

Ad-hoc Capital Subcommittee of the Advisory Committee  
Oct 11, 2023 Meeting Minutes

Date/Time of Meeting:

October 11, 2023 6:30pm to 9pm

Location of Meeting:

ZOOM

Members Present:

Carol Levin (Chair), Harry Friedman (Vice-Chair), Michael Berger, Susan Granoff, Alok Somani

Members Absent:

Pam Lodish, Amy Hummel, John Doggett

Petitioners Present:

Alexander Lebovitz

Subject/Agenda Item:

WA16 – HRP for rent stabilization and tenant eviction protection

Substance of discussion: (attach additional pages if needed)

This public hearing is a continuation of the October 2, 2023 meeting. In addition to subcommittee members and petitioner, also present were Brookline Chief Assessor Rachid Belhocine, Constable Neil Gordon, Constable Regina Frawley and Professor Harold Peterson Board of Assessors also previous Chair of Economics Department at Boston College where he taught for over 50 years. Also present were stakeholders representing company landlords, individual landlords and people involved in this topic during the 1970-1994 period when Brookline bylaws included rent control.

**Tax Assessor Testimony**

During the first part of the public hearing, the question of the impact of the proposed rent stabilization on Town tax revenue was raised. Chief Assessor Rachid Belhocine joined this second part of the public hearing and explained that whenever the value of a property class is reduced then there is a shift of tax burden to the property classes that are not reduced. This is because the Town must still collect the total amount of tax via the tax levy and total taxable evaluation. Determining the amount of the tax shift depends on a number of factors including the number of units, the type of property involved, the method to value future stabilized rental units, whether it's markets or based on potential income, etc. The Chief Assessor in answer to a question also offered that each year there is a classification hearing at which, the Select Board votes to determine the split between commercial and residential. And then, within the residential class – where the proposed rent stabilization would apply – the tax rate is the same, but because of the value change, there is a tax burden shift between residential types.

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### **Landlord Testimony**

The CEO of an investment company then offered public testimony based on his experience with rent control during the 1970-1994 period. He mentioned that the Town in application of the rent control by-law overcharged landlords which resulted in a tax abatement of almost \$3,000,000 in the late 1980s. That cost was made up from the Town's budget; therefore, the tax burden was transferred to other property owners away from rent controlled units by at least this amount. The testimony went on to recall the atmosphere and negative political dynamic caused by rent control. Many organizations sprung up - including one for landlords, condominium owners, tenants, etc - to protect and advocate for rights. The rent control board was often not perceived as evenhanded.

An individual landlord with several properties in Town during the 1970-1994 period then offered public testimony. His comments focused on the effects of inflation and the length of time it took for the Rent Control Board to consider rental increase applications, several years in some cases. Taken with the rapid inflation, this caused severe financial hardship for individual landlords. The speaker also mentioned that building sales ceased and that mortgages were not available for rent controlled housing.

The point was then made that rent control did not have a means test. When rent was decontrolled from 1994-1996, tenants were given the opportunity to be exempted from decontrol based on a means test. In Cambridge, only 26% of the rent-controlled units were occupied by tenants who qualified for continued rent control. This means that fully 75% of rent controlled units were occupied by tenants that may not have needed rent control. So rent control did not actually help the people that rent control was supposed to help.

### **Professor Peterson Testimony**

Referring to his slide, Professor Peterson mentioned that he had been looking at data about the increase in rents in Brookline and Boston from 2019 to 2022. In Brookline, rents increased by 7% over this period and in Boston by 13% and CPI over this same period increased by 14%. If the 3% is added to CPI in accordance with the proposal, rents would have risen by 28% over this period. At the same time, hourly wages went up 19% over the period. And social security with COLA went up by 19% over the period. Professor Peterson went on to observe that the proposal would not have, over this period, provided renters relief. But, over the past 50 years, during periods of high inflation, then the proposal, because of the 7% cap, may have provided relief in those specific years. In response to a question, Professor Peterson remarked that for the Greater Boston area, since the seventies, there is not a single year in which this proposal would have made any difference to the increase in rents. And since 1942, rents have gone up by CPI plus less than 1%. Over this period of time, there was rent control, a catch up period when rent control was removed, further rent control, and then another catch up period and most recently, a market based period.

### **Select Board Member (1982-85, 1990-96 and 2004 to 2007) Testimony**

“The worst thing that ever happened to Brookline was rent control. When I moved here, we're in the depth of a battle over rent control. How anybody in their right mind could ever believe that the town of Brookline should go back to rent control is beyond me.”

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The testimony generally centered around the negative effects of rent control including the hostility and division it caused. And the battles waged through the Rent Control Board, the Select Board and Town Meeting between groups advocating for their views.

The petitioner responded that during the State-wide vote to ban rent control, Brookline voters actually voted against the referendum which would indicate that there wasn't Town wide consensus that rent control was a bad thing.

#### **Questions from the Sub-Committee**

The petitioner was asked and answered that yes, the proposal would apply to senior housing where it was rented. This could adversely affect some models of senior housing such as Fischer Hill, the Waterstone development, etc.

The petitioner was asked and answered yes, that the proposed eviction protections are similar to what was in place in 1970-1994. That landlords would have to apply to a board for permission to evict. And that it would not be possible to implement eviction protection without a Home Rule Petition.

The petitioner was asked and answered no that they had not discussed the proposed by-law with the Town's planning department with regard to the MBTA Communities Act. But, the fifteen year exemption in the proposal was designed to ameliorate any potential disincentive for new housing construction.

