

Racial Equity and Social Justice (RESJ) Impact Statement

BILL 52-20: LANDLORD-TENANT RELATIONS-PROTECTION AGAINST RENT GOUGING NEAR TRANSIT

SUMMARY

The Office of Legislative Oversight (OLO) expects Bill 52-20 to have a favorable impact on racial equity and social justice (RESJ). The favorable impact of rent restrictions on housing units near bus rapid transit and light rail stations, however, may be offset in part by the unfavorable impact of such restrictions on rentals near Metrorail and MARC train stations that could exacerbate disparities in housing and access to public transit hubs by race, ethnicity, and income.

BACKGROUND

Bill 52-20, introduced on December 8, 2020, is one of several recent bills that seeks to expand affordable housing and consumer protections for renters in Montgomery County.¹ Bill 52-20 in particular responds to the Montgomery County Preservation Study's call for policymakers to consider rent regulations and other approaches to preserve and expand affordable housing in the County for low- and moderate-income residents.²

The Preservation Study finds that the County is at-risk of losing affordable housing units, particularly near major public transit hubs that are essential to connecting residents to employment and other opportunities. The study finds that:

- **Deed-Restricted Affordable Housing:** About 62% of deed-restricted housing units (2,085 units) that are set to expire in the 2020's and 2030s are located within 1 mile of a rail transit station (existing or planned). Many of these units are clustered around the Silver Spring, Bethesda, and Wheaton Metrorail stations that have experienced increased development activity in recent years.
- **Naturally Occurring Affordable Housing (NOAH):** Additionally, between 7,500 and 11,000 NOAH units are projected to be lost between 2020 and 2030. Proximity to transit is driving the loss in NOAH units, particularly among units with rents under \$1,250 near stations inside the Beltway. Roughly 2,300 NOAH units are "at-risk" of becoming unaffordable for households with earnings of up to \$80,000 for a family of four are within one mile from transit. Areas along the planned Purple Line have already demonstrated a rapid decrease in low-rent units in the past decade; the loss of low-rent units has been most rapid around the Bethesda Metro Station.

With the finding that proximity to transit is likely to accelerate the loss of affordable housing in the County, the Preservation Study recommends several policies to help stabilize affordable housing units, including regulating rents to help preserve affordable units in desirable and accessible locations. In response, Bill 52-20 extends prohibitions against annual rent increases in excess of the County's voluntary rent guideline (2.6% for 2020) undertaken in response to the pandemic to rentals located within 1 mile of rail and half mile of bus rapid transit stations.

Of note, Bill 52-20 would apply to every housing unit near transit hubs, not exclusively affordable housing units. More specifically, Bill 52-20 would cap annual rent increases for most privately-owned housing near transit stations to the County's voluntary rent guidelines established by the consumer price index (CPI). Any rent increases above this amount are defined as "rent gouging" and thus are prohibited under the bill unless the property has undergone significant redevelopment that merits reimbursement to property owners through rental rate increases in excess of the CPI.

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Towards these ends, Bill 52-20 seeks to:

- Establish protections against annual rent increases above the County's current voluntary guidelines;
- Set the based rental amount for certain rental units;
- Provide for exemptions for certain rent protection requirements;
- Require each landlord to submit annual report regarding rents; and
- Generally amend County law concerning rents and landlord-tenant relations.

IMPACT OF RENT REGULATIONS ON SOCIETY³

Research on the economic impact of rent regulation generally finds that the cost of rent regulations to property owners in diminished rents and to future renters in higher rents, generally exceed the benefits of reduced housing costs to renters who secure rent stabilized housing.⁴ As such, economists generally agree that rent regulations generate a negative net impact on society. It is important to consider research from other discipline, however, to fully understand the potential impact of housing on society because not all societal impacts can be captured by market analyses.⁵

Research drawn from other disciplines (e.g. public health, education, urban planning and sociology) shows that housing fulfills important societal goals as it provides safety and security to individuals and families. Housing stability, in particular, is recognized as one of the most significant benefits of rent regulations. Nearly every research study finds that tenants in rent-regulated apartments stay in their apartments longer and benefit from rent discounts. Rent regulations decrease tenant mobility and increase housing stability for rent-stabilized residents. Rent regulations also provide protections against de facto evictions as landlords cannot raise rents beyond regulated rates to force tenants out.

Of note, U.S. policies generally prioritize housing stability as a policy goal. These policies, however, generally prioritize housing stability for those with more wealth (homeowners rather than renters). Public policies that have made housing more stable for those with the most wealth include tax deductions for home mortgages, retirement accounts, and children's savings funds as well as the securitization of home loans. Those with less wealth that are unable to access policies that support housing and economic stability miss out on these benefits and often struggle with forced mobility.

