

Ad-hoc Capital Subcommittee of the Advisory Committee
Oct 2, 2023 Meeting Minutes

Date/Time of Meeting:

October 2, 2023 6pm to 9pm

Location of Meeting:

ZOOM

Members Present:

Alok Somani (Interim Chair), Harry Friedman, Michael Berger, John Doggett, Susan Granoff

Members Absent:

Carol Levin, Pam Lodish, Amy Hummel

Petitioners Present:

Alexander Lebovitz

Subject/Agenda Item:

WA16 – HRP for rent stabilization and tenant eviction protection

Substance of discussion: (attach additional pages if needed)

The meeting started with introductions. In addition to subcommittee members and petitioner, also present were members of the public speaking on behalf of tenants.

Petitioner Presentation

Petitioners shared their presentation via ZOOM and started by explaining why they feel WA16, which seeks a Home Rule Petition for rent stabilization and tenant eviction protection, is needed.

“The simple answer is that housing is increasingly unaffordable in Brookline. And the results of it we see playing out in the form of resident displacement, a hollowing out of Brookline’s middle class, and lower income families.”

The petitioners said that median rent in Brookline in 2023 is \$3,900 and the average rent is \$2,775 (*n.b. the median / average skew means that there is a long tail of units with low rent*). The petitioners said that 45% of the residents in Brookline are classified as housing burdened, although they acknowledged that a large share of the 45% may be comprised of the student population that resides in Brookline.

The petitioners mentioned that recent inflation is driving rents up which is causing increasing housing instability resulting in senior poverty and declining Black and indigenous population residing in Brookline. And that 50 homeless students are now enrolled in Brookline public schools and that there has been a tripling in the last two years of evictions in Eastern Massachusetts.

In the ensuing discussion, the petitioners acknowledged that the issue is regional and not unique to Brookline, that they didn’t have eviction data for Brookline (*n.b. a Town Constable*

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subsequently confirmed that the number of eviction notices served was one per year on average over the past ten years) and agreed to bring to the full advisory committee meeting more depth about the statement that there are 50 homeless students enrolled in BPS.

A committee member mentioned that “evictions” in Brookline might be related to foreign students departing at the end of term. The petitioners agreed and acknowledged that the eviction data is regional. The main point petitioners seek to make is that housing affordability is causing real issues for residents of Brookline which is why the community should consider rent stabilization and tenant eviction protection.

The presentation includes a histogram chart with income data for 2019 sourced from the Brookline Disparity Report. The petitioners said that middle class families in Brookline may not be eligible for housing assistance or voucher programs, so are having to leave Brookline.

The primary mechanism proposed by the petitioner in their bylaw to improve housing stability in Brookline is to cap annual rent increases to regional CPI + 3%, not to exceed 7%.

The petitioners believe that a 3% profit factor in typical inflation environments is a “fair” return for landlords. And the basis for the 7% cap is that it represents twice the Federal Reserve’s stated inflation target of 2% plus 3% profit. Under the proposal, in periods of very high inflation, the cap would limit the rental increase. In periods of low inflation, rents could increase by CPI+3%.

The petitioners mentioned that an additional benefit of their proposed by-law is to create equity between homeowners and renters. The petitioners believe that the rent cap will provide budgeting stability for rent payments similar to what homeowners experience with 30 year fixed rate mortgages.

The committee members asked questions about the proposed by-law and confirmed that the petitioner is proposing a firm cap, so rents could not increase by more than 7% on an annual basis regardless of actual regional CPI. Although there is variation, the petitioners noted that annual rent increases have averaged 3.7% over the last ten years.

The petitioners also confirmed that their intent is for an enforcement body to be created that would consider on a case by case basis, landlord applications to recover maintenance, capital costs and property tax increases. And confirmed that landlords would be able to reset the rent to a market rate for new tenant leases.

A committee member (*n.b. asked later but minuted here for continuity*) asked whether rent increases in Brookline exceeded inflation in prior years. The petitioners noted that for years when inflation was very low, rental increases exceeded inflation but in the past few years of high inflation, rental increases were lower than inflation. And the petitioner clarified that the CPI number includes housing but the analysis does not account for increases in property tax.

Referring to their spreadsheet, the petitioners estimate that there are ~13,000 rental units in Brookline of which 11,000 are likely to be eligible for the rent stabilization under the proposed bylaw. The proposed bylaw would not apply to single family homes and multifamily buildings of four or fewer units provided the owner occupied one of the units.

