



Montgomery County Government

AN EVALUATION OF THE RENT STABILIZATION ACT

EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY

The Rent Stabilization Act was enacted in 1979 to assist with the County's transition from rent control to a competitive rental market economy. The Act was amended several times between 1979 and 1981, but has remained essentially unchanged for the past ten years.

The Rent Stabilization Act authorizes the Department of Housing and Community Development to collect rent increase and rental vacancy data, to compile a directory of rental facilities, and to provide a housing information and referral service. In addition, even though it is no longer required by law, the County issues an annual Voluntary Rent Guideline as a benchmark for rent increases in the County. The report's major findings include that:

- The rent increase data, the vacancy rate data, and the apartment directory are used actively by County officials and the private sector;
- It cannot be proven that the Voluntary Rent Guideline (VRG) has had any statistically significant effect upon the average rent increase in the County, although anecdotal evidence suggests that the VRG may have served to moderate some individual rent increase decisions; tenants see benefit to continuing the VRG because it provides information to use in assessing the "fairness" of a rent increase;
- According to landlords, market factors such as vacancy rates, competing rent levels, and increases in operating expenses are the most significant determinants of rent increases. For seven out of the past ten years, more than half of all reported holdover rent increases exceeded the County's Voluntary Rent Guideline; however, the number of rent increases above ten percent has declined each year since 1985, and in 1990, the average rent increase was actually slightly below the VRG; and
- Rental market data collection activities are funded from the Landlord-Tenant Fund, and in FY91 will cost approximately four percent of the \$1.4 million collected through rental licensing fees; the housing information/referral service is operated by the Housing Opportunities Commission on contract to the County, and in FY91 will cost approximately \$158,700 in General Revenue funds;

Recognizing the benefits of the Rent Stabilization Act, the report recommends continuing the data collection and information dissemination activities that have proven useful to both the public and private sectors. The report also recommends legislative and administrative changes to:

- Delete sections of the Rent Stabilization Act that are no longer relevant or necessary;
- Clarify and simplify the data maintenance and data collection responsibilities of landlords and the County Government;
- Articulate the basis and purpose of the Voluntary Rent Guideline in law; and
- Improve the data collection process to maximize the use of the information collected.

I. AUTHORITY, SCOPE, METHODOLOGY

A. Authority

Council Resolution No. 11-1907, CY 1990 Work Program of the Office of Legislative Oversight (OLO), adopted March 13, 1990.

B. Scope and Organization of Report

This report describes and evaluates the substance and implementation of the Rent Stabilization Act, County Code Chapter 29, Article VI. The report is organized as follows:

- **Chapter II, Background**, reviews the legislative history of the Rent Stabilization Act, its applicability in municipalities, and its relationship to other State and County laws;
- **Chapter III, Evaluation**, describes and evaluates the administration of the Rent Stabilization Act;
- **Chapter IV, Comparative Information**, summarizes data collected about rent increases and rent-related laws and regulation in other jurisdictions;
- **Chapter V, Conclusions**, summarizes OLO's findings;
- **Chapter VI, Recommendations**, outlines OLO's recommendations for specific legislative and administrative changes;
- **Chapter VII, Department/Agency Comments and OLO Response**, contains the written comments received on a draft of this report and OLO's response to specific comments.

C. Methodology

This project was conducted during September-December 1990 by Karen Orlansky, OLO Program Evaluator, with assistance from Kenneth Wilcox, OLO Public Administrative Intern.

The research design included document and file reviews, a phone survey of owners and managers of licensed rental properties in the County, and a detailed examination of the Office of Landlord Tenant Affairs' system of tracking data collected about rental facilities. In addition, OLO conducted interviews with County Government and other County agency staff, and consulted with representatives from relevant citizen advisory committees and private sector interest groups.

Within the County Government, information was obtained from the Department of Housing and Community Development, the Office of the County Attorney, the Office of Management and Budget, and the Office of the County Council. In addition, OLO consulted with staff from the Montgomery County Housing Opportunities Commission and Maryland-National Capital Park and Planning Commission's (M-NCPPC) Montgomery County Department of Planning.

OLO discussed the Rent Stabilization Act with members of the County's Citizens Housing Advisory Committee and the Commission on Landlord-Tenant Affairs. Representatives from the Apartment and Office Building Association (AOBA), the Montgomery County Association of Realtors, and the Suburban Maryland Building Industry Association were also consulted.

II. BACKGROUND

A. Legislative History of the Rent Stabilization Act, County Code Chapter 29, Article VI*

1. In February 1973, Following the Expiration of Federal and State Controls on Rent Levels, the County Imposed a Rent Freeze

From August 1971 until January 1973, rent levels in the County were subject to a federally imposed wage and price freeze, and a statewide rent control law. Following the lifting of federal and state rent controls in January 1973, rent levels in the County began to increase rapidly, with some rent increases reportedly exceeding 40 percent. Compounding the problem of increasing rents was a shortage of affordable rental housing, evidenced by a rental vacancy rate of one percent.

In February 1973, the Council declared a public emergency in the County's rental housing market and enacted legislation (Emergency Bill 8-73) to temporarily freeze rents for any dwelling unit owned by a landlord with two or more units. The legislative findings of Bill 8-73 stated that:

. . . in the absence of regulation of rents there have ensued excessive rent rises which have resulted in serious impairment to the health, safety, and welfare of a large segment of the population . . . controls are necessary to prevent the execution of unjust, unreasonable, and oppressive rental agreements, and to forestall profiteering, speculation, and other disruptive practices. (Bill 8-73, Section 93A-47)

Under the terms of Bill 8-73, most rents in the County were required to remain unchanged at their February 1973 level until a system of rent controls was approved by the Council.

* Unless otherwise indicated, all County law citations reference the Montgomery County Code (1984), as amended.

2. County Rent Control: October 1, 1973 - December 30, 1977

In October 1973, the Council enacted emergency legislation (Emergency Bill 39-73) to establish a rent control system in the County. The rent control law, which was approved with a sunset date of October 31, 1975, had the following major provisions:

- Ceilings were established on the percent of rent increase that landlords could impose on different types of rental units in the County;
- Landlords could apply to the Executive Director of the Office of Landlord Tenant Affairs (OLTA) for approval to increase rents more than the increments established in law; a decision on an "Extraordinary Rent Increase" (ERI) could be appealed to the Commission on Landlord Tenant Affairs;
- Properties exempted from County rent controls were: newly constructed rental units initially rented after February 1973 (exemption only for first year); single-family, semi-detached, and townhouse dwellings which had not been rented since August 1971; units owned by a landlord with fewer than three units; all federally assisted housing units; and rental units located in facilities providing treatment for ill residents.

In addition, the law required landlords to provide tenants with 30-days notice of a rent increase, and to include certain information and language in their rent increase notices, e.g., the past rent amount, the future rent amount, the effective date of rent increase, the percentage and dollar amount of increase, and the highest rent for a comparable dwelling unit.

The County's rent control law was extended three times:

- Emergency Bill 6-75 extended rent control from October 31, 1975 to December 31, 1975;
- Emergency Bill 5-75 extended rent control from December 31, 1975 to January 31, 1976; and
- Emergency Bill 39-75 extended rent control from January 31, 1976 to December 31, 1977.

The third extension of rent control (Emergency Bill 39-75) went into effect only after the Council overrode a County Executive veto of the legislation. This bill made a number of major substantive changes to the original rent control law, including:

- Added the following types of rental units to the list of those exempt from rent control: all single-family detached, semi-detached, and townhouse rentals; all new rental construction; rehabilitated dwelling units coming onto the market; rental units becoming vacant after June, 1976; and all units owned and/or operated by the Housing Opportunities Commission;
 - Revised the procedures for applying for Extraordinary Rent Increases (ERI), and providing that a Hearing Examiner could conduct the ERI hearings; and
 - Restructured the formula for calculating allowable rent increases.
3. In December 1977, the Council Replaced Rent Control with a System of Voluntary Rent Guidelines, Rent Reporting, and Specific Tenant Protections

On December 16, 1977, the Council enacted Emergency Bill 35-77, known as the Omnibus Tenant Protection Act. This bill repealed the County's prior rent control statute, and replaced it with a program of rent reporting, voluntary rent guidelines, and tenant rights. The legislative intent of Bill 35-77 included the following rationale behind terminating rent control in the County:

. . . the existence of rent controls as one disincentive to investment in new rental properties discourages refinancing necessary to support improvement of existing rental properties and encourages conversion of rental units to condominium ownership which reduce the adequacy of the supply of rental housing in the County . . . Given such circumstances, the prospect of elimination of rent control should encourage the provision of additional rental housing, enabling a return to reliance upon the competitive market to regulate rental rates. Accordingly, the County Council finds that it is in the interest of the public health, safety, and general welfare to provide for the termination of rent control. (Bill 35-77, Section 29-47)

The system of rent guidelines and rent reporting was seen as a way to ease the transition away from rent control to a competitive rental market. Specifically, under the provisions of Bill 35-77:

- The County established a Voluntary Rent Guideline (VRG) each year, which was calculated as 65 percent of a composite index, comprised of the most recently issued Consumer Price Index (CPI) and retail price index for fuels and utilities in the Washington Metropolitan Area;
- All licensed landlords were required to report rental and expense records for their properties to the Office of Landlord Tenant Affairs;

- A referral service was established to centralize information and counsel potential tenants on the availability of housing and financial assistance; and
- The system of Voluntary Rent Guidelines was set to sunset on January, 31, 1980.

Bill 35-77 explicitly stated that the Voluntary Rent Guideline did not apply to: facilities providing treatment for ill residents; new or rehabilitated units; units owned by landlords with three or fewer units; single-family dwellings, semi-detached dwellings, and townhouses; federally assisted dwellings; and units that are owned and/or operated by the Housing Opportunities Commission.

In addition, Bill 35-77 placed into County law a number of fundamental tenants' rights and prohibited landlords from taking any retaliatory actions against tenants who exercise their tenant rights. The specific tenants rights outlined in Bill 35-77 included:

- Tenants have the right to organize, join, meet, or assist one another within or without tenant organizations;
- Tenants and their organizations have the right to free assembly in meeting rooms within a rental facility;
- Tenants have the right to freely distribute and post in centrally located areas literature pertaining to landlord-tenant issues; and
- Tenant organizations can file complaints in a representative capacity as authorized by aggrieved tenants.

In May 1978, Emergency Bill 17-78 was passed to implement several changes to the rent guidelines and rent reporting system established by the Omnibus Tenant Protection Act. Specifically, monthly rent reporting was extended to vacant units, and the formula for establishing the Voluntary Rent Guideline was modified.

4. In March 1979, the County Replaced the Omnibus Tenant Protection Act with the Rent Stabilization Act

During 1978, many tenants in the County experienced large rent increases. OLTA records indicated that 36.6 percent of the reported rent increases were above the 6.1 percent rent guideline, with average rent increases ranging between 10 and 11 percent. To address what appeared to be a continuing emergency in the County's rental market, the Council enacted Emergency Bill 18-79, which replaced the Omnibus Tenant Protection Act with a new article titled the "Rent Stabilization Act". The purpose of Bill 18-79 was articulated by the Council in the legislative findings and intent section:

. . . while the system of rent control must be phased out, a major effort must still be made, during the transition to a competitive rental housing market, to minimize the disruption attendant on that transition. To this end, this article provides measures to insure that this transition is as equitable as possible for tenants and landlords alike. The provision of this Article directed toward fulfilling this objective include . . . an extraordinary rent increase procedure providing for rent rebates and rollbacks of unjustified rent increase whenever the rent . . . is increased by ten percent (10%) or more. (Bill 18-79, Section 29-47.)

Bill 18-79 revised the calculation of the Voluntary Rent Guideline (from 65 to 100 percent of the Consumer Price Index for Urban Wage Earners and Clerical Workers for the Washington Metropolitan Area), and required landlords to report any rent increase above the Voluntary Rent Guideline, along with justifications for the increase, to tenants and OLTA. In addition, for all rent increases above ten percent:

- The landlord had to apply to the Commission on Landlord Tenant Affairs for an Extraordinary Rent Increase (ERI); and
- After holding a hearing on the request, the Commission was authorized to order rent rebates of all monies determined to be above a "justified" level.

Bill 18-79 established a sunset date of January 31, 1981 for the Voluntary Rent Guideline procedures.

Some modifications to the Rent Stabilization Act were proposed by Emergency Bill 93-79, which was enacted on January 30, 1980. In particular, Bill 93-79 established a Voluntary Rent Guideline of ten percent for 1980 and exempted all rental facilities with fewer than 12 units from rent reporting.

5. In January 1981, the County Executive Vetoed a Bill that Would have Extended all Provisions of the Rent Stabilization Act. The Council Failed to Override the Veto

On January 13, 1981, the Council passed Emergency Bill 47-80 to extend the entire Rent Stabilization Act, (as amended by Bill 93-79), for another two years beyond the legislatively mandated sunset date of January 31, 1981. The County Executive vetoed Emergency Bill 47-80, and there was insufficient support on the Council to override the Executive's veto.

As a result of the Council's failure to override the Executive's veto, the following provisions of the Rent Stabilization Act expired on January 31, 1981:

- Section 29-53, Voluntary Rent Guidelines, which encouraged landlords to maintain rent increases below justifiable limits;

- Section 29-54, Scope, Operation, and Review, which listed those units which were exempt from the Voluntary Rent Guideline and certain rent reporting procedures;
- Section 29-55, Rent Adjustments and Guidelines, which set forth the procedures of how to compute the annual Voluntary Rent Guideline;
- Section 29-57, Maintenance and Availability of Records, which mandated landlords to keep records of all rent increases and all reasons for increases above the Voluntary Rent Guideline; and
- Section 29-58, Complaints, Investigations, Hearings, Reports and Data Availability, which set forth procedures for complaints, OLTA investigations, investigations on any question of non-compliance by landlords with the Rent Stabilization Act.

In February 1981, Emergency Bill 55-80 repealed and reenacted Section 29-51, Rental Housing Data Collection, with the following provisions that continue in current law:

- Landlords are encouraged to keep holdover rent increases below ten percent;
- Landlords are required to include certain information in their notices to tenants of rent increases;
- Rental facilities containing 12 or more units must report rent increases on a monthly basis to OLTA; and
- DHCD must publish quarterly reports to the Council on rent increases in the County.

In addition, the Rent Stabilization Act continues to contain a number of other provisions that relate to sections of law that have since either expired or been repealed. The legal significance of these provisions will be discussed later in this report.

6. Amendments to Rent Stabilization Act since February 1981

With the exception of a few technical amendments the language in the current Rent Stabilization Act has remained unchanged for the past decade. The following minor amendments were made to the Rent Stabilization Act since 1981:

- In February 1983, the law was amended to require that councils of unit owners of condominium housing units and the boards of directors of cooperative housing units must report the rental status of their respective units to OLTA (Bill 16-82);
- In March 1984, the law was amended to establish that any regulations governing the administration of the Rent Stabilization Act should be promulgated as method (2) executive regulations (Bill 46-83);*
- In May 1984, as part of an Executive branch reorganization, the law was amended to replace most references to the Office of Landlord Tenant Affairs with references to the Department of Housing and Community Development (Bill 13-84);** and
- In November 1984, the law was amended to clarify the applicability of the Rent Stabilization Act in incorporated municipalities (Bill 52-84).

B. Applicability of Rent Stabilization Act in Municipalities

Table 1 (page 8a) indicates the applicability of the Rent Stabilization Act in each of the County's 17 municipalities. The table shows that the Rent Stabilization Act, as part of the County's Landlord-Tenant law (County Code Chapter 29), has been adopted by eight municipalities: Brookeville, Town of Chevy Chase, Chevy Chase Sections 3 and 5, Glen Echo, Kensington, Martin's Addition, and Somerset.

The cities of Gaithersburg, Rockville, and Takoma Park are the only municipalities with a significant number of rental facilities that have not adopted the County's Landlord-Tenant law. Each of these municipalities has its own office that handles landlord-tenant matters (see Table 2, page 8b).

As will be discussed later in this report (see page 40), the cities of Gaithersburg and Rockville enacted legislation that is similar to the County's Rent Stabilization Act. Takoma Park has been operating a rent control system since 1981.

* Under method (2) executive regulation procedures, the Council has 60 days to approve or disapprove regulations proposed by the Executive. If the Council does not act upon the proposed regulation within 60 days, the regulations are deemed approved. To date, no executive regulations concerning administration of the Rent Stabilization Act have been promulgated.

** A number of references in the Rent Stabilization Act to the Executive Director of OLTA were not removed by the 1984 amendments.

Table 1

**Applicability of County Code Chapter 29,
Landlord-Tenant Relations, in Municipalities**

<u>Municipality</u>	<u>Chapter 29 Applies</u>
Barnesville	No
Brookeville	Yes
Chevy Chase Village	No
Chevy Chase Section 3	Yes
Town of Chevy Chase	Yes
Chevy Chase Section 5	Yes
Gaithersburg	No
Garrett Park	No
Glen Echo	Yes
Kensington	Yes
Laytonsville	No
Martin's Addition	Yes
Poolesville	No
Rockville	No
Somerset	Yes
Takoma Park	No
Washington Grove	No

Source: Montgomery County Municipal League table, of County law applicability as of July 1990.

Table 2

**Number of Licensed Rental Units in
Gaithersburg, Rockville, and Takoma Park**

<u>Municipality</u>	<u>Chapter 29 Applies</u>	<u>Licensed Rental Units</u>	<u>City Office Responsible for Landlord-Tenant Affairs</u>
Gaithersburg	No	7,209	Office of Rental Housing
Rockville	No	2,801	Landlord-Tenant Office
Takoma Park	No	1,998*	Department of Housing Services

* Includes only rental units located in Montgomery County portion of Takoma Park.

Source: Cities of Gaithersburg, Rockville, and Takoma Park.

C. Relationship of Rent Stabilization Act to other County and State Laws

1. Relationship of Rent Stabilization Act to other Sections of Chapter 29, Landlord-Tenant Relations

The Rent Stabilization Act is codified as the sixth out of seven articles in Chapter 29, Landlord-Tenant Relations. The other articles concern various aspects of landlord-tenant relations in the County, including:

- The powers and duties of the Office of Landlord-Tenant Affairs (OLTA) and the Commission on Landlord-Tenant Affairs;
- The authority to license and inspect rental facilities in the County, and to collect an annual license fee per dwelling unit; and
- General and specific obligations of landlords and tenants, such as terms to be included in all leases, certain notice requirements, eviction procedures, responsibilities for maintenance, and tenants' right to form tenant organizations.

The Rent Stabilization Act is linked to other sections of Chapter 29 in a number of ways. For example, several terms used in the Rent Stabilization Act are defined in the main definition section of Chapter 29 (Section 29-1). Another example is that the Rent Stabilization Act requires certain data to be collected from licensed rental facilities, and the criteria and procedures for licensing are described in another article of Chapter 29 (Section 29-18).

Two important tenants' rights provisions currently included in the Rent Stabilization Act are repeated in another section of the County landlord-tenant relations law. Specifically, requiring 60 days notice for a rent increase and restricting rent increases to one per year are provisions found in both the Rent Stabilization Act (Article VI) and the Tenants' Rights Division (Article IV).

"Rent stabilization" per se is mentioned only once in Chapter 29 outside of the Rent Stabilization Act itself. Section 29-10(d), Powers and duties, assigns the Commission on Landlord Tenant Affairs with studying and periodically reporting to the Council and the Executive on any federal rent stabilization regulations that concern, "rent increases or rent inequities that they may find to exist in the County." This assignment was given to the Commission in the early 1970's, when the federal government assumed a larger role in local rent regulation. Although in practice the Commission no longer performs this role, the assignment is still in the law.

2. Relationship of Rent Stabilization Act to the Rent Supplement (now Rental Assistance) Program

The legislative findings of the Rent Stabilization Act were amended in 1977 to state that the Council, "... will be developing additional and strengthened programs to encourage the development of rental housing and will be considering major changes to the rent relief programs in the County so as to improve the delivery of this service to tenants."

In July 1978, the Council acted upon this stated intent to change the County's rent relief programs by enacting the Rent Supplement Program. (Codified as Chapter 41A.) The Rent Supplement program, which was consolidated into the Rental Assistance Program in 1987, has been amended several times since enactment.*

3. Relationship of Rent Stabilization Act to Chapter 53A, Tenant Displacement

Chapter 53A, Tenant Displacement, was initially enacted in 1981 as part of the County's response to tenant displacement caused largely by the conversion of numerous multifamily rental facilities into condominiums. The law provides that once a rental facility of 10 or more units receives a contract for transfer or sale, the public sector must be offered the right of first refusal to purchase the rental facility by matching the terms and conditions of the original contract. However, the law also provides that an owner is not required to offer the public sector the right of first refusal if the contract purchaser enters into an agreement with the County to retain the property as a rental facility for three years.**

Compliance with Chapter 53A has, in most cases, been achieved by contract purchasers of rental facilities entering into three-year rental agreements. The rental agreements often include the contract purchaser's commitment to limit rent increases below a certain percentage for the coming three years. Since 1982, the County has entered into approximately 60 three-year rental agreements, of which approximately one-third have included commitments regarding rent increase.

DHCD is responsible for ensuring that landlords adhere to their rental agreements. DHCD staff use the monthly rent increase data collected under the Rent Stabilization Act to monitor compliance with the three-year rental agreements, which are signed in accordance with provisions of the Tenant Displacement law.

* A separate OLO evaluation of the Rental Assistance Program will be completed in the Spring of 1991.

** In March 1990, the Council enacted Emergency Bill 7-90 to amend selected provisions of Chapter 53A, and to extend the sunset date of Chapter 53A from June 30, 1990 to June 30, 1995. (See OLO Report 89-2, An Evaluation of County Code Chapter 53A, Tenant Displacement.)

4. Relationship of Rent Stabilization Act to State Law

Although many provisions in Chapter 29 are also codified in the State's landlord-tenant law (Real Property Article, Title 8, Landlord and Tenant), the only provision in State law that provides some relevance to the Rent Stabilization Act is a requirement that landlords maintain a record system that shows the dates and amounts of rent paid. (Section 8-208.2) There are no longer any references in State law to voluntary rent guidelines or rent control.

III. EVALUATION

This chapter evaluates the substance and administration of the Rent Stabilization Act. For reference, the current version of the Rent Stabilization Act is attached as Appendix C. The evaluation is organized as follows:

- **Section A, Collecting and Reporting Rental Housing Data**, reviews the County's process and costs for collecting data about rental facilities and providing summary reports to the Council pursuant to the Rent Stabilization Act;
- **Section B, The Record of Holdover Rent Increases: 1981-1990**, analyzes the substance of holdover rent increase data collected pursuant to the Rent Stabilization Act; this includes examining the relationship between reported rent increases, the Consumer Price Index, and the voluntary rent guideline established annually by the County;
- **Section C, The Record of Rental Vacancy Rates: 1981-1990**, reviews the substance of vacancy rate data collected pursuant to the Rent Stabilization Act;
- **Section D, Rent Increase Notice Requirements**, examines the requirements and experience with the tenant rent increase notice requirements contained in the Rent Stabilization Act;
- **Section E, Public Perceptions of Rent Monitoring and Related Activities**, summarizes the views obtained from members of the public about the benefits and problems with the Voluntary Rent Guideline, monthly rent reporting, and tenant rent increase notice requirements;
- **Section F, Information and Referral Service**, evaluates the implementation of the housing information and referral service requirement contained in the Rent Stabilization Act; and
- **Section G, Other Provisions**, discusses a number of other sections of the Rent Stabilization Act: the legislative findings, penalties, and extraordinary rent increase provisions.