Researchers have found that housing stability promotes physical, social and psychological wellness while housing instability leads to stress and diminished health outcomes. This is especially the case for those who move due to financial reasons, and occurs more often for women than men, and among Black women in particular. Further, housing stability promotes education attainment as frequent moving can disrupt children's learning and social support systems that can lead to and/or exacerbate learning and behavioral problems.

Research shows that renters and jurisdictions with rent regulations tend to be older, lower-income, and headed by more single-mothers and people of color. But as lower-income tenants benefit from rent regulations, so do middle- and higher-income tenants. Moreover, while people of color and low-income residents may be over-represented in rent-regulated units, they may not benefit proportionately from price reductions in rent. For example, one study found that rent savings from rent regulations relative to income were higher for White families than for Black or Latinx families.⁶

The consensus among many is that rent regulations are not efficient at targeting those most in need. Because rent regulations benefit both low-income and high-income renters, disparities in housing by income are not necessarily narrowed with rent regulation policies. More efficient approaches to making affordable housing available to those most in need include directly subsidizing renters with housing vouchers, government subsidies, and/or tax credits for renters that make market rate units affordable for low-income residents. The public's willingness to support such measures at

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the scale required to meet the demand, however, may be limited. As such, rent regulations may represent a second-best, but politically feasible solution to addressing housing instability among low- to moderate-income residents.

DEMOGRAPHIC DATA

Higher rates of renting among Black and Latinx residents in Montgomery County suggest that Bill 52-20 could help narrow disparities in housing affordability by race and ethnicity. A review of available data shows that:

- 50% of Latinx households and 58% of Black households resided in renter-occupied housing compared to 25% of White and Asian households;⁷ and
- 55% of Black households and 62% of Latinx households were rent burdened, spending more than 30 percent of household income on rent and utilities, compared to 43-44% of Asian and White households.⁸

Yet, understanding the potential impact of Bill 52-20 on RESJ requires more than understanding renting and housing affordability patterns by race and ethnicity across the County. It requires understanding the demographics of renters who would be most impacted by the bill, namely those residing within one mile of existing and planned rail stations and within a half mile of bus rapid transit (BRT) stations. The table below based on five-year 2015-2019 estimates from the American Community Survey describes demographic data compiled and analyzed by the Montgomery County Planning staff on renters near transit hubs.⁹

	All Occupied Housing Units		All Occupied Rental Housing Units		Occupied Rentals in Metro/MARC Buffer*		Occupied Rentals in BRT/Purple Line Buffer**	
All	370,950		128,318		63,935		37,153	
White	193,556	52%	47,211	37%	25,396	40%	8,375	23%
Black	66,036	18%	38,604	30%	13,990	22%	13,071	35%
Asian	52,315	14%	13,824	11%	7,351	11%	2,727	7%
Latinx	49,945	13%	24,728	19%	9,761	15%	6,974	19%
Other***	33,814	9%	18,229	14%	7,437	12%	6,006	16%

* includes Metro Rail and MARC stations, including those with BRT and Light Rail stations

** includes only BRT Stations, Light Rail Stations or combined BRT/Light Rail Stations

***includes Native American, Pacific Islanders, Two or More Races, and any Other race

A review of the data shows that:

- White households are concentrated among renters in close proximity to Metro and MARC rail stations, accounting for a 40% of renter households near existing train stations. This compares to accounting for less than 23% of renter households near BRT and Purple Line stations, and 37% of renting households across the County overall, but 52% of all households in the County.
- Black households are concentrated among renters near BRT and Purple Line stations, accounting for 35% of the renters near these new and planned transit stations. This compares to accounting for 22% of renters near Metro/MARC and 30% of all renting households across the County, but 18% of all households in the County.
- Other race households are also concentrated among renters near BRT and Purple Line stations, accounting for 16% of renting households there compared to 12% of renting households near Metro/MARC stations, 14% of renter households across the County, and 9% of all households in the County.

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- Latinx households are proportionately concentrated among renters near BRT and Purple Line stations, accounting for 19% of renting households near new and planning transit stations and 19% of renters across the County. However, they are underrepresented among renting households near Metro/MARC stations, accounting for 15% of renting households. This compares to accounting for 13% of all households in the County.
- Asian households, conversely, are proportionately concentrated among renters near Metro/MARC stations, accounting for 11% of renting households near existing rail stations and 11% of renters across the County. However, they are underrepresented among renting households near BRT and Purple Line stations, account for 7% of renting households. This compares to accounting for 14% of all households in the County.