The observation was made that this proposal "felt a bit like raising the drawbridge after existing tenants got the benefit" of the proposal. A potential unintended consequence might be that existing tenants just stay in place. This would reduce supply of rental units. And for units that came back on the market, landlords might attempt to raise rents to recoup the loss of rental income from units that remained under rent control.

The petitioner replied that tenants remaining in place could also be called preventing displacement. And that the decontrol after vacancy was meant to address market distorting effects but didn't have a view on how landlords might reprice those units but the price would certainly be constrained by the market.

The observation was made that the petitioner said in his remarks in the first session that homeowners build equity unlike renters and providing renters with the sort of price stability that homeowners with fixed mortgages have, is a goal. It was pointed out by a few speakers that many homeowners don't have fixed mortgages (*n.b. the percentage of fixed versus variable rate mortgages is highly correlated to mortgage rates. It is currently 5% but from 2004 to 2008 it was almost 35%*). The point was also made that home prices do not always go up; that there are periods during which home prices go down. And that during periods of high inflation, the cost of repairs and other expenses present material pricing instability for homeowners. And most of all, increases in property tax – especially as Brookline votes for more overrides - is a huge source of price instability for homeowners.

The petitioner responded that the proposed policy "is not a silver bullet" and that it is more "an arrow in our quiver that we need to use when approaching how we can comprehensively tackle housing affordability." "What it will do is it will insulate covered renters from massive single year rent price shocks."

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The petitioner was asked and answered that the petitioners did not have data that supported the idea that there are massive year on year rental price increases. But, there is anecdotal evidence of this. The petitioner was asked and answered that a massive increase could be the result of rents catching up to the market.

The petitioner was asked and answered that the petitioner's statistic that average rents are lower than median rents means that there is a long tail of low rents. But, that the petitioners still consider the long tail of low rents unaffordable.

The petitioner was asked if the goal is to ensure that there's affordable housing in Brookline or is it to lock in a demographic that in the future would then have below market rent? The petition responded that this proposal is one prong in a multipronged approach. The policy goal of this proposal is to keep housing more affordable in the long term. "Will it create more affordable housing? No. We we need to build more affordable housing, and that will require a whole suite of other policy initiatives and zoning changes."

The petitioner was asked what the cost to administer the proposed policy might be and in comparison to what it cost the Town to operate the Rent Control Board during the 1970-1994 period. The petitioner presented slides with budget figures from 1989-1991 in the range of \$500,000 per year and noted that the rent control board was self-financed through unit registration fees paid for by landlords but that could be partly passed on to tenants. This was driven in large part by the passage of Proposition 2-1/2 which created budget stress.

The observation was made that \$500,000 per year (in 1990 dollars) and 50-60 lawsuits per year is very different from the \$15,000 the petitioners mention in their proposal.

The observation was made that from the period of 1970 to 1994, the by-law was amended several times, the work scope of the rent control board expanded, the budget grew to over 1-1/2% of the total Town side budget, had 16 FTE and 1/2 of a floor in the Townhall building. The petitioner was asked and answered that there is no way to manage this sort of "policy creep."

The petitioner was asked and answered that with respect to program specifics, what is being proposed is similar to what was in place during 1970-1994 with a couple of notable exceptions. This proposal does not include new units for 15 years whereas the 1970 bylaw excluded all units after a specific single date. The rental rates under this proposal can adjust CPI+3% capped at 7% versus being fixed at March 1970 and then adjustable only by application to the rent control board. The proposed eviction protections are similar to 1970-1994 regime. The prior regime had controls on condo conversions and reforms that would allow decontrol in exchange for certain concessions (unit set asides, etc). The units exempted under this proposal are similar to the 1970-1994 period. And the total number of units to which the current proposal might apply is estimated to be 9,000-11,000.

#### **Constable Testimony on Eviction**

Constable Neil Gordon testified that in his 10+ years as a constable he has done 7 actual physical evictions. And the eviction notices are mainly concentrated in graduate student housing where many international students live during the school year. Constable Frawley concurred on this point.

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The observation was made that given that this is a ballot question, the legislature is very unlikely to act on a HRP without first hearing from the voters.

**End of Public Hearing / Start of Subcommittee Discussion**

Committee member Alok Somani shares a graph from the Brookline Town Budget of 1993 which shows the percentage of change in tax revenue from different property classes has changed from FY1981 to FY1992. This chart shows that over those years, the average tax bill for condos went down by 1.8% and apartments went down by almost 3%. The other 3 categories, that were not subject to rental control, went up almost 5%. Single family went up 5%, and commercial went up almost 6%. One conclusion might be that the categories that were not subject to rent control in those 10 years were absorbing some shift of the tax burden.

There was some discussion about referring the proposal to a study committee but that idea was not pursued.

One committee member summed up by remarking that calling the 3% guaranteed profit isn't accurate because it doesn't account for actual expenses. And that the proposal does not provide for means testing. Although housing distress is a societal problem, this proposal solves it with just contribution from landlords. The administrative cost and complexity are major issues. And the Legislature is unlikely to act. And if they do, there will be a huge fight in Brookline and it will likely turn politics in the Town toxic.

A motion is made for No Action. The motion is seconded. The roll call vote is taken.

Action/Votes Taken: Motion of No Action made and seconded.

Voted: Roll call vote

Yeas: Carol Levin, Harry Friedman, Michael Berger, Alok Somani

Nays: Susan Granoff

Motion passes 4 in favor, 1 opposed.

Documents/Exhibits Used at Meeting:

Petitioner's presentation.

Professor Peterson's slide on Rental Inflation and CPI

Subcommittee slide showing tax increase by property category from Town of Brookline Budget for FY1993.