Comparative information is summarized in Chapter IV of this report, beginning on page 40.

A. Collecting and Reporting Rental Housing Data

1. Statutory Requirements

One of the objectives of the Rent Stabilization Act, as stated in the legislative findings section, is:

Strengthening and coordination of rent reporting requirements by the office of landlord-tenant affairs so that the public and its agencies can be aware of and evaluate changes in the rental housing market. (Section 29-47)

The Rent Stabilization Act charges the County Executive with the general mission to collect and analyze housing data about rental dwelling units in the County. The law requires that such data collection be centralized in order to minimize the reporting burden of landlords.

Table 3 (page 12a) summarizes the data collection requirements contained in the Rent Stabilization Act. While some requirements apply to all licensed rental facilities, others apply only to rental facilities containing 12 or more units. The frequency of reporting varies from monthly to "as requested", and the entity designated to collect the data is either the Office of Landlord-Tenant Affairs (OLTA) or simply "the County". Specifically:

- On a monthly basis, landlords of County licensed rental facilities, containing 12 or more dwelling units, must report to OLTA all holdover and turnover rent increases;*
- As requested, landlords must report to the County the following information about licensed rental facilities: location, structure type, year built, distribution of units by bedroom sizes, number of vacant units, number of re-rented units, and rent levels; and
- All council of unit owners of condominiums and all board of directors of cooperatives must report to OLTA the address and landlord of all dwelling units in the facility which are used as rental facilities. (The frequency of this reporting requirement is not specified in law, although individual unit owners are directed to report the rental status of each unit owned within ten days of any change).

In addition, Section 29-51(i) requires landlords of all licensed rental facilities to maintain records for each project on an aggregate basis containing certain cost and operating information. While this data is not automatically reported to the County Government, the law requires it to be, ". . . made available to the County upon request and after a determination has been made in accordance with executive procedures that the information is relevant and necessary to carrying out the purposes of this chapter."

* "Holdover rent" refers to the new monthly rent charged to a tenant who continues to occupy the same dwelling unit after the expiration of the tenant's current lease. "Turnover rent" refers to the monthly rent charged to a new tenant.

Table 3

**Reporting Requirements for Landlords Contained in
Code Section 29-51**

<u>Data Required</u>	<u>Concerning Which Type of Facilities</u>	<u>Report Sent to:</u>	<u>Frequency of Reporting</u>
(A) • Proposed rent increases	Licensed rental facilities containing 12 or more units	OLTA	Monthly
(B) • Location • Structure type • Year built • Number of units by bedroom size • Number of vacant days • Rent levels	All licensed rental facilities	County ¹	As requested
(C) <u>Aggregate information on:</u> • Utility costs • Availability of amenities • Operating revenue and expenditures by category • Tenant rent/income ratio of prospective tenants	All licensed rental facilities	County ¹	Upon request ²
(D) • Identification of rental units • Name and address of landlord ³	Condominium and cooperative units	OLTA	None specified

¹ Sections 29-51(h) and 29-51(i) identify the "County" as the recipient of this data.

² Section 29-51(i) requires this data to be provided, "after a determination has been made in accordance with executive procedures that the information is relevant and necessary to carry out purposes of this Chapter".

³ Section 29-51(j) requires individual condominium/cooperative unit owners to report the rental status of owned units to their respective Board of Directors or Council of Unit Owners, and to report any status change within ten days of such change.

The Rent Stabilization Act also imposes certain reporting requirements on the Department of Housing and Community Development (DHCD)*. Specifically, since February 1982, DHCD has been required to provide quarterly status reports to the County Council that, "summarize the information accumulated from the required reports submitted by each landlord of rental facilities in Montgomery County." (Section 29-51(f)) Between April 1981 and February 1982, DHCD was required to provide such status reports on a monthly basis.

2. In Practice: Collecting and Reporting Rent Increase Data

This section reviews how the County Government actually collects and reports rent increase data. It is followed by a section that reviews the practices of collecting other types of rental facility data. The estimated costs of collecting data is discussed beginning on page 19, and the substance of the data collected is analyzed beginning on page 21.

a. General. The County's Office of Landlord Tenant Affairs (OLTA) has collected and reported rent increase data since April 1981. In accordance with the requirements of the Rent Stabilization Act, OLTA collects holdover and turnover rent increase data on a monthly basis.

OLTA's current procedure is to mail rent reporting forms during the third week of each month to all landlords of licensed rental facilities containing 12 or more units. Landlords are instructed to complete the forms and return them to OLTA by the first week of the following month. A copy of the rent report form is included as Appendix B, page 71.

OLTA staff contact (by phone) all landlords who do not return the rent increase form in a timely manner. If a landlord indicates that the form will be mailed within a few days, no immediate action is taken. If the completed rent increase form is not received as indicated, OLTA sends a letter informing the landlord of their delinquency; if the information is still not received, additional delinquency letters are sent. In practice, as long as a landlord reports holdover rent increase data, OLTA staff do not routinely follow-up on the absence of turnover rent data.

In 1989, OLTA requested monthly rent increase data from 233 licensed rental facilities containing 12 or more units. During 1990, OLTA updated their records and added 47 rental facilities for a total of 280 properties requested to report monthly.** The 47 properties added in 1990 represented rental facilities containing 12 or more units that had been licensed during the past several years, but which had not been integrated into the rent reporting system. Rental properties owned, managed, or administered by the Housing Opportunities Commission (HOC) are not required to provide monthly rent increase data.

* Since May 1984, OLTA has been administratively located as a separate division within the Department of Housing and Community Development.

** Added together, these 280 rental facilities contain approximately 47,500 rental units, which represent 55 percent of the County's rental stock. For a detailed discussion of this issue, see pages 21-23.

OLTA's records indicate that only a handful of landlords fail to return their monthly rent reporting forms. Specifically, during 1989 and 1990:

- Rent reporting forms from 79 percent of the rental facilities required to report monthly rent increases were received on time;
- Rent reporting forms from 14 percent were submitted after being sent one reminder letter; and
- Rent reporting forms from five percent were submitted after being sent between two and six reminder letters;

OLTA records for 1989 and 1990 indicate that only two percent of the rental facilities, which by law are required to submit monthly rent increase data, failed to provide the requisite rent increase forms, even after being sent at least six reminder letters. To date, the County has not taken any legal action against these landlords.

b. OLTA's data base for rent increases. With 280 licensed rental facilities reporting rent increases each month, OLTA collected more than 3,000 rent reporting forms in 1990 alone. Since 1981, OLTA has collected more than 35,000 rent reporting forms. Due to the large volume of paperwork, only hard copies for the past two years are kept in the Office; the rest have been boxed and sent to the County's archives.

Each rent reporting form requests the landlord to provide data on both holdover and turnover rents. Each entry is listed by unit which gives the unit's address, the standard bedroom size, and indicates if the unit receives a Section 8 subsidy. For each holdover rent increase, the form requires landlords to report the old rent, the new rent, the percentage increase, and the effective date of the rent increase. For each turnover rent increase, the form requires landlords to report the previous rent, the new rent, and the move-in date.

For all completed rent increase forms, OLTA staff verify that the percentages of holdover rent increase have been calculated correctly. If necessary, corrections to the rent increase percentages (of individual units) are made by hand on each rent report form. For the facility as a whole, OLTA staff also calculate the average percentage of holdover rent increase and the range of rent increases.

Each month, OLTA staff categorize, by hand, all reported holdover rent increases (by unit) into one of four categories:

- Rent increases below the Voluntary Rent Guideline (VRG);*

* An explanation of the Voluntary Rent Guideline (VRG) begins on page 26.

- Rent increases between the Voluntary Rent Guideline and ten percent;
- Rent increases above ten percent but below 15 percent; or
- Rent increases above 15 percent.

OLTA staff use a computer word processing program to record in word processing documents three statistics obtained from the monthly rent increases reports: (1) the raw number count of holdover rent increases for each rental property by rent increase category; (2) the average percentage of holdover rent increase for each rental facility; and (3) the range of percentage increases for the facility. These word processing documents do not contain any of the turnover rent data, which, as indicated earlier, are not consistently reported.

On a quarterly basis, OLTA staff use the word processing program to calculate the average quarterly rent increase by averaging all the monthly average increases for each property. Each quarter, the monthly rent reporting forms are rechecked manually for errors. This summary data provide the basis for OLTA's quarterly rent increase reports. (The record of the quarterly reports is summarized on page 16.)

OLTA's current structure of data collection provides sufficient information to monitor and report on the number and averages of rent increases. Using the word processing program, staff record the analysis of the data from the rent reporting forms, but the raw data itself remains in hard copy form. Without having the raw data stored on the computer, the utility of the data is limited because OLTA staff cannot easily:

- Tabulate rent increases according to other factors such as geographic area, or type of rental complex;
- Monitor the statutory requirement that tenants receive only one rent increase per year;
- Track the rent history of an individual unit, which may be needed either to respond to a tenants' complaint or as evidence in a proceeding before the Commission on Landlord Tenant Affairs;
- Monitor the dollar amount as well as the percentage of rent increases; or
- Analyze changes in turnover vs. holdover rent increases.

Finally, ad hoc inquiries cannot be easily answered without manually scanning each rent form, a task that can take a considerable amount of time. For example, last year, the Director of DHCD wished to know the difference between the average holdover and turnover rents according to bedroom size for 1989; it was approximately three months before OLTA staff had an answer.

c. Records of reports to Council. In accordance with requirements of the Rent Stabilization Act (Section 29-51(f)), the record shows that since February 1982, DHCD has provided the County Council with quarterly rent increase reports that summarize the data collected about rent increases. Between April 1981 and December 1981, these reports were provided on a monthly basis.

The Council receives the quarterly rent increase report in January, April, July, and October; each report contains data about the previous three months. The quarterly report has consistently included a narrative section that highlights the rent increase activity, plus an actual listing of reported holdover rent increases by property, broken down into categories, e.g., below the Voluntary Rent Guideline (VRG), between the VRG and ten percent, above ten percent, and above 15 percent.

In general, the narrative portion of the report summarizes the record of reported increases compared to the statutory guideline of ten percent and compared to the County's Voluntary Rent Guideline. In addition, the narrative points out any noteworthy historical patterns. Specific mention is usually given to rental facilities that reported rent increases above 15 percent, with the reason behind the increase if it has been identified.

The quarterly rent increase report is distributed to members of the County Council, and made available, upon request, to landlords and other interested parties. According to OLTA staff, requests for this data are routinely received from the private sector.

d. Other uses of rent increase data. Each month, the Chief of the Office of Landlord Tenant Affairs reviews a summary of the reported rent increases. Landlords reporting rent increases that exceed ten percent are frequently contacted by the OLTA Chief to find out the reasons for such increases.

If, in the judgment of the OLTA Chief, a reported rent increase will cause an undue hardship for tenants, the OLTA Chief attempts to convince the landlord to modify the rent increase, and/or to phase in the increase over several years. There are several dozen examples during the past decade where the OLTA Chief's intervention has resulted in the modification of a proposed rent increase. If it is believed that the rent increase constitutes a "conversion" as defined by the County's Tenant Displacement law (Chapter 53A), the OLTA Chief contacts the Office of Consumer Affairs to discuss how to proceed.*

* Chapter 53A defines "conversion" to include an increase in rents that results in the displacement of more than one-third of the tenants during a 12-month period. See page 10 for more about Tenant Displacement law.

OLTA staff also use the monthly rent increase data for a number of other specific purposes:

- The rent increase data enable OLTA staff to research and formulate responses to individual tenants' complaints received by OLTA, the County Executive, and/or the County Council regarding rent increases;
- Holdover rent data are used to monitor three-year rental agreements that the County enters into pursuant to the Tenant Displacement law; and
- Turnover rent data are used occasionally as evidence in resolving tenant complaints regarding the return of security deposits.

3. In Practice: Collecting and Reporting Vacancy Rate and Rent Level Data

a. General. The authority for DHCD to collect data about the supply and availability of rental housing in the County is contained in Section 29-51(h) of the Rent Stabilization Act. Every year since 1983, DHCD has conducted a survey to obtain rent levels, vacancy rates, and other general information about licensed rental facilities. DHCD uses this data to compile an annual rental vacancy report and to publish (and periodically update) a directory of licensed rental facilities.

In mid-April of each year, DHCD mails a written survey form to landlords of licensed rental facilities in the County containing 12 or more units. With the cooperation of the cities of Gaithersburg, Rockville, and Takoma Park, DHCD also mails this annual survey to landlords of rental facilities located in these three municipalities. Every three years, the survey is extended to landlords of rental facilities containing fewer than 12 units, and additional information is requested for the compilation of the apartment directory.

The annual survey requests landlords to provide the following information: the address and rental office telephone number; structure type; number of units and vacant units by standard bedroom size; and the lowest and highest turnover rent.

Most of the survey forms are returned by the beginning of May. DHCD staff place follow-up phone calls to landlords in cases when the form has not been returned, or if there are discrepancies from previous surveys. Information received is then entered into a computer data base. The resulting output is used for the data in both the vacancy report and apartment directory.

b. Reporting vacancy rate data to Council. DHCD uses the data collected in April of each year to compile a written report that is transmitted to the County Council. This report, titled the "Annual Vacancy Report", is generally completed by August of each year. Copies are made available to the public upon request. According to OLTA staff, approximately 200 vacancy reports are distributed annually.

The report provides information on rental housing vacancy rates and rent levels. The reports have generally given some historical perspective on vacancy rates by bedroom size and by location (unincorporated Montgomery County, Gaithersburg, Rockville, and Takoma Park). Vacancy rates are listed for the present and past years according to categories such as: market area, bedroom size, building type (garden, mid-rise, high-rise, townhouse), and rent level categories. In addition, rent levels are reported by bedroom size and by market area.

c. The apartment directory. DHCD also uses the data collected in April every three years to compile a directory of licensed rental facilities in the County. The directory is reportedly used by County and Housing Opportunities Commission staff to help tenants locate affordable housing.

The apartment directory, which has generally been updated and re-published every three years, lists rental properties according to market areas, and identifies special buildings for elderly, the handicapped, and families. The entry for each rental facility includes: the property's name, address, and rental office telephone number; the structure type, the number of units by standard bedroom size, if and which utilities are included, deposit information, and what amenities are included.

The most recent apartment directory was compiled in 1988. Due to current budget constraints, an updated directory may not be published this year. The directory is distributed to the public free of charge and is available at County libraries, County Community Service Centers, other County offices, and upon request. According to OLTA records, approximately 15,000 apartment directories were published and distributed during the past three years.

4. In Practice: Collecting Data from Condominium and Cooperative Units

In February 1983, legislation was passed to require the licensing of rented condominium and cooperative units. This legislation (Bill 16-82) also amended the Rent Stabilization Act to require that council of unit owners of condominium housing units and the boards of directors of cooperative housing units must report the rental status of their respective units to OLTA. Individual landlords are required to report any rental status change within ten days of such change.

According to OLTA staff, this reporting requirement is used to monitor enforcement of the condominium and cooperative rental licensing requirements. Specifically, staff cross-check the data reported pursuant to the Rent Stabilization Act with the licensing records to ensure that the

condominium and cooperative units reported as rental are in fact licensed. Owners of rented units that are not licensed are contacted and informed of the licensing requirements.

5. In Practice: Collecting Other Operating and Cost Data from Landlords

As described earlier in this report, Section 29-51(i) requires landlords to provide certain operating and cost data to the County upon request, and "after a determination has been made in accordance with executive procedures that the information is relevant and necessary to carrying out the purposes of this chapter." Specifically, the law requires landlords to maintain and make available, when appropriate, data such as:

- The landlord's actual monthly utility costs, including gas, electric, heating, fuel, trash removal, and water and sewer;
- The landlord's actual operating expenses and operating revenues; and
- Tenant rent/income ratios.

The requirement for landlords to maintain this data was first placed into County law in 1977 as part of the Omnibus Tenant Protection Act. (For more legislative background, see page 5.) In practice, according to the OLTA Chief, the County relied upon this section of law between 1977-81 to obtain information relevant to making decisions regarding requests from landlords for Extraordinary Rent Increases (ERIs), and to resolve complaints from tenants regarding rent increases that exceeded the County's rent guidelines. Since provisions for receiving ERIs and adjudicating complaints about rent increases expired in 1981, OLTA does not routinely make any requests from landlords for operating expense or revenue data.

6. The Fiscal Impact of Collecting Rental Housing Data

This section reviews the County Government's estimated costs of collecting and compiling rental housing data pursuant to the Rent Stabilization Act. The estimated cost (in terms of time) from the landlords' point of view is discussed later in this report.

a. General. Table 4 (page 19a) summarizes the amounts budgeted in FY91 for implementing the three major data collection activities carried out in conjunction with the Rent Stabilization Act: monthly rent reporting, the annual vacancy report, and the apartment directory. This fiscal year (FY91), monthly rent reporting and the annual vacancy report will cost approximately \$44,000. DHCD's FY91 budget includes an additional \$16,120 to publish an updated apartment directory; as indicated earlier, apartment funds to publish an updated directory are included every three years. (Due to current budget constraints, an updated directory may not be published in FY91.)

The almost \$60,000 budgeted in FY91 for DHCD's rental housing data activities is funded entirely from the Landlord-Tenant Fund. The source of revenue for the Fund is annual license fees on rental units in the

Table 4

**DHCD's FY91 Budget for
Collecting and Reporting Rental Housing Data**

<u>Activity</u>	<u>Personnel Costs</u>	<u>Operating Costs</u>	<u>Total</u>
Monthly Rent Reporting	\$36,408	\$ 2,027	\$38,435
Annual Vacancy Survey	5,030	310	5,340
Apartment Directory*	<u>7,820</u>	<u>8,300</u>	<u>16,120</u>
Total:	\$49,258	\$10,637	\$59,895

* Due to current budget constraints, DHCD may not publish an apartment directory in FY91.

Source: DHCD records.

County. In FY91, \$60,000 represents approximately four percent of the \$1.4 million collected through license fees on 56,000 rental units in the County. In addition to supporting all activities of the Office of Landlord Tenant Affairs (including the Commission on Landlord-Tenant Affairs), the Landlord-Tenant Fund supports DHCD's multifamily code enforcement activities.

By law (Section 29-19, Fees), the annual rental license fee is set by executive regulation at a level to cover the administration of the Landlord-Tenant law.* In FY91, the per unit fee is \$24.00. If all rental data collection activities were suspended, then (assuming all other costs and factors remained the same) the per unit rental license fee could be reduced by approximately \$1.00.

To place the \$60,000 budgeted for rental housing data collection in perspective, it is also useful to examine it as a percent of the effort of the Office of Landlord Tenant Affairs. In FY91, \$60,000 represents approximately seven percent of the \$848,600 budgeted for the Division of Landlord Tenant Affairs. In years that do not budget for an update of the apartment directory, the costs of rental housing data collection constitute closer to five percent of the OLTA Division's budget. The following three sections discuss the costs of the three major data collection activities in greater detail.

a. Rent increase data. According to DHCD's records, the County's system of rent monitoring (which includes collecting monthly rent increase data and producing the quarterly rent increase reports to Council) will cost \$38,435 to administer in FY91. The staff work associated with rent monitoring activities is not accomplished by one individual. Instead, the \$36,408 in personnel costs include portions of the salaries and fringe benefits of four OLTA staff;

- 20 percent of an Automated Systems Manager's time;
- 40 percent of one Administrative Aide's time;
- 25 percent of another Administrative Aide's time; and
- 5 percent of the OLTA Chief's time.

In addition to personnel costs, DHCD estimates that the monthly rent reporting system, as currently administered, requires approximately \$2,000 in operating expenses: \$1,500 for postage and \$500 for printing.

* The annual rental license fee is set as a method (3) executive regulation, which in accordance with Code Section 2A-15, is not subject to Council approval or disapproval. A method (3) regulation goes into effect 30 days after the deadline for comments following publication of the proposed regulation in The Register.

b. Annual vacancy survey. According to DHCD's records, in FY91, the annual vacancy survey will cost \$5,030 in staff time, plus \$310 in operating expenses (photocopying, postage, and supplies). Similar to the rent increase data tasks, staff time needed to conduct and write-up the annual vacancy report is divided among several individuals.

Unlike rent monitoring, however, the vacancy report can be characterized as a seasonal activity, because it takes concentrated staff effort only between April and July of each year. During other months, the only related staff cost is the time needed to answer questions about the survey and distribute copies as requested. There is no charge to receive a copy of the annual vacancy survey.

c. Apartment directory. DHCD's FY91 budget contains \$16,120 for an update of the apartment directory, which was most recently published in 1988. Funds to publish an updated directory are generally included once every three years. As indicated earlier, due to budget constraints, an updated directory may not actually be published during FY91.

The operating costs associated with producing an apartment directory are even higher than the staff costs associated with compiling the needed information. This is due largely to the significant printing and distribution costs of this lengthy document; for FY91, printing was estimated to cost almost \$7,000, with other production expenses totalling \$1,350, e.g., layout, postage, photocopying. Current practice is that copies of the directory are made available without charge, for as long as supplies last.

B. The Record of Holdover Rent Increases: 1981-1990

1. Statutory Requirement

At present, the only statutory language in the Rent Stabilization Act that explicitly concerns the level of rent increases is the following sentence:

Landlords are encouraged to hold rent increases at the lowest level possible and not more than ten (10) percent over the rent last charged for any dwelling unit. (Section 29-51(a))

As reviewed earlier in this report, this statutory provision was enacted in February 1981, as part of legislation that replaced a more stringent system of rent guidelines. Under the previous law, all rent increases that exceeded ten percent had to be justified to the Commission on Landlord-Tenant Affairs, and the Commission was authorized to order rent rollbacks or rebates when landlords were found to increase rents without adequate justification. (For more details on the legislative history, see page 2).

2. Understanding that Rent Increase Data is Collected from Only a Portion of the County's Rental Housing Market

Before analyzing the levels and trends of holdover rent increases in the County for the past decade, it is important to recognize that the rent increase data collected by OLTA represent data obtained from only a portion of the rental housing market.

As explained in the previous section, OLTA routinely collects monthly holdover rent increase data about rental units:

- That are licensed by the County's Office of Landlord Tenant Affairs;
- That are located in rental facilities that contain 12 or more dwelling units; and
- That are not owned, managed, or administered by the Housing Opportunities Commission.

Table 5 (page 22a) shows the number of holdover rent increases reported to OLTA each year between 1981 and 1990. The data show that since 1985, OLTA has collected data on holdover rent increases for an average of almost 28,000 rental units each year. As noted in the previous section, although turnover rent data is also requested, this data are not consistently reported or tracked.

