Members present:

Chairman Jeffrey
Assemblyman Rusk
Assemblyman Weise

Other legislators present:

Assemblyman Prengaman
Assemblyman Hayes

Other guests present:

See attached lists.

Guests testifying (in order of presentation):

Donald Rhodes, Chief Deputy of Research, Legislative Counsel Bureau
Barbara Bennett, United Mobile Tenants Association (spoke twice)
Paul Prengaman, Assemblyman
Mark Handelsman, Attorney for United Mobile Tenants Association
Glenn Anderson, United Mobile Tenants Association
Thelma and Ken Puryear, United Mobile Tenants Association
Bill Jowett, Coalition for Fair Housing (spoke twice)
Bill Fleiner, Coalition for Fair Housing
Norman Flynn, Coalition for Fair Housing
Curtis Aller, Coalition for Fair Housing
George Mehocic, Coalition for Fair Housing
Larry Pegram, Coalition for Fair Housing
Ralph Heller, Coalition for Fair Housing
Bob Meyer, United Mobile Tenants Association, Glen Meadows
J.H. Dion, United Mobile Tenants Association
William A. Latty, self
Vickie Demas, Mobilehome Owner's League of the Silver State, Inc.
Dave Gardner, self, Lucky Lane Mobile Home Park
Lawrence Lavar, self, Mobile Air Trailer Court
Christian Bachner, self, Mobile Air Trailer Court
Elmer Lawler, United Mobile Tenants Association
Jack Schroeder, Attorney for Northern Nevada Mobile Home Parks, Inc.
Jim Joyce, lobbyist for Savings & Loan League
Ed Hale, Cavanaugh Enterprises
Al Cartlidge, CPA for Northern Nevada Apartment Owners

Chairman Jeffrey opened the meeting at 9:04 a.m. and stated that it would be the policy of the committee to allow principal speakers on each side ten minutes and that all other speakers on each side would be limited to 5 minutes. He stated that after this meeting and the one to be held in Las Vegas on March 31, that there would be a sub-committee made up to review all the input from those hearings and to formulate a final proposal regarding the issues covered by the bills being heard today; those being AB 100, AB 195, AB 390, AB 522 and AB 525.

Mr. Rhodes, LCB was first to speak and the information which he based his remarks upon is included and attached as a part of Exhibit "A" which includes all general background information received by the committee to date.

Barbara Bennett, UMTA, stated that she was speaking in support of AB 100, AB 195 and AB390 because they would keep control in the area of rents on a more local basis. She stated that there must be some sort of action by the legislature this session due to the fact that the situation is so critical and that the Washoe County Commission had told their organization that the only way they could receive help was by going to the legislature so authority could be established to help them. Attached as part of Exhibit "B" are her remarks to this subject which were given to the Commission and the Reno City Council.

Assemblyman Paul Prengaman stated that during his campaign he had handed out post cards surveying mobile home parks and apartment buildings regarding rents and when those cards had been returned to the Legislative Counsel Bureau it was found that the average rent in September, 1977 was $76.86 (based on the 3% return of the survey cards) and that in May, 1978 the average rent was $94.59 and that in October, 1978 the rents, on the average, had increased to $114.08 resulting in an increase of 44.7%. He stated that although this survey was not scientifically conducted, it did show an indication of what had happened in the area. See Exhibit "B".

Mark Handelsman, attorney for UMTA, stated that they would like to propose some amendments to AB 525, the bill which their organization preferred due to its ability to vest authority in local governments. Those amendments are attached as a part of Exhibit "B". After reviewing those amendments, Mr. Handelsman stated that he would have no objection to having the review commission set up with a sunset provision included. He further stated that he felt it would be very difficult to keep unscrupulous landlords from contriving a way to maintain the proper percentage of vacant lots to get around any arbitrary level of occupancy. And that there were currently so many abuses, their group was happy just to be able to discuss some of the problems. He also asked if the committee would consider adding to the bill which would ultimately be put out on this matter a provision that the law would become effective upon passage and approval.

Glenn Anderson's are in text form and included and attached as a part of Exhibit "B".

Thelma Puryear stated that she and her husband, Ken, had moved to Reno and bought a mobile home and after not being able to find a lot on which to locate the unit, either by their own efforts or through the seller, they were finally offered a lot but the owner of the lot wanted a $1,500 move-on-fee in addition to the monthly rental for the parcel; therefore, not being able to locate the unit, they cancelled the purchase agreement and decided to buy a used unit in Skyline Mobile Home Park. When they moved in, the lot rent was $95 and now it has increased to $150. She also stated that there are many young couples in their park in addition to the older people and many things have been required of the tenants, such as putting on additional awnings, etc., which compounds the problem with the increases in rerts.

Bill Jowett, opposition to the bill, introduced Bill Fleiner, and Bill Fleiner introduced to the committee the members representing the Coalition for Fair Housing and passed to the committee materials for their presentation which are included as Exhibit "C" and attached hereto. The following speakers addressed the committee with the Coalitions overview and statistics.

Norman D. Flynn, see introduction in Exhibit "C", stated that he agreed with Mrs. Bennett, in that there is a shortage of mobile home lots available and that is what is causing the increase in rents to a large extent. He stated, however, that if you apply rent controls you effectively stifle money supplies and thereby: 1) immediately cut down or eliminate new construction projects (which compounds the problem); 2) diminish and deter maintenance and upkeep in the park because mortgage payments and taxes will remain constant or increase while income will be stagnated; 3) were the rent controls to remain in force over a long period of time, housing would be decimated. In addition he pointed out that once the controls are put into effect, they are very hard to get rid of and he felt that statistically and practically, everyone lost under the effect of rent control. He stated that lenders were very reluctant to put monies into areas which were under a program of rent control of any kind. He suggested that the real way to fight the problem was to look at the causes of the problems and alternate solutions to that as suggested in their information included in Exhibit "C". In answer to a question from Mr. Rusk, Mr. Flynn stated that he did agree that the primary problem in Reno was in the area of mobile home parks.

Dr. Curtis C. Aller, see introduction in Exhibit "C", stated that economists are universally against rent control because bringing sellers and buyers together by artificially bringing prices under control doesn't work. He stated that during World War II in establishing wage and price controls, there was success because of other factors brought about by the effects of the national situation during the war; however, he pointed out, when Nixon tried to institute wage and price controls it did not work because it was a political gesture and was also compounded by the OPEC energy situation. He stated that selective controls have been shown by experience not to work and that the problems contingent with establishing the control mechanism effecting the fair market are difficult to offset once it is decided that the price controls are no longer necessary. He suggested that the politically responsive action in a situation such as is ocurring in Reno and Clark County is to identify the actual problem and search out solutions to the problems rather that trying to deal with the symptoms.

George Mehocic, see introduction and text of speech attached in Exhibit "C".

Larry Pegram, see introduction and text of speech attached in Exhibit "C". In answer to a question from Mr. Rusk, Mr. Pegram stated that the board established by the City of San Jose is addressing the rent control problems between landlords and tenants by hearing the cases, resulting in investigation of the problem

and arbitrating a solution to the problem for those involved. Chairman Jeffrey pointed out that there is a basic state constitutional difference between California and Nevada inasmuch as in California the power is constitutionally delegated to the local governments to set up these kinds of review boards and it is not that way in Nevada; that the state must give specific authority. In answer to a question from Mr. Rusk, Mr. Pegram stated that the board in their area has heard hundreds of cases in the past five years and that it has been a very effective tool for them.

Ralph T. Heller, see introduction attached in Exhibit "C", stated that in the Reno area the situation with single-family homes, condominiums, apartments and mobile home lots available or not available is one of mix. He stated that there has been an increase in the recent past in residential property on the market and therefore the single-family home and condominium market has recently begun to level off. He further stated with the apartment complexes coming on line soon, they felt that that area would also be improving in the near future. He pointed out that he felt it would be very bad to put controls in the area right now when the problem was beginning to level off. He agreed with the former speakers that the high rents were the symptoms, not the cause, of the problem and referred to the solutions proposed in their package. In answer to a question from Mr. Weise, Mr. Heller stated that he felt some of the reasons for the increased rents in all areas, including mobile home lot rentals, was the tight supply in all kinds of housing and, additionally, zoning restrictions on mobile home parks and the lack of sewer capacity in the Reno-Sparks area.

Mr. Jowett discussed with the committee the application of the Section 8 proposed solution and what monies would be necessary in the state and through federal funding in order for this type of system to be initiated. Chairman Jeffrey stated that he would have the Research Department of the Legislative Counsel Bureau look into this area and report back to the committee on their findings.

Mr. Bob Meyer, Glen Meadows, proponent of the bills, stated that his complaint was similar to those of the other proponents in that the simply wanted help in trying to cope with the higher rents in the mobile home parks. In answer to a question from Mr. Weise, Mr. Meyer stated that they had lived in the part since 1977 and originally paid $119 per month and are now paying $199 per month for their 20' wide trailer.

Mr. J. H. Dion stated that he was here on behalf of himself and many of the elderly people who live in his park who couldn't be present. He stated that he had lived in New York City before and that the reason for the decline of the innercity was caused by other things in addition to the rent control factor; i.e. crime and unemployment, etc. He stated that if the rents were stabilized by some kind of rent control measure which was within reason, it would help to keep responsible and productive people in the area and be less condusive to transient problems. He said that the goal was to have a flexible law that would help everyone.

William A. Latty stated that he was generally in opposition to price controls; however, he felt this situation was an emergency. He stated AB 525 would be an equitable solution to that emergency and he would hope that putting the authority to review rents into local hands would be effective. He stated that he worked with Assemblyman Glover on some of the provisions in AB 100 relating to towing costs and he felt the committee should take into consideration some relief in that area.

Vickie Demas, proponent of the bills, read her prepared remarks to the committee which are attached as part of Exhibit"B" and presented the committee with a position paper and a folder with proposed legislation in this area together with a copy of a rental agreement which was given for information, all of which are included as part of Exhibit "B". In answer to a question from Mr. Rusk, Mrs. Demas stated that she felt it would help a great deal if zoning restrictions were eased so that more parks could be built and also if the sewer allocation problems could be worked out soon.

Dave Gardner, Lucky Lady Mobile Home Park, stated that this was a unique and critical local problem to which there was no solution within Washoe County government and they were looking for help in trying to work out a solution. He stated that he thought in all except for two parks currently the tenants take care of the grounds surrounding their units; that it was not done by a professional care taker and therefore, did not feel that controlling rents would have a great impact on the esthetics of the parks. He also pointed out that the average person in their park pays not only his lot rent but loan payment on the trailer plus a utility payment of from $80 to $140 per month. He said he felt it was a sad state, indeed, when the elderly were put in such a bad position.

Lawrence Lavar stated that he had been a tenant of Mobile Air Park for 2-1/2 years and a mobile home resident for over 10 years. He said that when he moved into the park, his rent was $80 per month then was increased by $50 per month and now is going to go up an additional $15 per month. He stated that he had had an area near his trailer where he had been parking for most of that time and had recently come home to find a notice that the vehicle had a note on it stating that he would no longer be able to use the area for parking. He said that the compacting of units in the park had gotten to such a point that they were finding it difficult to sell the units because of the congestion. He said that he had raised his family and bought a mobile home so that he could retire with some dignity and live decently for less and, if they did not get some help, they would not be able to continue to be self-sufficient much longer.

Christian Bachner, Mobile Air Park, stated that there had had a large problem with selling their homes in the parks because of the low appraisals which had been made on them with the real estate people working with the owners against those who wanted to sell their trailers. He stated that if they wanted to sell the unit, they would have to pay a $2,000 fee to the owner. He said that

there had been six units within the park which had been for sale for more than six months and that the owner had turned down people who had come in to inquire about buying the units, and he felt they had been turned down unjustly. He stated that the owner of the park in which he resides has done everything possible to harass the tenants, from changing the numbers on the lots (thereby confusing mail delivery) to making him give up a 30' area which he had planted in trees and shrubs which cost him over $500 and much work. He stated that when he had to give up his garden area the landlord had not given him compensation for the loss plus he had taken away the cut wood from the trees after the tenant had paid to have it cut up for a friend's fireplace. He said that the landlord had converted the area formerly used for a garden into another space for a trailer which now left the area very crowded. He stated that the situation in his park was not unique and he had spoken to others who had had similar problems in other parks. He stated that his rent is now $175 plus over $50 in utilities plus insurance costs and that if there wasn't some relief, he did not know how, on social security, he could continue to live.

Elmer Lawler, UMTA, stated that they had been seeking help from the Reno City Council for more than two years and that the situation now was a crisis. He stated that they were here because the city had told them that this was where they could seek changes in the law. He stated that he realized the opposition was impressive, but urged the committee to consider their problems.

Barbara Bennett stated in closing that she felt the opposition should get to know the problems of the people and the community. She said that she also thought that investments were based on other factors than whether or not rent control was in effect in an area. She suggested that the subsidy plan for assistance to the elderly would not help the young families in the park who were currently families in which both parents worked and were still having a difficult time in meeting the ever increasing costs. She also stated that she felt rezoning might also help, but that it would take time and relief was needed for these people now.

Also attached as part of Exhibit "B" are letters and information in support of rent control.

John "Jack" Schroeder, attorney for Northern Nevada Mobile Home Park Assoc., spoke in opposition to the bills and his prepared remarks are attached as part of Exhibit "C" together with supplemental information which he supplied for the committee's information on this subject. Addressing Mr. Weise, Mr. Schroeder stated that the last time they were before the Reno City Coucil Bill Wallace had told them that Reno had approved more mobile homes; however, he had told them that Sparks would not approve additional sewer allocations. He suggested that the committee look to ACR 3 which would provide for a legislative commission study of the problems of owners and renters which might include: 1) direct aid to those in need (Section 8 provision); 2) state subsidy by state funded parks; 3) tax incentives through directing laws to supply

guaranteed low rate loans to developers. In answer to questions posed by Mr. Weise, Mr. Schroeder stated that he felt the only way to get the rents under control (increases compared with CPI) was to make more spaces available and so far as some of the gouging which is going on evidently in some parks was concerned, that there is currently redress procedures available through the District Attorney's office. In answer to a question from Chairman Jeffrey, he stated that there is currently a bill, SB 337, which addresses itself to the moving costs, etc., which is a problem due to the captive market aspect of the problem. Mr. Weise asked him if he felt the current redress laws could be strenghthened and if his organization would be agreeable to those types of measures. Mr. Schroeder stated that he felt his organization would go along with that type of proposal and he would talk to the members of the organization and bring back their comments to the committee.

Mr. Rusk stated that he felt the owners who were creating the problem were not in the majority, but that they were responsible for the legislation having to be drafted.

James Joyce stated that that the league opposed the concept of rent controls because, ultimately it would not be in the best interest of the public. He stated that if the rent control provisions were passed, loans available would go down to approximately 50% of value rather than the 75-80% loans which are now available. Chairman Jeffrey asked if the league would be more in favor of the controls if new construction were exempted. He stated that that might make some difference to them and that the would discuss it with them and return their views to the committee.

Edward Hale stated that since the establishment of the Nevada Housing Division that division has been very successful in selling Nevada bonds in the Eastern markets, resulting in a supply of construction moneys available. He stated that though there are no provisions in the current law to cover mobile home parks or lots he felt it would be worthwile to look into including them within that law. He stated this might allow the mobile home area to come under low interest rate loans somewhat similar to FHA.

Al Cartlidge stated that he agreed with the speakers from the Coalition regarding rent control measures, but that there were other areas of the law covered by the bill which his organization wished to address and that he would, if notified, come back to testify regarding those areas for the committee at their convenience.

Also attached as part of Exhibit "C" are letters and information in opposition to rent control.

Also attached as Exhibit "D" is an article from the Nevada Gazette, dated March 25, 1979 which gives a general overview of the meeting.

The meeting was adjourned at 12:21 p.m.

Respectfully submitted,

Linda D. Chandler
Secretary

COMPARISON OF THE PRINCIPAL
PROVISIONS OF A.B. 100, A.B. 195, A.B. 390 AND A.B. 525

A.B. 100	A.B. 195	A.B. 390	A.B. 525*
1. Declares legislative intent for the need for mobile home park rent control.	1. Declares legislative intent for the need for mobile home park rent control.	1. Permits the board of county commissioners in Clark County to provide by ordinance for a 5-member board to review increases in the rents charged for mobile home lots within mobile home parks if the board determines that an emergency exists with regard to the rental of those lots. An emergency exists where the board of county commissioners finds that the rate of vacancies in mobile home parks is 3 percent or less.	1. Permits the governing board of any city or county to provide by ordinance for a 5-member board to review increases in the rents charged for mobile home lots if the governing board determines that an emergency exists with regard to these lots. An emergency exists where the governing board finds that the rate of vacancies in mobile home parks in the county is 5 percent or less.
2. Establishes a mechanism for boards of county commissioners to determine, by resolution, mobile home park vacancy factors and provides for the exclusion, and termination of such exclusion, from the bill's provisions on account of vacancy factor findings by the boards of county commissioners. The measure's emergency vacancy factor is set at 3 percent.	2. Creates a 7-member commission on mobile home parks, appointed by the governor for unspecified terms, consisting of two mobile home park landlords, two tenants of mobile home parks and three members of the general public, and specifies its organization, powers and duties, and the members' subsistence allowances and travel expenses.	2. Permits the board for rent review to (a) receive written complaints concerning mobile home lot rent increases; (b) review any proposed or actual increase in rent; (c) issue public announcement containing the name of the mobile home	2. Permits the board for rent review to (a) receive written complaints concerning mobile home lot rent increases; (b) review any proposed or actual increase in rent; (c) issue public announcements containing the name of the mobile home park against which a complaint has been filed with the board and the park's increase in rent; (d) impose a period of up to 60 days from the scheduled effective date of the proposed
3. Provides for increases in rent calculated on the difference between the Consumer Price Index (for urban wage earners and clerical workers) between a specified base index and current index.	3. Exempts mobile home parks which are established by an employer solely for the use and occupancy of his employees. The measure's emergency vacancy factor is set at 3 percent.		
4. Requires (a) any proposed increase in rent to be approved by a certified public	4. Establishes a mechanism for boards of county commissioners to determine, by resolution, mobile home park vacancy factors and provides for the exclusion, and termination of such exclusion, from		

EXHIBIT A

COMPARISON OF THE PRINCIPAL
PROVISIONS OF A.B. 100, A.B. 195, A.B. 390 AND A.B. 525

A.B. 100	A.B. 195	A.B. 390	A.B. 525*
accountant who is not otherwise in the employ of the landlord and (b) the accountant's fees to be paid by the tenants of the park on a pro rata basis. 5. Specifies that if a landlord requires a mobile home which has been sold by a tenant to be moved, and the mobile home was continuously occupied in the park for five years immediately preceding the proposed date of removal, the landlord must pay the removal fees and the towing fee for a distance of 25 miles or less. 6. Provides for misdemeanor penalties for violations of its provision.	the bill's provisions on account of vacancy factor findings by the county commissioners. 5. Creates the regulatory fund for mobile home parks to be funded out of specific registration fees. 6. Provides for the annual registration with the commission of mobile home parks containing 75 or more mobile home lots, requires that each applicant pay a fee of $1 for each mobile home lot contained in the park and permits the landlord to recover the fees by charging each tenant an annual $1 fee for such purpose. 7. Permits mobile home tenants to petition the commission to review specified increases in rent or service fees, or decreases in services, when the tenants have received written notice advising them of any increase in rent or service fee in any calendar	park against which a complaint has been filed with the board and the park's increase in rent; (d) impose a period of up to 60 days from the scheduled effective date of the proposed increase in rent during which the rent may not be increased; (e) recommend a settlement between the tenant and the landlord through the means of an advisory opinion, mediation or negotiation; and (f) recommend to the board of county commissioners changes in any applicable ordinance or in the procedures of the board for rent control.	increase in rent during which the rent may not be increased; (e) recommend a settlement between the tenant and the landlord through the means of an advisory opinion, mediation or negotiation; and (f) recommend to the board of county commissioners changes in any applicable ordinance or in the procedures of the board for rent control. 3. Specifies that if the governing bodies of a city and county both provide for a board to review rent increases, the board established by the city has exclusive jurisdiction over rent review within the city. 4. Provides that if a court finds that a rental agreement or any of its provisions was unconscionable when made, the court

*Only provisions relating to mobile home rent control are summarized.

EXHIBIT A

COMPARISON OF THE PRINCIPAL
PROVISIONS OF A.B. 100, A.B. 195, A.B. 390 AND A.B. 525

A.B. 100	A.B. 195	A.B. 390	A.B. 525*
	year which is in excess of the net increases in the Consumer Price Index of the United State Dept. of Labor since the last increase in rent or the service fee; or the cumulative increase in the cost of living during the next preceding years when taken together with all increases of rent charged in the park during the same period.		may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.
	8. Provides for a review and determination of rent increases or service reductions by the commission and establishes criteria for rent increases which are attributable to increases in utility rates, property taxes and assessments, fluctuations in property value, increases in the cost of living relevant to incidental services and normal repair and maintenance, and capital improvements not otherwise promised or contracted for.		5. States that if unconscionability is put in issue by a party or by the court upon its own motion, the party shall be afforded a reasonable opportunity to represent evidence as to the setting, purpose and effect of the rental agreement or settlement to aid the court in making its determination.
	9. Sets procedures for petitioning the court for enforcement of commission's		6. Regulates the landlords' charges for utilities in mobile home parks by providing for the proration of specified utility costs in parks which are not equipped with individual meters for each lot and for the "pass on" of actual utility

*Only provisions relating to mobile home rent control are summarized.

EXHIBIT A

A.B. 100	A.B. 195	A.B. 390	A.B. 525*
	orders. 10. Provides for penalties of violations of its provisions.		costs to each lot which is equipped with an individual meter. 7. Sets procedures for the commencement of court actions for the enforcement of its "rent control" provisions and for the provisions contained in "Landlord And Tenant: mobile home lots." (See NRS 118.241 to 118.320.) 8. Provides that any person who for the purpose of renting a mobile home lot either solicits or offers any compensation other than that normally paid as deposits and rental fees is guilty of a gross misdemeanor and shall be punished by a fine not to exceed $10,000 for each violation. 9. Prohibits certain discrimination in housing. 10. Changes the procedure relating to unlawful detainer of mobile home lots.

*Only provisions relating to mobile home rent control are summarized.

EXHIBIT A

A.B. 100	A.B. 195	A.B. 390	A.B. 525*
			11. Makes other changes in the landlord and tenant laws.

EXHIBIT A

COMPARISON OF THE "RENT REVIEW" PROVISIONS
IN
A.B. 100, A.B. 195, A.B. 390 AND A.B. 525

A. WHO PERFORMS THE REVIEW?

A.B. 100	A.B. 195	A.B. 390	A.B. 525
***Any proposed increase in rent must be approved by a certified public accountant, who is not otherwise in the employ of the landlord or any tenant of the park, to insure that the requirements in subsection 2 are met. The fee of the certified public accountant must be paid by the tenants of the park on a pro rata basis.	The commission on mobile home parks.	A board for rent review in Clark County only.	Any city or county board for rent review.

EXHIBIT A

COMPARISON OF THE "RENT REVIEW" PROVISIONS
IN
A.B. 100, A.B. 195, A.B. 390 AND A.B. 525

B. HOW IS THE REVIEW PERFORMED OR THE INCREASE PROVIDED FOR?

A.B. 100	A.B. 195	A.B. 390	A.B. 525
***the landlord may not increase the rent charged for any mobile home lot unless the current index is greater than the base index and any increase in rent may not exceed, a percent equal to the percentage increase of the current index over the base index. (a) "Base index" means the average of the consumer price indices for the 10th 11th and 12th months next preceding the month in which the effective date of the proposed increase in rent would occur. (b) "Consumer price index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers (Including Single Workers) published by the Bureau of Labor Statistics of the United States Department of Labor. (c) "Current index" means the average of the consumer price indices for the second third and fourth months next preceding the month in which the effective date of the proposed increase in rent would occur.	***1. The tenants of a mobile home park who: (a) Have received written notice advising them of an increase in rent or any service fee in any calendar year in excess of: (1) The net increases in the Consumer Price Index of the United States Department of Labor since the last increase in rent or the service fee; or (2) The cumulative increases in the cost of living during the next preceding 5 years when taken together with all increases of rent charged in the park during the same period; or (b) Are subject to a decrease in services normally supplied by the landlord, may petition the commission as provided in this section to review the increase in rent or service fee or the decrease in services. The petition must contain the signatures of tenants of at least a majority of the mobile home lots in the park and must be accompanied by the affidavit of one of the signers to the effect that the petition contains the required number of signatures, that all the signatures are genuine and that	Board may not set rents but: A board for rent review created pursuant to subsection 1 may receive written complaints from persons who rent mobile home lots within mobile home parks in the county regarding increases in the rent charged for their lots. The board for rent review may: (a) Review any proposed or actual increase in rent; (b) Issue public announcements containing the name of the mobile home park against which a complaint has been filed with the board and the park's increase in rent; (c) Impose a period of up to 60 days from the scheduled effective date of the proposed increase in rent during which the rent may not be increased; (d) Recommend a settlement between the tenant and the landlord through the means of an advisory	Board may not set rents but: A board for rent review created pursuant to subsection 1 may receive written complaints from persons who rent mobile home lots within mobile home parks in the city or county, as the case may be, regarding increases in the rent charged for their lots. The board for rent review may: (a) Review any proposed or actual increase in rent; (b) Issue public announcements containing the name of the mobile home park against which a complaint has been filed with the board and the park's increase in rent; (c) Impose a period of up to 60 days from the scheduled effective date of the proposed increase in rent during which the rent may not be increased; (d) Recommend a settlement between the tenant and the landlord through the means of an advisory opinion, mediation or negotiation. The recommended settlement may be reviewed by the board between 30 to 60 days

EXHIBIT A

B. HOW IS THE REVIEW PERFORMED OR THE INCREASE PROVIDED FOR?

A.B. 100	A.B. 195	A.B. 390	A.B. 525
	each person who signed the petition was at the time of signing a tenant of the mobile home park. The petition must be submitted to the commission within 60 days after the landlord gives to the tenants written notice of the increase in rent or service fee or the decrease in services. 2. The commission shall set a date for a hearing upon the petition which may be held at the mobile home park or at any other place which is reasonably accessible to all the parties. The tenants may be represented at the hearing by a tenants' league or similar organization if it has as members the tenants of at least a majority of the mobile home lots in the park. 3. The commission shall determine from evidence offered at the hearing or gathered from any reasonable investigation it may conduct into the matter whether or not the increase in rent or service fee or the decrease in services is so great as to be unconscionable or is not justified under all the circumstances of the particular case.	opinion, mediation or negotiation. The recommended settlement may be reviewed by the board between 30 to 60 days after the parties have been informed of the settlement; and (e) Recommend to the board of county commissioners changes in any applicable ordinance or in the procedures of the board for rent review.	after the parties have been informed of the settlement; and (e) Recommend to the governing body changes in any applicable ordinance or in the procedures of the board for rent review.