ANTICIPATED RESJ IMPACTS

Enacting rent regulations in transit hub communities seems like an effective strategy for reducing disparities in housing affordability and access to public transit by race and ethnicity since a majority of Black and Latinx residents in the County are renters. But residents' ability to access the benefits of rent regulations near Metrorail and MARC stations is dependent on their wealth rather than their need for affordable housing, as renters near existing rail stations are often more affluent than renters elsewhere in the County. More specifically, the demographics of renters located near existing Metro and MARC rail stations suggest that higher-income and White renters will disproportionately benefit from Bill 52-20 in these communities, and in turn widen some housing disparities by race and ethnicity.

The demographics of renters near BRT and Purple Line stations, however, suggest that lower-income renters will benefit from rent regulations established near new and planned transit stations, and in turn, Black and Latinx residents will benefit disproportionately. Black and Latinx residents likely account for a majority of renters in these areas that live in affordable housing units and need of affordable housing. Rent regulations applied to communities that serve large percentages of low- and moderate-income residents and that include many affordable housing units can be effective at preserving affordable housing units and preventing the displacement of low-income residents in response to increased development associated with public transit investments.

Overall, OLO anticipates that benefits of rent regulations for low- and moderate-income households near BRT and Purple Line stations will equal or exceed the benefits of rent regulations for moderate- and high-income households in housing units near existing rail stations. Moreover, given disparities in median income, rates of homeownership and entrepreneurship by race and ethnicity,¹⁰ OLO anticipates that White and Asian landlords will be more negatively impacted by the enactment of rent regulations than Black and Latinx landlords. Taken together, OLO anticipates that Bill 52-20 will advance racial equity and social justice relative to reducing disparities in housing and revenues for rental property owners by race and ethnicity.

METHODOLOGIES, ASSUMPTIONS AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis relies on several sources of information. They include:

- Racial Equity Profile, Montgomery County, Office of Legislative Oversight
- Montgomery County Preservation Study, Montgomery County Planning Department
- Rent Matters: What are the Impacts of Rent Stabilization Measures? University of Southern California
- What Does Economic Evidence Tell Us About the Effects of Rent Control? Brookings Institution¹¹

RECOMMENDED AMENDMENTS

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Based on a review of the data and recommendations for preserving and expanding affordable housing in the County offered in the Montgomery County Preservation Study, this RESJ statement offers three considerations for recommended amendments to Bill 52-20 as follows:

- **Narrow the scope of Bill 52-20 to Bus Rapid Transit and Purple Line stations rather than all transit hubs.** Limiting Bill 52-20 scope to rentals within 1 mile of the Purple Line and a half a mile of BRT stations provides an opportunity to focus on preserving affordable housing for low- and moderate-income renters rather than stabilizing rents for low-, moderate- and high-income renters alike. Black, Latinx, and low-income renters account for a greater share of renter households near new and planned transit stations than renters near existing rail stations. The loss of affordable rentals near new and planned transit stations also likely poses a greater risk of displacing Latinx, Black and low-income renters than the loss of affordable units near existing rail stations as the vast majority of those rentals are not affordable for low- and moderate-income households.
- **Incorporate the Preservation Study’s recommendations for enacting rent regulations as amendments to Bill 52-20.** The Montgomery County Preservation Study recognizes that rent regulations can be an effective tool at preserving rental affordability if their design provides sufficient income for property owners to maintain their properties and does not discourage new housing development or property maintenance. The study offers five recommendations for developing rent regulations that could be incorporated as amendments to Bill 52-20:
 - Assess the strength of the multifamily rental market to determine the viability of rent regulations by monitoring the number of new units that are being rented out annually; the number of new multifamily project starts; and stabilized property resale value that measures the velocity of existing property sales.
 - Target properties covered by rent regulations to those with the highest rates of rent increase and generally excluding new construction to not stymie new development.
 - Set rent increase cap to an amount that targets potential rent gouging without reducing investment. They note that caps in Oregon and California were set at 7 and 5 percent respectively and that a cap in Montgomery County should be based on the market strength of multifamily rentals locally.
 - Create property investment exemptions that encourage property owners to upkeep their properties and make larger capital investments as required.
 - Cultivate rental housing market expectations among property owners that rent regulations with be enforced and remain consistent in the short-term so that owners will adjust their actions accordingly.
- **Consider additional Preservation Study policy recommendations as amendments to Bill 52-20.** In addition to targeted rent regulations, the Preservation Study offers additional policy recommendations for preserving affordable housing that can also be considered as potential recommended amendments to Bill 52-20. The table below summarizes these recommendations.