As of October 1990, it is estimated that there are approximately 85,400 rental housing units in the County.* Comparing the number of units that report holdover rent increases to the universe of rental housing units in the County provides a useful perspective.

Chart I (page 22b) divides the County's 1990 rental housing market into three segments:

- **Segment A** represents the 34 percent of rental housing units for which holdover rent increases were reported in 1990;
- **Segment B** represents the 21 percent of rental housing units which are required to report rent increase data, but for which no holdover rent increases were reported in 1990; and
- **Segment C** represents the 45 percent of units in the rental housing market which are not required by law to report rent increases.

* The total number of rental housing units is based upon data compiled from M-NCPPC's Montgomery County Planning Department, the Housing Opportunities Commission, and DHCD.

Table 5

Number of Reported Holdover Increases
1981-1990

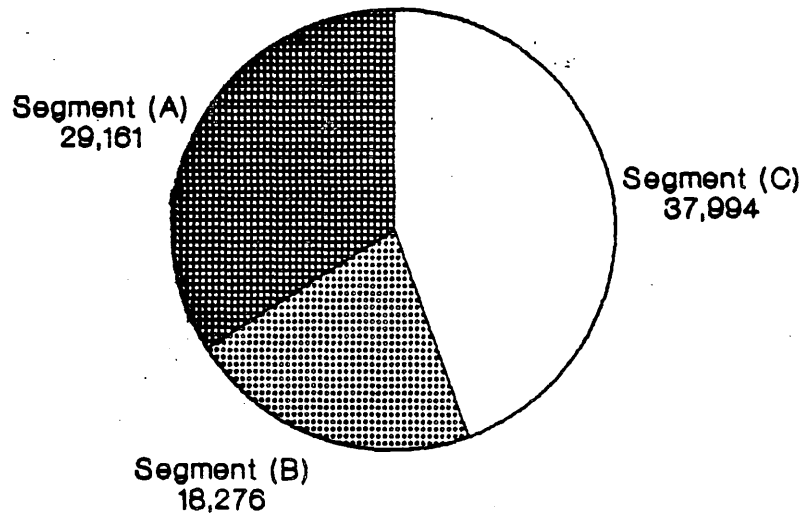
<u>Year</u>	<u>Number of Reported Holdover Increases</u>
1981*	24,526
1982	27,496
1983	28,533
1984	29,774
1985	27,973
1986	28,056
1987	26,817
1988	27,649
1989	28,002
1990	29,161

* From April 1981.

Source: Quarterly rent increase reports, 1981-1990, DHCD.

Chart I

**Breakdown of County's 1990 Rental Stock
According to Units Reporting Holding Rent Increases**



Segment	Description	Number of Rental Units	Percent of Total Rental Stock
A	Units for which holdover rent increases were reported.	29,161	34
B	Units for which holdover rent increases were not reported.*	18,276	21
C	Units not required to report.	37,994	45
	TOTAL	85,431	100

* Almost all of these units are units rented to new tenants, which means there is no "holdover" rent to report.

Source: M-NCPPC Planning Department data, HOC records, and OLTA records.

Segment A plus **Segment B** represents that portion (55 percent) of the County's rental housing stock that is required to report rent increases on a monthly basis. The 18,276 units in **Segment B** are those units which are required to report rent increase data, but for which no holdover rent increase were reported in 1990. There are several reasons behind the significant number of units in **Segment B**, the most common being that the unit was re-rented to a new tenant, which classifies the new rent charged as a turnover rent instead of a holdover rent.* In addition, there are a relatively small number of units for which the current tenant received no rent increase, or for which the landlord failed to comply with the reporting requirement.

Segment C represents those rental housing units that, under current law, are not required to report rent increases to OLTA; Table 6 (page 23a) lists the component parts of **Segment C**. The largest categories of rental housing units that do not report rent increases to the County are rented single-family homes (16,300 units), and rental units located in the municipalities of Gaithersburg, Rockville, and Takoma Park (11,052 units). In addition, there are 5,000 rental units located in condominium/cooperative housing facilities, and another 3,172 units owned, managed, or administered by the Housing Opportunities Commission, all of which do not report rent increase data to OLTA.

In sum, when analyzing the rent increase data collected by OLTA, it must be remembered that in any one year, the data represent information collected from approximately one third of the rental units in the County. Although data are not collected from the entire rental stock, the data nonetheless, represent information about a significant segment of the County's rental housing market. In addition to including a relatively large number of units (i.e., 29,161 units reported holdover rent increases in 1990), this segment of the rental market represents a large proportion of the "affordable" multifamily rental stock in the County.

The following pages examine the levels and trends of reported holdover rent increases in the County, including a comparison of rent increases to the Consumer Price Index, and to the Voluntary Rent Guideline issued annually by the County. Throughout the discussion, it must be remembered what portion of the rental housing market this data represent, i.e., holdover rent increases for units located in rental facilities containing 12 or more units, that are licensed by OLTA, and not owned, managed, or administered by HOC.

3. Mean and Median Holdover Rent Increases Reported Since 1983

The line graph on Chart II (page 23b) depicts the average (mean and median) holdover rent increases reported to OLTA each year since 1983.*

* OLTA records indicate that 35-40 percent of licensed rental units are re-rented to new tenants each year.

Table 6

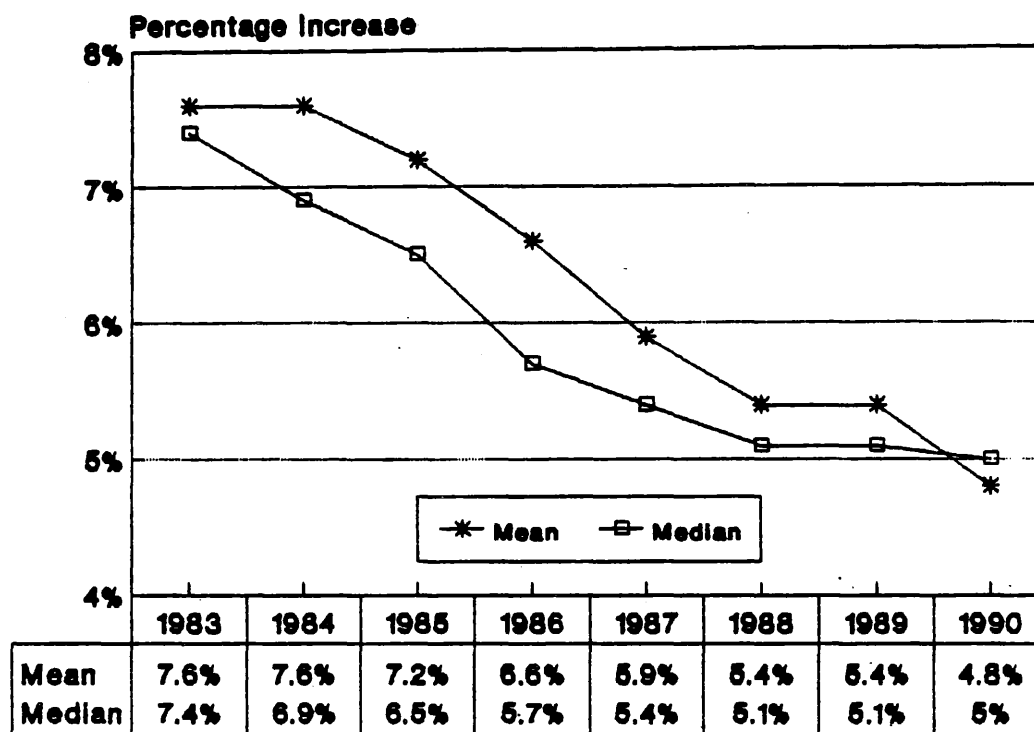
**Rental Housing Units Not Required
to Report Rent Increases**

<u>Type Rental Housing</u>	<u>Number</u>	<u>As Percent of Total Rental Stock</u>	<u>Source of Data</u>
1) Single-family rental unit	16,300	19.1	M-NCPPC 1987 Census update
2) Units located in municipalities* (in facilities containing 12 or more units)	11,052	12.9	DHCD Vacancy Report 1990
3) Licensed rental condo/co-op units	5,000	5.9	OLTA licensing records 7/90
4) Units owned/managed/ administered by HOC	3,172	3.7	HOC Housing Inventory 7/90
5) Units located in rental facilities containing fewer than 12 units	2,307	2.7	Tax Assessor's Parcel File 10/90
6) Licensed accessory apartments	<u>163</u>	<u>0.2</u>	OLTA licensing records 10/90
Total:	37,994	44.5	

* Gaithersburg, Rockville and Takoma Park.

Chart II

**Comparison of Mean and Median
Holdover Rent Increases
1983-1990**



Source: Quarterly rent increase reports, 1983-1990, DHCD.

Between 1983-1990, the data indicate that for facilities reporting holdover rent increases to OLTA:

- The average (mean) holdover rent increase ranged between 4.8 percent and 7.6 percent;
- The change from year to year in the average holdover rent increase has been gradual, with the average rent increase evidencing a general decline of several percentage points during the past seven years; and
- The median holdover rent increase was consistently below the mean between 1983 and 1989; the median measured slightly above the mean in 1990 (by .2%).

4. The Number of Holdover Rent Increases Above Ten Percent

As reviewed earlier, the Rent Stabilization Act states that "landlords are encouraged to hold rent increases at the lowest level possible and not more than ten percent over the last rent charged." For the years 1981-1990, Table 7 (page 24a) shows the number of reported holdover rent increases that exceeded ten percent, and the number that exceeded 15 percent.

The data show that in 1981 and 1982, a relatively large percentage (40-58%) of reported holdover rent increases exceeded the statute's recommended guideline of ten percent. Since 1983, however, the number and percent of reported rent increases exceeding ten percent has declined. For the past five years, less than six percent of all reported holdover rent increases have exceeded ten percent, and less than two percent have exceeded 15 percent.

According to OLTA staff, the greatest number of the reported holdover rent increases exceeding 15 percent has occurred in rental units undergoing renovation. In some cases, relatively large increases were imposed to bring holdover rent levels up to market rent levels; and in a number of cases, holdover rents were increased more than ten percent in order to improve the cash position of the property.

During the past decade, according to OLTA staff, all reported holdover rent increases above ten percent are brought to the attention of the OLTA Chief. As mentioned earlier, when in the judgment of the OLTA Chief, a reported holdover rent increase would cause undue hardship on tenants, or might result in tenant displacement, the OLTA Chief urges the landlord to modify or phase-in the rent increase. DHCD's quarterly rent report to Council includes mention of specific cases where OLTA's intervention has apparently resulted in modified rent increases. For example:

* Average holdover rent increase data were unavailable prior to 1983. See Table 5 (page 22a) for the number of units for which holdover rent increase data were reported each year and from which average rent increases are calculated.

Table 7

**Reported Holdover Rent Increases
Exceeding Ten and Fifteen Percent
1981-1990**

Year	Total Reported Increases	Increases Above 10%*		Increases Above 15%	
		Number	Percent	Number	Percent
1981**	24,526	9,896	40.3	1,876	4.8
1982	27,496	15,922	57.9	1,355	3.5
1983	28,533	2,790	9.8	492	1.7
1984	29,774	2,228	7.5	1,220	4.1
1985	27,973	2,321	8.3	725	2.6
1986	28,056	1,540	5.5	312	1.1
1987	26,817	1,249	4.6	302	1.1
1988	27,649	697	2.5	164	0.6
1989	28,002	584	2.1	73	0.3
1990	29,161	510	1.7	102	0.3

* Includes increases above 15 percent.

** April to December 1981.

Source: Quarterly rent increase reports, 1981-1990, DHCD.

- In 1984, due to a large property tax increase and fire code improvements, the new owner of a rental facility reported holdover rent increases ranging between 54 and 100 percent. After discussions with OLTA, the average rent increase was reduced to 37.5 percent, and eligible tenants were provided with financial assistance through the County's Rental Assistance Program.
- In 1986, a landlord reported holdover rent increases of 25 percent in 17 units. OLTA discussed a compromise of phasing in the increase over two years; the management company refused. After a lobbying effort by the County Executive, the company reversed its position, and agreed to the OLTA compromise. The company stated that it changed its position to avoid conflict with the County.
- In 1988, a landlord reported holdover rent increases of 20-28 percent for 25 units. After written correspondence from OLTA urging the landlord to reconsider the rent increases, the average rent increase in the facility was reduced to eight percent.

5. Comparison of Average Reported Holdover Rent Increases to Changes in the Consumer Price Index

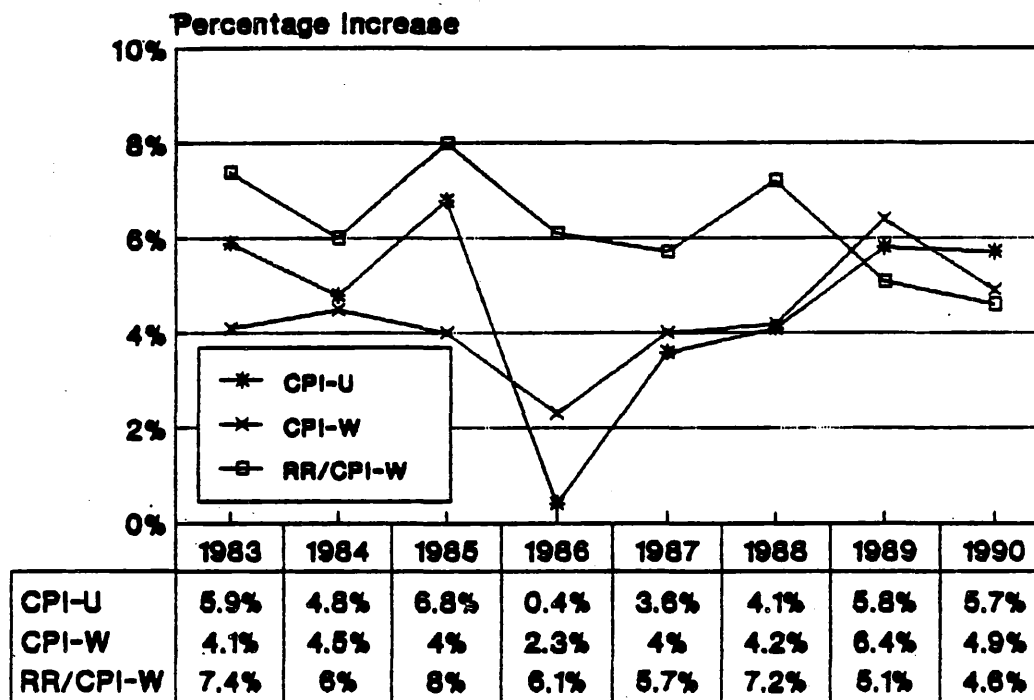
For each year 1983 to 1990, Chart III (page 25a) graphs three price indices for the Washington Metropolitan Area,* the CPI-U, the CPI-W, and the RR/CPI-W:

- The Consumer Price Index for Urban Consumers for the Washington Metropolitan Area (CPI-U) is a measure of the average change in the price paid by urban consumers in the Washington Metropolitan Area for a fixed market basket of goods and services. The seven major expenditure groups of the CPI-U are: food & beverages, housing (including rent), apparel and upkeep, transportation, medical care, entertainment, and other goods and services.
- The Consumer Price Index for Urban Wage Earners and Clerical Workers for the Washington Metropolitan Area (CPI-W) is the average change in the price paid for the same market basket of goods and services by urban consumers in the Washington Metropolitan Area who meet additional requirements related to their employment, i.e., more than half of the household's income must be earned from clerical or wage occupations.

* Defined as the Washington-Maryland-Virginia Standard Metropolitan Statistical Area (SMSA).

Chart III

**Consumer Price Indices
1983-1990**



CPI-U = Consumer Price Index for Urban Consumers for the Washington Metropolitan Area.

CPI-W = Consumer Price Index for Urban Wage Earners and Clerical Workers for the Washington Metropolitan Area.

RR/CPI-W = Rent Residential Component of the CPI-W for the Washington Metropolitan Area.

Source: CPI Detailed Reports, January 1983-1990; February-November 1990, Bureau of Labor Statistics.

- The Rent Residential Component of the CPI-W for the Washington Metropolitan Area (RR/CPI-W) is a measure of the change in rents paid by urban wage earners and clerical workers in the Washington Metropolitan Area. The Rent Residential Component accounts for approximately seven percent of the total CPI-W index.*

Chart III depicts the variability from year-to-year in the three indices. Generally in the Washington Metropolitan Area, the CPI-W and the RR/CPI-W have been above the overall CPI-U.

In general, the price indices for the Washington metropolitan area evidenced a higher degree of variability than the average holdover rent increase reported in the County. (See Chart II, page 23b.) In contrast to the CPI indices which often fluctuated by as much as two percentage points in a single year, the average holdover rent increase did not change more than seven-tenths of a percentage point from one year to the next.

Although year to year changes in the CPI are apparently more variable than changes in holdover rent increases, over time, it is reasonable to expect a strong statistical relationship between the CPI and holdover rent increases. This relationship can best be seen in a simple regression (least squares fit method) between the average holdover rent increase and a three-year rolling average of the RR/CPI-W for the years 1983-1990.

The three-year rolling average is used because there is generally a lag between the time a landlord incurs a cost increase and the time a landlord imposes a rent increase to cover his/her increased costs. Chart IV (page 26a) illustrates how changes in the average rent increases can be largely explained by changes in a three-year rolling average of the RR/CPI-W.

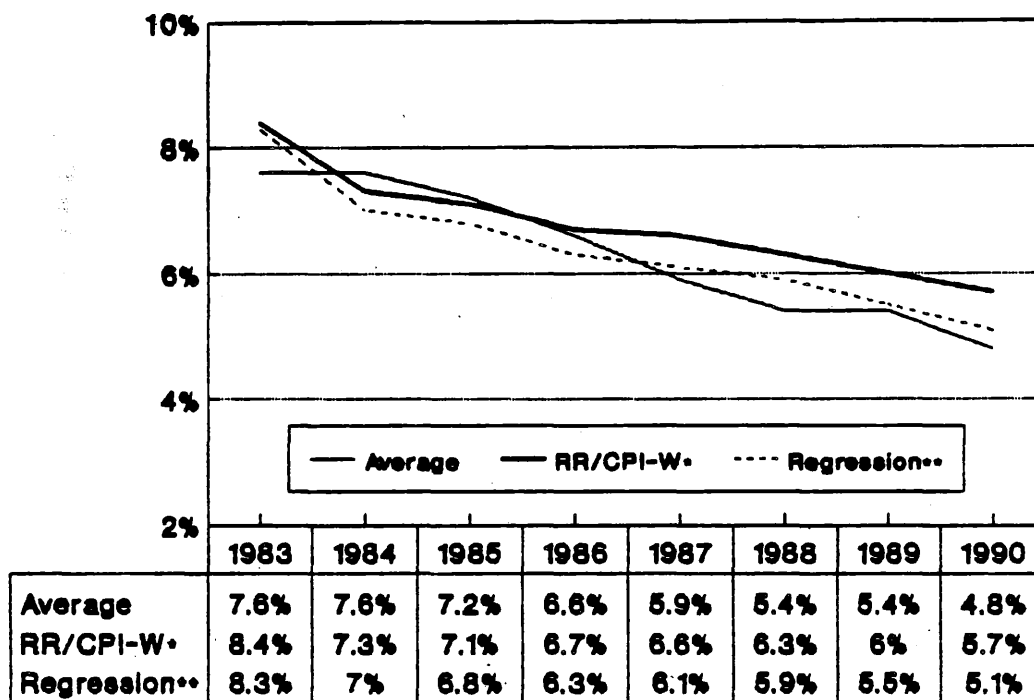
6. Comparison of Holdover Rent Increases to Voluntary Rent Guideline

a. The annual Voluntary Rent Guideline. Between 1977 and 1981, the law included a statutory requirement for the County to issue an annual Voluntary Rent Guideline (VRG). The VRG was first written into law when rent control was replaced by the Omnibus Tenant Protection Act of 1977. At that time, the VRG was computed using a statutory formula that was amended each year. In 1979, the original Rent Stabilization Act was passed, and landlords became legally required to report and justify rent increases that exceeded the VRG; in addition the Commission on Landlord Tenant Affairs was authorized to order rent rollbacks or rebates when rent increases exceeding ten percent were found to be "unjustified."

* Definitions for the prices indices are from "Revising the CPI", November 1986, Bureau of Labor Statistics.

Chart IV

**Average Rent Increases vs. Increases in the
Rent Residential Component of the CPI-W
1983-1990**



* Three-year rolling average.

** Least squares fit method: $R^2 = 0.83$, $p = .002$.

Source: Quarterly rent increase reports, 1983-1990, DHCD; CPI Detailed Reports, January 1983-1990, February-November 1990, Bureau of Labor Statistics.

Even though the statutory requirements for a Voluntary Rent Guideline and the need to file justifications for rent increases above the VRG expired in 1981, (for legislative history, see page 6), the County Executive has continued the practice of issuing an annual Voluntary Rent Guideline. For each of the past nine years, the County Executive has sent a letter in January to all landlords of licensed rental facilities in the County. The letter announces what the "Montgomery County Rent Guideline" will be for the 12-month period that begins on April 1.

The letters during the past nine years have thanked landlords for their cooperation in the "Voluntary Rent Guideline and Rent Monitoring Programs", and have included mention of the previous year's average holdover rent increase, and the Rent Residential Component of the CPI-W. In describing the Voluntary Rent Guideline for this year, the January 22, 1991 letter sent from the County Executive to landlords of licensed rental facilities in the County stated that the Montgomery County Voluntary Rent Guideline for rent increases due April 1, 1991, will be 4.6 percent, and that:

The guideline is voluntary, but I urge you to follow it when issuing rent increases to your tenants. Vacancy rates are up County-wide over the past year and I know this means that tenant retention is more important to you than ever. Moderate renewal rent increases help in that effort.

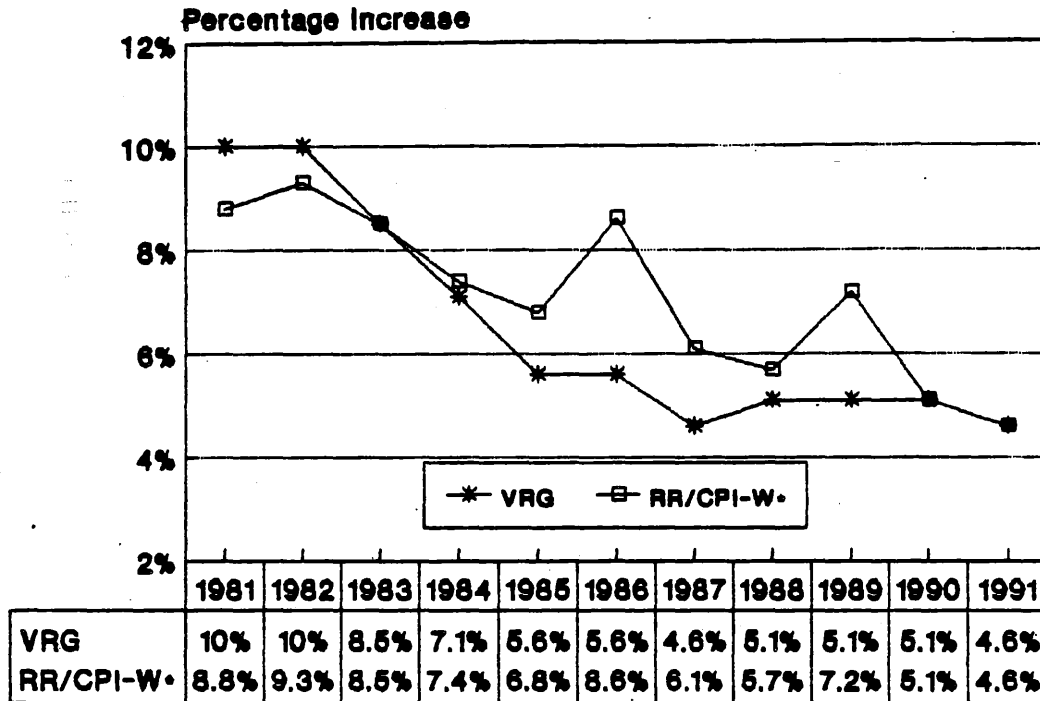
Each year, the Voluntary Rent Guideline has been set by the County Executive, based upon advice and information provided by DHCD staff. According to DHCD staff, although there is no formula for setting the Voluntary Rent Guideline, the factors consistently taken into account have included: various indices of inflation for the Washington Metropolitan Area, the record of recent rent increases in the County, and rental vacancy rates.

