

Rent Control In Massachusetts?

(SOURCE: <https://www.bostonglobe.com/2021/11/11/metro/should-rent-control-be-allowed-massachusetts/> by John Laidler; <https://www.rentcafe.com/blog/rental-market/local-rent-reports/massachusetts-rent-report-january-2020/>)

An article in the November 11, 2021, online section of the Boston Globe asks the question: “Should rent control be allowed in Massachusetts?”. The content of the article is a point / counterpoint discourse and asks readers to “Read two views and vote in our online poll.”

Arguing in favor of rent control is state representative Nika Elugardo who represents parts of Boston. Advancing reasons against rent control is Sherri Way, a longtime landlord with 15 units in Metrowest and Worcester. Both participants bring their own life experiences to the table.

Ms. Way reminds us that in the 1960’s and ‘70’s rent control was adopted in Massachusetts but failed to address the problem of affordable housing.

She writes: “Landlords were squeezed on their income and couldn’t do the necessary repairs and pay the increasing tax and utility bills. Tenants who lived in rent control units were not always low-income tenants, [and rent control] depressed building values and therefore negatively impacted tax revenue for the cities and towns that had rent control. After Massachusetts voters repealed rent control in the state in 1994, buildings were renovated to improve living conditions and many of the higher income tenants presumably left their rent-controlled apartments and bought condos and homes. The solution is for all of us to work together to solve the problem. Make laws fair for both tenants and landlords.”

Representative Elugardo states that she and her husband recently bought their first home. She cites that it took them 25 years to save enough for the down payment because those down payments kept getting higher, and their rents kept increasing “by a lot”. Her position is that “For many, rapidly rising rent means financial crisis or worse. The Commonwealth needs a modernized approach to this contemporary challenge.”

To that end, she and representative Mike Connolly of Cambridge have filed bill H-1378, called the Tenant Protections Act (TPA), which has been in the committee on housing since late March.

The bill “... finds and declares that homelessness, displacement, foreclosure and excessive rent burden is commonplace throughout the commonwealth. This housing emergency impacts all but the wealthiest of the commonwealth’s residents.”

TPA would apply to all multi-family housing except for owner-occupied dwellings of two or three apartments.

The bill proposes to give cities and towns the authority to regulate rents and evictions, as well as the power to establish anti-displacement zones for renters of “low, moderate or middle income [who are] at the risk of displacement.” Language in the bill leaves it up to the municipality, or a community organization thereof, to define low, moderate, or middle income.

A few salient points of the Tenant Protection Act:

- Rent increases would be set by each municipality according to the Consumer Price Index, published by the United States Department of Labor each September.

- Landlords desiring to recover an occupied tenement for personal or family use and occupancy would have to give the current tenant 180 days (six months) written notice, plus relocation assistance amounting to no less than three months rent.
- Prior to initiating judicial proceedings that are in compliance with the TPA, landlords would have to notify the clerk's office in the city or town in which the apartment is located.
- Landlords would be subject to a fine of not less than \$5,000 for the recovery of each and every apartment found not in compliance with the statute.
- Notices to Quit for non-payment of rent would be required to be accompanied by a form that includes:
 - Documentation of any and all monetary agreements between the tenant and the landlord.
 - Information on all available rental assistance programs.
 - Trial court rules.
 - Relevant federal or state legal restrictions on residential evictions.
 - The prominently displayed statement: "THIS NOTICE TO QUIT IS NOT AN EVICTION. YOU DO NOT NEED TO IMMEDIATELY LEAVE YOUR UNIT. YOU ARE ENTITLED TO A LEGAL PROCEEDING IN WHICH YOU CAN DEFEND AGAINST EVICTION. ONLY A COURT ORDER CAN FORCE YOU TO LEAVE YOUR UNIT."

- Landlords failing to comply with any of the requirements established by a town or city adopting the TPA would be liable to the tenant for \$1,000, plus reasonable attorney fees and costs, in addition to other financial penalties.

As you can see, this is yet another proposed law which, if enacted, further tips the scales of justice in favor of the tenant while assuming the landlord has the financial resources of a lending institution.