EXHIBIT A - 1

B. HOW IS THE REVIEW PERFORMED OR THE INCREASE PROVIDED FOR?

A.B. 100	A.B. 195	A.B. 390	A.B. 525
	4. For the purposes of subsection 3, an increase in rent or any service fee may include, to the extent the inclusion is reasonable and justified under the circumstances of the case, the increased costs to the owners of the mobile home park attributable to: (a) Increases in utility rates property taxes and assessments and fluctuations in property value. (b) Increases in the cost of living relevant to incidental services and normal repair and maintenance. (c) Capital improvements not otherwise promised or contracted for. SEC. 15. 1. After making its determination, the commission shall approve or disapprove the increase in rent or service fee or the decrease in services. If it is disapproved, the commission shall by order require the landlord to: (a) Eliminate the increase in rent or the service fee or reduce or increase it to an amount set by the commission.		

EXHIBIT A - 1

COMPARISON OF THE [redacted]T REVIEW" PROVISIONS
IN
A.B. 100, A.B. 195, A.B. 390 AND A.B. 525

C. DEFINITIONS

A.B. 100	A.B. 195	A.B. 390	A.B. 525
Emergency - 3 percent vacancy factor.	Emergency - 3 percent vacancy factor. SEC. 2. "Commission" means the commission on mobile home parks. SEC. 3. "Landlord" means the owner, lessor or operator of a mobile home park. SEC. 4. "Mobile home" means a vehicular structure without independent motive power, built on a chassis or frame, which is: 1. Designed to be used with or without a permanent foundation; 2. Capable of being drawn by a motor vehicle; and 3. Used as and suitable for year-round occupancy as a residence, when connected to utilities, by one person who maintains a household or by two or more persons who maintain a common household. SEC. 5. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile	Emergency - 3 percent vacancy factor. 1. "Landlord" means the owner, lessor or operator of a mobile home park. 2. "Mobile home" means a vehicular structure without independent motive power, built on a chassis or frame, which is: (a) Designed to be used with or without a permanent foundation; (b) Capable of being drawn by a motor vehicle; and (c) Used as and suitable for year-round occupancy as a residence, when connected to utilities, by one person who maintains a household or by two or more persons who maintain a common household. 3. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.	Emergency - 5 percent vacancy factor. 1. "Landlord" means the owner, lessor or operator of a mobile home park. 2. "Mobile home" means a vehicular structure without independent motive power, built on a chassis or frame, which is: (a) Designed to be used with or without a permanent foundation; (b) Capable of being drawn by a motor vehicle; and (c) Used as and suitable for year-round occupancy as a residence, when connected to utilities, by one person who maintains a household or by two or more persons who maintain a common household. 3. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home. 4. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or

EXHIBIT A

A.B. 100	A.B. 195	A.B. 390	A.B. 525
	home. SEC. 6. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. The term does not include an area or tract of land where more than half of the lots are rented overnight or for less than 1 month. SEC. 7. "Service fee" means any charge made by the landlord for services or utilities which is not included in the rent paid for the mobile home lot.	4. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. "Mobile home park" does not include an area or tract of land where more than half of the lots are rented overnight or for less than 1 month.	mobile home lots are rented or held out for rent. "Mobile home park" does not include an area or tract of land where more than half of the lots are rented overnight or for less than 1 month.

EXHIBIT A

COMPARISON OF THE [redacted] REVIEW" PROVISIONS
IN
A.B. 100, A.B. 195, A.B. 390 AND A.B. 525

D. EXEMPTIONS

A.B. 100	A.B. 195	A.B. 390	A.B. 525
Any county where the board of county commissioners finds by resolutions that the percentage of vacancy in mobile lots in the county is more than 3 percent.	1. Any county where the board of county commissioners finds by resolutions that the percentage of vacancy in mobile lots in the county is more than 3 percent. 2. Any mobile home park which is established by an employer solely for the use and occupancy of its employees. 3. Low-rent housing programs operated by public housing authorities and established pursuant to the United States Housing Act of 1937 as amended (42 U.S.C. 1401 et seq.). 4. A person who owns less than seven dwelling units, except with respect to the provisions of NRS 118A.200, 118A.300, 118A.340, 118A.450 and 118A.460. 5. Residence in an institution, public or private, incidental to detention or the provisions of medical, geriatric, educational, counseling, religious or similar service.	Only applies to Clark County.	All cities and counties which do not find that an emergency exists.

EXHIBIT A

D. EXEMPTIONS

A.B. 100	A.B. 195	A.B. 390	A.B. 525
	6. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to the purchaser's interest.		
	7. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.		
	8. Occupancy in a hotel or motel for less than 30 consecutive days unless the occupant clearly manifests an intent to remain for a longer continuous period.		
	9. Occupancy by an employee of a landlord whose right to occupancy is solely conditional upon employment in or about the premises.		
	10. Occupancy by an owner of a condominium unit or by a holder of a proprietary lease in a cooperative apartment.		

EXHIBIT A

D. EXEMPTIONS

A.B. 100	A.B. 195	A.B. 390	A.B. 525
	11. Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.		

EXHIBIT A

B. HOW IS THE REVIEW PERFORMED OR THE INCREASE PROVIDED FOR?

A. B. 100	A.B. 195	A.B. 390	A.B. 525
	(b) Maintain the service under review as normally supplied by the landlord when the proposed decrease in services took or is to take effect, or reduce or increase it to a level set by the commission. 2. If the commission does not approve the full amount of an increase in rent or a service fee, any increase which has been collected by the landlord after the tenants have petitioned the commission and before the commission approves or disapproves the increase, must be returned to the tenants or credited to their future payments of rent or the service fee under review. SEC. 16. 1. A decision of the commission is a final decision in a contested case. 2. Any increase in rent or a service fee that is approved by the commission must be paid by the tenants to the landlord, as it would otherwise have become due, while the commission's decision or order is under judicial review. If those increase are not upheld on appeal, the amount of the increase paid by each tenant		

EXHIBIT A

B. HOW IS THE REVIEW PERFORMED OR THE INCREASE PROVIDED FOR?

A.B. 100	A.B. 195	A.B. 390	A.B. 525
	must be refunded to him by the landlord or credited to the next payment of rent or service fee due. 3. Any increase in rent or a service fee denied by the commission must be paid by the tenants to the landlord, as it would otherwise have become due, while the commission's decision or order is under judicial review, but the landlord shall deposit with the district court the amount of the increase denied. This money must be disbursed as ordered by the court.		

EXHIBIT A

EXHIBIT A

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

ARTHUR J. PALMER, *Director*
(702) 885-5627

LEGISLATIVE COMMISSION (702) 885-5627
DONALD R. MELLO, *Assemblyman, Chairman*
Arthur J. Palmer, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 885-5640
FLOYD R. LAMB, *Senator, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

January 28, 1979

M E M O R A N D U M

TO: Assemblyman Paul Prengaman

FROM: Andrew P. Grose, Research Director

SUBJECT: Renter Survey

Your postcard rent survey seems to be complete. No more have come in in a week or two. I have run the totals for you.

Total Responses	-	65
Apartment/Duplexes	-	29
Mobile Home Lots	-	36
Average Apartment Rent		
September 1977	-	$232.40
May 1978	-	255.17
October 1978	-	287.24
Average Mobile Home Lot Rent		
September 1977	-	$ 78.86
May 1978	-	94.59
October 1978	-	114.08
Percentage Increases		
Apartments Sept 77-Oct. 78		- 15.6 percent
Mobile Home Lots Sept 77-Oct 78		- 44.7 percent

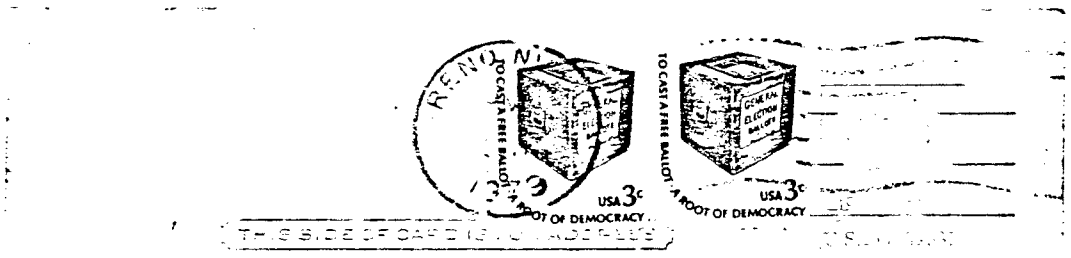
For comparison, the Consumer Price Index in the same period rose from 184.0 to 200.9, an increase of 9.2 percent Landlords can have certain costs that might go up faster than the CPI but it is doubtful that costs can account for the

full increases in apartment rents and no way in the world they could account for the mobile home lot increases where maintenance is less than for apartments. There were a couple of apartment responses that said they did not pay for electricity or did not pay for gas in September 1977 but did in 1978. On those, I subtracted $20 from the September 1977 reported rent.

We are also returning the response cards.

APG/jld
Encl.

EXHIBIT A



Assemblyman Paul Prengaman
Assembly Building
Carson City, Nevada
89701

EXHIBIT A

3-14 79

Fairview Mobile Manor
2385 Kettyle Ln. Sp. 48
Reno, Nevada 89502

Legal Svc.:

On Sept. 1, 1978 our space rent was raised from $90.00 to $155.00 a month. We have received notice that as of April 1, 1979 we will have to pay another increase of $25.00, making our rent $180.00 mo. An increase of 100% in seven months.

We have tried, to no avail, to get some relief on a City level.

We beg you to take some action to enact some kind of moderate rent control for Mobile Home Parks.

Sincerely,
Mr. & Mrs. Wm. H. Barratt

EXHIBIT A

CALIFORNIA RENTERS CHEATED OUT OF PROP. 13 TAX REDUCTIONS!

DON'T LET IT HAPPEN HERE .

ELECT PAUL PRENGAMAN WHO WILL INTRODUCE AND FIGHT FOR RENTER PROTECTION LAWS TO INSURE THAT TAX CUTS ARE PASSED ON TO TENANTS IN THE FORM OF LOWER RENTS ! ! !

YOU CAN JOIN PAUL IN THIS FIGHT.

Fill out the card below and mail to the LEGISLATIVE COUNCIL BUREAU which does the research for the legislature.

The information you send in will document for legislators actual rents and rent increases in Reno, and help insure that lower property taxes are passed on to you!

Legislators:

Our rents are rising and rising, with no end in sight and we want relief!

I/We rent ____ an apartment, ____ house,
____ mobile home space.
In Sept. 1977 the rent was _____ per month
In May 1978 the rent was _____ per month
In Oct. 1978 the rent was _____ per month

COMMENTS

NAME (OPTIONAL) _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____
NAME OF APT. COMPLEX OR MOBILE HOME PARK
_____

Meet Paul Prengaman

PAUL FAVORS:

Lower rent guarantees if property taxes are reduced.
Elimination of the sales tax on food.
Using state surplus funds to ease the traffic problems in Southeast Reno.

Assembly Dist. #28 Vote for One		
		○
		○
	PRENGAMAN, PAUL REP ■170	○ 170

Fill out reverse side, detach here and mail.

PAUL PRENGAMAN
ASSEMBLY
306 VASSAR STREET
RENO, NEVADA 89502

10¢ postage

NEVADA LEGISLATURE
c/o LEGISLATIVE COUNCIL
BUREAU
LEGISLATIVE BUILDING
CARSON CITY, NEVADA
89710

ATTN: Research Division
RENTER DATA FILE

CITY OF LAS VEGAS

INTER-OFFICE MEMORANDUM

Date
EXHIBIT A
February 19, 1979

TO:

Ron Jack, Deputy City Manager

FROM:

Lynda Mabry, Deputy City Attorney

SUBJECT:

A.B. 100, 195, 390
Mobile Home Rent Control Bills

COPIES TO:

You have requested that I review the three bills introduced to date in the Assembly concerning mobile home rent control. The following contains a review of the individual bills along with a discussion of the general law pertaining to rent control.

A.B. 100: This bill would apply statewide. The major difficulty with the bill, aside from the problems of due process and equal protection to be discussed at length infra, appear in Section 3(2), p. 2. That subsection provides that if a county finds by resolution that vacancies in mobile home parks exceed 3%, the law becomes inoperative in that county. It further provides that upon a new resolution by that county that vacancies have declined to under 3%, the exclusion of the provisions of the bill terminates. This is an awkward arrangement and presents many legal difficulties: the bill does not determine whether or not the action by the county is mandatory; it makes no provision for action in the event a county determines to make no resolution; and it does not establish the procedure by which the 3% determination is made.

A.B. 195: Like A.B. 100, this bill would apply statewide and would present the same difficulties concerning exclusion and termination of exclusion upon passage of a county resolution.

A.B. 195, however, is an improvement over A.B. 100 in that it provides for some procedure whereby grievances may be heard and also recognizes circumstances in which a rent increase may be justified. The bill does not, however, provide for notice to the landlord or set a specific period of time which must pass before the hearing may be held. Since the bill provides that the decision of the commission operates as a final decision of an adjudicated case, such failures may well constitute an infringement on the Constitutional rights of due process.

A.B. 390: This bill would apply only in Clark County. The major difficulties with the bill stem from possible violations of the rights of due process and equal protection. Most seriously, the bill provides for no notice of review to the landlord, the bill provides for no opportunity for the landlord to be heard, and

provides for no guidelines to establish a finding of circumstances in which rent increases might be justified. Additionally, the bill suggests no penalties for failure to comply with the findings of the board for rent review.

A rent control measure, similar to that suggested by the three bills, A.B. 100, 195, and 390, underwent Constitutional scrutiny in California in 1976. In Birkenfeld v. City of Berkeley, 550 P.2d 1001 (Cal. 1976), the California Supreme Court reviewed a city charter amendment creating a board charged with the control and adjustment of rents. Landlords attacked the amendment on four grounds:

1. That rent control exceeded the city's police power absent emergency conditions;

2. That rent control constituted an impermissible enactment of private laws regulating private civil relationships;

3. That city rent control laws conflicted impermissibly with state laws; and

4. That the process called for in the amendment created impracticable red tape and resulted in unjustifiable delays.

The California Supreme Court struck down the admendment on the last ground only.

1. Rent control is permissible even absent emergency conditions.

The California court held that the existence of a serious public emergency is no longer a prerequisite to the imposition of rent controls under the police power:

> [W]e have concluded that the existence of such an emergency is no more necessary for rent control than for other forms of economic regulation which are constitutionally valid when reasonably related to the furtherance of a legitimate governmental purpose....

550 P.2d at 1006.

The court concluded that the constitutionality of the amendment depended only on the existence of a housing shortage and conditions serious enough to make rent control a rational solution.

2. Rent control is permissible only where procedures are just and do not result in improper delay.

The California court struck down the Berkeley amendment because it necessarily resulted in long procedural delays in the fixing and adjustment of rents.

> The provisions are within the police power if they are reasonably calculated to eliminate excessive rents and at the same time provide landlords with a just and reasonable return on their property. However, if it is apparent from the face of the provisions that their effect will necessarily be to lower rents more than could reasonably be considered to be required for the measure's stated purpose, they are unconstitutionally confiscatory.

550 P.2d at 1027.

The court concluded that the unit-by-unit procedure envisioned by the Berkeley amendment placed the rent control board in a strait jacket.

> It cannot order general rental adjustments for all or any class of rental units based on generally applicalbe factors such as property taxes. It cannot terminate controls over any housing. It cannot consider a landlord's petition that is not accompanied by a current building inspection certificate of code compliance. It cannot dispense with a full-blown hearing on each adjustment petition even though all non-petitioning parties are given ample notice and none requests to be heard. It cannot accept petitions pertaining to more than one unit or consolidate petitions pertaining to individual units for hearing even in the absence of objection except when the majroity of the tenants in a building give written consent to consolidation of the petitions relating to that building. It cannot delegate the holding of hearings to a hearing officer or a member of the Board. In short, it is dentied the means of reducing its job to manageable proportions through the formulation and application of general rules, the appropriate delegation of responsibility, and the focusing of the adjudicate process upon issues which cannot fairly be resolved in any other way.

550 P.2d at 1031

In conclusion, the Berkeley case must teach us in Nevada that it is necessary to reach a proper balance in rent control legislation. It is necessary to protect both the tenant and the landlord. Necessary to the protection of both is provision for prompt hearing, due notice, and adequate opportunity to be

heard. Essential to the establishment of such an efficient and fair procedure would be the creation of rules and regulations permitting operation by the delegated officers of the board. Additionally, the California case indicates the necessity of provision for penalties in the event of a landlord's failure to comply with a decision of the board. Criminal penalties or civil remedies, including award of damages and possible injunction, are suggested on page 1039 of the case attached hereto.

EXHIBIT A

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, STATE OF CALIFORNIA, ESTABLISHING A MOBILE HOME RENT REVIEW COMMISSION.
ORDINANCE NO. 78-462

The City Council of the City of San Marcos does ordain as follows:

Section 1. There is presently within the city of San Marcos and the surrounding areas, a shortage of spaces for the location of mobile homes. That no new mobile home parks may be constructed within the City during the next several years because of a shortage of sewage outfall capacity at the Encina Plant which prevents new sewer permits from being issued for mobile home parks. That due to the shortage of available spaces, there is a low vacancy rate and rents have been rising for several years and presently are being raised in amounts and at a frequency that has caused and is still causing concern among a substantial number of San Marcos residents residing in mobile home parks. That due to the high cost of moving mobile homes from park to park, the potential for damage in moving of the mobile homes, the requirements relating to the installation of mobile homes, including permits, landscaping and site preparation, and overall, the lack of alternative homesites for mobile home residents and the substantial investment of mobile homeowners in such homes, the City Council finds and declares it necessary to protect the mobile home coach owner or occupiers of mobile homes from unreasonable rent increases while at the same time, recognizing the need of the mobile home park owners to receive a fair return on their investments by reasonable rent increases sufficient to cover the increased cost of repairs, maintenance, insurance, upkeep and all other additional amenities.

Section 2. Definitions.

(a) "Space Rent". The consideration, including any bonus, benefits or gratuity demanded or received in connection with the use and occupancy of a mobile home space in a mobile home park, or for the transfer of a lease for park space, services and amenities, subletting and security deposits, but excluisve of any amounts paid for the use of the mobile home dwelling unit.

(b) "Mobile home park owner" or "Owner" means the owner, lessor, operator or manager of a mobile home park within the purview of this ordinance.

(c) "Mobile Home Tenant" or "Tenant" means any person entitled to occupy a mobile home dwelling unit pursuant to ownership therof or a rental or lease arrangement with the owner thereof. "Tenant" shall represent one mobile home park space without regard to the number of residents residing within the coach.

(d) "Investment" means current market value of the mobile home park.

Section 3. Applicability. The provisions of this ordinance shall apply to any mobile home park which contains more than 25 spaces.

Section 4. Rent review commission established.

(1) There is hereby created within the City of San Marcos, a rent review commission, consisting of the City Council.

Section 5. Powers of the commission. Within the limitations provided by law, the commission shall have the following powers:

(1) To meet from time to time as requested by the Mayor of the City of San Marcos or upon the filing of a petition for a review of mobile home park rent increases. All meetings shall be conducted at City Hall. The City Clerk shall act as secretary to the commission.

(2) To receive, investigate, hold hearings on and pass upon the petitions of mobile home tenants as set forth in this Ordinance.

(3) To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out their duties.

(4) Upon completion of their hearings and investigations to either approve the existing or proposed rental change, or to adjust the maximum rental rate downward.

(5) To adopt, promulgate, amend and rescind administrative rules to effectuate the purposes and policies of the ordinance.

(6) To maintain and keep at City Hall, rent review hearing files and dockets listing the time, date and place of hearings, the parties involved, the addresses involved and the final disposition of the hearing.

Section 6. Initiation of Commission Review and Hearing Process.

(1) Upon the written petition of more than fifty (50%) percent of the tenants within one mobile home park, exceeding 25 spaces, who have been notified of a rental increase, the commission shall hold a hearing no sooner than ten (10) days and not later than thirty (30) days at a place and time to be set by the commission, to determine whether or not the rental increase is so great as to be unconsciousable or an unreasonable increase. A reasonable continuance may be granted if stipulated to by both parties or at the commission's discretion.

(2) Upon receipt of the petition, the commission shall notify the park owner, operator and manager that the rent increase being petitioned shall be held in abeyance until the commission has ruled upon the petition.

(3) All rent review hearings shall be open to the public. All parties to a hearing may have assistance of an attorney or such other person, as may be designated by said parties in presenting evidence or in setting forth by argument their position.

(4) In the event that either the petitioner or the respondent should fail to appear at the hearing at the specified time and place, the commission may hear and review such evidence as may be presented and make such decisions just as if both parties had been present.

(5) The commission shall make a final decision no later than ten (10) days after the conclusion of its hearing on any petition. No rent adjustment being reviewed by the commission shall be levied until the commission has issued its report. All parties to a hearing shall be sent a notice of the board's decision and a copy of the findings upon which the decision is based.

(6) Pursuant to the findings, the commission shall require the mobile home park owner to (a) reduce the rental to a rate to be determined by the commission, (b) continue the rental charges as they existed under the former lease or rental arrangement or, (c) increase the rental to a rate set by the commission or, (d) allow the rate requested by the park owner to stand.

(7) Any rental or service charge increases which have been collected by a mobile home park owner pursuant to an increase which is the subject of a petition of hearing and which is later determined by the commission to have been excessive, shall be either returned to the tenants or credited to future rental charges.

(8) In evaluating the rent increase proposed or effected by the park owner, the commission shall consider increased costs to the owner attributable to increases in utility rates and property taxes, insurance, advertising, givernmental assessments, cost of living increases attributable to incidental services, normal repair and maintenance, capital improvements, upgrading and addition of amenities or services as well as a fair rate of return on investment. The fair rate of return on investments as determined by the Public Utilities Commission of the State of California shall be used as a guideline for said return.

Section 7. Separability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distince and an independent provision and such decision shall not affect the validity of the remaining portion thereof.

Section 8. Unless extended by further Council action, this ordinance shall expire and have no force and effect on or after July 30, 1980.

Section 9. The Mayor shall sign the ordinance and the City Clerk shall attest thereto and shall cause the same to be published once in the San Marcos Outlook, a newspaper of general circulation in the City of San Marcos, and thirty (30) days thereafter, this ordinance shall take effect and be in force according to law.

PASSED ADOPTED AND APPROVED this 25th day of April, 1978, by the following roll call vote:

AYES: COUNCILMEN: DANOVER, ESTENSON, FIAMENTO
NOES: COUNCILMEN: BLANCHARD HARMON
ABSENT: COUNCILMEN: NONE
ATTEST:
Andrew G. Flamengo, Mayor
City of San Marcos
Sheila A. Kennedy, City Clerk
City of San Marcos
State Of California
County of San Diego
City of San Marcos

I, Sheila A. Kenned, City Clerk of the City of San Marcos, Do Hereby Certify that the above and foregoing is a full and true and correct copy of Ordinance No. 78-462 and that the same has not been amended or repealed.

DATED: April 26, 1978
SIGNED: Sheila A. Kennedy
City Clerk

(SMO May 4, 1978)

ORDINANCE NO. 961

EXHIBIT A

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VACAVILLE, STATE OF CALIFORNIA ESTABLISHING A MOBILE HOME RENT REVIEW COMMISSION

The City Council of the City of Vacaville does ordain as follows:

SECTION 1. There is presently within the City of Vacaville and the surrrounding areas, a shortage of spaces for the location of mobile homes. Because of the shortage, there is a low vacancy rate, and rents have been for several years, and are presently, rising rapidly and causing concern amongst a substantial number of Vacaville residents. Because of the high cost of moving mobile homes, the potential for damage, resulting therefrom, the requirements relating to the installation of mobile homes, including permits, landscaping and site preparation, the lack of alternative homesites for mobile home residents and the substantial investment of mobile homeowners in such homes, the city council finds and declares it necessary to protect the owners and occupiers of mobile homes from unreasonable rent increases while at the same time, recognizing the need of the park owners to receive a "fair return" on their investment and rental increases sufficient to cover the increased cost of repairs, maintenance, insurance, upkeep and additional ammenities.

SECTION 2. Definitions.

(a) "Board". The Mobile Home Rent Review Commission board established by Section 4 of this ordinance.

(b) "Commissioners". Commissioners of the Mobile Home Rent Review Commission.

(c) "Space Rent". The consideration, including any bonus, benefits or gratuity demanded or received in connection with the use and occupancy of a mobile home space in a mobile home park, or for the transfer of a lease for park space, services and ammenities, subletting and security deposits, but exclusive of any amounts paid for the use of the mobile home dwelling unit.

(d) "Mobile home park owner" or "Owner" means the owner, lessor, operator or manager of a mobile home park within the purview of this ordinance.

(e) "Mobile home tenant" or "Tenant" means any person entitled to occupy a mobile home dwelling unit pursuant to ownership thereof or a rental or lease arrangement with the owner thereof.

SECTION 3. Applicability. The provisions of this ordinance shall not apply to any mobile home park which contains fewer than 25 spaces.

(1) There is hereby created within the City of Vacaville, a rent revue commission, consisting of five members, the membership of which shall be appointed by the City Council to serve at the Council's pleasure,

EXHIBIT A

(2) One member shall be mobile park tenant and shall be selected by the council from a list of no more than three applicants supplied through the mobile home tenants association.

(3) One member shall be a mobile park owner, operator or manager and shall be selected by the council from a list of no more than three applicants supplied through the mobile home park owners and operators association.

(4) The third, fourth and fifth members shall be neither mobile park tenants, owners, operators nor managers and shall be selected by the council from a list of applicants at large.

(5) Each member shall be a full time resident within the City of Vacaville.

(6) Commissioners shall serve for terms of 3 years except that of those members first appointed by the council, the members who are the at large members shall be appointed for terms of one year, two years and three years respectively, the member who is the park owner, operator or manager for a term of three years, and the member who is the mobile home tenant for a term of three years. A member chosen to fill a vacancy created other than by expiration of a term, shall be appointed for the unexpired term of the member whom he is to succeed. A member of the commission shall be eligible for reappointment until he or she may have served two full terms without interruption. A vacancy in the commission shall not impair the right of the remaining members to exercise the powers of the commission. Four members shall constitute a quorum provided that the tenant member and the owner member are present. Three affirmative votes are required for a ruling or decision.