For each of the past nine years, Chart V (page 27a) compares the Voluntary Rent Guideline to the preceding calendar year's Rent Residential Component of the CPI-W for the Washington Metropolitan Area (RR/CPI-W). The data show that during the past decade, the VRG has been set above, below, and equal to the RR/CPI-W:

- Between 1981-1983, the VRG was set at or above the preceding year's RR/CPI-W;
- Between 1984-1989, the VRG was set below the preceding year's RR/CPI-W by as much as three percentage points; and
- For 1990 and 1991, the VRG was set equal to the preceding year's RR/CPI-W.

Chart V

**Comparison of Voluntary Rent Guideline (VRG)
and Rent Residential Component of the
Consumer Price Index (RR/CPI-W)
1981-1991**



* Represents the rent residential component of the CPI-W for the preceding calendar year.

Source: Quarterly rent increase reports, 1981-1990, DHCD; CPI Detailed Reports, January 1981-1990, February-November 1990, Bureau of Labor Statistics.

b. Comparison of voluntary rent guideline to reported rent increases. Table 8 (page 28a) shows the number and percent of reported holdover rent increases that exceeded the Voluntary Rent Guideline each year since 1981. The data show that:

- Each year since 1981, between 33-70 percent of reported holdover rent increases have exceeded the VRG established by the County;
- The number of reported holdover rent increases above the guideline has ranged from 9,000-17,000 out of an average of 27,700 reported increases per year; and
- For seven out of the past ten years, the number of increases that were above the guideline was higher than the number at or below the guideline.

Because of the way in which rent increase data have been maintained by OLTA,* it could not easily be determined how many of the rent increases exceeded the VRG by one or two percentage points. However, because data were kept on the number of rent increases that exceeded 10 and 15 percent, it can be shown that a considerable number of the increases above the guideline were in fact between the guideline and 10 percent. (See Table 8.)

Chart VI (page 28b) compares the average reported holdover rent increase to the Voluntary Rent Guideline. The line graph shows that from 1984-89, the average (mean) rent increase exceeded the VRG by .3 to 1.6 percentage points. The difference between the average rent increase and VRG evidenced a decline during the past five years, and in fact, for 1990, the average rent increase was three-tenths of one percentage point lower than the VRG.

7. OLO Sample of Licensed Multifamily Properties

a. Description of sample. OLO selected a sample of licensed multifamily rental facilities containing 12 or more units in order to research how the rent increase history of individual properties compares to the average rent increase data contained in OLTA's quarterly reports. In addition, OLO interviewed the owners and/or property managers of these sample rental facilities to obtain their views on the County's current system of Voluntary Rent Guidelines and monthly rent reporting.**

* See page 13 for discussion of how data are recorded.

** For a discussion of landlord views on monthly rent reporting and the VRG, see page 32.

Table 8

**Number of Reported Holdover Rent Increases
and Relationship to Voluntary Rent Guidelines (VRG)**

YEAR	TOTAL REPORTED INCREASES	EQUAL TO OR BELOW VRG*		ABOVE THE VRG**		BETWEEN THE VRG AND 10 PERCENT	
		Number	Percent	Number	Percent	Number	Percent
1981***	24,526	14,630	37	9,896	63	n/a	n/a
1982	27,496	11,574	30	15,922	70	n/a	n/a
1983	28,533	19,222	67	9,311	33	6,521	23
1984	29,774	16,286	55	13,488	45	11,260	38
1985	27,973	11,478	41	16,495	59	14,174	51
1986	28,056	12,434	44	15,622	56	14,082	50
1987	26,817	9,667	36	17,150	64	15,904	59
1988	27,649	11,798	43	15,851	57	15,154	55
1989	28,002	12,713	45	15,289	55	14,705	53
1990	29,161	18,654	64	10,507	36	9,997	34

* In 1981 and 1982, the VRG was set at ten percent.

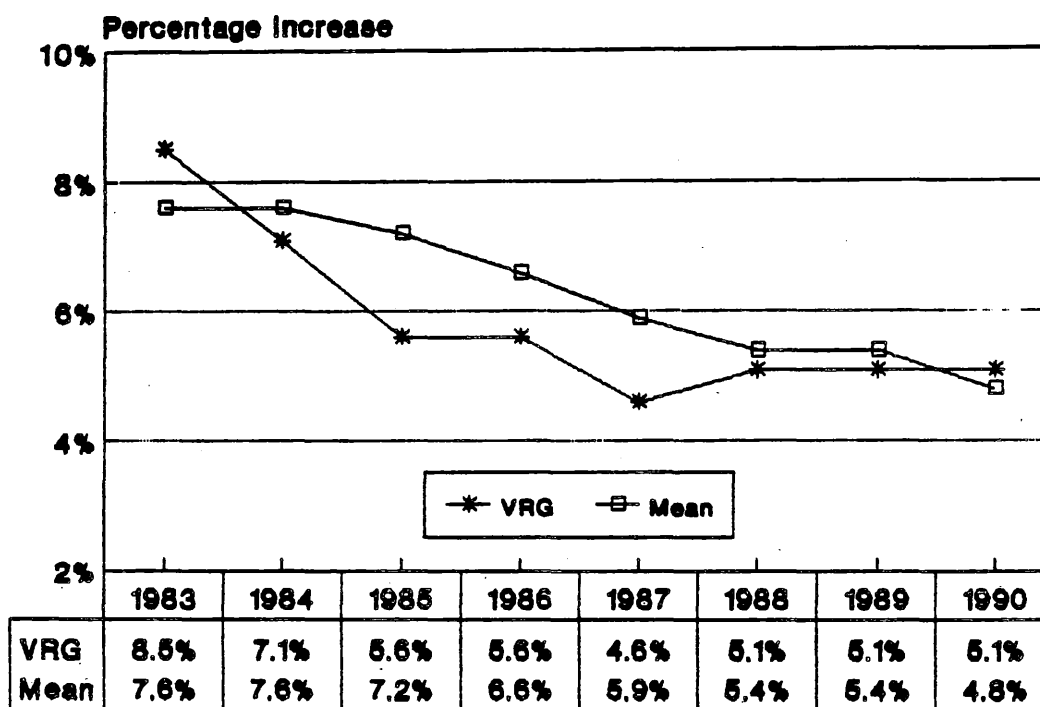
** Includes those increased between the VRG and ten percent.

*** April to December, 1981.

Source: Quarterly rent increase reports, 1981-1990, DHCD.

Chart VI

**Comparison of Voluntary Rent Guideline (VRG)
and Average Rent Increase
1983-1990**



Source: Quarterly rent increase reports, 1983-1990, DHCD.

In consultation with OLTA staff, OLO selected the sample of 17 properties to represent the range of size (number of units), building type, rent levels, and location of rental facilities in the County. In total, the 17 properties included 5,274 rental units, which equals approximately ten percent of the licensed rental units in the County required to report monthly rent increases. The individual properties ranged in size from 22 to 1,120 units; with monthly rent levels for a two-bedroom unit ranging from \$350 to \$1200. The sample included rental facilities located throughout the County, and included garden, mid-rise, and high-rise apartments. In addition, the sample included units owned and managed by relatively small operators, as well as units managed by the larger rental management companies in the County.

b. The record of rent increases in sample properties. Overall, a review of the sample rent increase data suggests that the average rent increase data compiled by OLTA provides a fair description of the trends in holdover rent increases in the County's larger (i.e., more than 100 units) rental facilities. However, the average rent increase data are not as good a reflection of holdover rent increases in the County's smaller (i.e., fewer than 12 units) rental facilities.

The sample data suggest that landlords tend to follow one of the following three methods to determine rent increases:

- The landlord gives a fixed percentage increase for all holdover tenants in the property, e.g., all units receive a six percent rent increase;
- The landlord sets increases according to a pegged rent level for the size of the apartment, e.g., units receive different percentage rent increases in order to equalize all one-bedroom apartment rents at a certain dollar amount; or
- The landlord gives a fixed percentage increase for each rent level, e.g., all units currently renting at \$600 receive a five percent increase while units renting at \$625 units receive a four percent increase.

In general, the sample confirmed that rent increases have been below ten percent each year. The sample indicated that the relatively few examples of rent increases above ten percent were to support major capital improvements in a property.

The sample data also confirmed that a majority of rent increases exceeded the Voluntary Rent Guidelines each year by between one and two percentage points. The sample identified only four landlords (out of 17) who gave rent increases each year below or equal to the VRG on average for the property. During the past two years, the sample data also confirmed that rent increases have come closer to the VRG.

The sample data did not suggest that adherence to the VRG is greater in certain types of rental facilities. In particular, greater adherence to the VRG did not correlate to any characteristic such as rent level, size, location or size of management company.

Finally, the sample data confirmed OLTA's estimates that the average turnover rate in the County is approximately 35-40 percent per year. The sample suggests that turnover rates do vary according to certain identifiable characteristics such as location and type of apartment complex. In particular, high-rise apartment complexes located in the Silver Spring area, and rental facilities that include subsidized units appear to have a lower than average turnover rate; garden apartment complexes located up-County appear to have a higher than average turnover rate.

C. The Record of Rental Vacancy Rates: 1981-1990

1. Statutory Requirements

The Rent Stabilization Act requires that landlords of properties with 12 or more units keep vacancy information that must be provided to the County "as requested." This information is collected through the annual vacancy survey that DHCD sends out to landlords in April; a report summarizing the data collected is usually produced in August of each year. (The process of collecting this data was reviewed earlier in this report; see page 13).

2. Summary of Vacancy Data Collected

Table 9 (page 30a) shows the average rental housing vacancy rates in the County between 1981 and 1990. According to DHCD staff, the definition of a "tight" rental market is a vacancy rate below five percent. The vacancy report has kept separate data on subsidized vs. non-subsidized rental units since 1984.

The data indicate that the average vacancy rate in the County was slightly above five percent for 1981 and 1982. Between 1983-1989, the vacancy rate for all rental housing was consistently below five percent. In 1990, the vacancy rate for non-subsidized units increased to 5.2 percent.

OLTA also compiles vacancy rate data according to rent range and market area (see Table 10 and Table 11, pages 30b and 30c). A review of the data since 1984 indicate that:

- Vacancy rates are not uniform across all rent ranges. The data support the commonly held notion that it is more difficult to find apartments in the lower rent ranges. In April 1990, vacancy rates for apartments that rent for less than \$450 a month were several percentage points below vacancy rates for higher priced units.
- Vacancy rates in the Bethesda/Chevy Chase and Silver Spring/Takoma Park market areas have been consistently lower (two to three percentage points) than the vacancy rates in up-County market areas. In 1990, all rental vacancy rates were 5.4 percent or above, except for the Bethesda/Chevy Chase and Silver Spring/Takoma Park market areas.

Table 9

**Average Rental Vacancy Rates
1981-1990**

	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
All Units*	5.1	5.1	4.1	2.6	3.2	3.4	4.0	4.3	3.9	4.9
Non-Subsidized	(Data not available)			2.8	3.3	3.7	4.3	4.7	4.1	5.2

* All units includes units that are subsidized as well as non-subsidized, and includes units located in municipalities.

Source: Rental Vacancy Reports, 1981-1990, DHCD.

Table 10

Rental Vacancy Rates by Rent Range
1984 - 1990

RENT RANGE	1984	1985	1986	1987	1988	1989	1990
0 - 349	3.7	2.0	1.3	3.3	2.7	--	--
350-449	3.6	4.3	4.8	1.8	1.8	2.3	2.6
450-549	2.9	4.2	4.5	4.4	5.2	4.8	5.5
550-649	3.8	5.2	6.9	5.8	7.0	4.1	4.9
650-749	2.7	3.0	8.3	5.7	5.0	4.0	5.8
750 - 849*	3.1	0.5	7.1	10.1	11.2	4.4	5.2
850 and up*	--	--	--	--	12.8	5.9	6.7

* From 1984 to 1987, data were collected on vacancy rates for units with rents of \$750 and up. There is no comparable data for \$850 and up for those years.

Source: Rental Vacancy Reports, 1984-1990, DHCD.

Table 11

**Rental Vacancy Rates by Market Area
1984 - 1990**

MARKET AREA	1984	1985	1986	1987	1988	1989	1990
Bethesda/ Chevy Chase	1.1	1.1	1.9	1.8	2.8	2.6	3.8
Colesville/ White Oak	3.6	5.6	5.0	5.9	6.5	3.5	5.4
Gaithersburg/ Germantown	2.1	5.0	4.9	6.1	6.5	5.5	5.8
Rockville	2.9	2.3	4.5	2.3	3.3	6.3	5.9
Silver Spring/ Takoma Park	2.8	2.6	2.6	3.9	3.5	3.4	4.9
Wheaton	4.1	3.1	3.6	4.4	4.5	3.4	5.4

Source: Rental Vacancy Reports, 1984-1990, DHCD.

D. Rent Increase Notice Requirements

1. Statutory Requirements

Two sections of the Rent Stabilization Act (Sections 29-51 and 29-56) contain requirements for information that landlords must include in their rent increase notices to tenants. The requirements are duplicative in some respects, but dissimilar in others.

Both Section 29-51 and Section 29-56 require notices of rent increases to tenants to include:

- The amount of monthly rent immediately preceding the effective date of the proposed increase (old rent);
- The amount of monthly rent proposed immediately following the effective date of the rent increase (new rent);
- The percentage increase of the rent increase;
- The effective date of the increase; and
- "Such other information as the landlord deems useful in explaining the increase."

The remaining notice requirements contained in these two sections are not the same. Section 29-51 requires rent increases notices to include, "the recommended guideline for rent increases as set forth in Section 29-51(a)." This statutory reference is to the sentence in the Rent Stabilization Act that encourages landlords to hold rent increases at the lowest level possible and not more than ten percent.

In comparison, Section 29-56 requires that:

- Rent increase notices include, "a statement reflecting that increases of ten percent or more as determined under Section 29-55 are reviewable by OLTA." (This statutory reference is to a section of the Rent Stabilization Act that expired in 1981.);
- Rent increase notices inform tenants of their rights to: review landlords' documentation; meet with landlords; and file complaints with OLTA without retaliation; and
- Tenants must receive 60 days notice of a rent increase, and no tenant shall receive more than one rent increase per year.

2. In Practice

According to Office of Landlord Tenant Affairs (OLTA) staff, landlords are only expected to adhere to the notice requirements contained in Section 29-51. In practice, a number of the notice requirement contained in Section 29-56 are interpreted as outdated provisions because they were enacted at a time when the OLTA and the Commission of Landlord Tenant Affairs had statutory authority to intervene when proposed rent increases exceeded the Voluntary Rent Guideline. An OLTA pamphlet, titled "Rent Increases and Data Collection" (published in 1988) states that rent increase notices shall include "the recommended guideline for rent increases".

According to OLTA staff, the notice requirements contained in Section 29-56 that continue to be relevant are repeated either in Section 29-51, or in Section 30C of Chapter 29, Tenants' Rights. Specifically, the requirements that tenants must receive 60 days notice of a proposed rent increase and that no tenant shall receive more than one rent increase per year were added to the Tenants Right Article of the Landlord Tenant law (Section 29-30C) in 1979 as part of Bill 18-79.

At present, there is no routine enforcement of the rent increase notice requirements. Landlords are not required to provide OLTA with copies of their actual rent increase notices. According to OLTA staff, an occasional rent increase notice is examined when it is submitted in conjunction with a tenant's complaint. To date, the contents of a rent increase notice have never been the cause for enforcement action.

Public perceptions of the rent increase notice requirements are reviewed in the following section.

E. Public Perceptions of Rent Monitoring and Related Activities

1. Views of Landlords on the Voluntary Rent Guideline, Rent Reporting and Notice Requirements

a. Overview. OLO interviewed the owners and/or property managers of the sample licensed rental facilities to obtain their views on the Rent Stabilization Act, and in particular about the County's current system of Voluntary Rent Guidelines, and the statutory requirements for monthly rent reporting and rent increase notices to tenants. (For a description of the sample, see page 28.) Additional private sector views were obtained from consultations with representatives of the Apartment and Office Building Association, the Suburban Maryland Building Industry Association, the Montgomery County Association of Realtors, and landlord members of the County's Commission on Landlord-Tenant Affairs.

In total, OLO interviewed approximately 30 owners and property managers of licensed rental facilities in the County. While those interviewed do not share identical views, many shared similar observations and opinions, and this section summarizes their collective comments. For ease of readership, the owners and/or property managers as a group are referred to as "landlords".

All of the landlords interviewed are aware of the County's rent reporting requirements and knowledgeable about the issuance of an annual Voluntary Rent Guideline. Many of those interviewed have either owned or managed rental property in the County since the 1970's, and recall the years when the County had rent control.

b. Landlord views on the influence of the Voluntary Rent Guideline (VRG). When asked to identify the key factors affecting holdover rent increase decisions, almost all of the landlords interviewed cited rental vacancy rates, market rent levels, operating cost increases, and general market conditions. Although a majority of landlords also identified the County's annual Voluntary Rent Guideline (VRG) as a factor that is considered, landlords also explained that it is unlikely that the VRG alone would ever determine the amount of a holdover rent increase.

A majority of the landlords interviewed voiced the view that because it has been issued by the County as only a "benchmark" for rent increases, the VRG can be described as "fair" or "reasonable". The most frequently voiced criticisms of the VRG are that it has tended to be lower than landlords' actual increase in operating costs, and that, as a County-wide number, it does not recognize that rental market conditions are not uniform throughout the County.

One of the landlords interviewed described the VRG as "the conscience of the industry," explaining that the VRG is a reminder to landlords to try and minimize rent increases. Several landlords mentioned that, in particular, the VRG affects their decisions regarding holdover rent increases for long-time tenants, and especially for tenants on fixed incomes.

Approximately one third of the landlords interviewed shared the view that the VRG has never had any measurable effect upon their rent increase decisions, which are decisions based entirely upon market conditions. Several landlords observed that while the VRG may have had some moderating effect on rent increases in the early 1980's, the VRG has had less effect in the current rental market, which is characterized by street rents often equaling holdover rents.

c. Landlord views on monthly rent reporting. While many of the landlords interviewed candidly admit that they would prefer not to report holdover rent increases on a monthly basis, only a handful describe rent reporting as a "major burden". In fact, a number of landlords recommend that the County continue the monthly rent reporting system because the data collected is valuable information about the rental market that landlords themselves use when making business decisions.

When asked how difficult it is to comply with the rent reporting requirement, a typical response was, "it's just another piece of paper we have to file." According to the landlords interviewed, the amount of time it takes to complete the rent reporting forms ranges from 15 minutes to two hours a month; the paperwork burden appears to be easier for property managers who have automated recordkeeping systems that are designed to include the monthly rent reporting.

Three of the 30 landlords interviewed described the monthly rent reporting as a major burden. As one owner and property manager put it: "The monthly rent report is an annoying pain." One landlord described the monthly reporting as "difficult," noting that its only advantage is that, "it is not rent control".

When asked whether they would prefer to report rent increases quarterly instead of monthly, the almost universal view of the landlords interviewed is not to change from the current monthly reporting system. According to those interviewed, because rent adjustments occur monthly, it is easier to report on a monthly basis. Quarterly rent reporting would require more time because a property manager would have to review three months worth of records, which would be a more time consuming task. Often, under the current system, the property managers complete the monthly rent reporting forms at the same time as they send rent increase notices to tenants. In addition, owners stated that their on-site managers are used to the current system, and it would create problems to change something that their staff has become accustomed to.

d. Landlord views on rent increase notice requirements.

According to the landlords interviewed by OLO, the typical rent increase notice issued in the County, in accordance with Section 29-51(b)(1) and (2), includes:

- The current rent;
- The proposed new rent;
- The percentage increase that the new rent represents; and
- The effective date of the proposed increase.

The landlords interviewed express some confusion as to whether the current Rent Stabilization Act requires rent increase notices to include mention of the Voluntary Rent Guideline.* While almost all of the landlords interviewed indicate that their rent increase notices used to include mention of the County's Voluntary Rent Guideline, it is apparent that most landlords no longer include the recommended guideline as a routine matter. Only five of the 30 landlords interviewed indicate that they always inform their tenants about the Voluntary Rent Guideline, and another five landlords indicate that they occasionally mention the Voluntary Rent Guideline in their rent increase notices.

* Current law does not explicitly require the VRG to be included in rent increase notices.

It was the overwhelming sentiment of the landlords interviewed that the County should not require rent increase notices to include mention of the Voluntary Rent Guideline. The major reasons cited by owners and managers of rental properties are:

- It would elevate the VRG from simply a benchmark figure that landlords are encouraged to follow to something that, as one landlord put it, "feels more like rent control";
- It would likely generate a barrage of phone calls from tenants wanting to know why their rent increase differed from the VRG by as little as a tenth of a percentage point, and would place landlords on the defensive;
- The VRG is public information that interested tenants can obtain on their own from OLTA; and
- The bureaucratic effort to enforce such a requirement would be a waste of resources.

2. Other Citizen Views

This section summarizes the views of the tenant representatives on the County's Commission on Landlord-Tenant Affairs, and members of the County's Citizen Housing Advisory Committee. By law, three of the nine members of the Commission on Landlord-Tenant Affairs are appointed to represent the tenant point-of-view. The Citizens Housing Advisory Committee (CHAC) consists of nine citizen members appointed by the Executive and confirmed by the Council to provide advice on housing-related matters.

The tenant representatives on the Commission on Landlord-Tenant Affairs strongly support the continuation of both the Voluntary Rent Guideline (VRG) and current data collection efforts. The tenant view is that the VRG provides tenants with a guide from which they can judge and react to the "fairness" of their individual rent increases, and provides a valuable piece of information that tenants can use in discussing rent increases with their landlords. The tenants consulted also voiced support for the monthly rent reporting and the annual vacancy report as a way for the County officials to monitor the rental housing market.

