Statement of the Apartment and Office Building Association on Bill 22-22, Landlord-Tenant Relations – Limitations on Rent Increases

July 26, 2022

The Apartment and Office Building Association of Metropolitan Washington (AOBA) is a non-profit trade association representing more than 133,000 apartment units and over 24 million square feet of office space in suburban Maryland. In Montgomery County, AOBA members own/manage over 60,000 of the County's estimated 83,769 rental units and 20,000,000 square feet of office space. AOBA submits this statement in opposition to the County Council's enactment of County Bill 22-22.

For the past 28 months (April 2020-August 2022), the County's rental units have been subject to rent control set at the Voluntary Rent Guidelines. AOBA members appreciated the need to extend financial protections to County residents during the unprecedented COVID-19 public health emergency. However, this 6-month extension of rent control currently before the Council is not tied to the pandemic, or what is occurring in the rental housing market. There is no means testing, financial qualification or even proof that a resident is experiencing financial hardship. Instead, this wide-sweeping measure will ensure that high-income residents continue to receive benefits they do not need, while failing to move the needle for those in need. If the Council wants to assist renters who are truly struggling, this legislation should be narrowly tailored to apply only to residents that can demonstrate financial hardship.

Despite many pledges to let Bill 30-21 sunset when it expired on May 15, 2022 (allowing for rent increases to commence on August 15, 2022), the County has now reversed its position and is seeking an additional nine months of rent control (six months plus the mandatory 90-day notice period for rent increases). It appears the County is exploiting the COVID-19 pandemic and subsequent economic climate to usher in rent control policies. Housing providers feel there is no end in sight, with the Council leaning on temporary half-measures of the worst kind that paper over the cracks of what is primarily a housing supply issue.

Moreover, the County's singular focus on rent control ignores the financial perils all residents and business owners are facing. With record-high inflation, supply chain, and employee shortages, housing providers are facing staggering cost increases to maintain apartment communities. As costs rise, the County's mandated cap on rent increases is prohibiting property owners from passing on any of those costs to residents. This is creating an untenable situation for market rate providers and naturally occurring affordable housing providers who operate on razor-thin margins, do not have large financial reserves, and are contending with increased operating and maintenance expenses. To put some fiscal pressures in perspective, WSSC has implemented a 6.5% rate increase for fiscal year 2023, the Public Service Commission authorized a $52 million revenue increase and corresponding rate increase until March 2024 for PEPCO, and new Building Energy Performance Standards (BEPS) require largescale retrofits and expensive capital improvements to meet compliance. These cost increases and new regulatory burdens are the tip of the iceberg as personnel costs are rising, utility usage is at an all-time high, cleaning and sanitation costs are skyrocketing and all products cost 8-9% more than they did months ago.

Additionally, even short-term rent stabilization creates damaging and long-lasting impacts on the local economy. Housing providers do not make decisions in a vacuum, neither do they have unlimited resources. The property management companies and property owners AOBA represents answer to investors, lenders, and development partners who are finding it increasingly difficult to underwrite new multi-family investment in Montgomery County. This is the direct result of the high costs of doing business and the perceived unfavorable and unpredictable legislative climate. Creating arbitrary rent controls and an uncertain return on investment will slow investment in new housing projects in the County substantially. Also, high rent delinquency rates and income losses over the past two years are driving owners and investment groups to pressure management companies into selling unproductive rental housing communities for redevelopment or condo conversion. This puts the County's housing goals, particularly affordable housing goals, in jeopardy.

Rent Increases on Yearly Renewals in Montgomery County

AOBA has heard the antidotal stories propelling this legislation, but these anecdotes contain no context. Paying 25% more to live in the same unit in the same condition as a resident did the year before is jarring. However, we know that is not the case in the professionally managed communities AOBA represents. It is important to note that the market simply cannot absorb the type of requisite rent increases that would be required for housing providers to keep pace with rent losses and inflation—certainly nothing in the range of 15% as has been claimed. Indeed, rent increases locally lag significantly behind the national average. According to RealPage, a provider of multifamily real estate data and market analysis, average rent increases for lease renewals in the region hover around 8.8% but is significantly lower in Montgomery County submarkets.

	Year Over Year Rent Roll Change (Rev per Occ. SF) Lease Transaction Data	New Lease Rate Change (Trade Out) Lease Transaction Data	Renewal Lease Rate Change (Trade Out) Lease Transaction Data
Bethesda/Chevy Chase	0.1%	8.3%	**2.8%**
Central Alexandria	0.4%	13.4%	**8.4%**

Central DC	6.5%	15.7%	**15.0%**
College Park/Greenbelt	0.5%	4.9%	**6.9%**
Columbia Pike	8.5%	14.8%	**8.7%**
Crystal City/Pentagon City	6.1%	20.0%	**17.0%**
Downtown Silver Spring	3.0%	12.2%	**1.8%**
East Alexandria	4.7%	15.1%	**9.0%**
East Silver Spring/Takoma Park/Adelphi	**--**	--	--
Frederick	9.4%	21.7%	**3.6%**
Fredericksburg/Stafford	13.0%	21.9%	**11.1%**
Gaithersburg	5.3%	20.3%	**1.7%**
Germantown	5.9%	17.1%	**0.7%**
Hyattsville/Riverdale	7.5%	6.9%	**5.2%**
Landover/Bowie	4.9%	19.3%	**13.6%**
Laurel/Beltsville	9.4%	14.5%	**7.0%**
Loudoun County	10.2%	20.2%	**10.7%**
Manassas/Far Southwest Suburbs	8.3%	18.3%	**7.5%**
Navy Yard/Capitol South	5.2%	17.9%	**15.1%**
North Arlington	6.2%	15.5%	**11.6%**
North Central DC	0.2%	13.4%	**8.8%**
Northeast DC	3.5%	19.0%	**14.2%**
Northeast Montgomery County	1.4%	9.9%	**1.3%**
Northwest DC	2.7%	8.7%	**8.6%**
Reston/Herndon	8.9%	15.6%	**9.3%**
Rockville/North Bethesda	3.6%	13.9%	**4.4%**
Seven Corners/Baileys Crossroads/Annandale	0.1%	39.7%	**7.9%**
South Fairfax County	12.8%	13.3%	**7.5%**
South Prince George's County/St. Charles	6.6%	11.7%	**5.1%**
Suitland/District Heights/Capitol Heights	1.8%	10.8%	**4.4%**
Tysons Corner/Falls Church/Merrifield	5.7%	14.7%	**9.3%**
West Alexandria	6.1%	11.5%	**9.6%**
West Fairfax County	8.5%	17.1%	**8.3%**
Wheaton/Aspen Hill	1.8%	15.2%	**1.9%**
Woodbridge/Dale City	6.7%	17.6%	**9.2%**
Washington, DC Market Avg.	7.2%	15.6%	8.8%

