

# ST. PAUL RENT STABILIZATION TASK FORCE

Week 4: March 15, 2022

## Agenda

1. Approval of Week 3 minutes
2. Time of March 29 meeting
3. Announcements
4. Post-meeting survey summary
5. Summary of Ballot question approved by voters
6. Learnings

# Questions to follow up on

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- What is our end goal?
- More information re: disinvestment in rental housing
- More information about maintenance

# St. Paul's Existing Program

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- Rent cap set at 3%
- Vacancy control
  - Rent cap applies regardless of change of occupancy
- Reasonable return on investment
  - “The city shall establish a process by which landlords can request exceptions to the limitation on rent increases based on the right to a reasonable return on investment.”

# Reasonable return on investment

- Rationale for deviating from cap must account for:
  - Changes in property taxes
  - Unavoidable changes in maintenance/operating expenses
  - Capital improvements necessary for code compliance
  - Deterioration of unit other than by normal wear and tear
  - Changes in occupancy or services provided
  - The provision of adequate housing services or compliance with housing laws, health and safety codes or rental agreement
  - Pattern of recent rent increases or decreases

# Existing Program (cont.)

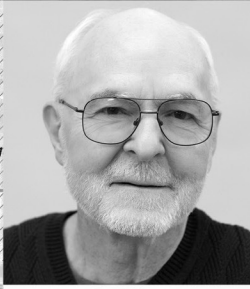
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- Exemptions:
  - Shall not apply to changes in tenant payments where those are based on share of income
- Penalties and private right of action

# St. Paul's Existing Program

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1. 3% Rent Cap
2. Vacancy control
3. Reasonable return on investment
4. Exemption for tenants in housing where tenants pay is based on their income
5. Penalties and legal rights



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# Program design options

## Choice of cap

- Flat pct increase
- Pegged to CPI
- CPI + pct
- Nominal amount
- Maximum increases

## Decontrol

- Vacancy decontrol? (full, partial, none)

## Rent cap exceptions

- Pass throughs (maintenance, CI, utilities, property taxes)
- “fair or reasonable return”
- “banked” increases
- Limits to exceptions (max increases)

## Housing stock exemptions

- New construction (rolling or fixed)
- Small buildings (single family homes, 2-4 unit buildings)
- Owner-occupation

## Compliance & education

- Tenant or petition driven
- Monitoring
- Dispute resolution
- Public information
- Fees to support implementation



# Pass-throughs

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- May property owners ‘pass-through’ some extraordinary costs to the tenant, allowing rent increases above the cap amount?
  - Allow flexibility to accommodate special circumstances
  - and to allow ‘fair and reasonable return’
  - Require a system of petition and adjudication

# Pass-throughs

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- Most typically for capital improvements, property taxes, utilities
- Policy questions:
  - What pct of cost can be passed on?
  - How is it amortized?
  - Is there an upper limit?
  - Who makes the determination of whether the pass-through is allowable?

# Capital Improvement

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- Most common form of pass-through
  - Can provide strong incentive for building improvements
  - Requires working definition of capital improvement (v. normal maintenance)
  - Some cities condition CI pass-through on judgment of good faith maintenance

# Examples

- NYC:
  - MCI: major capital improvements
    - Must be approved by rent board
    - Amortized over 12.5 years, subject to 2% cap overall
  - IAI: individual apartment improvements
    - Need not be approved
- San Francisco:
  - owners in buildings with 5 or fewer units can pass through 100% of CI, subject to 5% annual cap
  - Owners of bigger buildings can only pass 50%, subject to 10% annual cap
- DC: up to 20% for building wide improvements, 15% for other

# “FAIR AND REASONABLE RETURN”

See Section 193A.05 of the St. Paul ordinance

- Required by Courts
- Often in place of specific pass-throughs
- “Fair return” defined in many different ways
  - Hoboken, NJ: 6% above maximum interest rate on local savings account
- Can be made contingent
  - On health and safety compliance
  - On building code compliance
  - On reasonable purchase price