Members of the CHAC generally shared the view that the County should continue its monthly rent reporting system because the data collected provide valuable information about the rental housing market. In particular, CHAC Members note the value of the rent increase data to the private sector as well as to the County Government.

CHAC members were, however, more divided about the continuation of the Voluntary Rent Guideline. It was the general consensus that, based upon the data compiled by OLO, the VRG does not appear to interfere with market-based decisions and therefore, is relatively harmless because it does

not appear to carry any of the negative effects of government controlled rents. Several members felt that, if the VRG is continued, then it should be established in a more "scholarly manner," according to a known formula based upon one (or a combination of) price indices.

In contrast to the landlords who oppose requiring rent increase notices to include the VRG, tenants interviewed during the course of this study supported requiring rent increase notices to include the VRG. Tenants argue that this has merit because:

- Many tenants are not aware that the County establishes a VRG, and therefore, do not have an independent source of information to determine whether their proposed rent increase is "reasonable", using the VRG, tenants can make such a judgment;
- Tenants have a right to an explanation behind a proposed rent increase, and especially in cases where a rent increase exceeds a recommended guideline established by the County; and
- Requiring landlords to include the VRG in their rent increase notices might, in certain cases, have the effect of moderating a landlord's rent increase decisions.

F. Information and Referral Service

1. Statutory requirements

Section 29-52 of the Rent Stabilization Act requires the operation of a housing information and referral service. The law states that the referral service may be operated either by the Department of Housing and Community Development (DHCD), or contracted to the Housing Opportunities Commission (HOC). Section 29-52 requires that the information and referral service provide the following services:

- Counseling to tenants in need of alternative housing or financial assistance;
- Determining tenants' eligibility for housing financial assistance based upon income;
- Listing of agencies which can assist in locating housing; and
- Listing of available financial assistance programs.

In addition, Section 29-52 was amended in 1984 to require DHCD, formerly OLTA, to maintain a listing of the location and characteristics of vacant dwelling units and their respective rents.

2. In Practice

Because the primary purpose of this OLO evaluation is to examine the County's system of rent monitoring, it was beyond the scope of this study to evaluate the effectiveness and efficiency of the housing information and referral service function. However, because the statutory requirement for the housing information and referral service is contained in the Rent Stabilization Act, the remainder of this section offers some basic information about the implementation of Section 29-52.

Since 1979, most of the functions outlined in Section 29-52 have been performed as part of the Housing Information Center operated by the Housing Opportunities Commission (HOC). Funds for the Housing Information Center are appropriated by the County Council each year as part of the County's overall contract with HOC to perform certain functions. The County's contract with HOC is managed by the Department of Housing and Community Development.

Table 12 (page 37a) shows the allocation of County funds to the Housing Information Center (HIC) between FY80 and FY91. The data show that from FY80-FY84, funding for the HIC fluctuated between \$31,000-55,000, and that since FY84, funding for the HIC steadily increased. The FY91 funding level of \$158,700 for the HIC represents 9.6 percent of the County's total FY91 appropriation to the Housing Opportunities Commission of \$1,653,990.

Table 12 also shows the number of requests for information received by the HIC each year between FY84 and FY90, and the projected number of requests for FY91. The data indicate that the HIC has responded to a larger volume of inquiries each year. For FY91, HOC projects that the HIC will receive and respond to at least 58,000 requests for information, which represents a 300 percent increase over the number of requests received in FY84.

The FY91 contract between the County and HOC includes a listing of services to be provided by the Housing Information Center. Although not identical to the statutory language contained in Section 29-52, the contract requires HIC to provide:

- Information regarding the availability of housing assistance resources and programs including rental assistance;
- Counseling to determine individuals' housing needs, and to evaluate and qualify applicants for financial assistance; and
- Referral to appropriate agencies, programs, and resources for housing or financial assistance, including private sources.

The contract requires the HIC to provide information services to any County resident, but authorizes HOC to refer persons who are not of low-to-moderate income to available private resources. HOC is directed to coordinate the referral service with other County Government agencies and other groups funded by the County.

Table 12

**Housing Information Center:
Funding and Requests for Information
FY80-FY91**

<u>Fiscal Year</u>	<u>Funding Level</u> *	<u>Requests for Information</u> **
1980	\$ 36,548	n/a
1981	55,380	n/a
1982	50,780	n/a
1983	33,280	n/a
1984	31,145	18,690
1985	39,990	19,335
1986	77,370	21,600
1987	80,890	31,431
1988	82,870	47,730
1989	127,020	47,934
1990	146,700	51,900
1991	158,700	57,000 (projected)

* Represents that portion of the County government's total appropriation to the Housing Opportunities Commission that is allocated in the County's contract with HOC to the Housing Information Center.

** Represents the number of telephone and walk-in requests for information received by the Housing Information Center. Data are only available since FY84.

Source: FY80-FY91 HOC operating budgets.

HOC's budget indicates the following additional program objectives for the HIC:

- To update, develop and create informational brochures summarizing the major programs administered by HOC;
- To market HOC-administered housing programs to clients so that they may gain access as appropriate;
- To update and maintain a directory of housing resources in the Washington area for distribution to housing/human services providers;
- To make public presentations and conduct workshops for appropriate community groups/agencies; and
- To serve as advocates, as appropriate, for clients/applicants/tenants working within the framework of HOC policies and procedures.

There is one service requirement listed in Section 29-52 that is not implemented in its entirety by either the Housing Information Center or DHCD. Specifically, Section 29-52(c) calls for the County to:

"... maintain a listing of available data concerning the location and characteristics of vacant dwelling units, and their rent rates."

Both HOC and DHCD maintain listings of the location and characteristics of licensed rental facilities, and as reviewed earlier, DHCD conducts an annual rental vacancy survey and publishes an apartment directory (see page 18). However, neither the County nor HOC maintains listings of which specific rental units in the County are vacant at any given time.

G. Other Provisions

This section briefly reviews three additional sections of the Rent Stabilization Act: Legislative Findings, Definitions, and Extraordinary Rent Increases.

1. Section 29-47, Legislative Findings

The legislative findings section of the Rent Stabilization Act was amended four times between 1973 and 1980. The current version includes:

- A history and justification of the implementation and later repeal of rent control in the County;
- Objectives for the period of transition from rent control to a competitive rental housing market; and

- The need to monitor the rental market in a centralized system to provide useful information to legislators, administrators, landlords and tenants, alike.

Many of the legislative findings to provide support for the "transition" out of rent control were originally placed into statute in 1977 as part of Bill 35-77. Because the legislative findings were apparently not consistently updated as the law was amended, as currently written, the legislative findings continue to include references to the extraordinary rent increase provisions that are no longer in effect.

2. Section 29-48, Definitions

Table 13 (page 39a) lists the 24 definitions included in the definitions section of the Rent Stabilization Act, and indicates whether each term is used somewhere in the current version of the Act. The table shows that 12 of the 24 terms defined are no longer used in the text of the Rent Stabilization Act, and that six others are used only in Division 3, Extraordinary Rent Invoices. The definition of "dwelling unit" is also found in Section 29-1, the main definition section for the Landlord-Tenant law.

Many of the terms defined in the Rent Stabilization Act were relevant during rent control and were important in the setting of the allowable rent increases under rent control. Other definitions of types of rental units were only relevant to excluding certain properties from rent control, rent guidelines, or extraordinary rent increase requirements.

3. Division 3, Extraordinary Rent Increases

Division 3 of the Rent Stabilization Act (Section 29-59 through Section 29-63) was enacted in 1979 as part of Bill 18-79. The purpose of these five sections was to establish procedures for the Office of Landlord Tenant Affairs (OLTA) to investigate rent increases that exceeded ten percent.

According to the OLTA Chief, a County Attorney's opinion on the legal status of the entire Extraordinary Rent Increase division was received in 1984. During the course of this OLO study, neither the Office of the County Attorney nor OLTA could locate a copy of this opinion. However, the OLTA Chief recalls that the County Attorney's opinion stated that Division 3 no longer has any force or effect because it is linked to expired sections of the law.

In practice, Division 3 is interpreted by OLTA staff as no longer having any force or effect. This is because Division 3 includes references to sections of the Rent Stabilization Act that expired in January 1981, pursuant to a sunset provision included in Bill 18-79. For example, there are references to collecting data for an Extraordinary Rent Increase (ERI) hearing (contained in expired Section 29-55); and procedures for determining if an ERI hearing is warranted (contained in expired Section 29-58).

Table 13

Definitions in Section 29-48

<u>Word Defined</u>	<u>Added or Amended in Bill</u>	<u>Used in Article</u>
Affidavit	18-79	No
Enter into a lease	39-73	No
New dwelling units	35-77	No
Non-monthly payments	39-73	No
One-family dwellings	39-75	No
Prospective tenant	39-73	No
Rehabilitation	39-75, 35-77	No
Section 8 housing assistance payment program	37-77	No
Section 8 market rents	35-77	No
Semi-detached dwellings	39-75, 35-77	No
Townhouses	39-75, 35-77	No
Vacant unit	39-75	No
Capital Improvements	39-75	Yes*
Dwelling Unit	39-73, 35-77	Yes**
Extraordinary rent increase	79-73, 93-79	Yes*
Holdover Tenant	39-73, 39-75, 93-79	Yes*
Including	39-73	Yes*
Person aggrieved	39-73	Yes*
Renovation	39-75	Yes*
Rent	39-73	Yes
Turnover	39-75	Yes
Turnover rent	35-77	Yes
Utility costs	39-75	Yes
Vacant days	35-77	Yes

* Found only in Division 3, Extraordinary Rent Increases.

** Duplicative definition found also in main definition section of Chapter 29.

4. Penalty and General Administration Provisions

At present, penalty provisions in the Rent Stabilization Act are contained in two separate sections, and neither section conforms with the County's standard language for outlining civil penalties. In particular, both Sections 29-49(c) and Section 29-51(m) state that any landlord who violates provisions of this law shall be liable for payment to the County of civil penalty in an amount not to exceed one thousand dollars for each such violation. This is equivalent to what Section of the code classifies as a Class A violation.

General administrative provisions are currently found in two sections of the Rent Stabilization Act:

- Section 29-49(a) provides the County Executive with authority to issue method (2) executive regulations to administer the Rent Stabilization Act; and
- Section 29-51(c) directs the County Executive to establish "procedures" to collect and analyze housing data.

IV. COMPARATIVE INFORMATION

A. Rent Monitoring Laws in Other Jurisdictions

OLO surveyed 17 other jurisdictions to sample what local government laws concerning rent monitoring are currently in effect. The survey included neighboring jurisdictions, plus a number of other counties around the country that are comparable to Montgomery County in terms of factors such as population density, median household income, total number of housing units, and percent of owner-occupied units.

The 17 jurisdictions surveyed are listed on Table 14 (page 40a). An asterisk indicates those which are demographically comparable to Montgomery County.*

Six of the jurisdictions in the survey enacted rent control at some point during the past 20 years. Three of these jurisdictions, (Howard County, Prince George's County, Rockville) similar to Montgomery County, rescinded rent control in the mid-1970's. The other three jurisdictions still have rent control (Takoma Park, the District of Columbia, and Westchester County). In Virginia, rent control is prohibited by state law.

* Demographically comparable jurisdictions were identified with assistance from U.S. Counties with Demographic Characteristics Similar to Fairfax County, compiled by the Management Services Branch, Office of Research and Statistics, Fairfax County.

Table 14

Comparison of Rent Laws - As of November 1990

<u>Jurisdiction</u>	<u>Population**</u>	<u>Estimated # Rental Units</u>	<u>Rent Control (Years)</u>	<u>Rent Monitoring Laws</u>
Montgomery County	755,027	85,100	Yes (1973-77)	Ch. 29 - Rent Stabilization Act
Anne Arundel Co., MD*	427,239	45,200	Never	None
Arlington Co., VA	170,089	32,900	Prohibited by State law	None***
Baltimore, MD	736,014	153,400	Never	None
Bucks County, PA*	532,000	40,200	Never	None
Contra Costa Co., CA*	745,000	80,600	Never	None
District of Columbia	574,844	178,100	Yes (Active)	Part of Rent Control law.
DuPage County, IL*	743,200	95,500	Never	None***
Fairfax County, VA*	815,223	45,600	Prohibited by State law	None***
Frederick, MD	33,800	4,100	Never	None***
Frederick Co, MD	150,208	15,000	Never	None
Gaithersburg, MD	39,542	7,200	Never	City Code Ch. 13, Section 37.
Howard County, MD	187,328	14,500	Yes (1973-76)	None
Jefferson County, CO*	433,400	38,100	Never	None***
Prince George's Co., MD*	729,268	69,100	Yes (1973-76)	None
Rockville, MD	44,835	2,800	Yes (1973-76)	City Code Ch. 18, Section 185.
Takoma Park, MD	10,150	2,000	Yes (Active)	Part of Rent Control law.
Westchester Co., NY*	864,500	50,400	Yes (Active)	Part of Rent Control law.

* Jurisdictions that are demographically comparable to Montgomery County.

** Population estimates from: Population 1990, U.S. Census; Maryland
Statistical Abstract 1990-1; 1987 County Population Estimate, U.S. Census.

*** Jurisdiction conducts periodic rent surveys; landlords' participation is voluntary.

Source: Phone interviews with housing, planning, or research departments in the
jurisdictions surveyed, conducted by OLO during Sept-Nov 1990.

The most stringent rent reporting requirements are found in the three jurisdictions that continue to have rent control. The cities of Rockville and Gaithersburg adopted rent reporting laws that are similar to Montgomery County's Rent Stabilization Act. The other jurisdictions in the survey do not have any laws that require rent increases to be reported, although five jurisdictions (Arlington County, DuPage County, Fairfax County, Frederick, and Jefferson County) indicated that they periodically conduct rent surveys in which landlords participate on a voluntary basis.

The City of Rockville implemented rent reporting in 1987. According to staff, the City adopted a rent reporting system similar to the County's as a mechanism for monitoring the rental housing market. Rockville also establishes a Voluntary Rent Guideline each year, which is adopted by resolution of the Rockville City Council. In general, Rockville's Voluntary Rent Guideline has paralleled the Voluntary Rent Guideline issued each year by the County Government. Although the City of Gaithersburg also has a law that authorizes the City Manager to collect rent increase data, at the present time, landlords are not required to submit rent increase data to the City.

B. Rent Increases in Neighboring Jurisdictions

Fairfax County, Takoma Park, and the District of Columbia (D.C.) are the only neighboring jurisdictions for which some historical rent increase data are available. The limited comparative data that are available are shown in Table 15 (page 41a).

Fairfax County is considered demographically comparable to Montgomery County. Although rent increases in both counties have been declining since 1985, average rent increases in Fairfax have tended to be several percentage points higher than those reported in Montgomery. Likely explanations for this include that the number of multifamily rental units in Fairfax County is smaller than the number of rental units in Montgomery County, and that Fairfax County's rental vacancy rate has tended to be lower than the vacancy rate in Montgomery. Although it cannot be statistically proven, it is also possible that Montgomery County's Voluntary Rent Guideline has had some moderating effect on rent increases in the County.

Average rent increase data are also available for Takoma Park and the District of Columbia, both of which continue to operate a rent control system. At the beginning of each calendar year, both jurisdictions announce the percent of holdover rent increase that will be allowed. Although landlords are allowed to petition for increases above the rent increase ceiling, according to D.C. and Takoma Park staff, the vast majority of landlords in both Takoma Park and D.C. give the maximum allowable rent increase.

Between 1983-1987, allowable rent increases in Takoma Park and D.C. remained at least 1.9 percentage points below the average holdover increase reported in the County. In 1989, however, allowable rent increases in all three jurisdictions differed by only a percentage point. Takoma Park's rent control ceiling was consistently set at four percent until 1989 when it was increased to five percent. D.C.'s rent control ceiling has generally been set equal to the CPI-W for the Washington Metropolitan Area.

Table 15

**Average Holdover Rent Increases
in Neighboring Jurisdictions
1983-1989**

<u>Jurisdiction</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Montgomery*	7.6	7.6	7.2	6.6	5.9	5.4	5.4
Fairfax	6.7	8.4	10.9	9.5	8.7	7.6	6.5
District of Columbia	4.2	4.5	4.4	4.0	1.6	4.7	5.6
Takoma Park	4.0	4.0	4.0	4.0	4.0	4.0	5.0

* Average holdover rent increase reported in the County.

Source: Interviews with Office of Rental Accommodation, District of Columbia, and Commission on Landlord Tenant Affairs, Takoma Park; 1989 Rental Housing Complex Characteristics in Fairfax County, July 1989; and quarterly rent increase reports, 1984-1989, DHCD.

Vacancy rate data for Takoma Park indicate that between 1986-88, while vacancy rates in the County increased, the rental vacancy rate in Takoma Park declined. Specifically, between 1986 and 1988, the County's vacancy rate increased from 3.7 to 4.7 percent; and during these years, Takoma Park's vacancy rate declined from 5.9 to 2.9 percent. Vacancy rate data were not available for the District.

V. CONCLUSIONS

A. General

1. The Rent Stabilization Act (Chapter 29, Article VI) was originally enacted in 1979 to assist with the County's transition from rent control to a competitive rental housing market. The Rent Stabilization Act was amended several times between 1979 and 1981, and portions of the Act expired in 1981 pursuant to a sunset provision. It has now been ten years since any substantive amendments were made to the Rent Stabilization Act.

2. The title "Rent Stabilization Act" is no longer an apt description for this article of the County Code. The Rent Stabilization Act title originated in 1979 when the law included provisions for Extraordinary Rent Increases, and authorized the Office of Landlord Tenant Affairs and the Commission on Landlord-Tenant Affairs to intervene in cases where rent increases above ten percent were found to be "without adequate justification." The authority for the County to intervene in rent level decisions expired in 1981.

3. The legislative findings of the Rent Stabilization Act are outdated. In particular, the findings continue to refer to the County's "transition" out of rent control, and include justification for Extraordinary Rent Increase procedures that are no longer in effect.

4. The definitions section of the Rent Stabilization Act (Section 29-48) includes definitions of 24 terms, half of which are no longer relevant to the current provisions of this law. The penalty and general administration provisions are found in several different sections of the law.

5. The Rent Stabilization Act also includes an entire division (Division 3, Section 29-59 through Section 29-63) that relates to investigating rent increases in excess of ten percent. This division of law has been interpreted by the Office of the County Attorney as no longer having any force or effect because it is linked to expired sections of the law.

B. Rental Facility Data Collection

1. Pursuant to authority outlined in the Rent Stabilization Act, the Department of Housing and Community Development (DHCD) collects the following data:

- On a monthly basis, DHCD collects rent increase data from landlords of licensed rental facilities in the County containing 12 or more units;

- On an annual basis, DHCD collects rental vacancy rate and rent level data from licensed rental facilities containing 12 or more units (the vacancy survey includes units located in the cities of Gaithersburg, Rockville, and Takoma Park, as well as in the County); and
- Approximately every three years, DHCD collects vacancy rate and rent level data from licensed rental facilities containing fewer than 12 units.

2. DHCD uses the data collected to produce the following reports:

- A quarterly report to the Council that summarizes data collected about rent increases in the County;
- An annual report to the Council that summarizes data collected about vacancy rates and rent level; and
- An apartment directory that lists the location, number of bedrooms, amenities, and rent range for licensed rental facilities in the County containing 12 or more units. The apartment directory has generally been updated and re-issued every three years.

3. OLTA records indicate a high rate of compliance (approximately 98 percent) with reporting holdover rent increases. However, it must be remembered that DHCD's quarterly rent increase reports include data on only a segment of the rental market. Specifically, the quarterly reports are limited to data on holdover rents for licensed rental facilities in the County containing 12 or more units. Data are reported on approximately 28,000 units each year, which represents a majority of the multifamily rental stock in the County, as well as a significant percentage of the affordable rental stock in the County. The quarterly reports do not, however, include rent increase data for single family rentals, rented condominiums, rental units located in the cities of Gaithersburg, Rockville, or Takoma Park, or multifamily units which are rented to new tenants.

4. In addition to producing reports, OLTA staff uses the rental market data collected for a number of other specific purposes:

- The rent increase data enable OLTA staff to research and formulate responses to individual tenants' complaints received by OLTA, the County Executive, and/or the County Council regarding rent increases.
- The rent increase data provide the OLTA Chief with the opportunity to contact landlords about specific rent increase proposals that could impose a hardship on the tenants in a particular property. (There are several dozen examples during the past decade where the OLTA Director has persuaded a landlord to modify or phase-in a proposed rent increase to minimize the impact on tenants).

- OLTA staff use the rent increase data to monitor and enforce three-year rental agreements signed in accordance with provisions of Chapter 53A, Tenant Displacement.
- The apartment directory is used by County and HOC staff to help tenants locate affordable housing.
- DHCD staff use data collected for the annual vacancy report as well as the quarterly rent increase reports to help determine the Voluntary Rent Guideline for the following year.
- OLTA staff occasionally use turnover rent data as evidence in resolving tenant complaints regarding the return of security deposits.
- OLTA staff use data on the rental status of cooperative/condominium units to enforce the licensing requirements for these rental units.

In addition, M-NCPPC Planning Department staff use the rental facility data collected by DHCE as an important source of information for land use and market studies; and HOC staff uses the data to help determine the need to request Fair Market Rent exceptions from the federal government.

5. The rental facility data is also used by the private sector. In particular, landlords interviewed throughout the course of this study indicated that the annual vacancy report, the quarterly rent increase reports, and the apartment directory are valuable sources of information about the County's rental market. Many landlords indicated that they routinely consult these reports when making business decisions. In addition, OLTA staff receive numerous calls during the year from lenders and investors interested in obtaining information about the County's rental market.

6. Depending upon the size and recordkeeping system of the rental facility, landlords report that it takes between 15 minutes and two hours per month to complete OLTA's rent increase report forms. The general attitude of most landlords interviewed appears to be that the monthly rent reporting is not a tremendous burden. However, many also expressed the view that they would, of course, prefer to have one fewer form to fill out each month. The general consensus also is that it would be more burdensome to change from a monthly to a quarterly reporting system.

7. As currently structured, OLTA's computer data base for reported rent increases has limited value. Although it provides sufficient information for monitoring trends in holdover rent increases, the computer data base is not structured to fully utilize the volume of data collected. For example, it cannot:

- Tabulate rent increases according to other factors such as geographic area or type of rental complex;
- Monitor the statutory requirement that tenants receive only one holdover rent increase per year; or

- Analyze changes in turnover vs. holdover rent increases.

In addition, no ad hoc inquiries can be done on rent increase data collected without manually scanning each relevant rent form, a task which consumes a considerable amount of staff time.

C. The Costs of Collecting Rental Housing Data

1. This fiscal year (FY91), DHCD's system of collecting data about rental facilities (including monthly rent reporting and the annual vacancy report) will cost approximately \$44,000. DHCD's FY91 budget includes an additional \$16,120 to update and re-issue the apartment directory. (According to DHCD staff, due to current budget constraints, the directory may not be re-issued this year.)

2. The staff work associated with collecting and analyzing rental housing data is not accomplished by one individual. Instead, the work is divided among half a dozen DHCD employees who also perform multiple other tasks.