(7) Commissioners shall not be compensated for their service on the commission but shall be entitled to receive the sum of thirty dollars ($30.00) per person per hearing and a maximum of sixty dollars ($60.00) per day, when hearing complaints from the tenants of a park with respect to a rent increase by the park ownership as hereinafter provided.

SECTION 5. Powers of the commission. Within the limitations provided by law, the commission shall have the following powers:

(1) To meet from time to time as requested by the City Manager of the City of Vacaville or upon the filing of a petition, and to utilize city offices

and or facilities as needed.

(2) To receive, investigate, hold hearings on and pass upon the petitions of mobile home tenants as set forth in this ordinance.

(3) To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out their duties.

(4) To adjust maximum rents either upward or downward upon completion of their hearings and investigations.

(5) To render at least semi annually, a comprehensive written report to the Vacaville Housing Authority concerning their activities, rulings, actions, results of hearings and all other matters pertinant to this ordinance which may be of interest to the council.

(6) To adopt, promulgate, amend and rescind administrative rules to effectuate the purposes and policies of the ordinance.

(7) To maintain and keep at City Hall, rent revue hearing files and dockets listing the time, date and place of hearings, the parties involved, the addresses involved and the final disposition of the petition.

(8) To assess such amounts of money against the petitioners or respondents upon the conclusion of hearing, as may be reasonably necessary to compensate the members of the commission in accordance with the provisions set forth in Section 4(7) not to exceed the total sum of three hundred dollars ($300.00).

SECTION 6. Initiation of Commission Review and Hearing Process.

(1) Upon the written petition of more than 50 (50%) percent of the tenants of any mobile home park exceeding 25 spaces, who will be or have been within a ninety (90) day period subject to a rental of service charge increase, the commission shall hold a hearing no sooner than ten (10) days and no later than thirty (30) days at a place and time to be set by the commission, to determine whether or not the rental or service charge increase is so great as to be unconscionable or an unreasonable increase. A reasonable continuance may be granted if stipulated to by both parties or at the commission's discretion.

(2) The petition shall be accompanied by a cash deposit in the sum of three hundred dollars ($300.00), all or any part of which may be assessed against the petitioners for costs pursuant to Section 5(8). The balance if any shall be refunded upon the conclusion of the hearing and submission of findings by the commission.

(3) Upon receipt of the petition, the commission shall notify the park owner, operator and manager in writing of the petition and shall require from the

respondents a like cash deposit in the sum of three hundred dollars ($300.00), all or part of which may be assessed against the respondents for costs pursuant to Section 5(8). The balance if any shall be refunded upon the conclusion of the hearing and submission of findings by the commission.

(4) All rent revue hearings shall be open to the public.

(5) All parties to a hearing may have assistance in presenting evidence or in setting forth by argument their position, from an attorney or such other person as may be designated by said parties.

(6) In the event that either the petitioner or the respondent should fail to appear at the hearing at the specified time and place, the commission may hear and revue such evidence as may be presented and make such decisions just as if both parties had been present.

(7) The commission shall make a final decision no later than ten (10) days after the conclusion of its hearing on any petition. No rent adjustment shall be granted unless supported by the preponderance of evidence submitted at the hearing. All parties to a hearing shall be sent a notice of the board's decision and a copy of the findings upon which the decision is based.

(8) Pursuant to the findings, the commission shall require the mobile home park owner to (a) reduce the rental or service charges to a rate to be determined by the commission (b) continue the rental or service charges as they existed under the former lease or rental arrangement or (c) to increase the rental or service charges to a rate set by the commission or to the rate requested by the park owner.

(9) Any rental or service charge increases which have been collected by a mobile home park owner pursuant to an increase which is the subject of a petition for hearing and which is later determined by the commission to have been excessive, shall be either returned to the tenants or credited to future rental charges.

(10) In evaluating the rent increase proposed or effected by the park owner, the commission shall consider increased costs to the owner attributable to increases in utility rates and property taxes, insurance, advertising, governmental assessments, cost of living increases attributable to incidental services, normal repair and maintenance, capital improvements, upgrading and addition of amenities or services as well as fair rate of return on investment and increased property values.

(11) The conclusions and findings of the commission shall be final and there shall be no appeal rights to the city council.

SECTION 7. Separability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and an independent provision and such decision shall not affect the validity of the remaining portions thereof.

SECTION 8. Unless extended by further Council Action, this Ordinance shall expire and have no force and effect on and after January 1,1981.

SECTION 9. The Mayor shall sign the ordinance and the City Clerk shall attest thereto and shall cause the same to be published once in the Vacaville Reporter, a newspaper of general circulation in the City of Vacaville, and thirty (30) days thereafter this ordinance shall take effect and be in force according to law.

INTRODUCED at a regular meeting of the City Council of the City of Vacaville, held on the 13th day of December, 1977, and passed at a regular meeting of the City Council of the City of Vacaville, held on the 27th day of December, 1977, by the following vote:

AYES: Councilmembers Carroll, Gilley, Van Loo and Mayor Jones

NOES: Councilmembers Hassing

ABSENT: Councilmembers None

APPROVED:

Barbara J. Jones

Barbara J. Jones, Mayor

ATTEST:

Corinne L. Grannen

Corinne L. Grannen, City Clerk

EXHIBIT A

THE IMPACT OF MODERATE RENT CONTROL IN THE UNITED STATES: A REVIEW AND CRITIQUE OF EXISTING LITERATURE

March 1978

John Gilderbloom
Graduate Intern

Edited by David Morrison

Department of Housing and Community Development

Arnold C. Sternberg
Director

NOTE:

The information and conclusions expressed in this paper are the work of the author and do not necessarily represent official findings or policy of the State of California or the Department of Housing and Community Development.

EXHIBIT A

STATE OF CALIFORNIA — EDMUND G. BROWN JR., Governor

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
921 Tenth Street, Sacramento, CA 95814
(916) 445-4775

March 28, 1978

To All Interested Persons:

Since July 1976, this Department has employed on a part-time basis as a graduate student assistant, John Gilderbloom of the University of California at Santa Barbara, to research the subject of rent control. Mr. Gilderbloom's first report appeared in September 1976 and was supplemented a year later in September 1977. Since those reports appeared, questions have been raised about the methodology employed and the conclusions reached in Mr. Gilderbloom's work.

No less than seven studies have appeared since the Department published Mr. Gilderbloom's original reports. As a result, we asked Mr. Gilderbloom to undertake a review of those studies with an eye toward re-evaluating his original premises and conclusions. The results of that work conducted over the past year are contained in this study on the impact of moderate rent control in the United States.

It is the judgment of the Director of this Department, who was responsible for Mr. Gilderbloom's employment, that his work is the most important work in the field of rent control to appear in recent years. As the only researcher in this area to apply statistical techniques in the form of regression analysis of the economic impact of rent control, his work provides a new and insightful look at the operation of moderate rent control.

In the conduct of his research, this Department asked for a comprehensive review of available research in the area and left it to Mr. Gilderbloom to determine the exact nature of his work and the manner in which he conducted his research. It is our opinion that the report he has produced represents the highest level of scholarly and objective research on this topic. Moreover, Mr. Gilderbloom's research was subject to rigorous scrutiny and review by a number of respected members of California's academic community who supervise Mr. Gilderbloom's graduate work.

We are, therefore, pleased to be able to add to the literature in this most controversial field what we perceive to be a thorough and scholarly contribution.

Sincerely,

Arnold C. Sternberg
Director

Table of Contents

SECTION I

INTRODUCTION

This report is a revision and update of a draft report issued by the Department of Housing and Community Development on September 7, 1976, entitled, "Report to Donald E. Burns, Secretary, Business and Transportation Agency on the Validity of the Legislative Findings of A.B. 3788 and the Economic Impact of Rent Control." After completion of that report, a number of new studies appeared (Institute of Real Estate Management, 1976; Gruen and Gruen, 1977; Brenner and Franklin, 1977; California Housing Council, 1977; Coalition for Housing, 1977; Lett, 1976) challenging the conclusions of the September 7, 1976, study. This updated report analyzes these studies and incorporates them into the original report. The result of that analysis does not change the conclusions reported in the original September 7, 1976, report.

The major findings of this updated report are that no evidence of statistical significance can be found to support the contention that short-term moderate rent control (see page 2) has led to a reduction in conventionally-financed multi-family residential construction, a decline in maintenance, an erosion of the tax base, relative to non-controlled cities, or an increase in abandonments or demolitions. Those studies analyzed since the appearance of the 1976 report are characterized by data rendered suspect because of non-representative sampling and use of highly selective statistics.

This report examines fifteen reports, both pro and con, on the subject of moderate rent control. It examines existing but previously unanalyzed data. It offers new data from the records of building code inspectors, tax assessors, and planning commissioners. It incorporates interviews with rent control administrators, rent control analysts, government housing officials, and many others. In addition, multiple regression analysis techniques are used in analyzing data.[1/] Each section of this report begins with a critique and analysis of conventional rent control literature and then proceeds to examine data using multiple regression analysis.

This report, however, should still be viewed with caution; while all available data suggests that short-term modern controls have no measurable negative impact, this should not be taken to mean that no such relationship might exist in the future. The conclusions herein are limited only to the short-term impact of rent control.

Rent Control in America

Rent control programs in the United States can be classified into two broad subgroups: restrictive and moderate.[2/] World War I and II and New York City rent control programs fall into the restrictive category, while the programs of New Jersey, Massachusetts, Washington, D.C., and Miami, Florida are generally classified as moderate (Achtenberg, 1976: 10).

Restrictive Rent Controls

Restrictive rent controls seem to have led eventually to serious problems such as little or no new construction, declining maintenance, declining sales and, arguably, declining rates of return on investment. (Friedman and Stigler, 1949; Hayek, 1930,de Jouvenel, 1949; Paish, 1940; Rydenfelt, 1972; Samuelson, 1947; Willis, 1940; Seldon, 1972; Pennance, 1972; Keating, 1976). World War I and II rent controls put a virtual freeze on rents (Blumberg, et al., 1974). New York City's own rent control program, from 1949 to 1970, followed the federal government's termination of controls. Prior to reforms in 1969 and 1970, according to Emily Achtenberg (1976: 10), New York's rent control program "may have accelerated the process of private disinvestment by making it difficult for many owners to earn a reasonable return on investment." Lowry and Teitz argue that New York's program had prevented landlords from increasing rents sufficiently to meet costs (Teitz, 1970; Lowry; 1970, Kristoff, 1977). Lowry (1970: 12) argues, "by preventing rents from rising in step with the costs of supplying rental housing, it (New York's rent control program) has left owners with few alternatives to undermaintenance and reduction of building services."

Moderate Rent Control

Moderate rent controls, commonly referred to as second generation controls, must be distinguished from restrictive rent controls (Blumberg, et al., 1974). The aim of moderate rent controls is to avoid the problems traditionally associated with restrictive rent controls such as declines in rate of construction, levels of maintenance, etc. It is the type of rent control which courts around the country have ruled must be enacted in order to guarantee due process and fairness to property owners. These controls are designed more to prevent rent gouging than to give general rent relief.[3/]

Rather than holding rent levels relatively constant, moderate rent controls attempt to regulate the increase on a year-to-year basis. Such controls provide owners with annual rent increases to compensate for increases in operating costs and taxes as well as providing incentives for capital improvements (Blumberg, 1974: 242; Lett, 1976: 91; Bloomfield, 1973). If the allowable rent increase fails to allow for a "reasonable return on investment" or provide for major capital improvements or services, the landlord may apply for a "hardship increase" in rents. In Washington, D.C., a minimal rate of return is defined by law. (Lett, 1976: 109). On the other hand, should maintenance or services decline or code violations exist in the building, the rent control board can either reduce the amount of rent collected or prohibit future rent increases until the problems are corrected. In addition, all new construction and other substantially rehabilitated housing are excluded from regulation, with the exclusion ranging from initial exclusion to an indefinite exemption (Bloomfield, 1973; Blumberg, 1974: 242; Lett, 1976: 91).

SECTION II

THE EFFECT OF RENT CONTROL ON NEW RESIDENTIAL CONSTRUCTION

A number of studies have argued that moderate rent control leads to a decline in conventional multi-family construction (Gruen and Gruen, 1977; Brenner and Franklin, 1977; Urban Land Institute, 1976; California Housing Council, 1977; Phillips, 1974; Coalition for Housing, 1977; Lett, 1976; Sternlieb, 1974, 1975). These studies have relied almost exclusively on the empirical evidence in the Sternlieb (1974, 1975) and the Urban Land Institute (1976) reports to support their claims. However, certain deficiencies in Sternlieb's and Urban Land Institute's data gathering and analysis put into question the validity of other studies which have used their work.

In Sternlieb's (1974, 1975) Boston and Fort Lee studies, he conducted a survey of banks to determine if rent controls effect bankers' lending practices for both construction and long term financing. Sternlieb (1974: 90-102: 1975: VIII) reports that 74% of the bankers interviewed in Boston and 68% of those interviewed in Fort Lee indicated rent control "influenced" loan activity. According to Sternlieb:

> The majority of mortgagors in the sample presently lending on multifamily structures regard rent control as an influential factor in their lending decisions. Many believe that rent restrictions coupled with continually rising costs of construction and operation produce a high level of mortgage risk. Indeed, so prohibitive to investor return is the combination of spiralling costs and controlled income that a number of commercial bankers are shying away from rent controlled areas (Sternlieb, 1975: VIII-12).

There are, however, a number of methodological problems with Sternlieb's approach. First, the sample is too small. Only 22 lending institutions in his Fort Lee study and 15 of his Boston study, which were lending for multi-family structures, responded to Sternlieb's questionnaire, therefore making statistical inference problematic (Sternlieb, 1974: 94; 1975: VIII-5). Second, the reliability of the questionnaire is debatable. The questions are ambiguous in that asking merely whether rent control "influences" lending practices may mean different things to different lenders (Sternlieb, 1974: 97; 1975: VIII-4). Indeed, perhaps some bankers are flatly refusing to lend in controlled areas; others still may be lending, but only in certain areas for certain types of buildings to particular developers, or on different terms (higher interest rates, shorter loan terms); or for other loans, consideration may not necessarily depend on the existence of rent control, but rather on the kind of rent control program or on the rent leveling board membership. Or, perhaps some lenders are refusing loans for capital improvements, but permit mortgages for new construction. Sternlieb never makes these distinctions.

Another approach to determine whether lenders were giving preference to non-controlled areas might have been to examine permits issued for new multi-family construction.[4/] This approach might also test the validity of the bankers' statements.

The Urban Land Institute attempted this in their study of Washington, D.C., but their analysis lacked the proper controls to give it any meaning. They reported that, after enactment of controls, multi-family residential construction dropped 92.4%. In 1970, 10,667 units were built and in 1974, only 814 units were built (Urban Land Institute, 1976: 20). The Urban Land Institute, however, failed to control for other important independent variables which would influence construction (e.g., availability of land, socio-economic factors). Also, the Urban Land Institute did not match construction activity in Washington, D.C., with other non-controlled cities during the same period. For example, can the Urban Land Institute explain the significant 90%-100% drop in construction from 1970 to 1974 in such non-controlled cities in New Jersey as Trenton, Camden, Vineland, and in California cities such as Anaheim, Torrance, Emeryville, San Bruno, San Mateo, Palo Alto, etc., during the same period,[5] or the doubling of construction in rent controlled cities of Jersey City, Bayonne City, Edison Township, Dumont Borough, Linden City, and Springfield during the same period?[6]

Gruen and Gruen's (1977: 38-39) assertion that there was a decline in permits for apartment construction in rent controlled communities relative to non-controlled areas is unsupported by their data. Table I indicates that in the seven New Jersey counties with 25% or more of their municipalities under rent control, no discernable pattern emerges as to whether builders are choosing to build more in non-controlled cities as opposed to controlled municipalities. Overall the totals for the seven counties indicate that no statistically significant shift (-0.5%) occurred: three counties showed declines in percentage of apartment construction in rent controlled cities, three counties showed increases in percentage of apartment construction in rent controlled cities, and one county indicated no significant difference (-01.7%). Beyond this data, Gruen and Gruen's other statistics fail to isolate sufficiently the relative impact of rent control compared to other relevant factors. Simply classifying counties as either "rent controlled" (25% or more municipalities have ordinances) or "non-rent controlled" (one "non-rent controlled county" (Mercer) has 23% of its municipalities under rent control), and making comparisons between the two categories, might reflect many factors other than the existence of rent control. Again, these statistics reveal no strong relationship between construction and rent control.

As Table II demonstrates, the amount of apartment construction as a percent of state construction, before and after imposition of rent controls, has remained about the same in five "rent controlled" counties, while in two "rent controlled" counties (Essex and Middlesex), apartment construction has actually increased (Gruen and Gruen, 1977: 37). Overall, the total apartment construction in "rent controlled" counties as a percent of state construction increased slightly from average of 5.92% in 1972 to 9.0% in 1976. On the other hand, the percentage decline of apartments constructed between 1972 and 1976 as compared to total units built reveals that three out of seven "rent controlled" counties had increases in apartment construction above the statewide average, while four other counties fell below the statewide average.

EXHIBIT A

642

TABLE 1

LOCATIONAL DISTRIBUTION OF RESIDENTIAL BUILDING PERMITS, BY TYPE
(THESE PERMITS INCLUDED CONDOMINIUMS)

County		1972 Number Total	1972 Number Apt.	1972 Percent Total	1972 Percent Apt.	1976 Number Total	1976 Number Apt.	1976 Percent Total	1976 Percent Apt.	Change 1972-1976 % of Construction in Rent-controlled Communities Total	Change 1972-1976 % of Construction in Rent-controlled Communities Apt.
Bergen	rc	3268	2862	72.6	94.3	892	548	50.8	92.6	-21.8	-1.7
	nrc	1236	174	27.4	5.7	863	44	49.2	7.4		
Camden	rc	2159	900	46.0	36.6	706	158	30.0	23.0	-16.0	-16.6
	nrc	2538	1557	54.0	63.4	1644	529	70.0	77.0		
Passaic	rc	709	468	51.9	72.0	405	134	58.6	90.5	+ 6.7	+18.5
	nrc	658	182	48.1	28.0	286	14	41.4	9.5		
Union	rc	883	355	51.7	59.2	519	316	74.9	100.0	+23.2	+41.8
	nrc	824	245	48.3	40.8	174	-0-	25.1	-0-		
Essex	rc	2068	1566	89.9	99.6	1022	824	67.8	68.5	-22.1	-31.1
	nrc	233	7	10.1	0.4	486	379	32.2	31.5		
Hudson	rc	1973	1535	89.4	94.4	531	349	48.6	66.2	-40.8	-28.2
	nrc	235	91	10.6	5.6	561	178	51.4	33.8		
Middlesex	rc	3238	1991	68.8	75.2	2590	1503	86.3	97.4	+17.5	+22.2
	nrc	1468	658	31.2	24.8	412	40	13.7	2.6		
Total	rc	14298	9677	66.5	76.9	6665	3832	60.1	76.4	- 6.4	- 0.5
	nrc	7192	2914	33.5	23.1	4426	1184	39.9	23.6		

Source: New Jersey Department of Labor and Industry, Division of Planning and Research; U.S. Department of Commerce, Construction Reports.

From: Gruen & Gruen (1977)

TABLE II

Residential Construction in Selected Counties: Number of Permits Issued -- Includes Condominiums and Insured

	1972		1975		1976	
County	Total	Apt. [1]	Total	Apt. [1]	Total	Apt.*
Bergen	4504	3036	1408	455	1755	592
Camden	4697	2457	1886	188	2350	687
Passaic	1367	650	579	246	691	148
Union	1707	600	448	133	693	316
Essex	2301	1573	1148	578	1508	1203
Hudson	2208	1626	990	671	1092	527
Middlesex	4706	2649	2147	968	3002	1543

Residential Construction in Selected Counties: Percent of State Construction (Permits Issued) - Includes Condominiums and Insured

	1972		1975		1976		Change from 72-76 Percentage Change in Rent Control Counties
County	Total	Apt.*	Total	Apt.*	Total	Apt.*	
Bergen*	6.9	10.0	6.1	8.2	5.8	8.0	-02.0%
Camden*	7.2	8.1	8.1	3.4	7.8	9.3	+01.2%
Passaic*	2.1	2.1	2.5	4.5	2.3	2.0	-00.1%
Union	2.6	2.0	1.9	2.4	2.3	4.3	+02.3%
Essex	3.5	5.2	4.9	15.9	5.0	16.2	+11.0%
Hudson*	3.4	5.4	4.3	12.1	3.6	7.1	+01.7%
Middlesex	7.2	8.7	9.2	17.5	9.9	20.8	+12.1%
Total		5.92		9.14		9.67	+ 3.75

[1] Apartment category includes structures with 5 or more dwelling units.

Sources: New Jersey Department of Labor and Industry, Division of Planning and Research; U. S. Department of Commerce, Construction Reports.

From: Gruen and Gruen (1977).

Construction in Massachusetts

A 1974 study of rent control in Massachusetts by Urban Planning Aid (1974) indicated that new construction in rent controlled areas exceeded that in non-rent controlled areas (See Table III). The report found that 54% more multi-family units were built between 1971 and 1973 than between 1968 and 1970 in rent controlled communities, while in non-rent controlled communities only 39% more multi-family units were built between 1971 and 1973 than between 1968 and 1970. The building of subsidized housing in rent control areas of Massachusetts increased 69% between 1971 and 1973 compared to 1968 to 1970, while construction of subsidized housing in non-rent controlled areas was below this rate, increasing only 47% between 1971 and 1973 compared to 1968 to 1970.

Construction in New Jersey Using Multiple Regression Techniques

An examination of multi-family residential construction in 63 New Jersey cities -- 26 rent controlled cities and 37 non-rent controlled cities -- found no empirical evidence that rent control causes a decline in construction.

Using descriptions of municipalities compiled by the Division of State and Regional Planning in New Jersey, sample cities were classified into three categories: urban center, urban-suburban, and suburban. Urban center cities are densely populated with extensive development. Urban-suburban cities are near urban centers but not as highly developed, with larger residential areas. Suburban cities are predominantly single-family residential units within a short distance of an urban area. Cities were then further classified into two categories: non-rent controlled cities and cities that enacted rent control between September, 1972, and April, 1973. Approximately 300 cities fell within these two categories. It was then decided to eliminate all municipalities with populations under 12,940 or with 14% or less of the housing stock in rental units (New Jersey Division of State Police: 1973: U.S. Department of Commerce 1970). This procedure resulted in the current sample of 26 rent controlled cities and 37 non-rent controlled cities.

Discussion of rates of construction, demolitions, and taxes refer to the percentage increase or decrease in permits issued between 1973 and 1975 (rent control period) in comparison to 1970 to 1972 (non-rent control period). Building permit data as an indicator of construction has been used in previous rent control research (California Housing Council, 1977; Coalition for Housing, 1977; Urban Land Institute, 1976; Selesnick, 1976). This figure excludes all single and two-family homes and publicly-owned housing units including all housing units owned by federal, state, and local governments, public housing authorities and military bases (New Jersey Department of Labor and Industry, 1975).

If the contention that rent control adversely affects new rental housing construction is sound, then a decline in non-public multiple-unit construction should be evident in controlled cities compared to non-controlled cities. Because of the cyclical nature of the construction industry, it is important to note any general declines in construction in both controlled and non-controlled cities. One good example of this is the 25% decline in single-family home construction for the entire state of New Jersey between

TABLE III

Dwelling Units Authorized by Building Permits Structures with Three or More Units (From Local Records)

City/Town	1968		1969		1970		1968-1970	
	S	US	S	US	S	US	S	US
Boston	1,201	1,156	715	371	394	26	2,310	1,553
Brookline	0	35	100	0	71	207	171	242
Cambridge	573	95	0	51	634	90	1,207	236
Somerville	0	44	0	101	110	58	110	203
Lynn	94	24	0	103	0	42	94	169
Total	1,868	1,354	815	626	1,209	423	3,892	2,403
							6,295	

City/Town	1971		1972		1973		1971-1973	
	S	US	S	US	S	US	S	US
Boston	985	81	1,583	1,014	732	139	3,300	1,234
Brookline	0	58	130	793	0	31	130	882
Cambridge	427	190	747	332	354	392	1,528	914
Somerville	0	173	0	144	80	86	80	403
Lynn	346	126	0	48	327	443	673	617
Total	1,758	628	2,460	2,331	1,493	1,091	5,711	4,050
							9,761	

S=Public Housing, FHA 221 (d) 3 and 236.
US=Unsubsidized, including FHA insured housing.
Source:Urban Planning Aid.

the periods 1970 to 1972 and 1973 to 1975. Overall, non-rent controlled cities showed a 65% decline in multi-family construction for the period 1973 to 1975 compared to 1970 to 1972. In rent controlled cities, construction decreased 19% (Table IV).

Looking at construction by city type, suburban and urban center cities show a general decrease in construction, regardless of rent control, and the decline in construction was even greater in non-rent controlled cities than in controlled cities. Table V shows that construction of multiple-family dwellings in urban center cities dropped 68% in non-controlled cities, while in controlled cities construction fell 35% during the same period. In addition, four controlled cities experienced increases in multiple-family construction, while only one non-controlled city had an increase in construction during the same period. A similar finding occurred in suburban cities. In non-controlled cities, multiple-family construction fell 63%, while in controlled cities, multiple-family construction declined 41%. Four of the controlled suburban cities had increases in construction during 1973 to 1975 period. (Table VI). In rent controlled urban-suburban cities, the third category, total multiple-family construction increased 64%, while construction in non-controlled urban-suburban cities declined 65%. Three rent controlled and three non-controlled cities had increases in construction during 1973 to 1975 (Table VII).

Critics, however, might argue that the above two studies fail to control for suppressor effects and confounding variables. One way of overcoming this problem is through regression analysis, an approach yet to be utilized in recent research examining moderate rent controls. Regression analysis attempts to determine the net effect of one particular variable while controlling for other variables. In this case the variable rent control -- controlling for median rent, percent Black, percent tenant, municipal population growth,[7] city type and city size -- revealed no statistically significant effect on new multi-family residential construction[8] (Gilderbloom, 1978).