# Maintenance

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- Two separate studies of NYC show decline in quality of regulated units
- Boston study shows modest decline in small aesthetic items
- DC study finds no evidence of quality decline
- 1970s studies of Fort Lee, NJ and Boston show no impact on maintenance expenditures

# Maintenance

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- Suggests program design might be able to mitigate maintenance disincentive
- Pass-through incentives, or
- Authorizing rent reductions, or
- Making rent increases conditional on adequate maintenance

# Preferential rents and banking

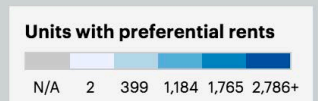
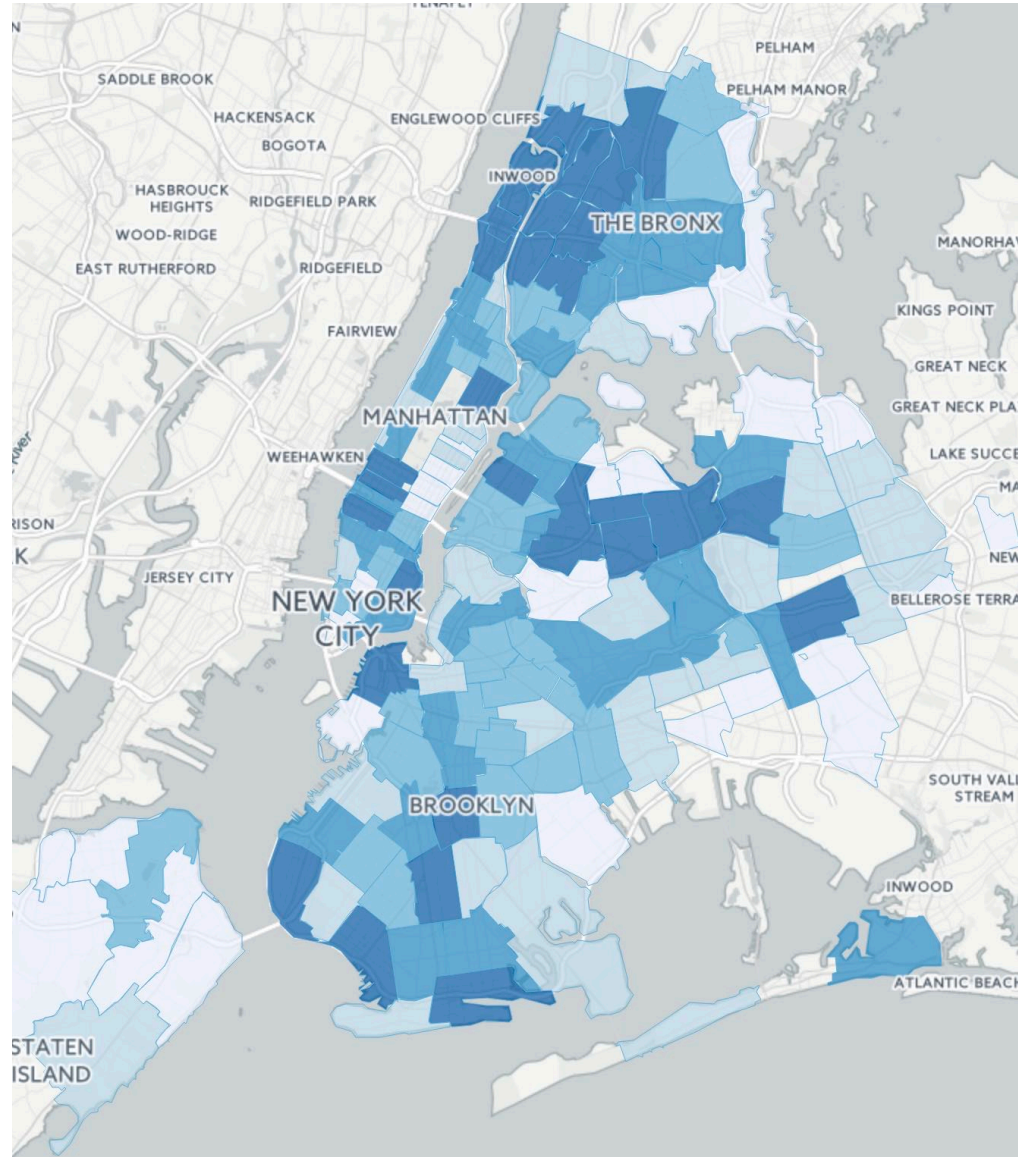
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- Preferential rents:
  - Lower than maximum-allowed rent increase