3. At present, the rent reporting system is funded entirely from the Landlord-Tenant Fund, which consists of licensing fees collected on a per unit basis from landlords of licensed rental properties in the County. The Landlord-Tenant Fund supports all operations of OLTA, plus multifamily code enforcement activities. This year (FY91), the funds budgeted for rental housing data collection activities equal approximately four percent of the \$1.4 million collected through license fees on the 56,000 rental units in the County.

4. The FY91 per unit rental license fee is \$24.00. If all rental collection activities were suspended, then (assuming all other costs and factors remained the same), the per unit license fee could be reduced by approximately \$1.00.

D. Voluntary Rent Guideline (VRG)

1. For the past ten years, the County's practice has been to issue an annual Voluntary Rent Guideline (VRG), even though a requirement for a VRG is no longer in statute. As amended in 1979, the current law states only that, "Landlords are encouraged to hold rent increases at the lowest level possible and not more than ten percent over the rent last charged for any dwelling unit." (Section 29-51)

2. The annual VRG has not been established according to any strict formula. For the past ten years, the County Executive has set the VRG, acting upon the advice of the Department of Housing and Community Development staff. According to DHCD staff, factors taken into account have included: changes in the Rent Residential Component of the Consumer Price Index for Urban Wage Earners and Clerical Workers for the Washington Metropolitan Area (RR/CPI-W), rental vacancy rates, and actual rent increases for the previous year.

3. During the past decade, the VRG has been set above, below, and equal to the preceding year's Rent Residential Component of the CPI-W. (RR/CPI-W). For the past two years, the VRG has been set equal to the preceding year's RR/CPI-W.

4. During the past decade, a significant number of reported holdover rent increases have been above the VRG, although the difference between the VRG and the average rent increase has been declining. Specifically:

- For seven out of the past ten years, more than half of all reported rent increases exceeded the VRG;
- The number and percent of reported rent increases above the VRG has declined each year since 1987; in 1990, 64 percent of all reported rent increases were at or below the VRG;
- The number of rent increases above ten percent has declined each year since 1985; in 1990 only 1.7 percent of all reported rent increases exceeded 10 percent; and
- The average rent increase exceeded the VRG each year between 1984-1989, although the difference between the VRG and the average rent increase showed a general decline; in 1990, for the first time since 1983, the average rent increase was below the VRG (by one tenth of one percent).

5. Statistically, it cannot be proven that the VRG has had any significant effect upon the average holdover rent increase in the County. Changes in the County's average holdover rent increase from year to year can be largely explained by a three-year rolling average of the Rent Residential Component of the CPI-W.

6. Interviews with landlords indicate that the Voluntary Rent Guideline is one of many factors taken into consideration by owners and property managers when making rent increase decisions. According to the great majority of landlords interviewed, market factors such as vacancy rates, the rent levels of competitive rental facilities, and increases in operating expenses are generally more significant determinants of rent increases than the Voluntary Rent Guideline issued by the County. Anecdotal evidence suggests that, on occasion, the County's VRG may have served to moderate specific rent increase decisions.

Because the Voluntary Rent Guideline has been used by the County as only a general benchmark for holdover rent increases, most landlords regard it as "reasonable". Numerous landlords expressed the view that the VRG is certainly preferable to rent control. The most frequently voiced criticisms of the VRG are that it has tended to be lower than landlords' actual increase in operating costs, and that as a County-side number, the VRG does not account for the differing rental market conditions throughout the County.

7. Interviews with tenants suggest that tenants see benefits to continuing the County's current practice of issuing an annual Voluntary Rent Guideline. In particular, tenants find that the VRG provides them with valuable information that they can use in assessing the "fairness" of their individual rent increases.

E. Rent Increase Notice Requirements

1. The current legal requirements for what landlords must include in their rent increase notices to tenants are unclear. In addition to being located in two different parts of the Rent Stabilization Act, a number of the notice requirements are found in a section of the law that was applicable when the County operated a system of rent control. Other requirements concerning the timing of rent increase notices (e.g., limit of one rent increase per year and 60 days minimum notice) duplicate provisions added to the Tenant Rights section of the Landlord-Tenant law in 1979.

2. In particular, there appears to be confusion among both OLTA staff and landlords whether rent increase notices must include the Voluntary Rent Guideline (VRG) issued by the County. Technically, as amended in 1981, the law (Section 29-51(b)(3)) no longer requires landlords to include the VRG. However, a pamphlet published by OLTA in 1988, titled "Rent Increases and Data Collection" states that rent increase notices shall include "the recommended guideline for rent increases." In practice, based upon the sample of landlords interviewed, rent increase notices do not consistently include mention of the VRG.

3. There is no routine enforcement of rent increase notice requirements. However, OLTA staff will investigate any complaints received from tenants on a case by case basis.

4. Landlords and tenants interviewed throughout the course of this study disagreed as to whether the law should explicitly require landlords to include mention of the VRG in rent increase notices to tenants. Tenants voiced support for requiring the VRG to be included, while landlords felt that requiring the VRG to be included would elevate the VRG from a benchmark figure to something that, as one landlord put it, "feels more like rent control".

F. Information and Referral Service

1. Since passage of Bill 35-77 in 1977, Section 29-52 of the Rent Stabilization Act has required that a housing information and referral service be operated, either by DHCD or by the Housing Opportunities Commission (HOC) on contract to the County.

2. DHCD carries out the mandate of Section 29-52 by contracting with the Housing Opportunities Commission to operate the "Housing Information Center". The County's FY91 contract with HOC includes \$158,000 for the Housing Information Center. HOC's FY91 budget projects that the Housing Information Center will respond to 58,000 requests for information and counseling services.

3. The only requirement in Section 29-52 that is not performed either by DHCD or HOC is the requirement to maintain data concerning the location and characteristics of vacant dwelling units and their rent rates. Although DHCD compiles and periodically updates a directory of multifamily rental facilities in the County, neither DHCD nor HOC currently maintains a data base that tracks, at any given time, which specific units are vacant.

G. Comparative Information

1. A survey of other local governments indicates that the County's current system of issuing an annual Voluntary Rent Guideline and requiring monthly rent reporting is unusual. The cities of Rockville and Gaithersburg, however, have adopted laws very similar to the County's Rent Stabilization Act.

2. Although many other local governments periodically collect data about the rental housing market, the general practice is not to mandate landlords' participation in such information gathering activities. The exception to this is found in jurisdictions that continue to operate systems of rent control, where rent increase and rental vacancy data is routinely reported as part of the rent control program.

3. Average rent increases in the County have tended to be higher than rent increases in Takoma Park and D.C. (both of which have rent control), but lower than rent increases in Fairfax County (which does not have rent control).

VI. RECOMMENDATIONS

The Rent Stabilization Act (Chapter 29, Article VI) authorizes a number of data collection and information dissemination activities that are useful and should be continued. However, the Rent Stabilization Act should be revised and updated, and in some respects, the administration of the law should be improved.

This chapter outlines OLO recommendations for legislative and administrative changes with the following objectives:

- To delete sections of the Rent Stabilization Act that are no longer relevant or necessary;
- To clarify and simplify the data maintenance responsibilities of landlords and the data collection responsibilities of the County Government; and
- To improve the efficiency of the data collection process and maximize the utility of the information collected.

Summary of Recommendations

The following list summarizes OLO's recommendations, grouped under subject headings that generally parallel the organization of this report. The remainder of this chapter then explains each recommendation in greater detail. Following each recommendation in parentheses is some combination of an "L", "A", and/or "\$". "L" indicates that the recommendation requires a change in the law; "A" indicates that the recommendation requires an administrative change; and "\$" indicates that the recommendation carries a fiscal impact.

Rental Housing Data Collection

1. Continue to collect selected data about the County's rental housing market, but:
 - o Reorganize and clarify the data collection requirements in the law; and
 - o Delete requirements for landlords to maintain data that the County no longer collects. (L,A)
2. Computerize the rent increase data collected monthly into a data base management system. (A)
3. Improve collection of turnover rent data. (A)
4. Simplify DHCD's written report requirements. (L,A)
5. The pamphlet "Rent Increases and Data Collection", published by the Office of Landlord-Tenant Affairs, should be revised to reflect current law. (A,\$)

The Voluntary Rent Guideline

6. Amend the law to include the County's current practice of issuing an annual Voluntary Rent Guideline, and clarify in law the County's policy of encouraging landlords to adhere to the Voluntary Rent Guideline. (L)

Tenant Rent Increase Notices

7. Delete outdated and duplicative rent increase notice requirements, and encourage landlords to include the Voluntary Rent Guideline in their rent increase notices to tenants. (L,A)

Housing Information and Referral Service

8. Delete the requirement for the County to maintain a current listing of vacant dwelling units. (L)
9. Schedule an evaluation of the housing information and referral service. (A,\$)

General Update and Plain Language Revisions

10. Change the title of Chapter 29, Article VI, from "Rent Stabilization Act" to "Rent Monitoring". (L)
11. Delete the legislative findings section in its entirety. (L)
12. Delete the definitions section of the Rent Stabilization Act, and incorporate the few definitions that continue to be necessary into the main definition section of the Landlord-Tenant law. (L)
13. Consolidate the penalty and general administration provisions into one section. (L)
14. Delete Division 3, Extraordinary Rent Increases. (L)

The remainder of this chapter explains OLO's recommendations in greater detail. OLO's proposed rewrite of the Rent Stabilization Act that incorporates the recommended legislative changes is included as Attachment A beginning on page 67.

Rental Housing Data Collection

Recommendation 1: Continue to collect selected data about the County's rental housing market but:

- Reorganize and clarify the data collection requirements in the law; and
- Delete requirements for landlords to maintain data that the County no longer collects. (L,A)

To enable the County Government to be aware of and evaluate changes in the rental housing market, the Department of Housing and Community Development (DHCD) should continue to collect and analyze selected data about the County's rental facilities. Specifically, rent increase data should continue to be collected monthly from licensed rental facilities containing 12 or more units, rent level and vacancy rate data should continue to be collected annually; and the rental status of condominium and cooperative units should continue to be reported.

The utility of the monthly and annual data collection was documented earlier in this report. (For summary, see pages 43-44.) It is particularly important to note that this data are of value to both the public and private sectors.

The requirement contained in Section 29-51(i) for landlords to maintain specific operating revenue and expense data should be deleted. Because the law no longer authorizes the Commission on Landlord-Tenant Affairs to order rent rebates and/or rent rollbacks, the County Government no longer has the need to collect detailed operating expense data from individual landlords.

The remaining data collection requirements should be rewritten to more clearly explain the data maintenance responsibilities of landlords and the data collection responsibilities of DHCD. Specific legislative language regarding data collection is included in OLO's proposed rewrite of the Rent Stabilization Act, see pages 67-68.

Recommendation 2: Develop a data base management system for collecting and analyzing the monthly rent increase data. (A)

DHCD should develop a data base management system (DBMS) for rent increase data that are collected monthly. In addition to collecting, storing, and analyzing data, this DBMS should have the capability of producing reports. Based upon discussions with DHCD staff, OLO recommends that the computerization be designed and implemented with in-house talent. The present computer resources of DHCD already include the necessary hardware and software.

Recommendation 3: Improve collection of turnover rent data. (A)

As discussed earlier in this report, the Office of Landlord Tenant Affairs' (OLTA's) monthly rent increase form includes space for reporting both holdover and turnover rent data. In practice, however, turnover rent data are not reported as consistently as holdover rent data, and OLTA staff do not routinely follow-up on the absence of turnover rent data. Once OLTA's data base has been computerized into a data base management system (see Recommendation 2), in order to take full advantage of the data collection effort, OLTA staff should follow-up on the collection of both turnover and holdover rent data.

Recommendation 4: Simplify DHCD's written report requirements. (L,A)

The law should be amended to require that DHCD submit only one report to the Council each year that summarizes DHCD's analysis of data collected about rental facilities. This would replace the current requirements for quarterly reports on rent increases, plus an annual report on rent levels and vacancy rates. For recommended statutory language, see OLO's proposed rewrite, page 69.

An annual report is sufficient to keep the Council informed about changes in the rental market. Of course, the requirement for an annual report does not preclude DHCD from sharing information more frequently if it is deemed appropriate.

Recommendation 5: The pamphlet "Rent Increases and Data Collection", published by the Office of Landlord-Tenant Affairs should be revised to reflect current law. (A,\$)

One of OLTA's techniques for publicizing Landlord-Tenant laws is to publish and distribute pamphlets that describe the various County programs and services that effect landlords and tenants. Because the pamphlet that describes the County's Rent Stabilization Act contains some outdated information that could cause confusion in the community, this pamphlet should be revised to reflect current law.

The Voluntary Rent Guideline

Recommendation 6: Amend the law to include the County's current practice of issuing an annual Voluntary Rent Guideline, and clarify in law the County's policy of encouraging landlords to adhere to the Voluntary Rent Guideline. (L)

The County's current practice of issuing an annual Voluntary Rent Guideline deserves to be articulated in law, so that the basis and purpose of the Voluntary Rent Guideline is understood by County officials, landlords, and tenants. In addition, the law should be amended to outline the County's current policy, which is to encourage landlords to adhere to the annual Voluntary Rent Guideline. Specific recommended statutory language regarding the Voluntary Rent Guideline is included in OLO's proposed rewrite of the Rent Stabilization Act (see page 67.)

For the past ten years, the County has continued to issue an annual Voluntary Rent Guideline (VRG), even though the legal requirement for this expired in 1981. Although it cannot be statistically proven that the VRG has had any measurable effect upon the average rent increase in the County, it can be argued that the VRG should be continued because of its utility to legislators, public sector administrators, landlords, and tenants as a benchmark for what is considered a "reasonable" rent adjustment.

Interviews with owners and managers of rental facilities in the County indicate that, in practice, landlords consider the Voluntary Rent Guideline as one of many factors when making rent adjustment decisions. While landlords acknowledge that the VRG is unlikely to be the determining factor in a rent increase decision, anecdotal evidence suggests that, on occasion, the County's VRG may have had a moderating influence on specific rent increase decisions.

Tenant Rent Increase Notices

Recommendation 7: Delete outdated and duplicative rent increase notice requirements, and encourage landlords to include the Voluntary Rent Guideline in their rent increase notices to tenants. (L)

As documented earlier in this report, the current rent increase notice requirements contained in the Rent Stabilization Act are confusing. A number of notice requirements are linked to sections of law that have expired, and several others duplicate requirements that appear in other sections of the County's Landlord-Tenant law.

To update and simplify the law, all requirements for rent increase notices to tenants currently contained in the Rent Stabilization Act should be deleted except for requiring that holdover rent increase notices contain:

- The old rent;
- The new rent;
- The percent of the rent increase; and
- The effective date of the rent increase.

In addition, the law should encourage landlords to inform tenants what the County's recommended Voluntary Rent Guideline (VRG) is for the year. Specific statutory language regarding rent increase notices is included in OLO's proposed rewrite of the Rent Stabilization Act, see page 67.

Current law does not require rent increase notices to include the Voluntary Rent Guideline, and interviews with landlords suggest that, in practice, rent increase notices do not routinely include either mention of the VRG or the County's current statutory guideline of ten percent. OLO recommends that the law encourage, rather than mandate, landlords to include reference to the County's VRG as part of their rent increase notices.

While OLO agrees that tenants have a right to know the County's VRG, OLO does not believe the responsibility necessarily resides with the landlords to inform tenants of the VRG. In addition, mandating the inclusion of a voluntary guideline could have the unintended result of raising tenants' expectations that the VRG is something more than a voluntary benchmark for rent increases in the County. Finally, there would be increased staff costs associated with enforcing such a requirement.

Instead of requiring landlords to include the VRG in their rent increase notices, OLO recommends that the County issue a press release that announces the County's annual VRG. In addition, OLTA could include the VRG in the OLTA newsletter that is distributed to tenants associations and landlords, and made available to the public in libraries and community service centers.

Housing Information and Referral Service

Recommendation 8: Delete the requirement for the County to maintain a current listing of vacant dwelling units. (L)

The current legal requirement (Section 29-52(c)) for DHCD, "to maintain a listing of available data concerning the location and characteristics of vacant dwelling units, and their rent rates" should be deleted. This provision can be interpreted as requiring the County to provide a service that duplicates the multiple listing service currently provided to prospective tenants by the private sector. As discussed earlier in this report, although the County publishes an apartment directory, neither the County nor the Housing Opportunities Commission currently maintains a current listing of vacant dwelling units.

Recommendation 9: Schedule an evaluation of the housing information and referral service (A,\$)

The Council should request an evaluation of the County's housing information and referral service. This service, required by law, is implemented by the Housing Opportunities Commission, on contract to the County Government. This service is recommended for evaluation because performance data contained in HOC's operating budget indicate a major increase in the demand for this service, and because the cost of this service has increased from \$36,548 in FY80 to \$158,700 in FY91.

An evaluation of this service could be performed either by the Office of Legislative Oversight or the Executive Branch.

General Update and Plain Language Revisions of the Law

Recommendation 10: Change the title of Chapter 29, Article VI, from "Rent Stabilization Act" to "Rent Monitoring". (L)

The title of Chapter 29, Article VI should be amended to more appropriately describe the contents of the current law. The title "Rent Stabilization Act" made sense when the law authorized the Office of Landlord Tenant Affairs to investigate rent increases that exceeded ten percent, and authorized the Commission on Landlord-Tenant Affairs to order rent rollbacks and/or rebates when rent increases were found to be "unjustified." These aspects of the Rent Stabilization Act expired in 1981.

OLO recommends that Chapter 29, Article VI be titled "Rent Monitoring". This would be an appropriate name for this law which describes the County's Voluntary Rent Guideline and authorizes DHCD to collect and disseminate certain data about the County's rental housing market.

Recommendation 11: Delete the legislative findings section in its entirety. (L)

The legislative findings section of the Rent Stabilization Act contains justifications for aspects of the law that are no longer in effect. The legislative findings section also emphasizes the County's transition from rent control to a competitive rental housing market, and after ten years, it is reasonable to conclude that the "transition" period is over. A detailed legislative findings section for this law is no longer necessary.

Recommendation 12: Delete the definitions section of the Rent Stabilization Act, and incorporate the few definitions that continue to be necessary into the main definition section of the Landlord-Tenant law. (L)

The four definitions currently listed in the Rent Stabilization Act that continue to be necessary should be incorporated into the main definition section of Chapter 29. Specific recommended definitions for these four terms, (rent, holdover rent, turnover rent, vacant unit) are outlined at the end of OLO's proposed rewrite of the Rent Stabilization Act; see page 70.

Recommendation 13: Consolidate the penalty and general administration provisions into one section. (L)

The law should be amended to consolidate the penalty and general administration provisions of this article into one section. In addition, the law should be amended to conform with the County's standard procedures for enforcing civil penalties and issuing executive regulations. See page 70 for OLO's specific recommended statutory changes in this area.

Recommendation 14: Delete Division 3, Extraordinary Rent Increases. (L)

Division 3 of the Rent Stabilization Act (Sections 29-59 through Section 29-63) should be deleted because its provisions made sense only when the law also authorized the Office on Landlord-Tenant Affairs to investigate rent increases in excess of ten percent. This division of law has been interpreted by the Office of the County Attorney as no longer having any force or effect because it is linked to expired sections of the law.

VIII. DEPARTMENT/AGENCY COMMENTS AND OLO RESPONSE

On February 12, 1991, OLO circulated a draft of this report to appropriate Executive Branch offices and departments, the Chairman of the Montgomery County Planning Board and Planning Commission technical staff, and the Executive Director of the Housing Opportunities Commission (HOC). All technical corrections received either orally or in writing by March 7, 1991 are incorporated into this final report. Written comments received by March 7, 1991 are included in their entirety starting on page 57. OLO's responses to selected comments are provided below.

The written comments indicate general consensus on all but two of OLO's 14 recommendations. Both the Chairman of the Planning Commission and Executive Director of HOC offer suggestions for additional data that would be useful to collect as part of DHCD's annual apartment survey. In addition, the Executive Director of HOC raises some questions about the timing of and access to OLTA's rent data, which HOC uses to help determine whether to request exception rents from HUD after new Fair Market Rents are published.

In response to OLO's Recommendation (3) to improve the collection of turnover rent data, the DHCD Director recommends instead that the collection of monthly turnover rent data be eliminated. (See page 58.) OLO agrees with the DHCD Director that any effort to collect data must be weighed against the use of such data. However, OLO notes that the comments from the Planning Board Chairman specifically mention the potential benefit from a data base that contains both turnover as well as holdover rent data. (See page 64.) HOC's comments also suggest that monthly turnover rent data are useful to HOC, for purposes of updating throughout the year the information collected during OLTA's annual vacancy survey, which is conducted in April. (See page 65.) OLO recommends that the use of turnover rent data by these other agencies be weighed before a final decision is made whether to improve or eliminate the collection of monthly turnover rent data.

With respect to OLO's Recommendation (7), the DHCD Director recommends that the law mandate landlords to include the Voluntary Rent Guideline in rent increase notices. OLO continues to believe that it is more appropriate for the law "to encourage" rather than mandate landlords to include mention of the Voluntary Rent Guideline (VRG). Current law does not require landlords to include the VRG, and OLO's interviews suggest that, in practice, rent increase notices do not routinely include mention of the VRG. Mandating the inclusion of a voluntary guideline could too easily have the unintended result of raising tenants' expectations that the VRG is something more than a voluntary benchmark for rent increases, or that the County has the statutory authority to intervene if an actual rent increase exceeds the VRG. However, if the Council decides that landlords should be mandated to include the VRG in rent increase notices, then OLO recommends that to minimize confusion, the rent increase notice should also include a few sentences explaining what the VRG is, and what the VRG is not.



Montgomery County Government

ROCKVILLE, MARYLAND 20850

MEMORANDUM

March 6, 1991

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: William H. Hussmann, Chief Administrative Officer *WH*

SUBJECT: DRAFT OLO Report #90-5, A Description and Evaluation of the Rent Stabilization Act

Thank you for the opportunity to comment on the Draft OLO Report #90-5, A Description and Evaluation of the Rent Stabilization Act. This report provides a comprehensive analysis of the substance and implementation of the Rent Stabilization Act. The comments from the Department of Housing & Community Development, the Office of Management & Budget, and the County Attorney's Office are attached.

The Executive Branch looks forward to discussing OLO Report #90-5 upon its release by the County Council. Thank you again for the opportunity to comment.

WHH/djs

Attachments

M E M O R A N D U M

February 28, 1991

TO: Andrew Mansinne, Jr. Director
Office of Legislative Oversight

FROM: Richard J. Ferrara, Director *RJF*
Department of Housing & Community Development

SUBJECT: Draft Office of Legislative Oversight Report No.
90-5: An Evaluation of the Rent Stabilization Act

Thank you for giving me and my staff the opportunity to review the draft OLO report on the Rent Stabilization Act enforced and administered by this department's Office of Landlord-Tenant Affairs. The report is very well written and researched. It gives a comprehensive overview of the era of rent control and the decade since its expiration. I have examined all 14 recommendations and will comment on each of them. As you will see, I agree with all of them but two.