The most outrageous section of this proposed legislation allows for security deposits and last month's rent to be paid in installments.

- “for any rental agreement term that establishes a tenancy for 6 months or longer, the tenant may elect to pay the security deposit and last month's rent in 6 consecutive, equal monthly installments that begin at the inception of the tenancy, or the tenant may propose an alternative installment schedule.”
- “for any other rental agreement [e.g. Tenant At Will] that establishes a tenancy, the tenant may elect to pay the security deposit and last month's rent in no more than 4 equal amounts ...”

This is comparable to a person requesting a mortgage without the necessary down payment but promising to pay the lender that amount on installments once they move into the new home. The problem is, that person would not have “skin in the game”. If for any reason they didn't like the new home or wanted (or needed) to move somewhere else, they could simply walk away from the house and the mortgage with little, if any, financial loss.

So it is with a tenant. The last month's rent and security deposit are somewhat of a down payment. Disregarding the “professional tenant” or tenants having a perpetual

bad attitude toward landlords, most renters, having surrendered that money, are motivated lest they lose their deposits. Allowing renters to pay last month's rent and security deposit on installments leaves them with exclusive rights to occupancy without commensurate responsibilities. It's a zero sum game: The tenant can only win; the landlord can only lose.

Tenants outnumber landlords. So it is that politicians of a certain ilk will cater to tenant's "rights" in order to get reelected. However, any statute in a democracy that is weighted against a small segment of society is immoral.

Representative Elugardo writes that her bill "... strikes the antiquated total ban [on rent control], replacing it with a new law whose stated purpose is 'providing municipalities with a variety of flexible options to help address the housing emergency in a locally appropriate manner.'"

Only in times of national emergency does the federal government step in to regulate the price of goods and services. It is unknown to this writer if any of our states have ever done so, except for the price of rental housing. I suspect it is because landlords cannot move their investments in dwellings.

We truly do have an affordable housing problem in Massachusetts. But the problem cannot be solved through arbitrary caps on monthly rents. The legislation proposed by representatives Elugardo and Connolly, et al (nine others have also signed onto the bill) pretends to be a panacea; a utopian 100% solution. However, the solution to real world problems is almost never 100% of one thing; rather, they are solved by considering one percent of a hundred things.

One of the respondents to the Globe's unscientific survey suggests increasing the maximum tax deduction for rent payments from the current \$3,000 / year which, he says, "supposedly represents 50% of typical rent payments." I think that's an idea our legislature might seriously consider. Three thousand dollars a year amounts to \$250 per month. If it's true that the tax deduction for rent is based on half of a typical rent payment in our state, that translates to a typical rent of \$500 per month. I imagine there are some units in our state that go for only \$500 a month, but I doubt they are places one could truly call home.

A January 2020 study by RENTCafe', a nationwide apartment search website, looked at average rents in 33 Massachusetts municipalities. The lowest average rent was \$985 in Holyoke; discounting metropolitan Boston, the highest was \$2,787 in Medford. Once again discounting metropolitan Boston, the overall average was \$1,895. Worcester's average was \$1,403.

It would be fair, therefore, to assume that \$1,500 is a realistic monthly rent in Massachusetts. Half of that is \$750 per month or \$9,000 per year. If our state legislature increased the maximum tax deduction for rent payments from the current \$3,000 / year to \$9,000 / year, that would put up to an extra \$500 / month in a renter's pocket which would go a long way to relieve excessive rent burden.

Another reason for the affordable housing shortage is supply versus demand. There are not enough affordable housing units to go around. Again, our state representatives could consider legislation that would attract more potential small-time landlords to get into the market. A step in that direction might be to require dissatisfied tenants to pay monthly rent into a court managed escrow account instead of arbitrarily

withholding rent from the landlord while their complaints make their way through the legal system.

There are many other little things that could encourage small time entrepreneurs to invest in rental housing. But I'm skeptical. That would require looking at the big picture with a sense of foresight and a long-term plan that is fair and equitable for both tenants and landlords. It appears that all we can count on are knee-jerk reactions that propose legislation like the Tenant Protection Act.