# Preferential rents and banking

Prevalence of preferential rents in NYC, 2017



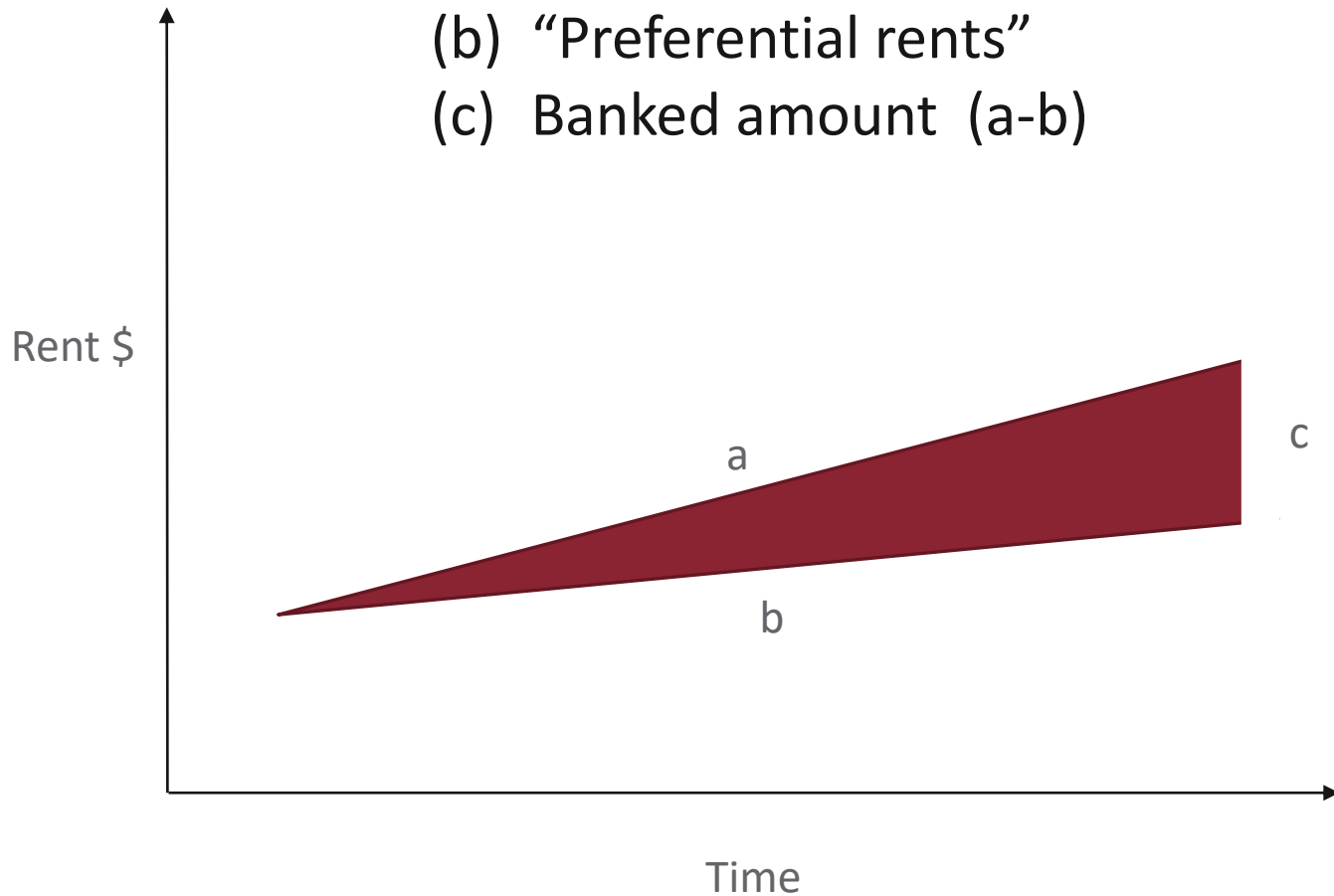
# Preferential rents and banking

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- Preferential rents:
  - Lower than maximum-allowed rent increase
- Can owners “bank” and recover them later?

# “Banking”

- (a) Allowable rent increases at the cap
- (b) “Preferential rents”
- (c) Banked amount (a-b)



# Preferential rents and banking

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- Preferential rents:
  - Lower than maximum-allowed rent increase
- Can owners “bank” and recover them later?
  - Do preferential rents become basis for calculating future increases?
  - Limit to the amount ‘cashed in’ by owners?

# RENT CAP EXCEPTIONS

## SUMMARY

- For specific costs, or
- A general provision (reasonable return)
- Requires process for decision-making
- Typically limited or conditioned



# BREAKOUT ROOMS

What objectives are behind rent cap exceptions such as pass-throughs and banking?



# Program design options

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# HOUSING STOCK EXEMPTIONS

- By building size
- By owner-occupation
- By date of construction
- By affordability restrictions



# By building size

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- Small buildings
  - e.g., NYC excludes 5 or fewer
  - Jersey City exempts 3 or fewer
- Often framed as “mom and pop” or small-time operators
  - DC exempts 4 or fewer AND owned by an individual
- Single family home exemption
  - Growing investor ownership of SFH rentals complicates the picture

# By owner occupation

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- Owner occupation in 2 to 4-unit buildings
- Owner or family member occupation
- Controversial and contested

# By date of construction

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- New construction exemption, justified by
  - fear of dampening rate of housing construction
  - expectation that new buildings rarely provide housing for low-mod renters
- Exemption tied to a fixed date or to a fixed number of years