This estimate also does not include other carve outs provided for in the proposed by-law, e.g. excluding units that are 15 years of age or less. The petitioners acknowledged the difficulty with

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finding data to accurately estimate the number of eligible units. And that data about unit ownership demographics, i.e. investment funds versus individual owners, was also not available.

Turning to the tenant eviction protection, the petitioner's stated goal is to eliminate "no cause" evictions and create provisions, such as relocation allowances, to help protect tenants in the case of displacement due to condo conversions, substantial renovations or demolition.

A committee member mentioned that Brookline had rent control in the 1970s through the early 1990s until a State-wide referendum eliminated rent control. The petitioner mentioned that Brookline was one of the few communities that voted against the referendum which means Brookline had deep support for rent control even back then.

The petitioner's mentioned that rent-control studies (shared in their email to the subcommittee prior to hearing) seem to have contrary conclusions, but the evidence generally shows that rent control preserves affordability of covered units and reduces displacement pressures. This is a very narrow definition of what rent control achieves and does not provide guidance on preventing adverse outcomes. Because the specifics of rent stabilization determines the outcome, the petitioners designed their proposed by-law to address potential adverse effects.

To address the potential that the bylaw would discourage affordable housing production, the proposal exempts housing units that are within 15 years of initial construction, converted to condos or undergo major renovation. The petitioners felt that 15 years – along with 3% profit margin over CPI provided incentives for developers while ensuring a supply of rent stabilized units as new units are developed in the coming years.

To address deteriorating housing conditions that have resulted from rent caps, the petitioners intend for regulations to be written that include a process for landlords to appeal to a regulatory board for recovery of maintenance costs or property tax increases.

A committee member clarified that in addition to the 15-year rule, existing renters would benefit immediately and but new leases and renters new to Brookline would benefit starting with year two of their lease.

The petitioners feel that allowing rents to be reset to market and the potential to apply to recover maintenance costs mitigate the evidence that rent control negatively impacts property values of nearby units and clarified that any sub-lease would continue to benefit from the rent cap.

A committee member asked about implementation. The petitioner stated that WA16 calls for the authorization or designation of an administrator or board to oversee implementation. From 1970 to 1994, that entity was the Brookline Rent Control Board.

In response to a question about the potential cost to administer the by-law, the petitioner mentioned that Edison, New Jersey (pop 100k) has rent control similar to petitioner's proposal and the cost is ~\$15,000 per year. The petitioners feel that this a good "ballpark" figure for Brookline primarily because enforcement would be complaint driven that does not involve "large additional costs."

(N.b. in 1987, the budget to operate rent control in Brookline was \$250k and 11 full-time staff. By 1993, the budget was \$850k or ~2% of the overall non-school budget, 15 full-time staff and occupied ½ a floor in the Town Hall building).

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The petitioner then mentioned that they chose a home rule petition instead of a resolution because Representative Vitolo generally advises to “ask for what you want;” that a resolution has no chance of becoming law; and that rent control has worked in the past and their proposal strikes the necessary balance. The petitioner went on to note that Boston has passed a similar HRP, Sumerville is in the process and that “it is incumbent on Brookline to play a leadership role here.”

The petitioners clarify that the Statewide referendum that passed in 1994 explicitly prohibits rent regulation, so the only path forward is either a Home Rule Petition or a change in State law. (*N.b. Brookline Town Clerk confirms that the AG has certified for the 2024 ballot a petition to allow rent control to be adopted locally.*)

Petitioner clarifies that the proposed by-law and HRP has NOT as yet been discussed with Representative Vitolo; that Boston has passed a HRP which received a hearing [on Beacon Hill] but that legislative action was unlikely. Regardless, the strategy of applying for a HRP has worked for Brookline in the past and might generate momentum that results in future action by the legislature.

Petitioner wraps up with a request that the subcommittee vote favorable action.

Meeting is opened to public comment.

The first public comment is from a renter in Brookline who shares that the rent went up by \$800 and there was no recourse. The speaker mentions that renters in the “triple deckers” are no longer firefighters or teachers or middle-class people, they are now lawyers, architects and doctors.

The next public comment asked what the impact of the end of rent control had on Town revenue. The petitioner stated that he did not have an answer for this and had not spoken with the Town Assessor. (*N.b. we subsequently spoke with the Town Assessor who although he did not have the analysis, said that directionally rent control might change the assessment method of rent controlled units from market value to income based. The result over time is that single family homeowners are likely to see an increase in their taxes relative to other property taxpayer categories. We also spoke to a past member of the Board of Assessors who mentioned that landlords are likely to raise rents in anticipation of a proposed by-law.*)

The next public comment asked whether condominiums that are rented would fall under the proposed by-law. The petitioner stated that yes, if there is a rental agreement in place, depending on the building size and whether the owner occupied a unit in the building.

