkeley

Jay Kelekian, Executive Director of the Berkeley Rent Stabilization Board

Joseph Brooks, former Executive Director of the Berkeley Rent Stabilization Board (1987-1991)

Alejandro Soto-Vigil, Berkeley Rent Board Commissioner

City of Richmond

Nicolas Traylor, Executive Director of the Richmond Rent Control Board

Paige Roosa, Richmond Rent Board Management Analyst

Emma Gerould, Richmond Rent Board Commissioner

City of Santa Monica

Tracy Condon, Executive Director of the Santa Monica Rent Control Board

Anastasia Foster, Santa Monica Rent Board Commissioner

List of Contributors

Aimee Inglis, Associate Director of Tenants Together

Leah Simon-Weisberg, Managing Attorney at Centro Legal de la Raza

Mashaël Majid, Program Manager of Equitable Development at Urban Habitat

Sarah "Fred" Sherburn-Zimmer, Executive Director of Housing Rights Committee of San Francisco

Tony Roshan Samara, Program Director of Land Use and Housing at Urban Habitat

We are deeply grateful to all interviewees and contributors for giving their time to participate in the project.



2000 Franklin Street
Oakland CA 94612
(510) 839-9510
www.urbanhabitat.org