# New construction exemptions

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- Tied to a specific date
  - Oakland, 1983
  - NYC, 1974
  - LA, 1978
  - Washington, DC, 1975
- or rolling
  - Newark, NJ, length of initial mortgage or 30 years, whichever is less
  - New Brunswick, NJ, same as Newark
  - Takoma Park, MD – 5 years (& only upon petition)
  - State of Oregon – 15 years

# Other

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- Buildings with affordability requirements
  - LA: units with “government imposed regulatory agreement...” guaranteeing affordability
  - Rents are already regulated
- Luxury exemptions
  - MA exempted up to 25% of units at the high end of the market
  - NJ cities have / had luxury exemptions defined by rent amount
  - NYC eliminated its luxury exemption in 2019

# LOSS OF RENTAL HOUSING STOCK

- Movement of units into exempted categories
  - Demolition and replacement with new construction
  - Owner-occupation
- Removal of units from rental market
  - Condominium conversion

# Loss of Housing Stock

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- Research shows that units are withdrawn by various means
  - Diamond et al., 2019; Asquith, 2019; Sims, 2007
  - Significant numbers of units removed
- Many cities respond with condo conversion or demolition controls
  - Prohibit, limit, or condition conversion/demo
  - Barriers to conversion increased evictions in SF Asquith (2019)

# Housing stock exemptions

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- Small building
- New construction
- Owner occupation
- Subsidized/assisted housing
- Loss of rental housing stock
- “complementary” regulations to limit loss of rental housing





# BREAKOUT ROOMS

Which subset of property owners are most likely to benefit from the exemptions we have talked about? Which subset of tenants are most likely to be affected by those exemptions?

[HTTPS://WWW.STPAUL.GOV/DEPARTMENTS/FINANCIAL-EMPOWERMENT/RENT-STABILIZATION](https://www.stpaul.gov/departments/financial-empowerment/rent-stabilization)



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