Summary of Montgomery Preservation Study Framework and Recommendations

Policy Category	Core Activities	Key Recommendations
Strategy and Outreach	Analyze preservation needs and opportunities, coordinate efforts to achieve goals	<ul style="list-style-type: none">• Triage opportunities to preserve affordable housing• Ensure that preservation efforts promote and do not hinder opportunities for new development

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Land Use and Planning	Leverage rules governing or guiding development to incentivize or require preservation of affordability (e.g. MPDUs)	<ul style="list-style-type: none">• Allow or incentivize directly preserving existing NOAH as an alternative to MPDU compliance• Consider transfer of development rights program to preserve existing affordability and continue to designate affordable housing as a public benefit
Tenants' Rights	Leverage rules on how stakeholders participate in the market to preserve affordability (e.g. COVID-19 rent relief bill, Right-of-First Refusal)	<ul style="list-style-type: none">• Consider studying an expansion of rental stabilization after the COVID-19 crisis that is carefully designed to ensure a “healthy pipeline” of new development along with preservation of residents at-risk, especially along the Purple Line expansion
Capital Financing	Provide financial resources to undertake preservation interventions (e.g. Housing Initiative Fund, HOC Multifamily Mortgage Financing Program)	<ul style="list-style-type: none">• Explore opportunities to expand the HIF to increase the affordable unit pipeline• Adjust HIF guidelines to align with new low-income housing tax credit (LIHTC) income averaging regulations• Review allocation decisions to ensure that funding criteria promotes preservation, particularly at lower income levels
Operating Subsidy and Cost Reduction	Offer incentives and resources that make it financially feasible for landlords to offer reduced rents to lower-income tenants (e.g. Payments-in-lieu-of taxes)	<ul style="list-style-type: none">• Expand utilization of rental agreements through the County’s payment-in-lieu-of taxes (PILOT) provisions• Evaluate previous reduced rent program for elderly tenants and explore development of a preservation tax credit

COMMUNITY ENGAGEMENT

Using the OLO RESJ Legislative Review Tool,¹² OLO staffers Elaine Bonner-Tompkins and Theo Holt facilitated a RESJ Team Review with County government and community-based stakeholders to discuss the potential impacts of Bill 52-20 on communities of color and low-income residents. This RESJ Team Meeting designed to incorporate a broad set of perspectives into the development of this RESJ impact statement was convened on December 17, 2020 and included:

- Brandy Brooks, Racial Solutions, LLC and Montgomery County Renters Alliance
- Lisa Govoni, Housing Planning Coordinator, Montgomery County Planning Department
- Jane Lyons, Coalition for Smarter Growth
- Linda McMillan, Senior Legislative Analyst, Montgomery County Council
- Stephen Roblin, Performance Management and Data Analyst, OLO

CAVEATS

Two caveats to this statement should be noted. First, estimating the impact of legislation on racial and social inequities in Montgomery County is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than to determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

Dr. Elaine Bonner-Tompkins, OLO Senior Legislative Analyst, drafted this RESJ impact statement.

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¹ See Bills 49-20, 50-20 and 51-20

² See slides from Montgomery County Preservation Study included in November 25, 2020 packet to Planning, Housing, and Economic Development Committee worksession (Pam Wellons and Linda McMillan, Montgomery County Council)

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2020/20201130/20201130_PHEd3.pdf

³ Primary source for this section Manuel Pastor, Vanessa Porter, and Maya Abood, Rent Matters: What are the Impacts of Rent Stabilized Measures? October 2018 https://dornsife.usc.edu/assets/sites/242/docs/Rent_Matters_PERE_Report_Web.pdf

⁴ See Economic Impact Statement for Bill 52-20 at <https://www.montgomerycountymd.gov/olo/eis.html>

⁵ Manuel Pastor, Vanessa Porter, and Maya Abood

⁶ Joseph Gyourko and Peter Linneman, "Equity and Efficiency Aspects of Rent Control: An Empirical Study of New York City, cited in Pastor, Porter and Abood

⁷ Data from 2019 American Community Survey, 1-Year Estimate

⁸ OLO Montgomery County Racial Equity Profile at

<https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/RevisedOLO2019-7.pdf>

⁹ Unpublished ACS data compiled and shared with OLO on December 24, 2020 by Montgomery County Planning Housing Coordinator Lisa Govoni that tracks renter households by race and ethnicity and by census tract with centroid inside transit buffer for 1 mile within existing and planned train stations and a half mile of bus rapid transit stations.

¹⁰ See data points reported in OLO Montgomery County Racial Equity Profile

¹¹ <https://www.brookings.edu/research/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/>

¹² <https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/RESJLegislativeTool.pdf>