According to interviews, builders continue to build in most rent controlled cities for two reasons. First, it is difficult for the builder to leave a community with which he is already familiar. Understanding of future developments, knowledge of business trends, planned externalities (parks, schools, churches, etc.) and other builders' plans are essential to a builder's success. Such knowledge comes from a long and direct involvement in the community. Second, the nature of moderate rent control also contributes to a builder's decision to stay and build in the community. Naturally, the exemption of all new construction is an inducement to continue building. But, since new construction might eventually fall under rent controls, the guarantee of a "reasonable return on profit" is also crucial to a builder's decision to stay and build in rent controlled areas.[9]

TABLE IV

NEW JERSEY'S NON-PUBLIC, MULTI-UNIT
FAMILY RESIDENTIAL CONSTRUCTION
GRAND TOTALS & % CHANGE

Rent Control Cities	1970-72	1973-75	% Change
Urban Center	4,941	3,202	-35.2%
Urban-Suburban	1,137	1,862	+63.8
Suburban	647	382	-41.0
Grand Total	6,725	5,446	-19.0
Non-Rent Control Cities			
Urban Center	5,136	1,664	-67.6%
Urban-Suburban	855	306	-64.6
Suburban	5,657	2,070	-63.4
Grand Total	11,658	4,040	-65.3

Source: State of New Jersey, Department of Labor and Industry, Division of Planning and Research

EXHIBIT A

TABLE V

URBAN CENTER
NON-PUBLIC, MULTI-UNIT FAMILY RESIDENTIAL
CONSTRUCTION TOTALS AND % CHANGE

Urban Centers	1970-72	1973-75	Number Change	% Change from Col. 1 to Col. 2
Rent Control				
East Orange City	812	373	- 439	- 45.9
Irvington	372	50	- 322	- 86.6
Orange City	560	113	- 447	- 79.8
Bayonne City	0	251	+ 251	----
Jersey City	384	394	+ 10	+ 1.1
New Brunswick	291	0	- 291	-100.0
North Brunswick	1,064	246	- 818	- 76.9
Paterson	411	670	+ 259	+ 63.0
Elizabeth City	465	451	- 14	- 3.0
Linden City	82	154	+ 72	+ 87.8
Total	4,941	3,202	-1,739	- 35.2
Non-Rent Control				
Garfield	12	0	- 12	-100.0
Camden	802	175	- 627	- 78.2
Bridgeton	0	360	+ 360	----
Millville	1,021	0	-1,021	-100.0
Vineland City	1,180	0	-1,180	-100.0
Trenton	744	246	- 498	- 66.9
Long Branch City	792	660	- 132	- 16.7
Plainfield City	233	153	- 80	- 34.3
Rahway City	352	70	- 282	- 80.1
Total	5,136	1,664	-3,472	- 67.6

Source: State of New Jersey, Department of Labor and Industry, Division of Planning and Research

TABLE VI

SUBURBAN
NON-PUBLIC, MULTI-UNIT FAMILY RESIDENTIAL
CONSTRUCTION TOTALS AND % CHANGE

SUBURBAN	1970-72	1973-75	Number Change	% Change from Col. 1 to Col. 2
Rent Control				
Cedar Grove Twp.	0	26	+ 26	----
West Orange	0	106	+106	----
East Brunswick	181	0	-181	-100.0
Edison Twp.	84	209	+125	+148.8
Piscataway Twp.	140	0	-140	-100.0
Parsippany-Troy Hills Twp.	0	0	0	0.0
Wayne	242	0	-242	-100.0
Springfield	0	41	+ 41	----
Total	647	382	-265	- 41.0
Non-Rent Control				
Ramsey Boro.	9	8	- 1	- 11.1
Moorestown Twp.	6	60	+ 54	+900.0
Glassboro Boro.	373	86	-287	- 76.9
Eatontown Boro.	536	0	-536	-100.0
Madison Boro.	0	14	+ 14	----
Point Pleasanton	12	37	+ 25	+208.3
New Providence Boro.	0	0	0	0.0
Hamilton Twp.	1,500	740	-760	- 50.7
Lawrence	260	320	+ 60	+ 23.1
Maple Shade	1,436	444	-992	- 69.1
Millburn	0	46	+ 46	----
Deptford	630	213	-417	- 66.2
Cranford	241	33	-208	- 86.3
Westfield	20	0	- 20	-100.0
Neptune Twp.	204	0	-204	-100.0
Natawon Twp.	430	69	-361	-160
Total	5,657	2,070	-3,587	- 63.4

Source: State of New Jersey, Department of Labor and Industry, Division of Planning and Research

TABLE VII

URBAN SUBURBAN
NON-PUBLIC, MULTI-UNIT FAMILY RESIDENTIAL
CONSTRUCTION TOTALS AND % CHANGE

Urban Suburban	1970-72	1973-75	Number Change	% Change from Col. 1 to Col. 2
Rent Control				
Fair Lawn Boro.	0	0	0	0.0
Elmwood Park	0	0	0	0.0
Dumont Boro.	0	36	+ 36	----
Cliffside Park Boro.	821	1,390	+569	+ 69.3
Palisades Park Boro.	36	0	- 36	-100.0
Verona	0	336	+336	----
Highland Park Boro.	200	100	-100	- 50.0
Roselle	80	0	- 80	-100.0
Total	1,137	1,862	+725	+ 63.8
Non-Rent Control				
Collingswood Boro.	6	35	+ 29	+483.3
Haddonfield Boro.	0	135	+135	----
Montclair	7	93	+ 86	+122.9
Kearny Town	101	6	- 95	- 94.1
Carteret Boro.	36	0	- 36	-100.0
Hawthorne Boro.	306	9	-297	- 97.1
Phillipsburg Town	229	0	-229	-100.0
Roselle Park Boro.	122	28	- 94	- 77.0
Saddle Brook Twp.	58	0	- 58	-100.0
Hillside	0	0	0	0.0
Pennsauken Twp.	0	0	0	0.0
Total	865	306	-559	- 64.6

Source: State of New Jersey Department of Labor and Industry, Division of Planning and Research

SECTION III

THE EFFECT OF RENT CONTROL ON HOUSING MAINTENANCE

A number of opponents of rent control have cited Sternlieb as proof that maintenance declines under moderate rent controls (Kain, 1975; Lett, 1976). Sternlieb reasons that if allowable rent increases lag behind rising costs, then maintenance and fuel expenditures will be reduced (Sternlieb, 1974: 3). In his Boston study, Sternlieb found that rents increased only 6.7%, while operating expenses increased 15.2% (Sternlieb, 1974: 28-46). Similarly, in his Fort Lee study, Sternlieb found that allowable rents rose only 5.5%, while expenses jumped 22% (Sternlieb, 1975: III-11).

But Sternlieb's estimation of percentage increase in rents and costs appear to be questionable in at least two ways (Achtenberg, 1975). First, Sternlieb excluded mortgage payments in computing percentage increase in total costs. Such costs are usually constant and account for one-third to one-half of a landlord's expenses. When these "mortgage" costs are included in computing total percentage increase in costs, the percentage drops sharply from its original figure (Achtenberg, 1975; Gilderbloom, 1978).

Secondly, Sternlieb relied on data supplied, for the most part by real estate organizations rather than audited income statements from rent boards. Such data might contain exaggerated operating costs and understated rent increases (Achtenberg, 1975; Katz, Biber and Lawrence, 1977; Pentifallo, 1977; Gilderbloom, 1978). For example, a recent Certified Public Accountant's report was unable to verify the operating expenses of one of the 11 apartments examined by Sternlieb in Fort Lee (Katz, Biber and Lawrence, 1977). Moreover, according to the Tax Assessor of Fort Lee, New Jersey, the reported total rents collected by landlords are significantly understated compared to the actual rent charged to tenants (Pentifallo, 1977: 9). Pentifallo found that landlords understated the amount of rent collected by an average of 38%. Had Sternlieb based his conclusions on audited income and operating statements available from New Jersey and Massachusetts rent boards, they might have been more reliable.

One way of examining whether or not rent increases are keeping pace with rising costs is to determine whether landlords are actually reducing the amount of money going into maintenance (Sternlieb, 1974: 3). An examination of Sternlieb's own data indicates that this is not the case. In his Boston study (Table VIII), Sternlieb's data show that slightly higher percentages of net rent received went into building maintenance and services between 1971 and 1973 in the rent controlled sample (14.8% in 1971 vs. 16.6% in 1973) than in the non-rent controlled sample (14.0% in 1971 vs. 15.0% in 1973). In addition, Sternlieb's study indicates almost a parallel increase in the amount going into maintenance in controlled buildings compared to non-controlled buildings--19.7% vs. 21.4%, respectively. In his Fort Lee study (Table IX), Sternlieb's data indicates that the amount of money going into maintenance increased by 21.4% during rent control. In addition, the percentage of the rent dollar going into maintenance increased from 22% in 1972 to 25% in 1974.

TABLE VIII

Average Annual Operating Results from Sternlieb's Sample

Greater Boston Area

	Rent Control Sample	Non-Rent Control Sample
	Building Maintenance & Services	
1971	$28,052	58,868
1972	$31,160	62,475
1973	$33,584	71,489
	Average Percent Change	
1971-72	11.1%	6.1%
1972-73	7.7%	14.4%
1971-73	19.7%	21.4%
	Increase in Maintenance Costs as a Percentage of Net Rent Received	
1971	14.8%	14.4%
1972	15.5%	13.7%
1973	16.6%	15.0%

From: The Realities of Rent Control in the Greater Boston Area, by George Sternlieb

TABLE IX

FORT LEE, NEW JERSEY
AVERAGE ANNUAL OPERATING RESULTS
for 11 Apartments

1972 - 1974

Building Maintenance and Service	
1972	254,193
1973	264,460
1974	308,024

Average Percent Change	
1972-1973	+ 4.04
1973-1974	+16.47
1972-1974	+21.18

Operating Results as a Percentage of Net Rent Received	
1972	21.67
1973	21.95
1974	24.90

Source: Lett, Monica; Rent Control 1976, Center for Urban Policy Research, Rutgers University.

Maintenance And Capital Improvements In Massachusetts

Economist Joseph Eckert (1977) in his recently completed study found that maintenance had not declined in rent controlled buildings. He examined audited income and operating statements of rent controlled properties in Brookline between 1970 and 1975. Between 1970 and 1974, the average percentage of the rent dollar going into maintenance and repair increased from 4.2% in 1970 to 5.0% in 1974 (Table X). In the disaggregated form, maintenance in 5 to 12-unit buildings and 13 to 25-unit buildings declined slightly--3.8% vs. 3.0% and 4.1% vs. 3.6% respectively, and increased for 26 to 50-unit buildings and 50 units or more--2.9% vs. 5.0% and 4.8% vs. 6.0% respectively (Table XI).

In both the aggregate and disaggregate form, capital improvements increased. In the aggregate form (Table X), capital improvements increased 0.6% in 1970 to 2.2% in 1974. In the disaggregate form, capital improvements increased from 1.0% to 3.0% in 5 to 12-unit buildings, from 0% to 3.1% in 13 to 25-unit buildings, from 0% to 2.0% in 26 to 50-unit buildings, and 1.0% to 2.0% in 50 unit or more buildings (Table XI). Similarly, Achtenberg (1974: 7) found that permits for alterations, additions, and repairs increased in Cambridge by 40%, in Brookline by 24%, in Somerville by 22%, and in Lynn by 69% since the adoption of rent controls in these Massachusetts cities. In three of these cities, there has also been a rise in the estimated cost of work to be completed. According to Eckert (1977: 322-323),

> All of the data sets taken together would lead us to conclude that landlords were spending about as much for repairs as a percentage of rent after six years of rent control as they were in the year immediately preceding rent control.

Why Moderate Rent Control Does Not Appear to Lead to Reduced Maintenance

On the basis of data from Massachusetts and New Jersey, it seems that moderate rent control has not caused a reduction in the amount of money going into maintenance, and in certain cases maintenance has increased. The reason for this--according to those rent control board members and analysts interviewed in New Jersey, Massachusetts, and Florida--is that the law allows for landlords to pass the full cost of repairs and improvements on to the tenant. According to Eckert (1977: 324),

> One positive and successful Board policy for encouraging maintenance involves a provision for special limited hearings for landlords who wish to make major repairs, capital improvements or renovations (previously outlined in Chapter 1). These hearings result in the landlord's receiving a guarantee from the Rent Board as to the amount of additional rent he can charge once the capital improvements are made.

Moreover, almost all the ordinances in New Jersey and Massachusetts mandate that landlords must retain the same level of services and maintenance as that existing before the enactment of moderate controls. If, for some reason maintenance declines, the tenants can file a complaint with the rent control board. According to Eckert,

TABLE X

COST CATEGORIES AS A PERCENT OF GROSS INCOME: AGGREGATE FORMS

SAMPLE A

Category	Percent of Gross Income		
	[illegible]	[illegible]	[illegible]
Payroll	4.3	4.2	5.0
Supplies	-	0.6	0.2
Electricity	2.2	2.1	1.3
Water	0.8	1.0	0.7
Gas	-	-	-
Heating Fuel	4.4	7.1	11.5
Painting & Decorating	1.9	0.7	1.6
Maintenance & Repair	4.2	4.6	5.0
Services	-	-	-
Insurance	2.0	2.2	2.2
Real Estate Taxes	24.3	25.2	25.0
Other Taxes & Fees	-	-	0.3
Miscellaneous	0.3	0.4	0.2
Management	4.7	4.9	4.7
Capital Improvements	0.6	1.7	2.2
All items including taxes	49.7	55.3	62.9

Each percentage in Sample A is the average of percentages for buildings of 1-25 units and 26-and-above units. Total sample size: 195 buildings.

TABLE XI

COST CATEGORIES AS PERCENT OF GROSS INCOME: DISAGGREGATED FORM

Category	5-12 Unit Buildings			13-25 Unit Buildings			26-50 Unit Buildings			50+ Unit Buildings		
	1970	1973	1974	1970	1973	1974	1970	1973	1974	1970	1973	1974
Payroll	3.6	3.6	3.5	3.4	2.6	3.4	3.0	3.4	4.5	5.3	5.5	6.0
Supplies	-	-	-	-	-	-	-	1.0	1.0	-	1.0	-
Electricity	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.5	3.5	3.5	7.0
Water Water	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.5
Gas	-	-	-	-	-	-	-	-	-	-	-	-
Heating Fuel	8.4	13.0	15.6	6.4	8.4	12.7	5.1	7.8	15.5	2.2	4.0	9.0
Painting & Decorating	1.0	-	-	2.0	1.0	1.0	2.0	2.4	4.5	1.0	1.0	1.0
Maintenance & Repair	3.8	5.2	3.0	4.1	3.4	3.6	2.9	3.8	5.0	4.8	5.3	6.0
Services	-	-	-	-	-	-	-	-	-	-	-	-
Insurance	3.4	4.0	3.0	3.4	3.0	3.0	2.0	2.4	4.5	1.0	1.0	1.0
Real Estate Taxes	27.6	32.0	27.7	29.3	25.3	27.0	23.7	27.0	31.0	21.6	23.4	22.0
Other Taxes & Fees	-	-	-	-	-	-	-	-	-	-	-	-
Miscellaneous	1.0	-	-	-	1.0	-	1.0	1.0	1.0	-	-	-
Management	5.4	6.0	4.9	5.4	5.2	5.6	4.6	5.0	5.5	4.2	4.2	4.0
Capital Improvements	1.0	2.0	3.0	-	1.0	3.1	-	1.4	2.0	1.0	2.0	2.0
All Items Including Taxes	57.2	67.8	65.7	56.0	52.9	61.4	46.3	54.8	74.5	46.6	52.1	59.5
Apartments in Sample	340			480			394			932		

Source: Files of the Brookline Rent Control Board
From: Eckert: 1977

> Tenants proving negligence in maintenance can expect a rent reduction until the problem is corrected, and in some cases the Board might initiate a full building hearing if tenants' complaints seem particularly widespread in a particular building. It is probable that in this atmosphere landlords simply are not able to cut maintenance or capital improvements significantly without the Board taking action to stop this reduction of services.

According to Shirley Green, Rent Control Director of Newark, New Jersey, if a landlord wants to increase his or her rents in excess of maximum allowable increase, the property must be without code violations. According to Sylvia Aranow, the former Rent Control Chairperson for Fort Lee, before rent control was enacted, it was difficult to get a landlord to fix code violations.

> Before rent controls, landlords could easily overlook bad conditions if there was a violation in existence just by ignoring it. Finally, the building inspector would get fed up with it and haul him into court and the judge would fine him $15. Big deal, it didn't correct the violations. It was easier to pay that than to go out and pay $1,000 to correct what really was the problem to begin with -- lack of maintenance.

Eckert (1977: 324) concludes by arguing that it is these positive and negative inducements that cause maintenance to remain stable.

Abandonment

A number of studies have argued that rent control leads to abandonment and demolitions (Sternlieb, 1974: 88; Phillips, 1974: 2; Apartment and Office Building Associations, 1977). However, no empirical evidence is offered to support the claimed correlation. In fact, if abandonment were occurring, the first sign would be declining maintenance (Nourse, 1975: 185-90); yet all available data suggests this is not the case. Even studies examining the restrictive controls of New York have been unable to prove a causal relationship between controls and abandonment. For example, a nationwide study of abandonment ranked New York fifth, behind four non-rent controlled cities (St. Louis, Cleveland, Chicago, and Hoboken) in rates of abandonment (National Urban League, 1971: 1-18). Furthermore, a recent study by the Women's City Club of New York concluded that no significant relationship exists between abandonment and rent control; instead, the report claims that abandonment results from redlining, vandalism, and failure of tenants to pay rents (Newsweek, 1977: 100). According to the Temporary State Commission on Housing and Rents in New York:

> The abandonment process is a social and economic process which is both cumulative and self-generating, spreading through many low income and ghetto neighborhoods. Rent control, however, can have little effect for it is clear that it is the oldest, least desirable tenement housing which is abandoned -- housing which is unable to produce substantially more income in a free market (1974: 82).

Demolition And Rent Control

Phillips (1974: 2) and Frenette (1977) have argued that the demolition of existing housing stock increase as a result of rent control. Data collected on the number of units demolished in New Jersey between 1970 and 1975 indicates total demolitions of units decreased 8% in rent controlled cities and 9% in non-rent controlled cities (Table XII).

In rent controlled urban center cities, demolitions decreased 6%. Six out of ten cities show declines in the number of units demolished. In urban center non-rent controlled cities, demolitions increased 55% (Table XIII). Demolitions in controlled urban-suburban cities show a 30% decrease during the rent control period. Only three out of the eight controlled cities demonstrated increases in demolitions. In non-controlled urban-suburban cities, demolitions decreased 48% (Table XIV). In suburban cities, demolitions of residential units decreased 34% in rent controlled cities; in non-controlled cities demolitions decreased 34% (Table XV).

It is also important to note that the number of demolitions in suburban cities, both controlled and non-controlled, is relatively small. A regression analysis controlling for, multifamily construction, median rent, percent black, percent tenant, municipal population growth, city type and city size, found that the varible rent control had no net effect on demolitions of housing units[10/] (Gilderbloom, 1978).

Given this data, the conclusion of three recent reports -- Coalition for Housing (1977: 28), Lett (1976), and Gruen and Gruen (1977 -- that maintenance in rent controlled housing has declined is questionable. Lett's (1976: 136) study, the most comprehensive of the three, contends on the basis of a reanalysis of Sternlieb's data that the "controlled group provided $4 per unit less per month in maintenance". Lett's reanalysis is questionable in that she uses two different methods of breaking down expenses for controlled and non-controlled properties. In her analysis of the 20 non-controlled properties she looked at an average of all her units, but in her rent control sample she chose only one "typical" apartment on which to base her conclusion. Thus 69 out of the sampled 70 controlled properties are excluded from analysis. The remaining rent controlled property is far from typical in terms of maintenance expenditures. As Sternlieb's data already indicates the average increase in the amount of money going into maintenance was 19.7% for the seventy properties between 1971-1973; in Lett's "typical" rent controlled apartment the amount of money going into maintenance increased only 11.5%.

Coupled with this problem is the fact that her "typical" rent controlled apartment collected only $176 a month in rent, while the average monthly rent of the non-controlled properties was $232. Lett's comparisons should have been based on similar net rents, or by making a comparison of the percentage of the rent dollar going into maintenance. Using the latter method, Lett would have found that 16.5% of the rent dollar went into maintenance in the controlled property, while only 14.2% of the rent dollar went into maintenance in the non-controlled properties.

Given these findings, the Coalition for Housing (1977: 28) claim (based on Lett's work) that rent control has resulted in the "rapid deterioration of existing housing stock and poorer living conditions for tenants" is without foundation. Lastly, the argument by Gruen and Gruen (1977: 80) that "many

TABLE XII

NEW JERSEY'S DEMOLITIONS:
GRAND TOTALS AND % CHANGE

Rent Control Cities	1970-72	1973-75	% Change
Urban Center	3,432	3,242	- 5.5%
Urban-Suburban	96	67	-30.2
Suburban	280	187	-33.6
Grand Total	3,808	3,495	- 8.2
Non-Rent Control Cities			
Urban Center	1,093	1,691	+54.7%
Urban-Suburban	368	190	-48.4
Suburban	347	228	-34.3
Grand Total	1,808	1,653	- 8.6

Source: State of New Jersey Department of Labor and Industry, Division of Planning and Research

TABLE XIII

DEMOLITIONS IN URBAN CENTER CITIES
TOTALS AND % CHANGE

Urban Centers	1970-72	1973-75	Number Change	% Change from Col. 1 to Col. 2
Rent Control				
East Orange City	191	54	-137	- 71.1
Irvington	51	69	+ 18	+ 35.3
Orange City	46	60	+ 14	+ 30.4
Bayonne City	88	42	- 46	- 52.3
Jersey City	1,631	1,950	+319	+ 19.6
New Brunswick	15	176	+161	+1,073.3
North Brunswick	23	17	- 6	- 26.1
Paterson	1,085	661	-424	- 39.1
Elizabeth City	253	176	- 77	- 30.4
Linden City	49	37	- 12	- 24.5
Total	3,432	3,242	-190	- 5.5
Non-Rent Control				
Garfield	21	51	+ 30	+ 142.9
Camden	385	665	+280	+ 72.7
Bridgeton	30	200	+170	+ 566.7
Millville City	54	39	- 15	- 27.8
Vineland City	202	208	+ 6	+ 3.0
Trenton	165	221	+ 56	+ 33.9
Long Branch City	90	56	- 34	- 37.8
Plainfield City	123	202	+ 79	+ 64.2
Rahway	23	49	+ 26	+ 113.0
Total	1,093	1,691	+598	+ 54.7

Source: State of New Jersey, Department of Labor and Industry, Division of Planning and Research

TABLE XIV

DEMOLITIONS IN URBAN-SUBURBAN CITIES
TOTALS AND % CHANGE

Urban-Suburban	1970-72	1973-75	Number Change	% Change from Col. 1 to Col. 2
Rent Control				
Fair Lawn Boro.	9	9	0	0.0
Elmwood Park	5	15	+ 10	+200.0
Dumont Boro.	3	4	+ 1	+ 33.3
Cliffside Park Boro.	18	13	- 5	- 27.8
Palisades Park Boro.	16	14	- 2	- 12.5
Verona	4	5	+ 1	+ 25.0
Highland Park Boro.	6	2	- 4	- 66.7
Roselle	35	5	- 30	- 85.7
Total	96	67	- 29	- 30.2
Non-Rent Control				
Collinswood Boro.	3	4	+ 1	+ 33.3
Haddonfield	5	4	- 1	- 20.0
Montclair	19	10	- 9	- 47.4
Kearny Town	22	20	- 2	- 9.1
Carteret Boro.	260	66	-194	- 74.6
Hawthorne Boro.	15	24	+ 9	+ 60.0
Phillipsburg Town	10	0	- 10	-100.0
Roselle Park Boro.	6	11	+ 5	+ 33.3
Saddle Brook Twp.	6	7	+ 1	+ 16.7
Hillside	18	23	+ 5	+ 27.8
Pennsauken Twp.	4	21	+ 17	+425.0
Total	368	190	-178	- 48.4

Source: State of New Jersey, Department of Labor and Industry, Division of Planning and Research

TABLE XV

DEMOLITIONS IN SUBURBAN CITIES
TOTALS AND % CHANGE

Suburban	1970-72	1973-75	Number Change	% Change from Col. 1 to Col. 2
Rent Control				
Cedar Grove Twp.	2	9	+ 7	+350.0
West Orange	44	19	-25	- 56.8
East Brunswick	36	4	-32	- 88.9
Edison Twp.	22	0	-22	-100.0
Piscataway Twp.	28	47	+19	+ 67.9
Parsippany-Troy Hills Twp.	8	29	+21	+262.5
Wayne	127	64	-63	- 49.6
Springfield	13	14	+ 1	+ 7.7
Total	280	186	-94	- 33.6
Non-Rent Control				
Ramsey Boro.	10	8	- 2	- 20.0
Moorestown Twp.	15	10	- 5	- 33.3
Glassboro Boro.	7	17	+10	+142.9
Eatontown Boro.	0	0	0	0.0
Madison Boro	12	5	- 7	- 58.3
Point Pleasanton	13	8	- 5	- 38.5
New Providence Boro.	3	2	- 1	- 33.3
Hamilton Twp.	169	57	-112	- 66.3
Lawrence	6	14	+ 8	+133.0
Maple Shade	21	12	- 9	- 42.9
Millburn	7	1	- 6	- 85.7
Deptford	56	61	+ 5	+ 8.9
Cronford	20	15	- 5	- 25.0
Westfield	1	1	0	0
Neptune Twp.	3	0	- 3	-100.0
Matawon Twp.	4	17	+13	325.0
Total	347	228	-119	- 34.3

Source: State of New Jersey, Department of Labor and Industry, Division of Planning and Research

New Jersey rent control ordinances will work to discourage maintenance and rehabilitation expenditures in some neighborhoods" has no empirical basis. According to Gruen and Gruen (1977: 77):

> We were not able to collect sufficient data on housing quality and/or landlord expenditures to comprehensively measure the type and degree of housing quality change that has taken place since the imposition of rent control ordinances.

SECTION IV

TAXES AND VALUATION OF PROPERTY

Many claim that rent control causes the local tax base to decline. Both the construction of new rental housing and the condition of the existing stock determine the size and health of a city's rental property tax base.

The notion of an eroding tax base is plausible only to the extent that the alleged adverse effects of rent control upon new construction and maintenance are accepted. Sternlieb and others have argued that declining construction and maintenance in cities makes the erosion of the tax base "imminent" (Sternlieb, 1975: VII-23). However, the foregoing sections demonstrate that moderate rent control has not adversely effected new construction and maintenance. Therefore, in the absence of any other generally accepted correlation between controls and ill effects, the claim that rent control causes an erosion of the tax base should be reexamined.

Furthermore, the practice of drawing a correlation between rent control and the total tax base is subject to question. Rent controlled properties are not sufficiently isolated from other types of non-controlled properties (industrial, commercial, single family, vacant, etc.), to establish the claimed negative correlation. For example, apartments in New Jersey make up only a small proportion (6%) of the total property tax base (Gruen and Gruen, 1977: 60).