The follow up question inquired how an owner could take back a unit. In summary, the petitioner said that if the owner intends to occupy it, then the owner could apply to the yet to be created local policy board for possession and the board would make a determination.

The next follow up question was about what the policy calls for in case of a condominium conversion. The petitioner stated that the proposed eviction protection would require relocation plans and a relocation payment to the tenant, and it would all be subject to the decisions of and a permit from the yet to be created local policy board. And that the eviction protection would extend not just to the rent-controlled units but to all rental units in Brookline.

A committee member testified about her experience growing up in Manhattan under a rent stabilized structure, that her view is that rent control is likely to be effective in keeping a middle

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class in Brookline and enabling young people to put aside money to afford to purchase a home. And that rent control provides not just financial security, but psychological security.

Another committee member testified that is unclear to him whether rent control causes properties to increase in value or decrease in value; or would cause every landlord in Brookline to suddenly raise the rent in anticipation of this going through; or whether it would cause people to convert their units to condos. He voted in favor of rent control in 1994. He thought it helped people in Brookline, especially the elderly. His first qualm is that the rent distress figure quoted by the petitioner, because it includes students, likely overstates the percentage because students generally have an income of zero. The other qualm is that there are two proposals already on Beacon Hill, including one from the City of Boston which has 18 members but “Mayor Wu’s HRP is going nowhere.” And another HRP from Brookline – it’s the 3rd or 4th Brookline will have sent – is unlikely to be well received.

A third committee member asked whether the petitioners had spoken to any landlord groups. The petitioner responded no. The committee member commented that the proposed by-law might create a short term gain but is likely to result in long term pain. The follow up question asked whether the petitioner had data about the percentage of new construction has been condo versus apartments. And whether the petitioner had data on the demographics of landlords (investment funds versus individuals). The petitioner did not.

The conversation then turned to implementation. The petitioner stated that the by-law was the first step. **The implementation would require more by-laws to be written to create the framework for implementation including a regulatory board.**

A fourth committee member asked whether there had been any discussion as to unintended consequences and whether one potential unintended consequence could be that this actually freezes a demographic in place. And, how the proposed by-law might affect the town's policy goal around increasing the stock of affordable units.

The **petitioner responded by saying that with respect to affordable housing, the proposed by-law would help to preserve affordable housing in the medium to long term by capping rents.**

The Subcommittee Deliberation and Vote

A committee member suggested reading the history of rent control in the United States in the University of Minnesota study that is posted on Brooklinema dot gov website. Petitioners should consider comparing their proposal to what was in place from 1970 to 1994, especially with respect to how it operated and the cost. And that people that were involved then are still in Brookline and can be reached.

The Interim Chair commented that he was very appreciative of the petitioners for putting forward thoughtful language that is designed to addresses shortcomings of past policy. And that the **petitioners are very clear about their policy goal which is to prevent housing dislocation because of rental increases.** But does the data support this and how does this proposed policy align with other Brookline policy goals – for example addressing affordable housing. And that the actual development of the implementation bylaws should be written by a committee that includes all stakeholders – not just tenants and tenant advocates.

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The petitioner responded that affordable housing is not just an issue about development. The other aspect to it is to take existing housing and make it more affordable.

A committee member expressed the desire to hear from the tax assessor about the potential impact to tax receipts and tax burden shifting and the actual cost to operate rent control in Brookline from 1970 to 1994; is also interested in inviting testimony from landlords and the chamber of commerce; and finally, is interested in the similarities and differences between this proposal and the 19780-1994 rent control bylaw.

Action/Votes Taken:

A motion is made and seconded to postpone a vote and to CONTINUE the meeting on Wednesday October 11, 2023 at 6:30pm by ZOOM. The petitioner is available to meet on that date and time.

Voted: Roll call vote

Yeas: Harry Friedman, Susan Granoff, John Doggett, Michael Berger, Alok Somani

Nays: n/a

Motion passes 5 in favor, 0 opposed.

Documents/Exhibits Used at Meeting:

Petitioner's presentation.

Petitioner's response to the Advisory Committee Questionnaire.

Petitioner's spreadsheet estimating number of units in Brookline that might fall under the proposed by-law.

University of Minnesota Rent Stabilization Study (posted on Brooklinema dot gov).