

March 28, 2023

Montgomery County Council  
Council Office Building  
100 Maryland Ave, 6th Floor  
Rockville, MD 20850

**Bill 15-23, Landlord-Tenant Relations - Anti Rent Gouging Protections**  
**Bill 16-23, Landlord-Tenant Relations – Rent Stabilization (The HOME Act)**

Dear President Glass and Members of the County Council:

Please accept the following testimony on behalf of the Coalition for Smarter Growth.

**Coalition for Smarter Growth: Background**

The [Coalition for Smarter Growth](#) is the leading organization in the Washington DC region dedicated to making the case for smart growth. Our mission is to advocate for walkable, bikeable, and transit-oriented communities as the most sustainable and equitable way for our region to grow and provide opportunities for all.

Addressing Montgomery County’s housing shortage is a key part of our work in Montgomery County. CSG has been active in many campaigns to improve equitable access to housing opportunities and increase the variety of housing types in Montgomery County, including ending the growth moratorium and reducing regulatory restrictions on transit-oriented development; advocacy for Thrive 2050 and “missing-middle” or attainable housing; and reduced restrictions on constructing accessory dwelling units (ADUs).

**CSG Recommendations on Rent Stabilization**

Residents will be best served by a combination of tenant protections, targeted subsidies, and new housing production.

To achieve a balanced policy to provide long-term housing security for renters while avoiding negative impacts on affordable housing supply, we propose the following:

1. Set the rate of allowed increase to 3 to 5 percent plus CPI. The cost of labor, construction, and climate change mitigation/adaptation measures are often rising faster than the rate of inflation.
2. Apply the provision countywide so all renters are protected and transit-oriented development is not disincentivized.
3. Exempt new buildings for 15 years following issuance of a certificate of occupancy. Properties need to produce the highest rate of return for the first 10-17 years in order to secure favorable loan terms and pay off construction loans. Without an adequate exemption period, construction of new housing units becomes more expensive and more difficult, potentially limiting needed supply.

4. Consider different treatment for small multi-family buildings (10 to 50 units) and exempt buildings less than 10 units. Smaller buildings often have a more difficult time with capital maintenance because financing costs are typically higher due to a lack of economies of scale.<sup>1</sup>
5. Exempt units already subject to county, state, or federal agreements limiting rents charged until that regulation expires. For example, overlaying another rent regulation on top of existing ones could discourage Low Income Housing Tax Credit (LIHTC) investments, resulting in loss of lower-priced units.

### **Addressing Long-Term Affordability by Increasing Housing Supply**

Rising rents are due in part to our limited housing supply, which limits alternatives for tenants. Rent stabilization is best understood as a *stability* policy, not an *affordability* policy: it can successfully reduce tenant displacement in the short-term, but complementary policies are needed to address the underlying, long-term structural issues making housing unaffordable.

To address long-term housing affordability, rent stabilization should not discourage new housing development and should be paired with policies that encourage new housing development—in particular, development of affordable housing and a variety of housing types that can be more affordable than existing options.

The following are examples of policies that can support additional housing supply and address some of the drivers of rising housing costs:

- Adopting the recommendations of the [Attainable Housing Strategies Initiative](#), which recommends allowing more varieties of multi-family housing in more parts of the county
- Encouraging ADU development through incentives, “green taping” and regulatory reform, and additional guidance for homeowners considering ADU development
- Permit fee waivers
- Eliminating parking requirements for new development near transit, potentially reducing the cost of new units in transit-accessible locations
- Ensuring that we account for the combined costs of housing + transportation so that new supply is located in areas in close proximity to jobs and transit (the frequently used metric is that combined H+T costs should be no more than 45% of a household budget; see Center for Neighborhood Technology’s H+T index).

### **Additional Comments: Financing, Enforcement, and Additional Rent Assistance**

We would recommend that any rent stabilization policy take the following factors into consideration to facilitate an effective rent stabilization program while continuing to build the units we need to address our housing shortage:

- Sources of financing for new development, and feasibility under the rent stabilization policy of meeting requirements to secure financing (interviews should be conducted with for-profit and non-profit developers).
- Competition for investment with other jurisdictions, and risk of reduced investment in Montgomery County in favor of jurisdictions with fewer restrictions
- Risk of loss of rental stock through condo conversion

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<sup>1</sup> See note below on [Urban Institute study](#) and example regulatory approaches distinguishing between truly small landlords and larger investors.

- Resources needed for effective administration, enforcement, and collection of data

We also support companion policies to increase tenant stability and prevent landlord retaliation against tenants in rent-stabilized units, including just-cause eviction and tenant right to counsel.

Under any rent stabilization policy, there will still be tenants who require additional support to pay rent and remain in stable housing. Additional funding for rental assistance—and supportive resources to assist tenants with accessing such assistance—is essential to fill in these gaps to provide stability for as many tenants as possible without disincentivizing needed new development.

### **Additional Resources and Example Policies**

#### *Articles and Reports*

- **Jerusalem Demsas, Vox:** [I changed my mind on rent control](#)
- **Urban Institute: Rent Control:** [Key Policy Components and Their Equity Implications](#)
- **Enterprise Community Partners** report for City of Hyattsville: [City of Hyattsville Housing Action Agenda](#) (rent stabilization section begins on page 18)

#### *Example Policies*

##### **Exceptions for Small Landlords:**

From [Urban Institute report](#):

Most rent control regulations limit coverage by the number of units within a building and generally exclude small buildings and single-family homes. This limit is intended to exclude small landlords, who are more likely to own these properties and to sell or convert their properties into condominiums.

This exclusion raises equity concerns; single-family homes have become an increasingly larger share of the rental housing stock, particularly in racially diverse neighborhoods, and their tenants are more likely to have children living in poverty (Pfeiffer, Schafran, and Wegmann 2020). And some large landlords own many small units, allowing them to evade rent control regulations. **Washington, DC, uses an alternative approach that bases coverage on the size of the owner's portfolio**, rather than on the number of units within a building, in an attempt to exclude small landlords from regulation. Similarly, **California's 2019 Tenant Protection Act** differentiates between small landlords and investors by ensuring that real estate investment trusts and corporate owners of single-family rentals are included in the coverage.

### **Enforcement, Education, and Data Collection**

From [Urban Institute report](#):

1. Recent rent control policies often have additional features to address negative outcomes from previous policy iterations. While closing loopholes creates targeted policies, it can also make them more complicated. Dense regulations are hard for both landlords and tenants to understand, which can leave landlords to accidentally fall into noncompliance or tenants unable to assert their rights.

“There are just all these little loopholes everywhere,” a landlord explained. “It’s always going to be incremental, and pretty soon, you have people on the side, people that actually provide houses, saying, ‘This isn’t worth it.’” **Oakland, California**, counters these concerns by proactively offering **rent stabilization workshops for small property owners**, along with **workshops geared toward teaching tenants their rights** under the law.

2. Tenants and landlords find their administrative burdens eased when localities track data about landlords, rents, and buildings subject to rent control. In **San Jose, California**, when tenants believed their landlord raised their rent to illegal levels, they had to initiate a petition to the city themselves. This changed in 2015 when the mayor and city council requested the rent stabilization program division to begin **a rental property registry that tracked controlled apartments, tenancy, and allowable increases through an online portal**. These data were also paired with property-level eviction data. [...] The registry not only **shifted the compliance responsibility from the tenant to the city** but also **gave the city valuable data to track and monitor the program**.

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