The rent increase notices AOBA members began sending residents after May 15 align with the nationally reported data.

- Member Company A manages approximately 3,500 units in 10 multifamily communities. They average rent increases of 3.4% at the time of lease renewal.
- Member Company B owns or manages nearly 4,000 units in 11 multifamily communities. They average rent increases of 3.22% at the time of lease renewal.
- Member Company C issued 640 rent increase notices across their Montgomery County Portfolio of 4,400 units in 12 multifamily communities. They average rent increases of 1.3% at the time of lease renewal.
- Member Company D sent out rent renewal notices indicating a 3-4% increase on 12-month lease renewals and 5-6% increase on 24-month lease renewals.
- Member Company E averages renewal rent increases at an average of 5.5% at multifamily communities across the County in Gaithersburg, Silver Spring and Rockville.
- Member Company F reports it did not take any rent increases from April 2019 to April 2022. In May 2022, the company issued an average rent increase of 6% to all residents due lease renewals. If resident signed a 2-year lease the increase was lowered to 4%.
- Member Company G states "rent increases have been given based on each residents' relationship to market rent. No rental increases have been given to residents who have applied for rental assistance and are substantially delinquent."

Ultimately, AOBA members question the premise behind the bill—what multifamily communities are issuing rent increases in excess of 15%? Are these astronomical rent increases for residents going from year long leases to month-to-month? Did the resident knowingly enter into a lease as part of a "rent special" where the first-year rental rate was 10% below market-rate knowing that the rent would return to market-rate (10+% increase) at renewal? Was the property substantially upgraded to a new property class? We have none of those details to accompany the shocking rent increases that have been so publicly and anecdotally reported.

Rent Control in Montgomery County

While this bill is yet again described as a short-term measure, housing providers and investors are increasingly skeptical that these restrictions will ever go away. Analysis of the economics of rent control in Montgomery County demonstrates that would be terrible for the County's supply of housing and fiscal health. In 2015, AOBA commissioned a study conducted by the Regional Economic Studies Institute (RESI) at Towson University to look at the economic and fiscal impact rent control legislation will have, and has had, in the County. The research team found that implementing rent control would result in reductions in property values of existing multifamily properties and would significantly decrease county property tax revenues. Additionally, they found rent control would reduce income tax revenues paid by the 62% of multifamily property owners that resided in the County. Further, because this policy disincentivizes the construction of new multifamily and mixed-use properties, there would be revenue losses related to additional tax revenue and jobs. According to RESI, the specific fiscal impacts of rent control to Montgomery County included the following:

- Estimated annual tax revenue loss of $46.1 million in 2020 increasing to $101.3 million per year by 2025; and
- Ten-year (from 2015-2025) total tax revenue losses of $538.5 million.

If enacted, the County would have lost over half a billion dollars in local tax revenue, thus jeopardizing the County's financial stability. To offset the fiscal impact of rent control with additional taxes, the County would have been forced to increase owner-occupied households' property tax rates by an average of $267 per household in 2025. Additionally, by 2025 the loss of income from forgone construction projects and reduced employee mobility would have resulted in:

- Over 70,900 jobs unrealized
- Loss of $10.4 billion in County economic output; and
- Loss of $5.4 billion in wages.

In this way, both homeowners and renters, particularly low-and-moderate-income renters, face direct adverse financial impacts from the imposition of rent control in the form of tax increases and lost employment opportunities.

The results of the RESI study are mirrored in a 2019 analysis by Capital Policy Analytics commissioned by the National Apartment Association (NAA). Capital Policy Analytics modeled the impact of implementing a 7 percent rent cap in the cities of Chicago, Denver, Seattle, and Portland, and found the following:

- Despite the inclusion of a 15-year exemption for new construction, a 7 percent rent cap would significantly discourage investment in new properties. Seattle would see a reduction in construction of 1,739 units per year, with 779 fewer units constructed annually in Denver, 320 fewer per year in Chicago and 233 in Portland.
- Annual maintenance spending would fall by an estimated $5.9 million in Seattle, $5.4 million in Chicago, $4.5 million in Denver, and $2.7 million in Portland.
- Decreased maintenance would put 42,460 units at operational risk in Chicago, 35,163 units in Denver, 21,052 units in Portland, and 46,085 in Seattle.
- Significant lost rental income for property owners would translate into hundreds of millions of dollars in property value loss. This in turn would lead to lower property tax collections totaling between $3.5 million (Denver) and $6.1 million (Chicago) annually.

The negative impacts of rent control are far-reaching and directly inhibit the County from producing badly needed apartment housing across the income spectrum. For these reasons, AOBA opposes Council Bill 22-22 and requests an unfavorable report on the legislation.

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