Changes in Total Tax Base

Both Laverty (Cambridge Tax Assessor) (1976) and Sternlieb (1974) have argued that the total tax base has either become stagnant or declined in a number of Massachusetts cities with rent control. Always cited is Cambridge, where the tax base declined from $280 million in 1970 to $276 million in 1974 (Sternlieb, 1974; Laverty, 1976). Also cited are Lynn and Somerville, but it should be pointed out that the tax base in both of these cities began declining two years previous to the enactment of rent control. On the other hand, the total tax base of Brookline and Boston has increased steadily since enactment of rent controls.

Assuming for research purposes, a correlation between rent control and the total tax base, this report compares the tax base of 26 controlled and 37 non-controlled cities in New Jersey. The data offers no evidence to suggest that rent control causes a decline in a city's tax base. In fact, controlled cities experienced a parallel increase in total assessed value compared to non-controlled cities.

Between 1973 and 1976, the total tax base for controlled cities and non-controlled cities had identical increases of 25% (Table XVI). In controlled urban center cities the tax base increased 27%, and in non-controlled cities the tax base increased 25% (Table XVII). In urban-suburban cities, controlled cities' property value increased 9%, while non-controlled cities' property value rose 31% (Table XVIII). In controlled suburban cities, the assessed value of property increased 29%, while in non-controlled suburban cities the assessed value of property increased 23% (Table XIX).

TABLE XVI

NEW JERSEY'S TOTAL ASSESSED VALUES:
GRAND TOTALS AND % CHANGE
(IN THOUSAND)

RENT CONTROL	1970	1973	% Chg. '70-'73	1976	% Chg. '73-'76	% Chg. '70-'76
Urban Center	3,744,466	4,136,938	+10.48	5,266,165	+27.30	+40.64
Urban-Suburban	1,039,952	1,259,598	+21.12	1,367,590	+ 8.57	+31.51
Suburban	2,324,749	3,599,755	+54.84	4,644,342	+29.02	+99.78
Grand Total	7,109,167	8,966,291	+26.12	11,278,097	+25.36	+58.64
NON-RENT CONTROL						
Urban Center	1,685,550	2,068,285	+22.71	2,591,420	+25.29	+53.74
Urban-Suburban	1,690,680	2,069,861	+22.43	2,705,003	+30.69	+59.99
Suburban	2,512,600	3,220,525	+28.17	3,960,566	+22.98	+57.63
Grand Total	5,888,830	7,358,671	+24.96	9,256,989	+25.80	+57.20

Source: New Jersey Department of Labor and Industry, Division of Planning and Research, U.S. Department of Commerce, Construction Reports

TABLE XVII

URBAN CENTER: TOTAL ASSESSED VALUES
(In Thousands)

Urban Center	1970	1973	% Change '70-'73	1976	% Change '73-'76	% Change '70-'76
Rent Control						
East Orange City	301,625	306,658	+ 1.67	435,435	+ 41.99	+ 44.36
Irvington	314,746	309,118	- 1.79	314,229	+ 1.65	- 0.16
Orange City	130,452	132,182	+ 1.33	131,842	- 0.26	+ 1.07
Bayonne City	363,062	380,918	+ 4.92	395,122	+ 3.73	+ 8.83
Jersey City	809,395	783,118	- 3.25	780,166	- 0.38	- 3.61
New Brunswick	221,180	292,562	+ 32.27	302,133	+ 3.27	+ 36.60
North Brunswick	90,507	275,644	+204.56	321,069	+ 16.48	+254.74
Paterson	472,425	596,920	+ 26.35	596,395	- 0.09	+ 26.24
Elizabeth City	552,136	558,836	+ 1.21	975,252	+ 74.51	+ 76.63
Linden City	488,938	500,982	+ 2.46	1,014,522	+102.51	+107.50
Total	3,744,466	4,136,938	+ 10.48	5,266,165	+ 27.30	+ 40.64
Non Rent Control						
Garfield	136,554	246,246	+ 80.33	249,746	+ 1.42	+ 82.89
Camden	288,282	273,757	- 5.04	262,458	- 4.13	- 8.96
Bridgeton	71,450	90,823	+ 27.11	100,866	+ 11.06	+ 41.17
Millville City	87,646	100,123	+ 14.24	109,439	+ 9.30	+ 24.86
Vineland City	247,062	297,993	+ 20.61	498,481	+ 67.28	+101.76
Trenton	343,512	336,514	- 2.04	328,768	- 2.30	- 4.29
Long Branch City	129,198	140,324	+ 8.63	313,998	+123.74	+143.04
Plainfield City	253,560	252,213	- 0.53	391,384	+ 55.18	+ 54.36
Rahway City	128,286	330,274	+157.45	336,280	+ 1.82	+162.13
Total	1,685,550	2,068,285	+ 22.71	2,591,420	+ 25.29	+ 53.74

Source: New Jersey Department of Labor and Industry Division of Planning and Research, U.S. Department of Commerce, Construction Report.

TABLE XVIII

URBAN-SUBURBAN: TOTAL ASSESSED VALUE
(IN Thousands)

Urban-Suburban	1970	1973	% Change '70-'73	1976	% Change '73-'76	% Change '70-'76
Rent Control						
Fair Lawn Boro.	268,353	272,580	+ 1.58	277,562	+ 1.83	+ 3.43
Elmwood Park	144,941	153,691	+ 6.04	154,412	+ 0.47	+ 6.53
Dumont Boro.	150,855	152,564	+ 1.13	154,181	+ 1.06	+ 2.20
Cliffside Park Boro.	94,980	163,531	+72.17	253,295	+54.89	+166.68
Palisades Park Boro.	73,239	114,774	+56.71	118,062	+ 2.86	+ 61.20
Verona	104,586	154,848	+48.06	161,094	+ 4.03	+ 54.03
Highland Park Boro.	81,092	122,892	+51.55	122,934	+ 0.03	+ 51.60
Roselle Twp.	121,906	124,718	+ 2.31	126,050	+ 1.07	+ 3.40
Total	1,039,952	1,259,598	+21.12	1,367,590	+ 8.57	+ 31.51
Non Rent Control						
Collinswood Boro.	71,822	104,403	+ 45.36	108,226	+ 3.66	+ 50.69
Haddonfield Boro.	78,632	143,437	+ 82.42	147,308	+ 2.70	+ 87.34
Montclair	282,449	282,795	+ 0.12	460,977	+ 63.01	+ 63.21
Kearny Town	317,836	341,297	+ 7.38	340,437	- 0.25	+ 7.11
Carteret Boro.	155,774	199,771	+ 28.24	202,652	+ 1.44	+ 30.09
Hawthorne Boro.	151,659	215,785	+ 42.28	221,585	+ 2.69	+ 46.11
Phillipsburg Town	61,994	101,401	+ 63.56	103,577	+ 2.14	+ 67.08
Roselle Park Boro.	63,330	141,936	+124.12	141,271	+ 0.47	+123.07
Saddle Brook Twp.	129,326	141,004	+ 9.03	149,548	+ 6.06	+ 15.64
Hillside	152,232	153,634	+ 0.92	321,479	+109.25	+111.18
Pennsauken Twp.	225,626	244,398	+ 8.32	507,943	+107.83	+125.13
Total	1,690,680	2,069,861	+ 22.43	2,705,003	+ 30.69	+ 59.99

Source: New Jersey Department of Labor and Industry Division of Planning and Research;
U.S. Department of Commerce, Construction Report.

TABLE XIX

SUBURBAN: TOTAL ASSESSED VALUE (IN THOUSANDS)

Suburban	1970	1973	% Change '70-'73	1976	% Change '73-'76	% Change '70-'76
Rent Control						
Cedar Grove Twp.	98,407	102,197	+ 3.85	226,558	+121.69	+130.23
West Orange	265,599	414,439	+56.04	420,794	+ 1.53	+ 58.43
East Brunswick	251,912	482,712	+91.62	542,212	+ 12.33	+115.24
Edison Twp.	476,856	914,901	+91.86	963,205	+ 5.28	+101.99
Piscataway Twp.	237,324	413,795	+74.36	611,573	+ 47.80	+157.70
Parsippany-Troy Hills Twp.	275,886	495,377	+79.56	513,649	+ 3.69	+ 86.16
Wayne	568,151	615,272	+ 8.29	1,038,241	+ 68.76	+ 82.76
Springfield	150,614	161,062	+ 6.94	328,010	+103.65	+117.78
Total	2,324,749	3,599,755	+54.84	4,644,342	+ 29.02	+ 99.78
Non Rent Control						
Ramsey Boro.	102,970	170,910	+65.98	188,297	+ 10.17	+ 82.87
Moorestown Twp.	134,790	154,809	+14.85	257,772	+ 66.51	+ 91.24
Glassboro Boro.	63,079	75,685	+19.98	79,613	+ 5.19	+ 26.21
Eatontown Boro.	85,486	96,586	+12.98	201,681	+108.81	+135.92
Madison Boro.	138,610	147,028	+ 6.07	149,142	+ 1.44	+ 7.60
Point Pleasanton	101,040	189,607	+87.66	199,175	+ 5.05	+ 97.12
New Providence Boro.	157,474	161,101	+ 2.30	262,986	+ 63.24	+ 67.00
Hamilton Twp.	349,978	378,123	+ 8.04	408,763	+ 8.10	+ 16.80
Lawrence	135,104	266,155	+97.00	310,527	+ 16.67	+129.84
Maple Shade	59,677	94,643	+58.89	120,646	+ 27.47	+102.16
Millburn	372,494	384,043	+ 3.10	398,880	+ 3.86	+ 7.08
Deptford	75,373	174,507	+131.52	215,114	+ 23.27	+185.40
Cranford	199,944	206,733	+ 3.40	422,248	+104.25	+111.18
Westfield	248,876	409,148	+64.40	416,392	+ 1.77	+ 67.31
Neptune Twp.	173,181	188,467	+ 8.83	197,643	+ 4.87	+ 14.13
Matawon Twp.	114,524	122,980	+ 7.38	131,687	+ 7.08	+ 14.99
Total	2,512,600	3,220,525	+28.17	3,960,566	+ 22.98	+ 57.63

Source: New Jersey Department of Labor and Industry, Division of Planning and Research; U.S. Department of Commerce, Construction Report.

Three controlled cities and three non-controlled cities had declines in the tax base. Tax assessors in each of those three controlled cities were asked to explain the reasons for the decline, and not one of them attributed the decrease to the existence of rent controls. No clear picture of a primary cause of the erosion of a city's tax base emerged. Instead, each city had its own set of causes ranging from requests by industries for reduced valuations coupled with threats to leave the jurisdiction if such requests were not granted, to neighborhood transition, public housing, "white flight," redevelopment, tax loopholes, and redlining.

The following explains declines in tax ratables in the three rent controlled New Jersey cities which evidenced a reduced tax base.

Jersey City

Margaret Jeffers, Tax Assessor for Jersey City, stated that rent leveling had "no impact" on the total ratables and that total property values went down because of property acquired by the Jersey City Redevelopment Agency and the City of Jersey. Also, a recent influx of "disharmonious groups" contributed to slight decrease in property values. Overall, she claimed the true value of property not to be dropping, but instead to be going up.

Paterson

The City of Paterson had a small drop of 1.75% in total ratables from 1972 to 1973. According to Jim Krieger, Senior Assessing Clerk for Paterson, the value of rental housing has stabilized over the years and the assessed valuation of single-family homes has continued to increase. Krieger believes that there have been four main reasons for the decline in ratables: (1) much of the taxable property has become exempt because it has been acquired by Paterson Redevelopment Agency; (2) buildings have been demolished; (3) there have been increases in the amount of exempt property such as charitable institutions and churches; and (4) there have been large reductions in assessed valuation of property demanded by both businesses and industries. Thus, Krieger contends that the ratables have gone down because the number of exempt properties has increased and the tax assessors have been forced to lower the assessed value of certain industrial property. In general, however, taxable property has increased in value.

Orange City

In Orange City the total assessed value declined because of "reductions granted by the State on commercial and industrial property" according to John Cuccollo, Chief Tax Assessor. For example, when Litton Industries closed its plant, the assessed value fell from $850,000 to $350,000. Cuccollo reports that sales prices of residential units climbed 40% between 1973 and 1976 and that values are "maintaining their pace."

Taxable Output of Apartments

Two studies which have examined the impact of moderate rent controls solely on the valuation of apartments concluded that the burden of taxes did not shift from multi-family apartments to single family housing (Eckert, 1977; Gilderbloom, 1978).

Brookline, Massachusetts

Eckert's study attempts to assess the impact of rent control on the value of multi-family property in the City of Brookline. He notes that since rent control took effect, the net valuation of multi-units declined from $92,691,900 in 1970 to $86,343,700 in 1976 (Eckert, 1977: 327). Furthermore, the amount of taxes paid by single-family homes increased from 37.2% in 1970 to 41.23% in 1976 (Eckert, 1977: 340). While arguing that this was caused by the "permanent loss from the multi-unit property tax base from conversions and abatements," Eckert significantly adds, "(t)his has been offset by the gain to the single family class from condominiums" (Eckert, 1977: 356). In other words, by converting rental units into condominiums, the taxable value of these converted buildings increased from $5,337,544 to $11,066,176. As a result of conversion, these properties were taken out of the rental property category and reclassified into the single-family category. Moreover, the reduced assessments, because of abatements, is "about what would be expected ... if the market was free and competitive" (Eckert, 1977: 344). As a result, the amount of properties classified under single-family residential category increased, but the burden of taxes did not shift from landlords to homeowners.

New Jersey

But is Brookline unique compared to other municipalities with moderate rent control? A recent study of 26 New Jersey towns with rent control and 37 without rent control over a four year period found that moderate rent controls have not caused the total taxable value of controlled rental property to decline relative to non-rent controlled apartments (Gilderbloom, 1978). A regression analysis -- controlling for tax rate increase, city type, percent tenant, median rent, multi-family residential construction, city size, number of demolitions and municipal population growth -- found that the variable rent control had no net effect on total taxable output of rental property in controlled cities in comparison to non-controlled cities.[11] In addition, it was found that there was no statistically significant relationship between rent control and increase in the tax rate. This finding could be subject to a wide variety of interpretations. One plausible explanation is that moderate rent controls do not necessarily reduce rents below the market, but instead bring them in line with rent in non-controlled cities. Or another interpretation is that moderate rent controls regulate only the proportion of the housing stock that is subject to erradic or extreme rent increases. Yet another interpretation is that the time period studied is too short to accurately determine whether controlled properties are declining in relation to non-controlled apartments.

Appreciation of Property

Contrary to Sternlieb's claim that the value of apartment buildings he examined in Fort Lee, New Jersey, would fall in value, the assessed valuation of these properties has risen sharply. Table XX demonstrates that all eleven apartments which he examined have risen in value ranging from 37% to 222% -- with a mean increase of 81%.[12] This trend runs contrary to Sternlieb's prediction that the assessed valuation of these buildings would fall 49.2% between 1974 and 1980.

A similar rise in apartment values has been reported by the Massachusetts Department of Corporations and Taxation which examined a sample of rental properties in the City of Cambridge which were sold between 1967 and 1968 (pre-rent control) and resold between 1970 and 1974 (post control enactment) (Table XXI). The data was collected but never analyzed because, according to the Assistant to the Chief of the Bureau of Local Assessment, "... rent control appeared to have no systematic effect upon sale prices ..." Analysis of the data shows an average increase in sale prices of 10.1%, and an average increase in assessment of 13.1%, between the two periods under study.

Another study of the City of Brookline by the Revenue and Rent Control Study Committee (1974) which compiled sales prices and gross rental incomes of rent controlled buildings showed that the gross rent multiplier has remained stable since the commencement of rent control.

TABLE XX

Increase in Apartment Values

Sternlieb Looked At*

Name	1972	1977	% Increase
Biarritz	940,100	1,292,500	37%
Horizon House	40,622,000	72,743,300	79%
Riverview	3,487,400	5,455,900	56%
Presidential	4,926,500	8,908,800	80%
Crystal	2,611,100	4,216,700	61%
Pembroke	4,801,800	7,692,800	60%
Park Hill	2,410,900	4,184,400	73%
LeCross	3,157,800	6,878,800	117%
North Bridge	6,539,000	13,322,700	103%
Palisades Terrace	1,367,300 #	3,361,900	81%
Palisades Gardens	1,093,100	3,527,300	222%
Total	72,480,300	131,585,100	81%

Source: Fort Lee Tax Assessors Office, collated September 1, 1977

*I would like to thank William Reilly of McCarter and English who provided the names of the eleven apartments Sternlieb looked at.

1974 assessment

TABLE XXI

APPRECIATION IN RENTAL APARTMENT COMPLEX SALES IN MASSACHUSETTS

First Sale			Second Sale			Annual Percentage Change In:	
Year	Price	Assessment	Year	Price	Assessment	Sale Price	Assessment
1968	$ 56,000	$22,000	1970	$ 72,000	$20,000	+14.3%	- 4.5
1967	23,000	8,500	1970	35,200	9,500	+17.6%	+ 2.0
1968	46,000*	N/A	1971	41,000*	N/A	- 3.6	N/A
1967	51,000	17,000	1971	65,000	23,000	+ 6.9	+ 8.8
1967	136,000	42,000	1970	157,000*	52,000	+ 5.1	+ 6.0
1968	123,000*	33,000	1973	165,345*	35,100	+ 5.8	+ 1.0
1968	26,000	7,500	1970	26,500*	9,500	+ 1.0	+13.3
1968	40,000	N/A	1973	50,000	N/A	+ 5.0	N/A
1968	130,000	58,700	1974	125,440*	74,700	- 0.5	+ 4.5
1967	40,000	9,000	1972	45,000*	16,000	+ 2.5	+15.5
1967	22,000*	8,100	1970	46,500	21,000	+37.1	+53.0
1968	66,000*	9,500	1970	107,000*	19,000	+31.1	+50.0
1968	55,000	10,500	1972	77,500	15,000	+10.2	+10.7
1967	130,000*	40,800	1974	132,000	40,800	+ 0.2	0.0
1967	45,000	13,000	1974	38,000	17,500	- 2.2	+ 4.9
1967	21,900	7,200	1973	40,000	9,000	+10.5	+ 4.2
Total	1,018,500	287,400		1,223,485	362,100	+10.1	+13.0

*Assuming that buyer takes over seller's mortgage.

N/A=Not available.

Source: Massachusetts Department of Corporations and Taxation

From: Harbridge House Report

FOOTNOTES

1/ I want to thank Michael Teitz, Matt Edel, Roger Friedland, Sandy Jencks, Bill Bielby, Rich Appelbaum, and Lynna Rossi for their suggestions and guidance in doing the regression analysis. With the exception of Joseph Eckert, regression analysis is an approach yet to be utilized in recent research examining moderate rent control. Regression analysis allows for the control of inter-correlation, estimates the linearity of a relationship, studies for interaction effects, and provides indications of the relative effect of independent variables on the dependent variable. According to Kim and Kohout (1970: 321-322):

> Suppose, for example, that a researcher is interested in predicting political tolerance (the dependent variable) from Education, Occupation, and Income (the independent variables), all of which have been measured at least on interval scales for a sample of respondents. Through multiple regression techniques the researcher could obtain a prediction equation that indicates how scores on the independent variables could be weighted and summed to obtain the best possible prediction of Political Tolerance for the sample. The researcher would also obtain statistics that indicate how accurate the prediction equation is and how much of the variation in Political Tolerance is accounted for by the joint liner influences of Education, Occupation, and Income. The researcher may also wish, in this connection, to "simplify" the prediction equation by deleting independent variables that do not add substantially to predict accuracy, once certain other independent variables are included. For instance, if the contribution of Income to explaining variation in Political Tolerance is trivial when used in combination with Education and Occupation, the researcher may decide to delete Income from the predictors. The main focus of the analysis is, however, the evaluation and measurement of <u>overall</u> dependence of a variable on a set of other values.
>
> Instead of focusing on prediction of the dependent variable and its overall dependence on a set of independent variables, the researcher may concentrate on the examination of the relationship between the dependent variable and a particular independent variable. For example, the researcher may wish to examine the influence of Education on Tolerance. However, a simple regression of Tolerance on Education will not provide an appropriate answer because the level of Education is confounded with Occupation and Income, that is, the more educated one is, the more likely one is to have a higher status occupation and higher income. Occupation and income levels may themselves affect tolerance. Therefore, the researcher would want to examine the impact of Education while controling for variation in Occupation and Income, and would use multiple regression to get a variety of "partial coefficients." Emphasis in this case is on the examination of particular relationships within a multivariate context.

2/ Webster's Seventh New Collegiate Dictionary defines moderate as: "Observing reasonable limits .... avoiding extreme political or social measures limited in scope or effect."

3/Shirley Green, Rent Control Director, Newark, New Jersey says: "Basically (moderate) rent control is really a mechanism to assist people who are being subjected to exorbitant rents ..."

4/It can be argued that this data could be misleading because the time period was too short and construction was already planned before enactment of controls. Unfortunately, data for a longer period of time is still unavailable as of this writing. In addition, according to interviews with builders in New Jersey, many were aware from one to two years before enactment of rent control that rent regulations were pending in their respective cities.

> The assistant director of the Somerset County, New Jersey Planning Board explained, "(t)he factors that enter into determination toward the production of housing are most heavily related to economic conditions and the housing and building requirements. The fact that Franklin Township has an ordinance which provides a modicum of control over rents I do not believe enters into consideration of developers." Cite from Gilderbloom: 1976: II-7.

5/Building Permit Data for Non-Controlled Cities Source: U.S. Bureau of the Census, Construction Reports, Housing Authorized by Building Permits and Public Contracts and New Jersey Department of Labor and Industry.

City	1970	1974
Trenton	539	0
Vineland	452	0
Camden	418	0
Anaheim	3,987	351
Torrance	1,006	94
Emeryville	903	0
San Bruno	1,354	0
San Mateo County	1,175	0
Palo Alto	3,939	288

6/New Jersey Department of Labor and Industry building permits issued for rent controlled cities. Rent control enacted between October, 1972, and April, 1973.

City	1970	1974
Dumont	0	36
Linden City	0	39
Bayonne	0	50
Springfield	0	41
Jersey City	0	531
East Brunswick	0	45

7/Since the vacancy rate is for 1970, it was determined that a more accurate indicator of demand would be municipal population growth from 1970 to 1972.

8/ Controlling for other independent variables, the equation accounted for over one-third of the explained variation (adjusted R^2 0.36602). The dummy variable rent control (0 for rent controlled cities and 1 for other cities) was not statistically significant at the .10 level (F 0.822; d.f. 8,54; beta -0.12454). Note: a more elaborate discussion of this method and data will be discussed in a forthcoming paper, "The Impact of Moderate Rent Control in New Jersey", Foundation for National Progress.

9/ No data can be found in Sternlieb's Boston work that substantiates the claim made by both California Housing Council (1977: A) and Coalition for Housing (1977: 32) that,

> Sternlieb documented a 67% drop in privately financed housing construction in Boston from 1971 to 1973 following imposition of rent controls, while in Massachusetts cities without rent controls there was a significant increase in construction.

Moreover, no empirical support can be found in Phillips' (1974: 9) argument that "very little private market rental rate housing is being constructed" in four Massachusetts rent controlled communities. Nor is there any evidence to validate the statement made by Coalition for Housing (1977: 32) that, "In virtually every case where rent control is imposed, new multi-unit residential construction virtually ceases to exist." Recent comparisons of residential construction in rent controlled and non-rent controlled cities in Massachusetts and New Jersey show that construction rates appear to be unaffected by moderate rent control.

10/ The dummy variable rent control (0 for rent controlled cities and 1 for other cities) was not statistically significant at the .10 level (F 0.917; d.f. 9,53; beta +0.05820). Controlling for other independent variables, the regression equation accounted for almost all of the explained variation (adjusted R^2 0.87839). Note: a more elaborate discussion of this method and data will be discussed in a forthcoming paper, "The Impact of Moderate Rent Control in New Jersey", Foundation for National Progress.

11/ The dummy variable rent control (0 for rent controlled cities and 1 for other cities) was not statistically significant at the .10 level (F 0.006; d.f. 10,52; beta +0.01163). Controlling for other variables the regression explained over one-fourth of the variation in the dependent variable - percentage increase in apartment value from 1973 to 1976 - (adjusted R^2 o.26076). Respecifying the model so that 1973 taxable output of apartments is controlled for as an independent variable against the dependent variable 1976 taxable output of apartments finds that the model explains almost all of the variation (adjusted R^2 .99122). In this model the dummy variable rent control was not statistically significant at the .10 level (F.0. 897; d.f. 10, 52; beta -.01513). Note: a more detailed discussion of this method and data will be discussed in a forthcoming paper, "The Impact of Moderate Rent Control in New Jersey", Foundation for National Progress.

12/ A number of these apartment owners are currently appealing their assessments.

Bibliography

Achtenberg, Emily. 1975. Critique of the Rental Housing Association Rent Control Study: An Analysis of the Realities of Rent Control in the Greater Boston Area, Urban Planning Aid.

Achtenberg, Emily. 1976. Evaluation of Rent Control as a Housing Policy from Seminar on Rent Controls sponsored by BHA's Housing and Development Reporter and the Institute for Professional and Executive Development, Inc.

Achtenberg, Emily. 1974. Why Rent Control is Needed -- Summary published by Urban Planning Aid.

Bloomfield. 1973. Essex County, New Jersey, Ordinance to Regulate, Control and Stabilize Rents and Creating a Rent Leveling Board, Adopted May 7, 1973.

Blumberg, Richard E., Robbins, Brian Quinn and Barr, Kenneth K. 1974. "The Emergence of Second Generation Rent Controls." Clearinghouse Review (August, 1974): 240-249.

Brenner, Joe and Franklin, Herbert. 1977. Rent Control in North America and Europe. Potomac Institute.

California Housing Council, Inc. 1977. The Case Against Rent Control, June 1977: San Mateo, California.

Coalition for Housing. 1977. Rent Control and the Housing Crisis in Southern California. Los Angeles, California.

de Jouvenel, Bertrand. 1948. No Vacancies, Foundation for Economic Education, Inc., Irvinton-on-Hudson, New York, October 1948.

Division of State and Regional Planning, New Jersey Municipal Profiles of Intensity of Urbanization, Department of Community Affairs, January, 1972.

Eckert, Joseph. 1977. The Effect of Rent Controls on Assessment Policies, Differential Incidence of Taxation and Income Adjustment Mechanisms for Rental Housing in Brookline, Massachusetts. Ph.D. Thesis, Tufts University.

Friedman, Milton, and Stigler, George. 1946. "Roofs or Ceilings? The Current Housing Problems," Popular Essays on Current Problems, Vol. I, No. 2, September 1946.

Frenette, Sybil, 1977, Displaced Persons, Planners Network, #11, December 6, 1977, San Francisco.