Recommendation 1: Continue to collect selected data about the County's rental housing market but reorganize and clarify the data collection requirements in the law; and delete requirements for landlords to maintain data that the County no longer collects.

I agree with both parts of this recommendation. Without the data collection function within the control of professionals in the County Government, the Council and Executive and numerous other public and private sector parties would not have an objective and comprehensive data base on the rental housing marketplace.

Recommendation 2: Develop a data base management system for collecting and analyzing the monthly rent increase data.

I agree with this concept and with the suggestion that this can be accomplished in-house. This is something we can put in the Fiscal Year 1992 work program.

Recommendation 3: Improve collection of turnover rent data.

This recommendation is based on a data base management system capable of analyzing turnover data. However, because we are seldom asked for this information by anyone, I do not feel it is necessary to collect this data monthly. I recommend that this information be

eliminated from the report form entirely. We do collect annual vacancy and turnover rent data from landlords for the Rental Vacancy Reports. The purpose of the rent monitoring function has been to follow renewal rent raises to existing tenants and avoid displacement of those residents who may receive large rent increases. The extra staff time needed to follow up turnover data monthly from 280 landlords would not justify the collection of the data received.

Recommendation 4: Simplify DHCD's written report requirements.

I agree that the quarterly reporting requirement set in 1981 has outlived its usefulness. We are now ten years out of any rent control system. Annual reports should be sufficient. Should market conditions dictate otherwise, more frequent reports could be generated.

Recommendation 5: The pamphlet "Rent Increases and Data Collection" published by the Office of Landlord-Tenant Affairs should be revised to reflect current law.

There are a few sentences in this pamphlet that could be revised easily. We would revise it to be current with the amended Article VI as recommended by this report.

Recommendation 6: Amend the law to include the County's current practice of issuing an annual Voluntary Rent Guideline, and clarify in law the County's policy of encouraging landlords to adhere to the Voluntary Rent Guideline.

I agree with OLO's analysis and conclusions on this subject. Ms. Orlansky worked with OLTA staff closely to draft the necessary revisions on the subject of the Voluntary Rent Guideline and its formulation. The inadequacies in the statute exist because it was drafted at a time when rent controls were expiring and the concepts for monitoring rent increases were theoretical and not based on practical experience.

Recommendation 7: Delete outdated and duplicative rent increase notice requirements, and encourage landlords to include the Voluntary Rent Guideline in their rent increase notices to tenants.

I do not agree with the softer language of "encouraging" landlords to include the Voluntary Rent Guideline in their rent increase notices. As we have construed Section 29-51(b)(3), landlords must include the guideline in rent increase notices. I recommend that the notice requirements for holdover rent increases mandate the Voluntary Rent Guideline's inclusion. The Citizen Housing Advisory Committee and the tenant members of the Commission on Landlord-Tenant Affairs argue this best as outlined in OLO's report. Many tenants are not aware of the guideline; use of the guideline in notices requires landlords to explain their reasoning when exceeding the guideline and, in some cases, landlords may lower their rent increase percentages to come closer to the guideline because it is prominent in the notice.

Enforcement of this provision can continue to be done on a complaint basis. I do not think it necessary for landlords to file with the Office of Landlord-Tenant Affairs copies of every rent increase notice issued to tenants. More good than ill is achieved by this simple requirement; it will be one of four such requirements in a revised law on the Rent Monitoring Program.

Recommendation 8: Delete the requirement for the County to maintain a current listing of vacant rental units.

I agree completely. To achieve this requirement, the County would be acting as a kind of multiple listing service for rental units. There is neither the staff capacity to do this, nor the reasonable demand from the public to offer this as a government service.

Recommendation 9: Schedule an evaluation of the housing information and referral service.

I defer to the County Council's judgment on whether such an evaluation is warranted. If it were scheduled, we would cooperate in any way necessary to assist in the evaluation.

Recommendation 10 through 14: General Update and Plain Language Revisions of the Law.

All five of these recommendations are good and timely ideas. I agree that this updating is needed and can be done in a simple piece of legislation as recommended by OLO's report.

I believe the Rent Monitoring and Data Collection programs of the Office of Landlord-Tenant Affairs continue to be important and valuable government services for public and private sector uses. The Annual Vacancy Report is the most comprehensive survey done on a regular basis by any local government in this country. Landlords and major lenders in the area compliment us routinely on this objective report on the rental marketplace. They find this information of great value in development planning and in making other marketplace competition decisions.

Without the Rent Monitoring Program's monthly information on renewal rent increases, public officials would have no empirical information by which to judge rent increase complaints anecdotally received from tenants. Landlords are accustomed to supplying this information and, because it is publicly available, have access to these percentages when examining how they compete with other landlords in various market areas in the County.

I and OLTA staff are available to work with you and the County Council on the proposed amendments to the Landlord-Tenant Relations Act to implement the legislative recommendations of this evaluation. Thank you again for the opportunity to review the report.



Montgomery County Government

MEMORANDUM

February 27, 1991

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: Robert K. Kendal, Director
Office of Management and Budget *Robert K. Kendal*

SUBJECT: DRAFT OLO Report No. 90-5, An Evaluation of the Rent Stabilization Act

Thank you for the opportunity to respond to this DRAFT report. As usual, your staff has put together a thorough background, description, and analysis of the subject.

On pages 44 of the report, OLO indicates that the private sector (landlords, lenders and investors) frequently use rental facilities data to make business decisions. Such data is contained in the annual vacancy report, the quarterly rent increase reports, and the apartment directory. As indicated on page 20 of the draft, the annual rental license fee pays for collection, analysis, and reporting of information, in addition to other administrative costs related to the Landlord-Tenant Law. Recommendation 1 on page 50 indicates that the County should continue to produce these reports. Landlords, lenders, and investors stand to profit from information in these reports. Since it is likely that the license fee that currently pays for those reports is absorbed within the rent of tenants and the reports provided at no charge, some consideration may need to be given to charging the business community for these reports to help offset production costs, and especially the cost of any additional or specialized data analysis requested.

On a related issue, OMB concurs with Recommendation 2 (page 51) to develop a data base management system for collecting and analyzing the monthly rent increase data. I note the report does not indicate a cost related to such development, and I concur. Any cost realized in developing the system should be offset by the efficiency that results once the system is up and running. I note that the revision of the pamphlet, "Rent Increases and Data Collection" (Recommendation 5, page 51) also does not indicate a cost element. Because of the County's fiscal situation, the pamphlet should not be revised until current stock is depleted so that the cost of the revision and reproduction can be absorbed within existing Operating Expenses as part of a normal reproduction schedule.

As regards Recommendation 9 (page 54) to schedule an evaluation of the housing information and referral service, OMB would not object to an OLO evaluation. However, I note that a fiscal impact is indicated by a "\$" following the recommendation. If OLO is unable to conduct such an evaluation, a decision to spend scarce professional services contract funds in the near future should be weighed against other evaluation priorities.

M E M O R A N D U M

February 25, 1991

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: Karen L. Federman Henry *Karen L. Federman Henry*
Associate County Attorney

RE: Draft OLO Report No. 90-5, An Evaluation of the Rent
Stabilization Act

Please be advised that I have reviewed the above-referenced report and have determined that it accurately states and addresses the necessary revision of the Rent Stabilization Act as it appears in Chapter 29 of the Montgomery County Code 1984, as amended. In the course of reviewing the report, I noticed the following typographical errors:

Page 8, line 2 - "councils of units owners" should read "councils of unit owners";

Page 12, - the first bullet item under table 3, appears to have a word missing in line 2 before the word "containing";

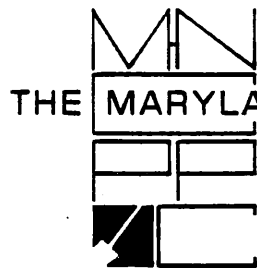
Also, in the third bullet item under table 3, "councils of units owners" in line 1 should read "councils of unit owners", and at the end of that section, "each unit owners" should read "each unit owner";

Page 15 - in the next to the last line of the first full paragraph, the word "indicted" should be "indicated";

Page 23 - in the paragraph beginning "In sum," the reference to "a significantly segment" in the middle of the paragraph should read "a significant segment".

If you require additional information, or have further questions, please do not hesitate to contact me.

KLFH:kh
1135:90.09055



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

(301) 495-4605

Montgomery County Planning Board
Office of the Chairman

March 1, 1991

Karen Orlansky, Program Evaluator
Office of Legislative Oversight
100 Maryland Avenue
Rockville, Maryland 20950

Dear Karen:

Planning Staff has reviewed Draft OLO Report No. 90-5, An Evaluation of the Rent Stabilization Act, and would like to compliment your thorough, well-reasoned work. As both a contributor to this report and a user of the data resulting from the Rent Stabilization Act, we appreciate your thoughtful comments. We generally support the conclusions of the study.

The staff and I particularly support the recommendation to continue and to strengthen the data collection functions provided for in this legislation. We look forward to benefiting from the monthly collection of turnover as well as holdover rents and to the extended capabilities of a computerized data base management system for the information gathered under the provisions of this act.

The Planning Department is already a frequent user of Rent Stabilization Act data. For this reason, you might want to add another bullet to the list of users on page 44, such as the following:

- o Planning Department staff use data from the Annual Vacancy Report and the Apartment Directory as an important source of information for land use and market studies to provide background for master plan revisions and other purposes.

Another addition to the proposed legislation which would be helpful to us would be to add parking to the list of required apartment survey data on page 57. I think prospective tenants as well as land use and transportation planners would find information on the availability, type, and cost of parking in existing multi-family housing of value.

Please let me know if we can be of further assistance.

Sincerely,

Gus Bauman
Chairman

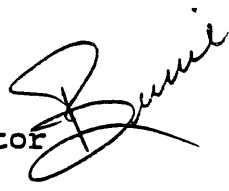
MEMORANDUM

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

Karen Orlansky, Program Evaluator
Office of Legislative Oversight

FROM: Bernard L. Tetreault, Executive Director
Housing Opportunities Commission

SUBJECT: DRAFT OLO Report No. 90-5, An Evaluation of the Rent Stabilization Act



We would like to share our thoughts and comments regarding our review of the subject DRAFT OLO Report No. 90-5.

1. Regarding the Value of Data Collected:

HOC utilizes the information to justify Rent Reasonableness for our Section 8 Existing Program or to determine the need to request from HUD exception rents after new Fair Market Rents (FMRs) for the Washington Metropolitan Statistical Area are published. This information is also beneficial to the Council of Governments in their collection of regional data to input to the HUD's economist in their use in determining the level of FMRs for our area.

Our problems with the current system relate to the timing of the OLTA annual report which is usually available approximately June each year. We have to update the data each year by a factor because we need to use the information to comment on proposed FMRs usually published in March each year. It would be more beneficial for our purposes if the report was issued in April each year.

The data also does not specify which properties have owner-supplied utilities or tenant supplied utilities. This information has to be found by cross reference to the another sources, usually the Apartment Directory published by OLTA which does not specify what the tenant supplied utilities operate (example, gas heat only vs. gas heat, hot water, and stove). In addition, the information provided does not give information on the type of unit (example, mid-rise three wall exposure).

Finally, we have discovered that the OLTA data is on a system that would require considerable effort in order for HOC to access data other than hard copy reports. However, the ability for HOC to use this data to receive "exception rents" where warranted, can affect the success rate of our Section 8 families, and could have far reaching effects on our Development Division

when new housing developments are under consideration.

2. Recommendation 8:

We agree with OLO to delete the statutory requirement for maintaining a current list of vacant units. This aspect of housing is being performed in the private sector. We feel the public sector would only serve to duplicate this information.

3. Recommendation 9:

With regard to an evaluation of the Housing Information Center, we consider this a well-run program and would welcome a review of its operation. We would also welcome the intervention of OLO in helping us obtain the income limits of non-HOC programs available in the county other than the Rental Assistance Program, i.e., declining rent subsidy program administered by the Department of Social Services and the Department of Family Resource's Handicapped Rental Assistance Program, etc. Any other comments or interest you may have in the future will be appreciated.

OLO's Proposed Revision of Chapter 29, Article VI

ARTICLE VI. RENT MONITORING

Sec. 29-47. Voluntary Rent Guideline.

(a) Establishing the Voluntary Rent Guideline. No later than January 31 of each year, the County Executive must establish a Voluntary Rent Guideline for the coming 12 month period. The Voluntary Rent Guideline represents the percent of rent adjustment that is considered reasonable for holdover rents in the County during the year in which the guideline is established. In determining the Voluntary Rent Guideline, the County Executive should take into account characteristics of the County's rental market during the previous year, including vacancy rates, and the rent residential component of the consumer price index for the Washington D.C. metropolitan area.

(b) Adherence to the voluntary rent guideline. Landlords are encouraged to keep rent increases within the Voluntary Rent Guideline established annually by the County Executive.

Sec. 29-48. Notice requirements for holdover rent increases.

(a) Notices of holdover rent increases to tenants must contain the following information:

- (1) The amount of monthly rent immediately preceding the effective date of the increase (old rent), and the amount of monthly rent immediately following the effective date of the rent increase (new rent);
- (2) The percent of the rent increase; and
- (3) The effective date of the rent increase.

(b) Landlords are encouraged to include the Voluntary Rent Guideline in their rent increases notices.

Sec. 29-49. Rental Facilities Data Collection.

(a) The Director* must collect and analyze data about rental facilities in the County, and must make every effort to minimize the reporting burden for landlords.

* The main definitions section of Chapter 29 defines "Department" as the Department of Housing and Community Development, and "Director" as the Director of the Department of Housing and Community Development.

(b) General data collection requirements. The following requirements apply to rental facilities except for accessory apartments, registered living units, units in condominium and cooperative multifamily housing structures, and units owned by the Housing Opportunities Commission.

(1) Vacancy rate and rent level data. For all rental facilities, the landlord must provide the following information annually to the Department in a form prescribed by the Director:

- a. the number of vacant units in the rental facility at the time of the survey; and
- b. the actual rent or range of rents charged by bedroom size, for vacant units in the rental facility.

(2) Rent increase data. For all rental facilities that contain 12 or more units, the landlord must provide the following information on a monthly basis to the Department in a form prescribed by the Director:

- a. the rent charged for each holdover tenant for the period of the new lease; and
- b. the turnover rent charged for each re-rented unit.

(3) Data on characteristics of rental facilities. For all rental facilities that contain 12 or more units, the landlord must provide the following data to the Department in a form prescribed by the Director:

- a. location of the rental facility;
- b. structure type;
- c. year built;
- d. distribution of units by standard bedroom sizes;
- e. any type of non-monthly payment that is required;
- f. if and what type of utilities are included in the rent or must be paid by the tenant;
- g. type of amenities available, such as air conditioning, pool, parking, and washer/dryer;
- h. degree to which facility is accessible to the handicapped; and
- i. any other information deemed necessary by the Director to compile a directory of rental facilities in the County.

(c) Data on the rental status of units in condominium and cooperative multifamily housing structures.

(1) The council of unit owners of a condominium multifamily housing structure and the board of directors of a cooperative multifamily housing structure, or their respective delegated agent, must provide the following data to the Department in a form prescribed by the Director:

- a. the identification (by unit number) of each unit that is a rental facility; and
- b. the name and address of the landlord of each unit.

(2) Each landlord of a condominium or cooperative dwelling unit must report the rental status of each unit owned to their respective council of unit owners or board of directors. Any change in rental status must be reported within ten days of such a change.

Section 29-50. Reports.

(a) Report to the Council. The County Executive must provide an annual report to the Council that includes:

- (1) a summary of the rent increase data collected; and
- (2) a summary of the rent level and rental housing vacancy data collected.

(b) Rental housing directory. The County Executive must compile a rental housing directory that lists the name, location, rent level, and amenities of licensed rental facilities in the County that contain 12 or more units. The directory should be updated periodically.

Section 29-51. Housing information service.

(a) The Director or designee must operate a rental housing information service for tenants, landlords, and government agencies. The operation of the referral service may be contracted to the Housing Opportunities Commission.

(b) The housing information service must include:

- (1) counseling services to tenants in need of alternative housing or financial assistance;
- (2) validation of tenant's need for alternative housing;
- (3) determination of eligibility for available financial assistance for housing programs based upon income;
- (4) listing of agencies which can assist in locating housing; and
- (5) listing of available financial assistance programs.

Section 29-52. Administration and penalties.

(a) The County Executive may promulgate regulations under method (2) to administer this Article.

(b) A violation of this Article is a class A violation.

* * *

The following DEFINITIONS should be added to the main definition section for Chapter 29, Section 29-1:

Holdover rent means the new monthly rent charged to a tenant who continues to occupy the same dwelling unit after the expiration of the tenant's current lease.

Rent means the amount charged for the right to possession and use of a dwelling unit.

Turnover rent means the monthly rent charged to a new tenant.

Vacant unit means an unoccupied dwelling unit which is available for use and possession, and for which no rent is being demanded.

Page _____ of _____ Pages

Report Covering Increases for Holdover Units Taking Effect During the Month of

License No. _____

[illegible]

☐ No turnovers occurred during the month of _____, 19__

Any vacated unit (turnover) should be reported to OLTA during the month in which it is rerented

0 - Efficiency	2 - 2BR (&D)	4 - 4BR (&D)
1 - 1BR (&D)	3 - 3BR (&D)	5 - 5BR +

Current voluntary rent guideline is 5.1%

"I hereby affirm under the penalty of perjury that the information contained in this report is true to the best of my knowledge and belief."

Title	Phone
-------	-------

DUE DATE: IMMEDIATELY

OFFICE OF LANDLORD-TENANT AFFAIRS
51 Monroe Street, Suite 1000
Rockville, Maryland 20850
(301) 217-3660

Appendix B

§ 29-46

MONTGOMERY COUNTY CODE

Sec. 29-46. Alternative relief.

Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing any complaint with any other agency or court of law or equity. (1972 L.M.C., ch. 27, § 1.)

ARTICLE VI. RENT STABILIZATION ACT.***Sec. 29-47. Legislative findings and intent.**

The county council for Montgomery County, Maryland, found in February, 1973, that a public emergency existed in the housing of a considerable number of persons in the county; that there existed a serious housing shortage of dwelling units in the county; that the construction of new housing units planned would not eliminate the existing housing shortage in rental units because of *inter alia*, the sewer moratorium; that in the absence of regulation of rents there had ensued excessive rent rises which resulted in serious impairment to the health, safety and welfare of a large segment of the population and in conditions that would have substantially hampered and deterred the efforts of the county government to effectuate the protection and promotion of the health, safety and welfare of the citizens of the county as well as the general purposes of planning; that following the termination of federal rent controls on January 11, 1973, announced rent increases in many cases were exorbitant and could have resulted in great hardship; that to prevent impairment to health, safety and welfare, action by the county council was imperative; that, although the controls and regulations provided for the rent control law might disturb the enjoyment of individual rights and property to some limited extent, compensation for such distur-

*Editor's note—Prior rent control laws were upheld in *Westchester West No. 2 Limited Partnership v. Montgomery County*, 276 Md. 448, 348 A.2d 856 (1975) and *Lawrence N. Brand, Inc. v. Montgomery County Commission on Landlord-Tenant Relations*, 39 Md. App. 147, 383 A.2d 688 (1978).

In *Hardy v. Housing Management Co.*, 293 Md. 394, 444 A.2d 457 (1982), it was held that the former rent control law did not apply within the city of Gaithersburg unless the city adopted it.

Cross reference—Rental rates for moderately priced housing, § 25A-7.

bance was provided to all of the people of the county by sharing the general benefits which such controls and regulations were intended and calculated to secure; that during the period following the imposition of federal rent controls in August, 1971, operating expenses of landlords had not, in all cases, been reflected in rent adjustments; that such regulations and controls were necessary in order to prevent the execution of unjust, unreasonable and oppression rental agreements, and to forestall profiteering, speculation and other disruptive practices tending to impair the public health, safety and general welfare.

In September, 1973, the county council further found that the problems associated with housing in the county had not appreciably abated or been remedied since that enactment. Aside from the curtailment of exorbitant rent increases which had resulted from the enactment of rent control, the findings delineated above had continued application then.

The council finds that while the system of rent control must be phased out, a major effort must still be made, during the transition to a competitive rental housing market, to minimize the disruption attendant on that transition. To this end, this article provides measures to insure that this transition is as equitable as possible for tenants and landlords alike. The provisions of this article directed toward fulfilling these objectives include:

(a) Strengthening and coordination of rent reporting requirements by the office of landlord-tenant affairs so that the public and its agencies can be aware of and evaluate changes in the rental housing market;

(b) An extraordinary rent increase procedure providing for rent rebates and rollbacks of unjustified rent increases whenever the rent for one (1) or more dwelling units in a rental facility is increased by ten (10) percent or more; and

(c) Providing the office of landlord-tenant affairs and the landlord-tenant commission with administrative responsibilities to monitor compliance with these guidelines and promote the transition requirements of this article.

In addition to these measures, the council will be developing additional and strengthened programs to encourage the development of rental housing and will be considering major changes to the rent relief programs in the county so as to improve the delivery of this service to tenants.

It is the opinion of the county council that the rental housing situation in the county should be monitored carefully and continuously. To date, this method of data collection has been decentralized. Many agencies compile their own housing data; frequently, their efforts are duplicative of the work of the office of landlord-tenant affairs. This lack of coordination in both collection and analysis could be remedied by creating a centralized system designed to meet the special needs of particular agencies as well as the county-wide need for accurate housing data. In addition, by eliminating duplicative efforts, the county will realize a savings in both time and cost, and the burden on landlords of reporting will be lightened.

The findings derived from the data collection process will prove useful to legislators, administrators, landlords and tenants, alike. It is the intent of the county council that the executive director of the office of landlord-tenant affairs shall be responsible for collecting and analyzing the data and for disseminating the results to all concerned parties. (1976 L.M.C., ch. 29, § 1; 1978 L.M.C., ch. 12, § 1; 1979 L.M.C., ch. 56, § 1; 1980 L.M.C., ch. 53, § 1.)

Sec. 29-48. Definitions.

For the purposes of this article only, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Affidavit: A sworn written statement made under oath or on affirmation before an authorized officer such as a notary public which certifies that this information is true and correct.

Capital improvement: An improvement or betterment which has a useful life in excess of three (3) years and which is intended to increase the value of the affected dwelling unit or rental facility.

Dwelling unit: In addition to that provided by section 29-1, includes mobile homes located in the county and offered for lease as a place of abode rather than as temporary lodging, real property upon which a dwelling unit is situated (or is to be situated if that unit is personal property) and which is necessary for the convenient use of the dwelling unit, and property owned by the landlord or the dwelling unit which is available for use by the tenant in connection with his use of the dwelling unit and for which he must pay rent under the lease. A hotel or similar

establishment may contain both dwelling units and temporary lodging units.

Enter into a lease: To execute a written lease, enter into an oral lease (when permitted by this chapter), create an implied lease or renew a lease, regardless of duration.

Extraordinary rent increase: A rent increase authorized by section 29-59.

Holdover tenant: A tenant occupying a dwelling unit subject to this rent stabilization act who continues to occupy the same dwelling unit after the expiration of the first twelve-month period of a lease, or a tenant who continues to occupy the same dwelling unit after the expiration of the leasing period of any other lease.