Gilderbloom, John. 1978. The Impact of Moderate Rent Control in New Jersey. Foundation for National Progress

Gruen and Gruen. 1977. Rent Control in New Jersey, The Beginnings. California Housing Council.

Hayek, F.A. 1972. The Repercussions of Rent Restrictions in Verdict on Rent Control, Institute of Economic Affairs, Cormorant Press, England.

Kain, John. 1975. Testimony on Rent Control, March 21, 1975, Local Affairs Committee, Massachusetts State House.

Katz, Biber, and Lawrence. 1977. Report to Tax Assessor of Fort Lee: Unpublished.

Keating, Dennis, 1976. Rent and Eviction Controls: A Selected Annotated Bibliography, Council of Planning Librarians, Exchange Bibliography 1136, October 1976.

Kristoff, Frank, 1977, The Effects of Rent Control and Rent Stabilization in New York City. 15 Interim Report to the Mayor by the Temporary Commission on City Finances.

Kim, Jae-on and Kohout, Frank J. 1970, Multiple Regression Analysis: Subprogram Regression, in Statistical Package for the Social Science, by Norman Nie, et al.

Laverty, Charles R. 1975. Effect on Property Valuation and Assessed Valuations for Ad Valorem Taxation.

Lett, Monica. 1976. Rent Control: Concepts, Realities, and Mechanisms. Center for Urban Policy Research.

Lowry, Irene S., et al. 1970 Rental Housing in New York City (New York: Rand Institute 1970-1971), Vol. 1, Confronting the Crisis (1970) and Vol. 2, The Demand for Shelter.

Massachusetts Department of Corporations and Taxation. 1974. In Harbridge House, "A Study of Rent and Eviction Controls in the Commonwealth of Massachusetts." Prepared for the Joint Legislature Committee on Local Affairs.

National Urban League and the Center for Community Change. 1971. "National Survey of Housing Abandonment."

New Jersey Department of Labor and Industry, Division of Planning and Research. 1970-1975. Summary "New Jersey Residential Building Permits," Trenton, New Jersey.

New Jersey Department of Labor and Industry, Division of Planning and Research. 1976. Demolitions in New Jersey (unpublished draft), August, 1976.

New Jersey, Department of the Treasury, Division of Taxation. Annual Report, 1970-1976.

New Jersey, Division of State Police, Uniform Crime Reporting Unit Crime in New Jersey, 1970-1975.

Newsweek. 1977. The Cities: Empty Homes, October 10, 1977,

Note. 1967. "Residential Rent Control in New York City," 3 Columbia Journal of Law and Social Problems 30-65, June 1967.

Paish, F.W. 1950. The Economics of Rent Restriction. Lloyds Bank Review, April 1950.

Pennance, F.G. 1972. "Introduction," Verdict on Rent Control, Institute of Economic Affairs, Cormorant Press, England.

Pentifallo, Carmen N. 1977. An Argument for the Equating of Local Property Taxes Among All the Classes of Properties, 1977. Borough of Fort Lee.

Phillips, David. 1974. Analysis and Impact of the Rent Control Program in Lynn. May, 1974. Lynn,Massachusetts, Mayor's Office.

Real Estate Research Corporation. 1975. "A Policy Review of Rental Housing in New York City," April, 1975.

Rydenfelt, Sven. 1949. Rent Control Thirty Years on, in Human Action: A Treatise on Economics. Yale University Press, New Haven.

Samuelson, Paul. 1967. Economics: An Introductory Analysis. McGraw Hill.

Seldon, Arthur. "Preface," Verdict on Rent Control, Institute of Economic Affairs, 1972 Cormorant Press, England.

Selesnick, Herbert L. 1976. Harbridge House Inc. "Rent Control." Lexington Books.

Sternlieb, George, 1974, The Realities of Rent Control in the Greater Boston Area," (New Brunswick, New Jersey: Center for Urban Policy Research).

Sternlieb, George, 1972. "the Urban Housing Dilemma: The Dynamics of New York City's Rent Controlled Housing," Center for Urban Policy Research.

Sternlieb, George, et al., 1975. "Fort Lee Rent Control," New Brunswick, New Jersey: Center for Urban Policy Research.

Teitz, Michael, ed. Vol. IV. The Impact of City Programs Chapter II, Rent Control. New York Rand Institute.

U.S. Department of Commerce, Bureau of the Census, 1970 Census of Housing, General Housing Characteristics, New Jersey.

U.S. Bureau of Census, Census of Population and Housing. 1970. Census Tracts, Final Report.

PHC (1)-146, Newark, New Jersey. SMSA

PHC (1)-156, Paterson, Clifton Possaic, New Jersey, SMSR

PHC (1)-217, Trenton, New Jersey

PHC (1)-234, Wilmington, Delaware, New Jersey

PHC (1)-96, Jersey City, New Jersey, SMSA

PHC (1)-6, Allentown-Bethelhem-Easton, PA, New Jersey SMSA

PHC (1)-15, Atlantic City, New Jersey SMSA

PHC (1)-224, Vineland, Millville, Bridgeton, New Jersey

PHC (1)-159, Philadelphia, PA, New Jersey SMSA

U.S. Department of Commerce, Bureau of the Census, 1970. Census of Housing, Detailed House Characteristics, New Jersey.

U.S. Department of Commerce, Bureau of the Census. 1970. Census of Population, General Population Characteristics, Final Report, PC (1)-B-321.

Urban Land Institute, 1976. Prospects for Rental Housing Production Under Rent Control: A Case Study of Washington, D.C. Urban Land Institute, Research Report No. 240.

Walsh, Albert. 1975. Testimony of Albert Walsh Before the Local Affairs Committee, Massachusetts State House.

Willis, John W. 1950. Short History of Rent Control Laws, 36 Cornell Law Quarterly 54-92 (Fall, 1950)

ACKNOWLEDGMENT

I would like to thank the following persons who have contributed to this report: Michael Woo, Sandy Jencks, Bill Bielby, Roger Friedland, Harvey Molotch, Richard Blumberg, Peter Dreier, Michael Teitz, Grace Tam, Jo-dee Becker, Flora De Leon, Sandi Nathan, Drummond Pike, Shalan Foundation, Linda Strickler, Joanne Collins, Richard Appelbaum, Paul Niebanck, Matt Edel, Ron Atlas, Dave Baslow, Ted Dienstfrey, Bill Domhoff, Ken Baar, Dick Peet, Curt Mosso, Teresita Aglubat, Diane Bliton, Joie Ostrow, and many others. Dennis Keating and Ron Javor gave valuable editorial suggestions. Special thanks to David Morrison.

EXHIBIT A

130 Cal.Rptr. 465.

Trude BIRKENFELD et al., Plaintiffs and Respondents,

v.

CITY OF BERKELEY, Defendant and Appellant,

Fair Rent Committee et al., Interveners and Appellants.

S. F. 23370.

Supreme Court of California, In Bank.

June 16, 1976.

Owners of rental property affected by city rent control charter amendment commenced class action which developed into action for declaratory relief to determine constitutionality of the rent control measure. The Superior Court, Alameda County, Robert L. Bostick, J., found the charter provision unconstitutional and void, and the city and intervenors appealed. The Supreme Court, Wright, C. J., held that the existence of an emergency is not necessary for rent control when such regulation is reasonably related to the furtherance of a legitimate governmental purpose; that facts established at trial did not preclude the city from legislating on the subject of residential rent control; that state law did not preempt the field of placing maximum limits on residential rents; that an enactment for that purpose could properly take the form of an initiative amendment to the city charter; but that the amendment in question transgressed the constitutional limits of the police power not because of its objectives but because its provisions prohibiting any adjustments in maximum rents except under a unit-by-unit procedure which entailed inevitable unreasonable delays were not reasonably related to the accomplishment of its objectives and would deprive landlords of due process of law if permitted to take effect.

Affirmed.

Opinion, Cal.App., 122 Cal.Rptr. 891, vacated.

1. Municipal Corporations ⇐46

Municipal rent control measure in form of charter amendment, which was designed to alleviate hardships caused by "serious public emergency" which consisted of growing shortage of housing units resulting in critically low vacancy rates, rapidly rising rent, and continuing deterioration of existing housing stock, was general legislative act susceptible of adoption by initiative, notwithstanding lack of notice or opportunity for hearing on part of affected landlords and property owners. St.1972, p. 3370, Amend. No. 2, art. 17, West's Ann. Const. art. 11, § 3 [now 3(a)].

2. Municipal Corporations ⇐589

Under State Constitution, city's police power can be applied only within its own territory and is subject to displacement by general state law, but otherwise is as broad as police power exercisable by legislature itself. West's Ann.Const. art. 11, § 7.

3. Municipal Corporations ⇐79

City charter amendment, which was adopted by initiative, and which instituted local rent control measures for purpose of alleviating hardships caused by "serious public emergency" resulting from growing housing shortage, could not be given effect to extent that it conflicted with general laws either directly or by entering field which general laws were intended to occupy to exclusion of municipal regulation. West's Ann.Const. art. 11, § 5(a).

4. Municipal Corporations ⇐79

Fact that city charter amendment prohibited landlords of residential units within city from charging more than maximum rent prescribed by municipal rent control board under specified standards did not bring amendment into conflict with general state law, notwithstanding existence of extensive state legislation governing many aspects of landlord-tenant relationships, some of which pertained specifically to determination or payment of rent, where neither content nor quantity of statutes established or implied any legislative intent to

exclude municipal regulation of amount of rent based on local conditions, and where charter amendment's purpose of preventing exploitation of housing shortage through excessive rent charges was distinct from purpose of any state legislation. St.1972, p. 3370, Amend. No. 2, art. 17, § 7; West's Ann.Const. art. 11, §§ 5(a), 7; West's Ann.Civ.Code, §§ 827, 1935, 1942, 1942.5, 1947, 1950.5.

5. Landlord and Tenant ⇐200.11
Municipal Corporations ⇐57

Mere fact that municipal imposition of rent ceilings affects private civil relationships by nullifying tenants' liability to landlords for rent in excess of stated ceilings does not render measure invalid city police regulation; State Constitution contains no "private law" exception to municipal powers.

6. Municipal Corporations ⇐46

City charter amendment, which is otherwise valid, may be adopted through initiative process without concurrence of city council; fact that initiative measure might touch upon city council's power to levy taxes by affecting property tax base does not constitute prohibited interference by initiative power with function of legislative body.

7. Municipal Corporations ⇐46

Municipal charter amendment instituting local rent control measures, which was adopted by initiative process, was not invalid, on theory that it prescribed detailed procedures for carrying out its substantive provisions and therefore violated rule that initiative cannot deal with administrative matters, where amendment did not interfere with preexisting legislative policy but instead performed purely legislative function of introducing new regulatory scheme. St.1972, p. 3370, Amend. No. 2, art. 17.

8. Municipal Corporations ⇐46

Power of city electorate to amend their city charter through initiative is derived from State Constitution and is free from any prerequisite relating to fact-finding procedures by which existence of facts that would warrant amendment might be ascertained; charter amendment must be deemed to have been enacted on basis of any state of facts supporting it that reasonably can be conceived. West's Ann. Const. art. 11, § 3(b).

9. Municipal Corporations ⇐63.1(3)

If city council itself proposed charter amendment, Supreme Court, in reviewing challenge to validity of amendment, could not probe council members' motivations for doing so and would be required to judge amendment's validity by its own terms rather than by motives of or influences upon legislators. West's Ann.Const. art. 11, § 3(b).

10. Constitutional Law ⇐81

Fact that initiative process results in legislation reflecting will of majority and imposing certain burdens upon landlords is not ground for holding such legislation invalid; it is of essence of police power to impose reasonable regulations upon private property rights to serve larger public good.

11. Statutes ⇐303

Scope of initiative power reserved to People is to be liberally construed.

12. Municipal Corporations ⇐46

Judicial protection of landlords' rights with respect to rent control enactments such as by amendments to city charters through initiative process lies not in placing arbitrary restrictions upon initiative power but in measuring substance of enactment's provisions against overriding constitutional and statutory requirements.

13. Landlord and Tenant ⇐278.2(1)

Municipal rent control provision which prohibited eviction of tenant who was in good standing at expiration of tenancy unless premises were to be withdrawn from rental housing market or landlord's offer of renewal lease had been refused was reasonable means of enforcing rent ceiling contained in rent control measure by preventing landlords from putting out tenants because of their unwillingness to pay ille-

EXHIBIT A

...al amounts of rent or their opposition to ...lications for increases in rent ceilings. ...1972, p. 3370, Amend. No. 2, art. 17.

4. Municipal Corporations ⇐79

Provisions of unlawful detainer stat... which were designed to implement a ...dlord's property rights by permitting ...m to recover possession once consensual ...is for tenants' occupancy is at end, were ...t in conflict with provisions of municipal ...arter amendment forbidding landlords to ...cover possession upon expiration of ten...ncy since charter amendment's elimination ...f particular grounds for eviction was lim...tation upon landlords' property rights un...er police power, giving rise to substantive ...rounds of defense in unlawful detainer ...roceedings. St.1972, p. 3370, Amend. No. ..., art. 17, § 7(b); West's Ann.Civ.Code, §§ ..., 1947; West's Ann.Code Civ.Proc. §§ 1161, subd. 1, 1164 et seq.

15. Landlord and Tenant ⇐298(1)

Landlords' violations of city's housing ...de may be basis for defense of breach of ...arranty of habitability in summary pro...eeding instituted by landlord to recover ...ossession for nonpayment of rent.

16. Landlord and Tenant ⇐298(1)

Statutory remedies for recovery of possession and of unpaid rent do not pre...lude defense based on municipal rent con...rol legislation enacted pursuant to police ...ower imposing rent ceilings and limiting ...rounds for eviction for purposes of en...forcing those rent ceilings. West's Ann. ...ode Civ.Proc. §§ 1159–1179a; West's Ann.Civ.Code, § 1951 et seq.

17. Municipal Corporations ⇐78

Question of whether local enactment is excluded by state legislation is not neces...arily concluded by literal language of per...tinent statute but depends upon whether ...tate has preempted field as indicated by ...whole purpose and scope of state legisla...tive scheme.

18. Municipal Corporations ⇐79

Provisions of municipal charter amendment requiring landlord to obtain certificate of eviction from local rent control board prior to seeking to recover possession of rent-controlled unit conflicted with statutes which provide landlords with summary procedure for exercising their rights of repossession against tenants since requirement of certificate of eviction raised procedural barriers between landlord and judicial proceeding which was intended to be relatively simple and speedy remedy obviating any need for self-help by landlords, and to such extent, charter amendment was invalid. St.1972, p. 3370, Amend. No. 2, art. 17, § 7(g); West's Ann.Code Civ.Proc. §§ 1159–1179a.

19. Landlord and Tenant ⇐278.2(1)

Where city charter amendment, which instituted local rent control measures, contained provisions for fixing maximum rents that were constitutionally defective, provision of amendment limiting grounds for a landlord's eviction of his tenant, which had no legislative purpose in absence of limits on rent, could not stand, even though provision was reasonable means of assuring compliance with maximum rent limits and did not conflict with statutory repossession proceedings, and even though charter amendment contained severability clause, where such clause did not require salvage of provisions which were not intended to be independently operative. St.1972, p. 3370, Amend. No. 2, art. 17, § 7(g); West's Ann.Code Civ. Proc. §§ 1159–1179a.

20. Landlord and Tenant ⇐200.10

"Emergency" doctrine invoked to uphold rent control measures of more than half century ago is no longer operative as it was formulated as special exception to limitations on police power that have long since ceased to exist.

21. Constitutional Law ⇐81

Legislation regulating prices or otherwise restricting contractual or property rights is within police power if its operative provisions are reasonably related to accomplishment of legitimate governmental

66-1

EXHIBIT A

purpose; existence of emergency is not prerequisite to such legislation.

22. Landlord and Tenant ⇐200.10

More pressing necessity is not constitutionally required for regulation of rent than for regulation of prices generally; same constitutional standards apply to both types of regulation.

23. Constitutional Law ⇐81

In determining validity of legislative measure under police power, Supreme Court's sole concern is with whether measure reasonably relates to legitimate governmental purpose and court must not confuse reasonableness in such context with wisdom.

24. Municipal Corporations ⇐595, 596, 597, 598

Police power of municipal corporation extends to objectives in furtherance of public peace, safety, morals, health and welfare and is not circumscribed prerogative, but is elastic and capable of expansion to meet existing conditions of modern life.

25. Landlord and Tenant ⇐200.11

Constitutionality of residential rent controls under police power depends upon actual existence of housing shortage and its concomitant ill effects of sufficient seriousness to make rent control rational curative measure.

26. Constitutional Law ⇐48(1)

Although existence of "constitutional facts" upon which validity of an enactment depends is presumed in absence of any showing to contrary, their nonexistence can properly be established by proof.

27. Constitutional Law ⇐48(5)

Where trial court concluded that municipal charter amendment instituting local rent control measures was invalid on theory that fact, as found by court, did not establish emergency conditions which court deemed constitutionally required for rent control, but where no such emergency was constitutionally required, task of Supreme Court on appeal of case would be to review findings and sustain propriety of rent controls under police power unless findings established complete absence of even debatable rational basis for legislative determination by city electorate that rent control was reasonable means of counteracting harms and dangers to public health and welfare emanating from housing shortage; in reviewing findings court would look to trial court's memorandum of opinion as aid to their interpretation.

28. Landlord and Tenant ⇐200.10

In field of regulation not occupied by general state law, such as rent control, each city is free to exercise its police power to deal with its own local conditions which may differ from those in other areas; city which had distinctive life-style, school system, and reputation as university city, all of which attracted residents and offered likely explanation for rental housing vacancy rate that was markedly lower than in adjoining cities, was not constitutionally required to ignore any of its housing problems on ground that they would not exist if some of its residents were to live elsewhere.

29. Landlord and Tenant ⇐200.11

Even assuming that legislation could be invalidated for mistakes in its preamble concerning facts not essential to constitutionality or legislative authority, fact that preamble of municipal charter amendment, which instituted local rent control measures, declared existence of "serious public emergency" with respect to housing problems in city when no such emergency existed would not be grounds for invalidation of charter amendment since mistake involved at most only descriptive differences in degree of seriousness of housing problem sought to be remedied and any question of correspondence between problems and findings could be completely eliminated by only minor changes of wording; "emergency" wording of preamble did not prevent adoption of rent controls to deal with conditions described in preamble which were consistent with trial court's findings.

EXHIBIT A

32. Landlord and Tenant ⇐200.11

Where municipal charter amendment declared that its rent control provisions were intended to counteract ill effects of rapidly rising rent resulting from exploitation of existing housing shortage, such provisions were within police power if they were reasonably calculated to eliminate excessive rents and at same time provide landlords with just and reasonable return on their property; if effect of provisions would necessarily be to lower rents more than could reasonably be considered to be required for measure's stated purpose, they were unconstitutionally confiscatory.

33. Constitutional Law ⇐81

Although question of whether regulation of prices is reasonable or confiscatory depends ultimately on result reached, such regulation may be invalid on its face when its terms will not permit those who administer it to avoid confiscatory results in its application to complaining parties.

34. Landlord and Tenant ⇐200.11

Selection of August 15, 1971, as key date for determination of base rents under municipal charter amendment imposing local rent control was appropriate and reasonable where possibility of rent controls in city arose at least as early as March 1971, and where, due to importance of date under federal regulatory scheme imposed by executive order under Economic Stabilization Act of 1970, date marked latest time at which rents had been set in unregulated market and selection of date increased probability that landlords would have records concerning rents on that date readily available. St.1972, p. 3370, Amend. No. 2, art. 17, § 4; Economic Stabilization Act of 1970, § 201 et seq., 12 U.S.C.A. § 1904 note.

35. Municipal Corporations ⇐62

Municipal legislative body is constitutionally prohibited from delegating formulation of legislative policy but may declare policy, fix primary standard, and authorize executive or administrative officers to prescribe subsidiary rules and regulations that implement policy and standard and to determine application of policy or standard to facts of particular cases.

36. Constitutional Law ⇐62(2)

Standards sufficient for administrative application of statute can be implied by statutory purpose.

37. Landlord and Tenant ⇐200.11

Where municipal charter amendment imposing local rent controls stated its purpose of counteracting ill effects of rapidly rising and exorbitant rents resulting from exploitation of housing shortage in city, and provided board which was to administer it nonexclusive illustrative list of relevant factors to be considered, charter amendment provided constitutionally sufficient legislative guidance to board for its determination of petitions for adjustments of maximum rents. St.1972, p. 3370, Amend. No. 2, art. 17, §§ 1, 3(g), 5.

38. Constitutional Law ⇐62(2)

Legislative guidance by way of policy and primary standards is not enough to render valid legislation which delegates legislative power to administrative agency if legislature fails to establish effective mechanism to assure proper implementation of its policy decision; when statutes delegate power with inadequate protection against unfairness or favoritism, and when such protection can easily be provided, reviewing courts may well either insist upon such protection or invalidate legislation.

39. Landlord and Tenant ⇐200.11

Municipal charter amendment imposing local rent controls was constitutionally deficient, even though sufficient legislative guidance by way of policy and primary standards was supplied to board which would administer control measures, where amendment established base rent for all controlled units which was to remain as maximum rent for indefinite period but withheld power by which board could adjust maximum rents due to changes in circumstances or to reflect general market conditions without unreasonable delays and

EXHIBIT A

instead required board to follow adjustment procedure which would make such delays inevitable; property may be as effectively taken by long-continued and unreasonable delay in putting end to confiscatory rates as by express affirmance of them. St.1972, p. 3370, Amend. No. 2, art. 17, §§ 1, 3(g), 5, 6(a).

38. Landlord and Tenant ⇐200.11

In reviewing constitutionality of municipal charter amendment imposing local rent controls, provisions of amendment which create delays in procedure for adjustment of maximum rent due to changes in circumstances and to reflect general market conditions must be examined in relation to magnitude of job to be done. St. 1972, p. 3370, Amend. No. 2, art. 17, §§ 5, 6(a).

39. Constitutional Law ⇐298(1)
Municipal Corporations ⇐63.1(6)

Municipal charter amendment imposing local rent controls was unconstitutional in that it would deprive landlords of due process of law if permitted to take effect where combination of control measures' automatic imposition of rent ceilings in form of rollback to base rents and inexcusably cumbersome rent adjustment procedure requiring that adjustments be made only on basis of unit-by-unit hearings before single tribunal was not reasonably related to amendment's stated purpose of preventing excessive rents; constitutional defect could not be cured by excision of defective provisions but only by additional provisions beyond court's power to provide. St.1972, p. 3370, Amend. No. 2, art. 17, §§ 3(a, g, i, k), 5, 6(a, f, g).

Lois L. Johnson, City Atty., Berkeley, Susan Watkins and Kathryn L. Walt, Asst. City Attys., Michael Lawson, Deputy City Atty., Donald P. McCullum, Oakland, and Charles O. Triebel, Jr., Berkeley, for defendant and appellant.

Myron Moskovitz, San Francisco, Lawrence L. Duga, Berkeley, Barbara Dudley, San Francisco, Jeffrey J. Carter and W. Dennis Keating, Berkeley, for interveners and appellants.

Edmund L. Regalia, Robert A. Belzer, Leslie A. Johnson and Miller, Starr & Regalia, Oakland, for plaintiffs and respondents.

Rich & Ezer and Mitchel J. Ezer, Los Angeles, as amici curiae on behalf of plaintiffs and respondents.

WRIGHT, Chief Justice.

In this case we consider the validity of an initiative amendment to the Charter of the City of Berkeley providing for residential rent control within that city. In a class action brought by plaintiff landlords the superior court declared the amendment void and enjoined the city from enforcing it principally on the ground that the evidence at a lengthy trial showed that the city was not faced with a serious public emergency of the sort the court deemed constitutionally prerequisite to imposition of rent controls under the police power. As hereinafter explained we have concluded that the existence of such an emergency is no more necessary for rent control than for other forms of economic regulation which are constitutionally valid when reasonably related to the furtherance of a legitimate governmental purpose, and that the facts established at the trial did not preclude the city from legislating on the subject of residential rent control. We have also concluded that state law does not preempt the field of placing maximum limits on residential rents and that an enactment for that purpose could properly take the form of an initiative amendment to the city charter.

However, we also hold for reasons hereinafter stated that the Berkeley Charter amendment transgresses the constitutional limits of the police power not because of its objectives but because certain procedures it provides would impose heavy burdens upon landlords not reasonably related to the accomplishment of those objectives. The amendment would require a blanket

EXHIBIT A

rollback of all controlled rents to those in effect on August 15, 1971, (or to any lower rents in effect thereafter) and would prohibit any adjusments in maximum rents except under a unit-by-unit procedure which for reasons to be explained would be incapable of effecting necessary adjustments throughout the city within any reasonable period of time. Even if we were to adopt counsel's suggestion of a judicial postponement of the rent rollback date to one that is more current, the absence of adequate adjustment procedures would leave arbitrary maximum rents in effect far longer than would be reasonably necessary to the amendment's stated purpose of alleviating hardship caused by rising and exorbitant rents exploiting a housing shortage in the city.

In addition to controlling rents the charter amendment imposes prerequisites and restrictions upon eviction proceedings. As hereinafter explained we concur with the trial court's view that the charter amendment's requirement that the landlord obtain a "certificate of eviction" from the city before seeking to recover possession of a rent-controlled unit is invalid in that it conflicts with state law prescribing procedures for evicting tenants. In the absence of these procedural restrictions the charter amendment's prohibition against dispossession of tenants who are in good standing apart from the expiration of their terms would be a permissible means of enforcing validity imposed rent ceilings. However, such prohibition necessarily falls along with the charter amendment's constitutionally defective mechanism for adjusting maximum rents. Accordingly we affirm the judgment.

The parties before us include not only the plaintiff landlords and defendant city but also a group of organizations and individuals who filed a complaint in intervention praying that plaintiffs be denied all relief. The interveners generally represent two types of interests: (1) students, disabled persons and other low-income tenants occupying rental housing in Berkeley and (2) Berkeley residents asserting environmental interests in preserving the existing housing stock and preventing an exodus of low-income residents. The interveners participated in the trial and have filed an appeal separate from that of defendant. The record on appeal is confined to the clerk's transcript.

[1] The regularity of the proceedings by which the charter amendment was adopted is not questioned. The amendment was proposed by initiative,[1] was adopted by the city electorate on June 6, 1972, and apart from questions of its substantive validity took effect on August 2, 1972, when it was ratified by the Legislature.[2] Its full text is printed in the chapter laws (Stats. 1972 (Reg.Sess.) res. ch. 96, p. 3372) and is set out in the appendix hereto.[3]

1. The judgment below declared the initiative procedure constitutionally insufficient for enactment of municipal rent controls in that it failed to provide landlords with reasonable notice and the right to be heard on the merits of the measure prior to its adoption. After the judgment was entered we held in *San Diego Bldg. Contractors Assn. v. City Council* (1974) 13 Cal.3d 205, 118 Cal.Rptr. 146, 529 P.2d 570 that the initiative procedure can be used to adopt a zoning ordinance constituting a general legislative (as distinct from adjudicatory) act notwithstanding the lack of notice or opportunity for hearing on the part of affected property owners. Clearly the present rent control measure is a general legislative act susceptible of adoption by initiative under our holding in *San Diego Bldg. Contractors.* (See *id.* at pp. 214–215, 118 Cal.Rptr. 146, 529 P.2d 570.) Plaintiffs do not contend otherwise on this appeal.

2. Approval by concurrent resolution of both houses of the Legislature was required by the then provisions of section 3 of article XI of the Constitution. In 1974 subdivision (a) of section 3 was amended to dispense with the necessity for the Legislature's approving city charter amendments.

3. The initiative proceedings followed the city council's refusal at a public hearing on February 8, 1972, to place the rent control issue on the ballot. In 1969 the council had appointed a rental housing committee which made studies and in March 1971 issued an

EXHIBIT A

The charter amendment declares that its purpose is to alleviate the hardships caused by a "serious public emergency" endangering the public health and welfare, especially that of "the poor, minorities, students and the aged," and affecting a substantial proportion of Berkeley tenants. The emergency is declared to consist of "[a] growing shortage of housing units resulting in a critically low vacancy rate, rapidly rising and exorbitant rents exploiting this shortage, and the continuing deterioration of the existing housing stock." (§ 1.)[4]

The measure provides for a rent control board (Board) of five popularly elected commissioners (§ 3) to fix and adjust maximum rents for all controlled dwelling units, administer restrictions on eviction proceedings, and exercise other regulatory and enforcement powers. Controls apply to all rented houses, apartments and rooming units other than (1) accommodations rented primarily to transcient guests for periods of less than 14 days, (2) rental units in nonprofit homes for the aged or cooperatives, certain religious or medical facilities, or dormitories of an institution of higher learning, and (3) governmentally owned, operated, managed or subsidized rental housing. (§ 2, subds. (c), (h).)[5] The Board is required to fix a "base rent" for all controlled units by "administer[ing] a rollback of rents" to the lowest level in effect on or after August 15, 1971, or to a comparable prevailing level if the unit was not rented on that date.[6] (§ 4, subd. (a).) The rolled-back base rent becomes the maximum rent subject only to "individual rent adjustments." (§ 5.)

The Board is prohibited from granting any adjustment of the maximum rent even for an individual unit until it receives a petition from the unit's landlord or tenant and considers the petition at an adjustment hearing. (§ 6, subd. (a).)[7] Any landlord's petition must be accompanied by a certification from the city's building inspection service showing full compliance with state and city housing codes based on an inspection made within six months. The certification is only prima facie evidence of compliance and the Board may refuse an upward rent adjustment if it finds from other competent evidence that the rental unit is not in compliance "due to the landlord's failure to provide normal and adequate housing services." (§ 5.)[8] In considering a landlord's or tenant's petition for rent

exhaustive report with recommendations but decided with one dissent not to recommend rent control.

4. Unless otherwise indicated, all section references hereinafter are to Article XVII of defendant's charter, added by the charter amendment set out in the appendix to this opinion.

5. There is no exception for new housing construction generally. The ballot argument in favor of the charter amendment (incorporated into the pleadings) stated: "Controlled rents will discourage high rent-quick profit ticky-tacky apartment construction, thus helping stop destruction of older homes and preserving Berkeley's unique environmental character. Rent control will help ensure that new housing construction serves those most in need—low income families, minorities, students and the aged."

6. Upon the Legislature's approval of the charter amendment no rent of a controlled unit could be raised pending "the rollback of rents to the base rent level." (§ 4, subd. (a).) The trial court adjudged this "rent freeze" to be valid up to (but not after) the date of entry of the judgment, declaring its intent that tenants be relieved of liability for rent in excess of freeze levels incurred before that date.

7. The separate provisions that the Board is "empowered" to roll back rents and to set and adjust maximum rents and that it may conduct investigations and issue regulations pertinent to its duties (§ 3, subds. (f), (g)) might in themselves seem to imply broader discretion to make general adjustments of rent levels, but any such implication is clearly dispelled by the specific restrictions described in the text.

8. Even if the noncompliance found by the Board is promptly cured, a subsequent petition for an upward rent adjustment is subject to summary rejection on the ground that a hearing on the unit's rent level was held within the previous 12 months. (§ 6, subd. (i).)

EXHIBIT A

...stment the Board must consider "rele-...t factors including but not limited to" ... increases or decreases in property tax-... in operating or maintenance expenses ... in rented living space or furnishings; ... capital improvements; (3) extraordi-...y deterioration of the rented unit; ... (4) any failure by the landlord to pro-...de adequate housing services. (§ 5.)

Although the parties must be given 16 ...s' notice of the hearing on a rent ad-...stment petition (§ 6, subd. (b)), there is ... expressed limit on the length of time ...thin which the hearing may be held after ...e petition is filed. Hearings are open to ...e public and the parties may be assisted ... attorneys, tenant union representatives, ... any other persons they designate. (§ 6, ...bds. (d), (e).) The Board's official ...blic record of the hearing, constituting ...e exclusive record for decision," must ...clude all exhibits required to be filed or ... evidence, a list of participants, a sum-...ary of testimony, a statement of all mate-...ials officially noticed, findings of fact, ...lings on exceptions or objections, and all ...commended and final decisions and or-...rs together with the reasons for each. ...§ 6, subd. (f).) Any rent adjustment ...anted must be "supported by the prepon-...erance of the evidence submitted at the ...earing." (§ 6, subd. (g).) Petitions on ...nt-controlled units in the same building ...ay be consolidated "with the written con-...nt of a majority of the tenants." (§ 6, ...bd. (h).)

Three commissioners constitute a quo-...um of the Board and three affirmative ...otes are required for all rulings and deci-...ons. (§ 3, subd. (i).) The Board must ...old two regular meetings a month, and al-...though there is no limit on the number of ...s special meetings, each commissioner's ...compensation of $50 per meeting is limited ...o $2,400 per year. (§ 3, subds. (h), (k).)

The Board is given additional responsi-...lities of acting upon applications for cer-...ificates of eviction submitted by landlords ...ho desire to repossess rent-controlled units. (§ 7.) The charter amendment's provisions for this procedure and for limitations on the grounds for eviction are discussed hereinafter.

City's Power to Provide for Rent Control by Initiative Amendment to Its Charter

[2] It is contended that the defendant city was barred from imposing rent controls by the conceded absence of any state statute authorizing local legislation on the subject. As will be hereinafter discussed, the regulation of rents is proper only insofar as it is a valid exercise of the police power. The Constitution itself confers upon all cities and counties the power to "make and enforce within [their] limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (Cal.Const., art. XI, § 7.) A city's police power under this provision can be applied only within its own territory and is subject to displacement by general state law but otherwise is as broad as the police power exercisable by the Legislature itself. (*Stanislaus County, etc. Assn. v. County of Stanislaus* (1937) 8 Cal.2d 378, 383–384, 65 P.2d 1305; *In re Maas* (1933) 219 Cal. 422, 425, 27 P.2d 373.)

The decisions cited in support of the contended necessity for statutory authorization of municipal rent control measures are all from other jurisdictions and make clear that the involved cities did not have any broad grant of police power such as that enjoyed by California cities. (See *Old Colony Gardens, Inc. v. City of Stamford* (1959) 147 Conn. 60, 156 A.2d 515 (legislature's prior termination of municipal rent controls negated any implication of rent control power in city charter); *City of Miami Beach v. Fleetwood Hotel, Inc.* (Fla.1972) 261 So.2d 801 (city charter powers strictly construed); *Ambassador East, Inc. v. City of Chicago* (1948) 399 Ill. 359, 365–367, 77 N.E.2d 803; *Marshal House, Inc. v. Rent Review, etc. Board* (1970) 357 Mass. 709, 260 N.E.2d 200 (proscription against municipal enactment of "private or civil law governing civil rela-

C73

tionships except as an incident to an . . . independent municipal power"); *Tietjens v. City of St. Louis* (1949) 359 Mo. 439, 222 S.W.2d 70 ("[a] city has no inherent police power"); *Wagner v. City of Newark* (1957) 24 N.J. 467, 132 A.2d 794.) On the other hand, the decisions construing grants of municipal power comparable in breadth to the police power of California cities under article XI, section 7, of our Constitution hold that such powers encompass the imposition of local rent controls. (See *Heubeck v. City of Baltimore* (1954) 205 Md. 203, 107 A.2d 99 (grant of "Police Power to the same extent as the State has or could exercise"); *Inganamort v. Borough of Fort Lee* (1973) 62 N.J. 521, 534, 536, 303 A.2d 298, 305 (grant of "greatest power of local self-government consistent with the Constitution"; "'grant of broad general police powers to municipalities'"); *Warren v. City of Philadelphia* (1955) 382 Pa. 380, 384, 115 A.2d 218, 221 (grant of "all powers relating to its municipal functions . . . to the full extent that the General Assembly may legislate in reference thereto".)

[3] Defendant and interveners properly concede that rent control is not a municipal affair as to which a charter provision would prevail over general state law under article XI, section 5 of the Constitution.[9] (See *Bishop v. City of San Jose* (1969) 1 Cal.3d 56, 61–63, 81 Cal.Rptr. 465, 460 P.2d 137; *Butterworth v. Boyd* (1938) 12 Cal.2d 140, 146–148, 82 P.2d 434.) Accordingly the charter amendment cannot be given effect to the extent that it conflicts with general laws either directly or by entering a field which general laws are intended to occupy to the exclusion of municipal regulation. (*Lancaster v. Municipal Court* (1972) 6 Cal.3d 805, 100 Cal.Rptr. 609, 494 P.2d 681; *City of Santa Clara v. Von Raesfeld* (1970) 3 Cal.3d 239, 245–246, 90 Cal.Rptr. 8, 474 P.2d 976; *Galvan v. Superior Court* (1969) 70 Cal.2d 851, 859, 76 Cal.Rptr. 642, 452 P.2d 930; *In re Hubbard* (1964) 62 Cal.2d 119, 127–128, 41 Cal.Rptr. 393, 396 P.2d 809.)[10]

[4] The fact that the charter amendment prohibits landlords of residential units within the city from charging more than the maximum rents prescribed by a municipal rent control board under specified standards does not bring the amendment into conflict with general state law. California has no state rent control statute. There is of course extensive state legislation governing many aspects of landlord-tenant relationships, some of which pertain specifically to the determination or payment of rent. (See, e. g., Civ.Code, § 827 (changing rent terms in tenancies of one

9. Article XI, section 5, subdivision (a) provides: "It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith."

10. Interveners suggest that the Legislature's concurrent resolution approving the charter amendment on rent control (see fn. 2, *ante*) gave the amendment the effect of a state statute. The approval was not of a statute but of an amendment to a city charter that is subject to general laws with respect to matters that are not municipal affairs. (See *Eastlick v. City of Los Angeles* (1947) 29 Cal.2d 661, 665, 177 P.2d 558; *City of Oakland v. Workmen's Comp. App. Bd.* (1968) 259 Cal.App.2d 163, 166, 66 Cal.Rptr. 283.) The approval was "by resolution and not by bill" and "[did] not *ipso facto* repeal laws generally applicable throughout the state." (*Wilkes v. City etc. of San Francisco* (1941) 44 Cal.App.2d 393, 395, 112 P.2d 759, 761.) Our statement in *Taylor v. Cole* (1927) 201 Cal. 327, 334, 257 P. 40, 43, that the Legislature's ratification of the charter amendment in that case "had all the essence of a plain legislative enactment" established no more than the equivalence between ratification and enactment for the purpose of foreclosing objections to procedural irregularities in the legislative process. (See *id.* at p. 333, 257 P. 40; *Santa Clara County v. Superior Court* (1949) 33 Cal.2d 552, 555, 203 P.2d 1.)

EXHIBIT A

...th or less); Civ.Code, § 1935 (apportionment of rent); Civ.Code, § 1942 (right to deduct from rent for cost of repairs); Civ.Code, § 1942.5 (restricting retaliatory rent increases); Civ.Code, § 1947 (when rent is payable); Civ.Code, § 1950.5 (advance payments of rent).) But neither the quantity nor the content of these statutes establishes or implies any legislative intent to exclude municipal regulation of the amount of rent based on local conditions. (See *Galvan v. Superior Court*, supra, 70 Cal.2d at pp. 860–864, 76 Cal.Rptr. 642, 452 P.2d 930.) The charter amendment's purpose of preventing exploitation of a housing shortage through excessive rent charges is distinct from the purpose of any state legislation, and the imposition of rent ceilings does not materially interfere with any state legislative purpose. (See *People v. Mueller* (1970) 8 Cal.App.3d 949, 954, 88 Cal.Rptr. 157.) Whether the relevant field is deemed to be rent control as such or a broader aspect of landlord-tenant relations (see *California Water & Telephone Co. v. County of Los Angeles* (1967) 253 Cal.App.2d 16, 27–28, 61 Cal.Rptr. 618), there is no legislative indication of "a paramount state concern [which] will not tolerate further or additional local action." (*In re Hubbard*, supra, 62 Cal.2d at p. 128, 41 Cal.Rptr. at p. 399, 396 P.2d at p. 815.)[11]

It is contended that rent control is not within the municipal police power because it is "private law" purporting to regulate private civil relationships. Such an exception to municipal powers has received support from some commentators and was included in the "home rule" article of the Massachusetts Constitution in the form of a provision denying cities any inherent power "to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power." (Mass.Const., Amends., art. 89, § 7, subd. (5).) The Massachusetts Supreme Judicial Court construed this provision as preventing cities from enacting rent control measures in the absence of enabling legislation. (*Marshal House, Inc. v. Rent Review, etc. Board*, supra, 357 Mass. 709, 260 N.E.2d 200.)

[5] The California Constitution contains no such "private law" exception to municipal powers. The fact that municipal imposition of rent ceilings necessarily affects private civil relationships by no means makes it unique among city police regulations. For example, a city ordinance specifying the liability insurance to be carried by a bus operator may give rise to a direct right of action against the insurer for injuries caused by the operator's negligence (*Milliron v. Dittman* (1919) 180 Cal. 443, 181 P. 779), and violation of municipal building or housing codes may establish negligence in a tort action (*Finnegan v. Royal Realty Co.* (1950) 35 Cal.2d 409, 218 P.2d 17), render a lease unenforceable as an illegal contract (*Howell v. City of Hamburg Co.* (1913) 165 Cal. 172, 176, 131 P. 130), or give rise to a defense of breach of warranty of habitability in an action for rent or for recovery of possession based on nonpayment of rent (*Green v. Superior Court* (1974) 10 Cal.3d 616, 637–638, 111 Cal.Rptr. 704, 517 P.2d 1168; *Hinson v. Delis* (1972) 26 Cal.App.3d 62, 102 Cal.Rptr. 661). Thus, the mere fact that a city rent control measure would nullify tenants' liabilities to landlords for rent in excess of stated ceilings does not render the measure invalid.[12]

[6] It is contended that the charter amendment even if otherwise valid could

We here decide only that general state law does not preclude a California city from imposing some form of rent control. We need not consider whether a city is free to create its own judicial remedies for violation of rent ceilings provided by sections 9, 10 and 11 of the present charter amendment in view of our conclusion, discussed hereinafter, that the amendment's provisions for *fixing* maximum rents are constitutionally deficient.

12. We need not consider the existence or extent of the city's power to create remedies for the violation of rent ceilings. (See fn. 11, *ante*.)

 EXHIBIT A

not be adopted through the initiative process without the concurrence of the city council. Several arguments are advanced in support of this contention; none of them has merit.

It is argued that the charter amendment's adoption violates the principle that the initiative is ordinarily deemed inapplicable where "the inevitable effect would be greatly to impair or wholly destroy the efficacy of some other governmental power." (*Chase v. Kalber* (1915) 28 Cal.App. 561, 569–570, 153 P. 397, 400; accord, *Simpson v. Hite* (1950) 36 Cal.2d 125, 134, 222 P.2d 225.) The governmental power that it is asserted the charter amendment would impair is the city council's power to raise tax revenues to carry on the municipal government. Past decisions invalidating initiative or referendum measures to repeal local tax levies have indicated a policy of resolving any doubts in the scope of the initiative or referendum in a manner that avoids interference with a local legislative body's responsibilities for fiscal management. (*Geiger v. Board of Supervisors* (1958) 48 Cal.2d 832, 839–840, 313 P.2d 545; *Hunt v. Mayor & Council of Riverside* (1948) 31 Cal.2d 619, 628–629, 191 P.2d 426; *Campen v. Greiner* (1971) 15 Cal.App.3d 836, 843, 93 Cal.Rptr. 525.)

Although the rent control measure in no way touches upon the city council's power to levy taxes, it is theorized that rent control would "cause fiscal chaos in the long run" by impairing the city's tax base. In support of this theory our attention is drawn to published articles depicting dire consequences attributed to rent control in New York City and other communities on the eastern seaboard. Interveners cite contrary material praising the effects of rent control. Although these disputed matters would be appropriate for consideration by a legislative body or the electorate in deciding whether to adopt a rent control proposal, they cannot be relied upon for the purpose urged here. Many sorts of initiative measures arguably affect the property tax base (e. g., the initiative zoning ordinances recently upheld in *San Diego Bldg. Contractors Assn. v. City Council*, supra, 13 Cal.2d 205, 118 Cal.Rptr. 146, 529 P.2d 570, and *Builders Assn. of Santa Clara-Santa Cruz Counties v. Superior Court* (1974) 13 Cal.3d 225, 118 Cal.Rptr. 158, 529 P.2d 582) but such speculative consequences do not constitute a prohibited interference by the initiative power with the function of a legislative body.

[7] Another objection raised to the use of the initiative procedure to adopt the charter amendment is that the amendment prescribes detailed procedures for carrying out its substantive provisions and thus violates a supposed rule that the initiative cannot deal with administrative (as distinct from legislative) matters. However, the decisions cited in support of this objection concern the entirely different situation of an initiative ordinance that is deemed an improper interference with the local legislative body's administrative functions assigned to it by a state statute or other controlling instrument containing the legislative policies to be administered. (See *Simpson v. Hite*, supra, 36 Cal.2d at pp. 133–135, 222 P.2d 225; *Housing Authority v. Superior Court* (1950) 35 Cal.2d 550, 557–559, 219 P.2d 457; *McKevitt v. City of Sacramento* (1921) 55 Cal.App. 117, 124, 203 P. 132.) The present charter amendment interferes with no preexisting legislative policy but instead performs the purely legislative function of introducing a new regulatory scheme.

It is argued that the use of the initiative process to adopt a municipal rent control measure is precluded by the unavailability to the electorate of factfinding procedures by which a legislative body can ascertain the existence of facts that would warrant the imposition of rent controls.[13] How-

13. The electorate's lack of power to *compel* investigative committees or other agents to assemble information and make recommendations on particular issues does not prevent the voters from becoming well informed. Those voting on the present charter amend-

ever, the cases
ment deal only w
that are attached
particular grant
Thus the empow
evant statute or
those cases as i
prerequisites as
vailing wage" be
(*Walker v. Cou*
55 Cal.2d 626, 1
247), the holding
ment of a zonir
law city (*Tasch*
31 Cal.App.3d
214), or the decl
"great necessity
ceeding the max
tina etc. Co. v.
Cal. 762, 141 P.
sitating putting
ate effect (*In r*
114, 119, 99 P. 51

[8, 9] The p
torate to amend
the initiative is
section 3, of th
from any such
Accordingly, as
with reference
nance, the cha
deemed to have
of any state of
sonably can be
City of Santa
30, 41 Cal.Rpt
Even if the city
the charter ar

ment had the
of the city co
tee and of ar
ballots as wel
nated during
election.

14. The assum
ballot measur
control is in
number landl
absence of re
fornia commu
by indications

EXHIBIT A

...ver, the cases relied upon for the argument deal only with factfinding procedures that are attached as conditions precedent to particular grants of legislative powers. Thus the empowering provisions of the relevant statute or charter were construed in those cases as imposing such factfinding prerequisites as ascertainment of the "prevailing wage" before fixing county salaries (*Walker v. County of Los Angeles* (1961) 55 Cal.2d 626, 12 Cal.Rptr. 671, 361 P.2d 247), the holding of hearings before enactment of a zoning ordinance by a general law city (*Taschner v. City Council* (1973) 32 Cal.App.3d 48, 61–64, 107 Cal.Rptr. 734), or the declaration and existence of a "great necessity or emergency" before exceeding the maximum tax rate (*San Christina etc. Co. v. San Francisco* (1914) 167 Cal. 762, 141 P. 384) or of urgency necessitating putting an ordinance into immediate effect (*In re Hoffman* (1909) 155 Cal. 114, 119, 99 P. 517).

[8,9] The power of the Berkeley electorate to amend their city charter through the initiative is derived from article XI, section 3, of the Constitution and is free from any such factfinding prerequisite. Accordingly, as we said in another case with reference to an initiative city ordinance, the charter amendment "must be deemed to have been enacted on the basis of any state of facts supporting it that reasonably can be conceived." (*Higgins v. City of Santa Monica* (1964) 62 Cal.2d 24, 30, 41 Cal.Rptr. 9, 13, 396 P.2d 41, 45.) Even if the city council itself had proposed the charter amendment (Cal.Const., art. XI, § 3(b)), we could not probe the council members' motivations for doing so (*County of Los Angeles v. Superior Court* (1975) 13 Cal.3d 721, 726–727, 119 Cal.Rptr. 631, 532 P.2d 495) and would be required to judge the amendment's validity by its own terms rather than by the motives of or influences upon the legislators (*City and County of San Francisco v. Cooper* (1975) 13 Cal.3d 898, 913, 120 Cal.Rptr. 707, 534 P.2d 403). The subjective motivations of the voters who petitioned for and approved the amendment's adoption are similarly irrelevant to our inquiry, which is therefore unaffected by any comparison between the factfinding procedures available to the electorate and to the city council.

[10] Finally it is argued that initiative enactment of local rent control measures violates landlords' due process rights because tenants are in the majority and will always vote in favor of rent control as a result of their direct economic interest in the outcome.[14] The fact that the initiative process results in legislation reflecting the will of the majority and imposing certain burdens upon landlords can hardly be deemed a ground for holding the legislation invalid. It is of the essence of the police power to impose reasonable regulations upon private property rights to serve the larger public good. (*Queenside Hills Realty Co. v. Saxl* (1946) 328 U.S. 80, 82–83, 66 S.Ct. 850, 90 L.Ed. 1096; *Clemons v. City of Los Angeles* (1950) 36 Cal.2d 95, 102, 222 P.2d 439.) Moreover, this can be accomplished by the initiative, as in the case recently before us in which a city

ment had the benefit of a published report of the city council's rental housing committee and of arguments distributed with the ballots as well as the information disseminated during the campaign preceding the election.

14. The assumption that adoption of a city ballot measure to impose residential rent control is inevitable because tenants outnumber landlords is refuted both by the absence of rent control enactments in California communities other than Berkeley and by indications in the record that even the present measure had less than the complete support of tenants. The findings show that tenants constitute 63 percent of Berkeley's population; yet the charter amendment passed by only 52.5 percent of the vote. Moreover the declarations attached to the complaint in intervention, stating the interests of the original interveners (some of whom were later stricken as parties), show that the rent control measure received support from some *homeowners* who had such concerns as the preservation of the existing housing stock and the retention of low-income residents in the city.

67-1

electorate initiated and adopted an ordinance that in effect prevented the owners of lots near the ocean from building high-rise structures that would have blocked views from larger areas located farther inland. (See *San Diego Bldg. Contractors Assn. v. City Council,* supra, 13 Cal.3d 205, 118 Cal.Rptr. 146, 529 P.2d 570.) We expressly recognized the propriety of using the initiative process to enact local legislation adversely affecting only a small minority of the population in *Dwyer v. City Council* (1927) 200 Cal. 505, 253 P. 932, where we rejected a claim that a Berkeley zoning ordinance was beyond the initiative and referendum powers because its sole effect would be to rezone a tiny fraction of the city. We said:

"It is a fundamental tenet of the American system of representative government that the legislative power of a municipality resides in the people thereof, and that the right to exercise it has been conferred by them upon their duly chosen representatives. By the enactment of initiative and referendum laws the people have simply withdrawn from the legislative body, and reserved to themselves the right to exercise a part of their inherent legislative power. . . . It is a characteristic of much legislation, especially in this age of intense specialization of occupations and interests, that it operates, to a greater or less degree, more directly upon one group or section of the population than upon another . . . ." (200 Cal. at p. 513, 253 P. at 935.)

"The vice of respondents' argument consists in placing undue stress upon the sectional interest which residents of a particular district may be expected to have in restrictions more immediately affecting their district, and in underemphasizing the interest of the community as a whole in the existence of a comprehensive zoning plan. *It must be presumed that the electorate will act in the interests of the entire city,* and of the part to be affected by the proposed legislation. If the law operates more directly upon only a part of the citizens, evil intent or design cannot be presumed." (Italics supplied; 200 Cal. at p. 514, 253 P. at 935.) [15]

[11, 12] The scope of the initiative power reserved to the people is to be liberally construed. (*Farley v. Healey* (1967) 67 Cal.2d 325, 328, 62 Cal.Rptr. 26, 431 P.2d 650; *Blotter v. Farrell* (1954) 42 Cal.2d 804, 809, 270 P.2d 481; *Ley v. Dominguez* (1931) 212 Cal. 587, 593, 299 P. 713.) Judicial protection of landlords' rights with respect to rent control enactments such as the present charter amendment lies not in placing arbitrary restrictions upon the initiative power but in measuring the substance of the enactment's provisions against overriding constitutional and statutory requirements.

Conflict Between Charter Amendment's Eviction Provisions and General Laws

The charter amendment imposes two kinds of restraint upon eviction proceedings: It limits the grounds upon which a landlord may bring an action to repossess a rent-controlled unit (§ 7, subd. (a)) and it requires that a landlord obtain a certificate of eviction from the rent control board before seeking such repossession (§ 7, subds.

15. Our language in *Hopping v. Council of City of Richmond* (1915) 170 Cal. 605, 617, 150 P. 977, 981, that "[t]here may be grounds for excluding from the operation of [the initiative and referendum] powers legislative acts which are special and local in their nature" is not authoritative since we further stated that no such question was then before us and that "we express no opinion on the subject" (170 Cal. at p. 618, 150 P. at 982). The decisions in *Chase v. Kalber,* supra, 28 Cal.App. 561, 153 P. 397 and *Starbuck v. City of Fullerton* (1917) 34 Cal.App. 683, 168 P. 583, holding the initiative and referendum inapplicable to local ordinances for street improvements to be financed by the local property owners involved cities without charters and were based on a construction of state street improvement statutes. All three of these cases were distinguished in *Dwyer* (200 Cal. at pp. 517–519, 253 P. 932).