Including: Comprising but not limited to.

New dwelling units: Dwelling units covered by this article which were not in fact occupied by a tenant and for which a certificate of occupancy was not required and had not been issued as of February 28, 1974, and as to one-family dwellings, semi-detached dwellings and townhouses, such units which have not been rented since August 1971, or which have not been constructed and occupied prior to the effective date of this article.

Non-monthly payment: A non-recurring or one-time or irregularly recurring charge or deposit of money with the landlord by the tenant on or after entering into a lease. Examples of such payments could be swimming pool fees, air-conditioning charges, cleaning fees, security deposits, application fees, credit investigation fees, and one-time pet or "doggie" fees. Such payment may or may not be refundable upon the expiration of a lease.

One-family dwelling: As defined in section 59-1 of this Code.

Person aggrieved: A person whose personal or property rights are adversely affected by the decision of the executive director of the Montgomery County office of landlord-tenant affairs or his or her designee, or the Montgomery County Commission on Landlord-Tenant Affairs. The decision must not only affect a matter in which the person has a specific interest or property right but his interest therein must be such that he is personally and specifically affected in a way different from that suffered by the public generally.

Prospective tenant: Any person who intends to occupy or is seeking to occupy a dwelling unit for living or dwelling purposes with the landlord's consent, but is not a holdover tenant.

Rehabilitation: Capital improvements to a rental facility, single-family dwelling, semi-detached dwelling or townhouse in which the aggregate expenditures therefor equal at least one hundred (100) percent of the assessment, excluding land, made by the state department of taxation and assessments effective immediately prior to the commencement of the construction of the capital improvements.

Renovation: Capital improvements to a rental facility, single-family dwelling, semi-detached dwelling or townhouse in which the aggregate expenditures therefor are less than one hundred (100) percent of the assessment, excluding land, made by the state department of taxation and assessments effective immediately prior to the commencement of the construction of the capital improvements; provided, however, that renovation shall not be construed to include the ordinary pre-leasing redecoration or painting of a specific dwelling unit.

Rent: The amount charged for the right to possession and use of a dwelling unit, including any required recurrent charge therefor and any required charge for the use of services and property in connection therewith, and may include non-monthly payments.

Section 8 housing assistance payments program: A program of the United States Department of Housing and Urban Development administered by the housing opportunities commission of the county, which provides housing assistance payments on behalf of eligible families, elderly, handicapped and displaced persons. Payments are made by the housing opportunities commission on behalf of qualified tenants in accordance with procedures prescribed by the secretary of the United States Department of Housing and Urban Development.

Section 8 market rent: The rent established for the section eight housing payments program, including utilities (except telephone), ranges and refrigerators and all maintenance, management and other services, which, as determined at least annually by the United States Department of Housing and Urban Development, would be required to be paid in order to obtain privately-owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Separate section eight market rents are established for dwelling units of varying sizes (number of bedrooms) and types (e.g., elevator, non-elevator).

Semi-detached dwellings: The same meaning as defined in section 59-1 of this Code.

Townhouses: The same meaning as defined in section 59-1 of this Code.

Turnover: The transfer of possession of a dwelling unit from one (1) tenant to another.

Turnover rent: The new monthly rent charged for a dwelling unit following turnover. It is the rent rate the new tenant pays.

Utility costs: The actual costs of gas, electricity, fuel oil and water and sewer services, excluding front foot benefit charges, which are paid by the landlord.

Vacant days: The number of days for which no rent is collected for a particular dwelling unit.

Vacant unit: An unoccupied dwelling unit which is available for use and possession and for which no rent is being demanded or collected except rent demanded from a tenant on an unexpired lease. (1978 L.M.C., ch. 12, § 1; 1979 L.M.C., ch. 56, § 2; 1980 L.M.C., ch. 53, § 1.)

Sec. 29-49. Administration, enforcement and penalties.

(a) The county executive is authorized to adopt, under method (2) of section 2A-15 of this Code, such regulations as may be necessary to administer this article properly.

(b) In the enforcement of any of the provisions of this article, necessary proceedings, including proceedings for the production of documents, may be instituted by the county attorney's office after referral by the executive director. The county attorney, after a matter has been referred by the executive director, may institute appropriate legal action or refer the matter back to the executive director for such additional information or action necessary to take appropriate legal action. Nothing herein shall limit the authority of the county attorney to initiate prosecution or bring actions in law or equity for violation of any local law, ordinance or regulation, whether or not the executive director has made a formal referral.

(c) Any landlord who violates any provision of sections 29-51, 29-55(b), 29-56, 29-57, 29-58(c) and (e), 29-59(b), 29-61 and 29-63(b) shall be liable for payment to the county of a civil penalty, recoverable in a civil action in circuit court, in an amount not to exceed one thousand dollars (\$1,000.00) for each such violation. (1978 L.M.C., ch. 12, § 1; 1978 L.M.C., ch. 43, § 2; 1979 L.M.C., ch. 56, § 3; 1980 L.M.C., ch. 53, § 1; 1984 L.M.C., ch. 24, § 32.)

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Sec. 29-50. Application.

The system of rent stabilization established by this article shall supersede or take precedence over, as the case may be, all rent control measures enacted by or to be enacted by the state or the government of the United States, if permissible to do so. However, any legislation enacted by the state or the government of the United States subsequent to the enactment of this system of rent stabilization shall be reviewed by the commission on landlord-tenant affairs and appropriate recommendations made to the county council. (1980 L.M.C., ch. 53, § 1; 1985 L.M.C., ch. 31, § 19.)

Cross reference—Applicability of county legislation within municipal corporations, § 2-96.

**DIVISION 1. CENTRAL DATA COLLECTION
AND REFERRAL.**

Sec. 29-51. Rental housing data collection.

(a) Landlords are encouraged to hold rent increases at the lowest level possible and not more than ten (10) percent over the rent last charged for any dwelling unit.

(b) After the termination of the rent stabilization act, notice of rent increases shall contain the following information:

(1) The amount of monthly rent immediately preceding the effective date of the proposed increase (old rent) and the amount of monthly rent proposed immediately following the effective date of the rent increase (new rent) and the percentage increase thereof.

(2) The effective date of the proposed increase.

(3) The recommended guideline for rent increases as set forth in section 29-51(a).

(4) Such other information as the landlord deems useful in explaining the rent increases.

For rental facilities containing twelve (12) or more dwelling units notice of the proposed increase shall also be given to the office of landlord-tenant affairs in a form prescribed by the director.

(c) The county executive shall establish procedures to collect and analyze housing data for rental dwelling units in Montgomery County, Maryland, and shall make every effort to centralize such data collection functions to minimize the burden for landlords.

(d) The reporting process shall be mandatory for landlords of licensed rental facilities in Montgomery County, including new rental facilities as they come on the market and all vacant units.

(e) After the conclusion of the rent stabilization act, the data collection frequency shall be on a monthly basis.

(f) The director of the department of housing and community development shall render a status report to the county council and county executive at monthly intervals summarizing the information accumulated from the required reports submitted by each landlord of licensed rental facilities in Montgomery County. After February, 1982, the director shall provide these reports on a quarterly basis to the county council.

(g) The executive procedures shall prescribe a survey form for securing data designed to minimize the repeated reporting of unchanged information, while maintaining an accurate data base.

(h) The housing data collected shall be used to ascertain the supply and availability of rental housing as well as other operating characteristics. Each landlord shall provide the following information as requested by the county;

- (1) The location of the rental facility;
- (2) Structure type;
- (3) Year built;
- (4) Distribution of units by standard bedroom sizes;
- (5) The number of units by bedroom size which were re-rented during the month;
- (6) The number of vacant days applicable to those units;
- (7) The rent charged for each rental unit;
- (8) The rent charged for each re-rented unit prior to vacancy; and

(9) The new turnover rent charged for each re-rented unit.

(i) Each landlord shall maintain records for each project on an aggregate basis containing the following information, which

shall be made available to the county upon request and after a determination has been made in accordance with executive procedures that the information is relevant and necessary to carrying out the purposes of this chapter:

(1) A description of utilities which are included in the rent;

(2) The landlord's actual monthly utility costs, including gas, electric, heating, fuel, trash removal, and water and sewer;

(3) The availability of certain amenities, including air conditioning, wall-to-wall carpeting, dishwasher, garbage disposal, washer/dryer in apartment unit or on the site, patio-balcony, swimming pool and tennis courts;

(4) The actual operating expenses, by category;

(5) The actual operating revenues, by category;

(6) A schedule of any other fees and income; and

(7) Tenant rent/income ratio for prospective tenants which protects the confidentiality of personal income information and which is available to the landlord as part of the normal renting process.

(j) Each landlord of a condominium or cooperative dwelling unit shall report to the council of unit owners, or its delegated agent, of any condominium housing structure, or the board of directors of any cooperative housing structure, the rental status of each unit owned. Any status change shall be reported to the council of unit owners, or its delegated agent, or the board of directors within ten (10) days of such change.

(k) The council of unit owners, or its delegated agent, of any condominium housing structure or the board of directors of any cooperative housing structure shall be required to file with the office of landlord-tenant affairs information pertaining to each dwelling unit in the facility which is designated, intended or arranged for use or occupancy as a residence by one (1) or more persons and for which the landlord receives consideration, such information to include, but not be limited to, the identification of the unit and the name(s) and address(es) of the landlord(s) to the extent that such information is available.

(l) The executive procedure shall designate the director of the department of housing and community development as the primary authority to control rental housing data surveys for the Montgomery County government, although provisions shall be

made for sharing this information with other governmental agencies upon a determination of need and without invasion of individual privacy. In this regard, the director shall coordinate survey activities with other county departments, and shall make available to such departments the results of all surveys in accordance with executive procedure. Every reasonable effort shall be made to minimize reporting requirements on landlords.

(m) Any landlord who violates any provision of this section shall be liable for payment to Montgomery County of a civil penalty recoverable in a civil action in the circuit court, in an amount not to exceed one thousand dollars (\$1,000.00) for each violation. (1978 L.M.C., ch. 12, § 1; 1978 L.M.C., ch. 43, § 3; 1981 L.M.C., ch. 31, § 1; 1983 L.M.C., ch. 24, § 12; 1984 L.M.C., ch. 30, § 2.)

Editor's note—Section 13 of 1983 L.M.C., ch. 24 provides in part as follows: "The amendments to chapter 29 approved by this act shall be repealed and of no force or effect on or after March 8, 1985." This sentence was deleted by § 1 of 1985 L.M.C., ch. 40, thus giving the law permanent status.

Sec. 29-52. Referral services.

(a) A central referral service shall be developed and operated for the use of tenants, landlords, and government agencies by the county executive. The operation of the referral service to be offered may be contracted to the housing opportunities commission.

(b) Housing information and referral services to be offered shall include, but not be limited to:

- (1) Counseling services to tenants in need of alternative housing or financial assistance;
- (2) Validation of tenants' need for alternative housing;
- (3) Determination of eligibility for available financial assistance for housing programs based upon income;
- (4) Listing of agencies which can assist in locating housing;
- (5) Listing of available financial assistance programs.

(c) In coordination with other public and private agencies, the director of the department of housing and community development shall maintain a listing of available data concerning the location and characteristics of vacant dwelling units, and their rent rates. (1978 L.M.C., ch. 12, § 1; 1984 L.M.C., ch. 30, § 2.)

DIVISION 2. VOLUNTARY RENT GUIDELINES.

Secs. 29-53-29-55. Expired.

Editor's note—Sections 29-53-29-55 are deleted as they expired at 12:00 midnight on January 31, 1981, as provided in section 29-54(c).

Sec. 29-56. Notice requirements applicable to rent adjustment.

(a) No landlord may charge an increase in rent unless written notice thereof shall have been given to the tenant affected thereby at least sixty (60) days prior to the effective date of such rent increase. No tenant shall receive more than one (1) rent increase per annum. The date of receipt cannot be included as a portion of the sixty-day notice requirement. For rental facilities of twelve (12) or more dwelling units, notice of such increases shall also be given simultaneously to the office of landlord-tenant affairs in a form prescribed by the executive director. Written notices must contain the following information:

(1) The amount of monthly rent immediately preceding the effective date of the proposed increase (old rent) and the amount of monthly rent proposed immediately following the effective date of the rent increase (new rent) and the percentage increase thereof.

(2) The effective date of the proposed increase.

(3) A statement reflecting that increases of ten (10) percent or more as determined under section 29-55 are reviewable by the office of landlord-tenant affairs.

(4) Such other information as the landlord deems useful in explaining the rent increase.

(b) Written notices pursuant to this section shall also include the following statements which shall be binding upon the landlord:

(1) *Documentation.* You or your duly authorized representative have the right to examine the documentation which supports this proposed rent increase if it exceeds the applicable allowable increase in order to satisfy yourself that the proposed rent increase is in accordance with the rent stabilization act of the Montgomery County Code, as amended. This documentation which is located at (location to be stated) may be inspected upon request at a mutually agreeable time and place.

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(2) *Meet with landlord.* If you do not understand the basis for this increase or believe that the increase is not consistent with the rent stabilization act, we will meet with you at a suitable time and at a location convenient to your residence to discuss the proposed increase and explain its justification.

(3) *Complaint.* If, after meeting with us, you have reason to believe that the proposed rent increase is unreasonable, you may contact the county office of landlord-tenant affairs and provide it with a copy of the notice of the proposed rent increase and file a written complaint with that office stating that you believe there has been a failure to comply with the spirit and intent of the rent stabilization act.

(4) *Effective date.* Any proposed rent increase, notice of which you have received, which conforms to this section of the Montgomery County Code, as amended, will become effective as of the date specified in the notice.

(5) *Illegal eviction.* It is illegal for us to evict you for filing a complaint with any public agencies, including the office of landlord-tenant affairs, or for filing a lawsuit against us or for joining any tenants' organization, and we will not evict you for any of those reasons.

(6) *Statements.* It is hereby declared that the foregoing statements and facts are true to the best of our knowledge and belief; and that to the best of our knowledge and behalf the increase in your rent is consistent with the requirements of the Montgomery County rent stabilization act.

(c) Written notice may be delivered to the tenant by any reasonable means. However, unless the notice is mailed via the United States Postal Service to the tenant's dwelling unit, delivery is not considered to have been made unless a signed receipt is obtained from the tenant or his representative. If the tenant is notified by mail, other than registered or certified mail, the landlord shall certify, by affidavit dated at the time of mailing, that he has mailed the notice, and he shall retain a copy of such affidavit in his records.

(d) For the purposes of these notice requirements, the day after the postmark date is considered the date of delivery in cases where the notice was delivered to the proper person by the U.S. mail. If any notice is sent by U.S. certified or registered mail, the receipt or registration is presumptive evidence that the notice

was delivered to the party to which addressed and the date of the receipt or registration is considered to be the postmark date.

(e) When the last day for performing any act prescribed hereunder falls on a Saturday, Sunday or legal holiday, the performance of that act is considered to be timely if it is performed on the next succeeding day which is not a Saturday, Sunday or legal holiday. As used in this section, "legal holiday" means a legal holiday in Montgomery County, Maryland.

(f) No tenant shall receive more than one (1) rent increase per annum. (1978 L.M.C., ch. 12, § 1; 1979 L.M.C., ch. 56, § 7; 1980 L.M.C., ch. 53, § 1.)

Secs. 29-57, 29-58. Expired.

Editor's note—Sections 29-57, 29-58 are deleted as they expire at 12:00 midnight on January 31, 1981, as provided in section 29-54(c).

DIVISION 3. EXTRAORDINARY RENT INCREASES.

Sec. 29-59. Application of division.

As of the effective date of this section and until the expiration of the procedures set forth in this article, this division shall be applicable to all rent increases for holdover tenants occupying dwelling units covered by this article under the following conditions:

(a) Whenever one (1) or more individual rents for dwelling units in a rental facility are increased by ten (10) percent or more;

(b) If the dwelling unit became vacant as the result of unilateral action of the landlord other than action based upon non-payment of rent, illegal activity by the tenant, destruction of property by the tenant or the tenant's guest, or breach of the lease and the landlord rents or offers to rent the dwelling unit at a rate in excess of the rent last charged;

(c) If the rents for such dwelling units are increased after the effective date of this section to a level in excess of 14.2 percent above the rent last charged for that dwelling unit prior to April 1, 1978, and the executive director and/or the commission on landlord-tenant affairs has found, pursuant to section 29-58, that rents increased during the period April 1, 1978, through and until the effective date of this section, have been unjustified.

Twenty-four (24) months from the effective date of the initial unjustified rent increase, this subsection shall no longer apply to those affected dwelling units. All other provisions of this article shall continue to apply. (1979 L.M.C., ch. 56, § 10; 1980 L.M.C., ch. 53, § 2.)

Sec. 29-60. Complaints and investigations.

(a) *Complaints.* Whenever a tenant believes that the landlord has failed to comply with any provision of this division, the tenant shall provide the landlord with written notice of the allegation of noncompliance and attempt to correct the situation by mutual agreement. If the tenant is not satisfied with these mutual efforts, or if the landlord does not meet or confer, the tenant may then report, in writing, to the office the nature of the alleged noncompliance, a copy of which the tenant shall send to the landlord. The complaint of noncompliance shall be on a form prescribed by the office and contain all pertinent and relevant documents including any notice of rent increase, the applicable lease, and a statement as to why noncompliance exists. Such complaints shall be filed with the office within ninety (90) days of the tenant's receipt of the written notification of rent increase.

(b) *Investigations.*

(1) The executive director shall be responsible for the investigation of all complaints filed and, in this regard, shall have the authority to require landlords who are the subject of such complaints to reveal, as provided by law, all matters pertaining to the operation of rental facilities.

(2) Whenever a rental increase falls under the applicable provision of section 29-59 and/or based upon information filed pursuant to section 29-55(b), the executive director shall investigate extraordinary rent increases without the need of a complaint and with full authority to investigate as if a complaint was filed.

(3) In the event that the executive director determines that a fact-finding hearing is necessary to compile additional information prior to making a determination of the merits of an extraordinary rent increase, the executive director or his/her designee, hereafter referred to as the executive director, may conduct such a hearing pursuant to section 29-58(b)(3). The executive director shall have the same remedial authority as granted

the commission under section 29-63 and the executive director's decision shall become the final decision of the commission unless appealed to the commission. (1979 L.M.C., ch. 56, § 10; 1980 L.M.C., ch. 53, § 2.)

Sec. 29-61. Rent escrow requirements.

Any landlord whose rent increases are subject to the extraordinary rent increase provision of this article and when, in the judgment of the executive director of the office of landlord-tenant affairs, such rent increases were not justified by the data examined, the landlord shall, within fifteen (15) days of the executive director's determination, deposit in an interest-bearing escrow account in a banking institution within the state that portion of the rent increases found unjustified. Simultaneously, the landlord shall file with the office of landlord-tenant affairs a statement that the landlord has escrowed the rent monies required by this section, identifying the banking institution, escrow account number, the rate of interest and the rental facility to which it applies. The rent monies shall remain escrowed until a determination of the landlord's justification is made pursuant to section 29-63. (1979 L.M.C., ch. 56, § 10; 1980 L.M.C., ch. 53, § 2.)

Sec. 29-62. Commission hearings.

Commission hearings conducted under this division, are not subject to the provisions of the county administrative procedures act.

(a) In cases where the executive director does not conduct a hearing pursuant to section 29-58(b)(3) and, in the judgment of the executive director, an extraordinary rent increase is not justified by the data examined, the case shall be referred to the commission on landlord-tenant affairs to determine whether to hold a public fact-finding hearing in accordance with section 29-40 and applicable commission rules of procedure. Any person aggrieved by the executive director's decision may also request such a hearing. The commission shall, within thirty (30) days after conducting a public fact-finding hearing, set forth its findings and orders in a written report which shall be made available to the public.

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(b) In cases where the executive director does conduct a hearing pursuant to section 29-58(b)(3), the commission shall serve as an appeal board of review of the decisions of the executive director. The commission may, as determined by the rules of procedure, allow any party affected by the executive director's determination to introduce additional evidence at the time of appeal and consider it along with the administrative record before the executive director.

(c) In cases where the executive director does not conduct a hearing pursuant to section 29-58(b)(3) and, in the judgment of the director, an extraordinary rent increase is justified, any affected party may, within thirty (30) days of issue, request review of the director's decision and order by the commission on landlord-tenant affairs. The commission shall review the decision and order and determine whether to hold a public fact-finding hearing in accordance with section 29-40 and applicable commission rules of procedure or to affirm, modify or remand the director's decision. (1979 L.M.C., ch. 56, §10; 1980 L.M.C., ch. 53, § 2.)

Sec. 29-63. Commission authority to order rent rebates.

(a) The commission, after conducting a public fact-finding hearing and determining that a landlord increased rents without adequate justification, shall have authority to set maximum rent levels for a subsequent twelve-month period and to order a landlord to reduce rents and make rent rebates to affected tenants. The commission may order a landlord to reduce an affected tenant's rent to the level found by the commission to be justified and to order a rebate of all monies collected above the justified level. In cases where a dwelling unit becomes vacant under circumstances provided for under section 29-59(b), the commission may order the landlord not to rent or offer to rent the dwelling unit at a rate in excess of the rent last charged.

(b) Should the commission order a rent reduction and/or rent rebate, the landlord shall, within thirty (30) days of receipt of the commission's written decision, return to affected tenants that portion of the rent increases found by the commission to be unjustified, together with interest. In cases where monies were escrowed pursuant to section 29-61, interest shall be paid to affected tenants pro rata from the interest earnings of the escrow

account. In cases where no monies were required to be escrowed, the landlord shall return to affected tenants that portion of the rent increase found by the commission to be unjustified, together with interest at the rate of six (6) percent per annum. (1979 L.M.C., ch. 56, § 10; 1980 L.M.C., ch. 53, § 2.)

Sec. 29-64. Appeal to court.

Any person aggrieved by the commission's action may appeal to the circuit court for the county in accordance with the Maryland Rules of Procedure for review of such action and may further appeal to the appellate courts a decision by the circuit court. (1979 L.M.C., ch. 56, § 10; 1980 L.M.C., ch. 53, § 2.)

Sec. 29-65. Rent adjustment standards.

In evaluating any landlord's justification for an extraordinary rent increase, the executive director and the commission shall attempt to insure that rents for dwelling units covered by this article are established at levels which avoid undue hardship on the landlord and the tenants. The evaluation shall take into account the landlord's operating expense experience, known or reasonably certain and unavoidable changes in operating and maintenance expenses, changes in services to tenants or inefficiency of operation, capital improvements or major renovation of the rental facility, delay in implementing the rent increase for dwelling units under leases and such other factors as are pertinent to the legislative findings of this article. (1979 L.M.C., ch. 56, § 10; 1980 L.M.C., ch. 53, § 2.)

**ARTICLE VII. PROPERTY STANDARDS FOR
MOBILE HOME PARKS.**

Sec. 29-66. Definitions.

In this article, the following words have the meanings indicated:

(1) *Mobile home* means a structure that is:

- a. Intended for residential use;
- b. Transportable in one (1) or more sections;
- c. Eight (8) body feet or more in width and is thirty-two (32) body feet or more in length;