EXHIBIT A

...(g)). These two types of restriction ... be considered in order.

The permitted grounds for eviction can be grouped into three categories. One category consists of breaches of the tenant's duties to the landlord: failure to pay rent or to perform an obligation of the tenancy after notice, commission of a nuisance on or of substantial damage to the rented premises, conviction of using the premises for an illegal purpose, refusal of reasonable landlord access for repairs, inspection, or showing to a prospective purchaser, or transferring possession to an unauthorized subtenant. (§ 7, subd. (a)(1)–(4), (6)–(7).) A second category consists of the landlord's good faith intention to withdraw the unit from the rental housing market for occupancy by the landlord or specified relatives of the landlord (§ 7, subd. (a)(8), or for demolition or conversion to non-housing use (§ 7, subd. (a)(9)). The remaining category is the refusal of the tenant holding at the expiration of a lease ("rental housing agreement") to execute a written renewal or extension for the same duration as the original lease and on terms that are materially the same. (§ 7, subd. (a)(5).)[16]

[13] These permitted grounds for eviction appear to cover most if not all of the grounds that would otherwise be available except that of termination of the tenancy. No other omitted grounds have been called to our attention and we assume for present purposes that the effect of the provision is simply to prohibit the eviction of a tenant who is in good standing at the expiration of the tenancy unless the premises are to be withdrawn from the rental housing market or the landlord's offer of a renewal lease has been refused.[17] This prohibition is a reasonable means of enforcing rent ceilings by preventing landlords from putting out tenants because of their unwillingness to pay illegal amounts of rent or their opposition to applications for increases in rent ceilings. (See *Block v. Hirsh* (1921) 256 U.S. 135, 157–158, 41 S.Ct. 458, 65 L.Ed. 865; *Heubeck v. City of Baltimore*, supra, 205 Md. 203, 212, 107 A.2d 99.)

[14–17] Plaintiffs contend that any regulation of the grounds for eviction is preempted by general state law. Code of Civil Procedure section 1161, subdivision 1, makes the continuation of a tenant's possession after expiration of the term a form of unlawful detainer for which the landlord may recover possession in summary proceedings under Code of Civil Procedure section 1164 et seq. However, these statutory provisions are not necessarily in conflict with the charter amendment's provision forbidding landlords to recover possession upon expiration of a tenancy if the purpose of the statutes is sufficiently distinct from that of the charter amendment. (See *Galvan v. Superior Court*, supra, 70 Cal.2d 851, 859, 76 Cal.Rptr. 642, 452 P.2d 930; *People v. Mueller*, supra, 8 Cal.App.3d 949, 954, 88 Cal.Rptr. 157.) The purpose of the unlawful detainer statutes is procedural. The statutes implement the landlord's property rights by permitting him to recover possession once the consensual basis for the tenant's occupancy is at an end. In contrast the charter amendment's elimination of particular grounds for eviction is a limitation upon the landlord's property rights under the police power,

5 The last-mentioned provision does not require the landlord to offer the tenant a renewal lease but simply requires the tenant to accept any such offer that is made on pain of subjection to eviction. In the absence of a renewal lease the tenant's continued possession together with the landlord's acceptance of rent after expiration of the lease term creates a periodic tenancy. (Civ.Code, § 1945; *Renner v. Huntington etc. Oil & Gas Co.* (1952) 39 Cal.2d 93, 102, 244 P.2d 895.)

17. Nothing in the charter amendment precludes a landlord from giving notice of the termination of a tenancy at will or periodic tenancy (see Civ.Code, §§ 789, 1946) or of a lease terminable at the landlord's option. Indeed such notice is a prerequisite to an application for a certificate of eviction. (§ 7, subd. (b).) What is prohibited is using the termination of the tenancy as a basis for eviction proceedings in the absence of another permissible ground for eviction.

EXHIBIT A

giving rise to a substantive ground of defense in unlawful detainer proceedings. The mere fact that a city's exercise of the police power creates such a defense does not bring it into conflict with the state's statutory scheme. Thus, a landlord's violations of a city's housing code may be the basis for the defense of breach of warranty of habitability in a summary proceeding instituted by the landlord to recover possession for nonpayment of rent. (*Green v. Superior Court*, supra, 10 Cal.3d 616, 637–638, 111 Cal.Rptr. 704, 517 P.2d 1168; *Hinson v. Delis*, supra, 26 Cal.App.3d 62, 102 Cal.Rptr. 661.) Similarly, the statutory remedies for recovery of possession and of unpaid rent (see Code Civ.Proc., §§ 1159–1179a; Civ.Code, § 1951 et seq.) do not preclude a defense based on municipal rent control legislation enacted pursuant to the police power imposing rent ceilings and limiting the grounds for eviction for the purpose of enforcing those rent ceilings. (*Inganamort v. Borough of Fort Lee*, supra, 62 N.J. 521, 537, 303 A.2d 298;[18] *Warren v. Philadelphia*, supra, 382 Pa. 380, 385, 115 A.2d 218.[19]

In addition to limiting the substantive grounds for eviction the charter amendment prescribes procedures that a landlord must undergo as a prerequisite to seeking repossession of a rent-controlled unit. Before commencing unlawful detainer proceedings (Code Civ.Proc., § 1164 et seq.) the landlord is required to obtain a certificate of eviction from the rent control board. (§ 7, subds. (b), (g).) The Board must give notice of the application for the certificate to the tenant or tenants who then have five days in which to request a full hearing conducted under the rules governing hearings for adjustments in maximum rents. (§ 7, subds. (c), (e).) The hearing must be scheduled within seven days after it is requested (§ 7, subd. (d)) and the Board must grant or deny the certificate within five days after the hearing is held (§ 7, subd. (f)). However, no limit is stated for the time within which the Board must give the tenants notice of the application after it is filed or must act on the application if no hearing is requested following such notice. Moreover, there is an express provision that either party may seek judicial review of a decision of the Board to grant or deny a certificate. (§ 7, subd. (g); § 9.)

To be granted a certificate the landlord must carry the burden of showing not only the existence of permissible grounds for eviction and that the tenancy has been properly terminated by notice but also that there are "no outstanding Code violations on the premises" other than those "substantially caused by the present tenants." (§ 7, subds. (b), (e).) Moreover, the Board is forbidden to issue a certificate if it finds that "the eviction is in retaliation for reporting Code violations or violations of this Article [the charter amendment],

18. After the *Inganamort* decision New Jersey adopted *state* legislation restricting landlords' rights to evict residential tenants upon termination of a lease or periodic tenancy. (N.J.S.A. 2A:18–61.1 et seq.; see *Gardens v. City of Passaic* (1974) 130 N.J.Super. 369, 327 A.2d 250.) This legislation was held to preempt the field to the exclusion of similar provisions in municipal rent control ordinances. (*Brunetti v. Borough of New Milford* (1975) 68 N.J. 576, 600–601, 350 A.2d 19, 32–33.)

19. A contrary result was reached in *Heubeck v. City of Baltimore*, supra, 205 Md. 203, 210, 107 A.2d 99, where the provision in a city rent control ordinance prohibiting eviction of tenants in good standing even after expiration of their terms was held to conflict with a state statute permitting such evictions. The court applied a rule it had laid down in earlier decisions that local ordinances invalidly conflict with state law if they "'prohibit acts permitted by statute or constitution'" (205 Md. at p. 208, 107 A.2d at p. 102). In California the question of whether a local enactment is excluded by state legislation is not necessarily concluded by the literal language of the pertinent statute but depends upon whether the state has preempted the field as indicated by the whole purpose and scope of the state legislative scheme (*Abbott v. City of Los Angeles* (1960) 53 Cal.2d 674, 682, 3 Cal.Rptr. 158, 349 P.2d 974; *Pipoly v. Benson* (1942) 20 Cal.2d 366, 371–372, 125 P.2d 482.)

EXHIBIT A

...for organizing other tenants, or for en... rights under this Charter Amend... ment." (§ 7, subd. (e).) A finding ad... to the landlord on the existence of ...de violations on the premises or on the ...ses of retaliation precludes issuance of ...e certificate regardless of the existence ...f any of the grounds for eviction permit... by subdivision (a) of section 7.[20]

[18] As already stated, the charter ...endment is invalid to the extent that it ...purports to regulate a field that is fully oc... by general state law. (*Healy v. In... Acc. Com.* (1953) 41 Cal.2d 118, ... 258 P.2d 1; fn. 10, *ante.*) Plaintiffs ...ge and the trial court found that to re... a landlord to obtain a certificate of ...viction before seeking to recover posses... of a rent-controlled unit invalidly con... with sections 1159 through 1179a of ...Code of Civil Procedure, which provide ...landlords with a summary procedure for ...exercising their rights of repossession ...against tenants. We agree. Unlike the ...limitations imposed by the charter amend... upon chargeable rents and upon the ...grounds for eviction, which can affect ...summary repossession proceedings only by ...making substantive defenses available to ...the tenant, the requirement of a certificate ...of eviction raises procedural barriers be... the landlord and the judicial ...proceeding.[21] Thus if a tenant were permitted to raise as a defense in a summary proceeding that the landlord had failed to obtain a certificate of eviction, the terms of the charter amendment would not permit the landlord to meet the defense by showing that he could have qualified for the certificate had he applied for it but would preclude him from relief simply because he had never gone through the proper procedures before the rent control board.[22]

The summary repossession procedure (Code Civ.Proc., §§ 1159–1179a) is intended to be a relatively simple and speedy remedy that obviates any need for self-help by landlords. (*Kassan v. Stout* (1973) 9 Cal.3d 39, 43–44, 106 Cal.Rptr. 783, 507 P.2d 87; *Jordan v. Talbot* (1961) 55 Cal.2d 597, 604–605, 12 Cal.Rptr. 488, 361 P.2d 20; see *Lindsey v. Normet* (1972) 405 U.S. 56, 71–73, 92 S.Ct. 862, 31 L.Ed.2d 36.) To require landlords to fulfill the elaborate prerequisites for the issuance of a certificate of eviction by the rent control board before they commence the statutory proceeding would nullify the intended summary nature of the remedy.

City charter provisions purporting to impose far less burdensome prerequisites upon the exercise of statutory remedies have been held to be invalid invasions of the field fully occupied by the statute. In *Eastlick v. City of Los Angeles*, supra, 29

20. In addition to these circumstances making denial of the eviction certificate mandatory, section 7, subdivision (e), through its incorporation of section 6, subdivision (i), appears to give the board discretion to reject an application for an eviction certificate summarily on the ground that issuance of the certificate was previously denied after a hearing held within the preceding 12 months, regardless of any intervening change of circumstances. (See fn. 8, *ante.*)

21. Defendant's brief states: "There is nothing to prevent a landlord [from] proceeding under the unlawful detainer statutes while seeking the certificate of eviction from the Rent Control Board." To the contrary, subdivision (g) of section 7 provides: "A landlord who *seeks* to recover possession of a rent-controlled unit without *first* obtaining a certificate of eviction . . . shall be in violation of this Article . . . ." (Italics supplied.)

22. We do not reach the question of whether the defendant city could have imposed the prerequisites for a certificate of eviction as direct substantive conditions upon the right to eviction. Interveners argue that defendant could implement its policies of preventing deterioration of existing housing and of limiting chargeable rents by depriving landlords of the right to evict tenants from units not conforming to housing code standards or in retaliation for the assertion of certain tenant rights. The argument is hypothetical as the charter amendment makes these matters the tests for the rent control board's issuance of a certificate of eviction rather than imposing them as conditions upon the right of repossession enforceable by the courts.

178

EXHIBIT A

Cal.2d 661, 177 P.2d 558, damages for personal injuries resulting from a fall on a broken sidewalk were recovered from the defendant city by a plaintiff who had filed a timely claim in full compliance with the applicable state statute prior to commencing the suit. The city contended that the claim was insufficient as filed because it did not include the more detailed information prescribed by the city charter, arguing "that its charter provision as to itemization of damages is merely supplementary to the general law—an additional, not a contrary requirement—and therefore is valid." (29 Cal.2d at p. 666, 177 P.2d at p. 561.) We held that the statute had occupied the field of filing such claims against municipalities and that the city could not impose more onerous conditions with respect to the required contents of a claim. We rejected the city's contention that its auditing procedures required more detailed information, pointing out that the statute was intended to provide completely for the city's needs for information about claims in advance of suit. (29 Cal.2d at p. 667, 177 P.2d 558.)

Similarly in *Wilson v. Beville* (1957) 47 Cal.2d 852, 306 P.2d 789, we held that an inverse condemnation suit against a city could not be conditioned upon compliance with the claim-filing requirements of the city's charter. The state statutes fully occupy the field of assessing compensation for condemned property and therefore a city charter cannot make the recovery of such compensation more onerous.

[19] Thus we conclude that the present charter amendment's requirement that landlords obtain certificates of eviction before seeking repossession of rent-controlled units cannot stand in the face of state statutes that fully occupy the field of landlord's possessory remedies. Insofar as the charter amendment simply prohibits eviction of tenants who are in good standing except for the expiration of their tenancies, it is a reasonable means of assuring compliance with maximum rent limits and does not conflict with statutory repossession proceedings even though making available a substantive defense to eviction. However, we have concluded for reasons to be explained that the charter amendment's provisions for fixing maximum rents are constitutionally defective. Hence the limitation on the grounds for eviction cannot stand as it has no legislative purpose in the absence of limits on rent. (See *F. T. B. Realty Corp. v. Goodman* (1949) 300 N.Y. 140, 148, 89 N.E.2d 865.) Although the charter amendment contains a severability clause (§ 12), such a clause does not require that we salvage provisions which even though valid are not intended to be independently operative. (*Santa Barbara Sch. Dist. v. Superior Court* (1975) 13 Cal.3d 315, 331, 118 Cal.Rptr. 637, 530 P.2d 605.)

Regulation of Maximum Residential Rents in Berkeley as an Exercise of the Police Power

We have thus far concluded (1) that in the absence of conflicting or preemptive state law the defendant city's police power within its territorial limits is as broad as the police power exercisable by the Legislature and (2) that general state law does not preclude the defendant city from imposing maximum limits on residential rents within its territory or from restricting the grounds for evicting tenants for the purpose of enforcing those limits insofar as such control of rents and evictions is a proper exercise of the police power. We now consider whether defendant could rightfully exercise its police power in this manner under the circumstances established by the record.

Plaintiffs urge and the trial court concluded that rents cannot constitutionally be controlled in the absence of an "emergency" which the trial court defined in the language of *Levy Leasing Co. v. Siegel* (1922) 258 U.S. 242, 245, 42 S.Ct. 289, 290, 66 L.Ed. 595, as a condition "so grave that it constitute[s] a serious menace to the health, morality, comfort, and even to the peace of a large part of the

EXHIBIT A

...ce" (or in this case the city). The *Levy ...ing* decision and *Marcus Brown Co. v. ...man* (1921) 256 U.S. 170, 41 S.Ct. 465, ...Ed. 877, rejected due process objec... under the Fourteenth Amendment to ...a York State statutes enacted in 1920 ... deal with a grave housing shortage ...ulting from the cessation of building ac...ities incident to World War I. The ...tutes provided in effect that during a ...od of approximately two years tenants ...uld be immune from eviction if they ...id a reasonable rent to be determined by ...e courts and were not "objectionable" ...d if the landlord did not seek to repos...ss the premises for personal use or dem...tion. Similar congressional legislation ...r the District of Columbia under which ...e rental owed by a tenant remained the ...me unless modified by a rent commission ...as upheld as against due process objec...ns in *Block v. Hirsh,* supra, 256 U.S. ..., 41 S.Ct. 458, 65 L.Ed. 865. However, ... *Chastleton Corp. v. Sinclair* (1924) 264 ...S. 543, 44 S.Ct. 405, 68 L.Ed. 841, the ...urt made clear it would not tolerate ex...nsion of these rent controls beyond the ...eriod of the war emergency. Faced with ... challenge to a rent reduction order of ...e District of Columbia Rent Commission ...ated August 7, 1922, and effective as of ...e preceding March 1st, the court remand...ed the case for determination of whether ...e emergency justifying the statute still ...existed on the relevant dates in view of re...duced government payrolls and new build...ng activities in the City of Washington. ...he court stated that the increased cost of living would not in itself justify continuing the statute in effect and added that "if the question were only whether the statute is in force to-day, upon the facts that we judicially know we should be compelled to say that the law has ceased to operate." (264 U.S. at pp. 548–549, 44 S.Ct. at p. 406.)

[20] These decisions concerning rent controls in Washington, D. C. and the State of New York during the aftermath of World War I are the last in which the United States Supreme Court has specifically considered the extent to which the due process clauses of the Fifth and Fourteenth Amendments allow state legislatures, or bodies exercising equivalent powers, to impose rent controls.[23] However, an examination of the evolution of the court's views in related fields of price and wage controls will demonstrate that the "emergency" doctrine invoked to uphold rent control measures of more than half a century ago is no longer operative as it was formulated as a special exception to limitations on the police power that have long since ceased to exist.

At the time of its rent control decisions in the early twenties a majority of the Supreme Court was of the view that the liberty protected by the due process clause included a freedom of contract which normally precluded either state legislatures or Congress legislating for the District of Columbia from regulating the amounts of prices or wages in businesses "not affected with a public interest." Legislation invali-

23. Neither of the Supreme Court cases dealing with rent controls imposed on a nationwide basis by Congress during and immediately after World War II reached this issue. In *Bowles v. Willingham* (1944) 321 U.S. 503, 64 S.Ct. 641, 88 L.Ed. 892, the court considered whether Congress' conceded authority under its war powers to control rents throughout the nation during the war could be exercised in particular ways and concluded, inter alia, that the exigencies of the war eliminated any constitutional doubts that might otherwise have existed as to the propriety of (1) empowering an administrator to set rents that were fair and equitable under standards generally applicable throughout an area without considering factors peculiar to individual landlords (321 U.S. at pp. 516–519, 64 S.Ct. 641) or (2) putting rent-fixing orders into effect prior to hearing objections from landlords (321 U.S. at pp. 519–521, 64 S.Ct. 641). *Woods v. Miller Co.* (1948) 333 U.S. 138, 68 S.Ct. 421, 92 L.Ed. 596, held that Congress could exercise its war powers to continue nationwide rent controls beyond the end of hostilities to cope with housing shortages caused by the demobilization of veterans and the reduction of housing construction during the war.

dated pursuant to this view included attempted uses of the police power to fix minimum wages for women (*Adkins v. Children's Hospital* (1923) 261 U.S. 525, 43 S.Ct. 394, 67 L.Ed. 785), to require compulsory arbitration of disputes over wages and hours in the food processing, clothing, fuel and transportation industries (*Wolff Co. v. Industrial Court* (1923) 262 U.S. 522, 43 S.Ct. 630, 67 L.Ed. 1103), and to limit markups on resold theatre tickets (*Tyson & Brother v. Banton* (1927) 273 U.S. 418, 47 S.Ct. 426, 71 L.Ed. 718) and fees chargeable by employment agencies (*Ribnik v. McBride* (1928) 277 U.S. 350, 48 S.Ct. 545, 72 L.Ed. 913). In these cases the court distinguished its rent control decisions as involving "statutes . . . of a temporary character, to tide over grave emergencies." (*Tyson & Brother v. Banton,* supra, 273 U.S. at p. 437, 47 S.Ct. at p. 430; accord, *Wolff Co. v. Industrial Court,* supra, 262 U.S. at p. 542, 43 S.Ct. 630; *Adkins v. Children's Hospital,* supra, 261 U.S. at pp. 551–552, 43 S.Ct. 394.)

But during the thirties this restrictive view of the police power was completely repudiated. Heralding the court's change of view was *Nebbia v. New York* (1934) 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940, where the court declared: "[T]here can be no doubt that upon proper occasion and by appropriate measures the state may regulate a business in any of its aspects, including the prices to be charged for the products or commodities it sells. [¶] So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose. The courts are without authority either to declare such policy, or, when it is declared by the legislature, to override it. If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied, and judicial determination to that effect renders a court *functus officio.*" (291 U.S. at p. 537, 54 S.Ct. at p. 516.)

Many of the prior restrictive decisions were expressly overruled. Upholding a women's minimum wage statute and overruling *Adkins v. Children's Hospital,* supra, 261 U.S. 525, 43 S.Ct. 394, 67 L.Ed. 785, the court pointed out that the Constitution does not speak of freedom of contract but only of liberty subject to due process of law, "and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process." (*West Coast Hotel Co. v. Parrish* (1937) 300 U.S. 379, 391, 57 S.Ct. 578, 581, 81 L.Ed. 703.) The sweeping nature of the court's change of views and its direct relationship to the earlier rent control decisions is perhaps seen most clearly in *Olsen v. Nebraska* (1941) 313 U.S. 236, 61 S.Ct. 862, 85 L.Ed. 1305, where a unanimous court upheld a statute regulating employment agency fees and not merely overruled *Ribnik v. McBride,* supra, 277 U.S. 350, 48 S.Ct. 545, 72 L.Ed. 913, but depicted a flood of its intervening decisions as engulfing and repudiating the philosophy and approach of the *Ribnik* majority.[24] The repudiated legal standard was described as one by which "the constitutional validity of price-fixing legislation, *at least in absence of a so-called emergency,* was dependent on whether or not the business in question was 'affected with a public interest'." (Fn. omitted; italics added.) (313 U.S. at p. 245, 61 S.Ct. at p. 865.) The *Olsen* court thus made clear that existence of "a so-called emergency" is no longer a prerequisite to the constitution-

24. When the time came to overrule *Tyson & Brother v. Banton,* supra, 273 U.S. 418, 47 S.Ct. 426, 71 L.Ed. 718, and thus permit regulation of theatre ticket brokers' prices, the Supreme Court merely affirmed the judgment to that effect without opinion. (*Gold v. DiCarlo* (1965) 380 U.S. 520, 85 S.Ct. 1332, 14 L.Ed.2d 266, affirming D.C., 235 F.Supp. 817.)

...ity of legislation fixing prices regardless ... whether the regulated enterprise is "af-...ted with a public interest."

Notwithstanding this basic change in the ...ited States Supreme Court's view of the ...ate's power to regulate prices, the courts ... several American jurisdictions have ...ntinued to treat the existence of a grave ...ergency as a constitutional prerequisite ... any form of governmental rent control. ... some instances the requirement has been ...ld to be satisfied by a legislative declara-...n of emergency in the rent control stat-...e itself and the absence from the record ... any ground for treating the declaration ... untrue. (*Amsterdam-Manhattan, Inc. v. ...ity Rent & Rehab. Adm'n* (1965) 15 N. ...2d 1014, 260 N.Y.S.2d 23, 207 N.E.2d ...; *Lincoln Bldg. Associates v. Barr* ...956) 1 N.Y.2d 413, 153 N.Y.S.2d 633, 135 ...E.2d 801 (office space rent control); *Is-...el v. City Rent & Rehab. Adm'n* (S.D. ...Y.1968) 285 F.Supp. 908; *Russell v. ...reasurer & Receiver General* (1954) 331 ...ass. 501, 507, 120 N.E.2d 388.) In other ...ses the lack of a sufficiently grave emer-...ency has been set forth as a reason for ...lding rent control legislation invalid. *...ress, Dunlap & Lane, Ltd. v. Downing* ...d Cir. 1960) 286 F.2d 212 (reversing ...mmary judgment; *id.* (D.Virgin Is.1961) ... F.Supp. 874 (finding sufficient emer-...ency as to low-rent housing but not as to ...gh-rent housing or commercial proper-...); *City of Miami Beach v. Fleetwood ...otel*, supra, 261 So.2d 801;[25] *Warren v. ...hiladelphia* (1956) 387 Pa. 362, 127 A.2d ...).[26] In none of these cases does the prevailing opinion discuss the continued viability of the emergency requirement in light of the United States Supreme Court's fundamental change of approach to the constitutionality of price regulation under the due process clause. (But see dissenting opn. in *Amsterdam-Manhattan, Inc. v. City Rent & Rehab. Adm'n*, supra, 15 N. Y.2d 1014, 1015, 260 N.Y.S.2d 23, 207 N. E.2d 216.)

The courts that have considered the implications of this change have concluded that it renders the former emergency requirement obsolete. Thus, the Second Circuit Court of Appeals, in affirming dismissal of a landlord's action against a rent control official under the Civil Rights Act (42 U.S.C.A. § 1983) stated that "we have no doubt that it [the United States Supreme Court] would sustain the validity of rent control today. . . . The time when extraordinarily exigent circumstances were required to justify price control outside the traditional public utility areas passed on the day that *Nebbia v. New York*, 291 U.S. 502, 539, 54 S.Ct. 505, 78 L.Ed. 940, 89 A.L.R. 1469 (1934), was decided. Whether, as some believe, rent control does not prolong the very condition that gave it birth, is a policy issue not appropriate for judicial concern." (*Eisen v. Eastman* (2d Cir. 1969) 421 F.2d 560, 567.) Similarly the New Jersey Supreme Court in sustaining the validity of municipal rent control ordinances recently observed that "rent control is, of course, but one example of the larger and more pervasive phenomenon of governmental regulation of prices

25. The majority opinion held that the Miami Beach City Council's determination that rent control was required by "an inflationary spiral and housing shortage" in the city failed to establish the emergency required by the World War I rent control cases (*Marcus Brown Co. v. Feldman*, supra, 256 U.S. 170, 41 S.Ct. 465, 65 L.Ed. 877; *Levy Leasing Co. v. Siegel*, supra, 258 U.S. 242, 42 S.Ct. 289, 66 L.Ed. 595; *Chastleton Corp. v. Sinclair*, supra, 264 U.S. 543, 44 S.Ct. 405, 68 L.Ed. 841). A dissenting justice thought that evidence in the record showed the existence of an emergency which met the majority's test, but the majority opinion is silent regarding such evidence. (261 So.2d at pp. 802, 804, 810.)

26. This decision may well rest on special rules of Pennsylvania law in view of the court's pronouncement elsewhere that "Pennsylvania . . . has scrutinized regulatory legislation perhaps more closely than would the Supreme Court of the United States" (*Pennsylvania State Bd. of Pharmacy v. Pastor* (1971) 441 Pa. 186, 191, 272 A.2d 487, 490).

under the police power. For constitutional purposes, rent control is indistinguishable from other types of governmental price regulation." (*Hutton Park Gardens v. Town Council* (1975) 68 N.J. 543, 555, 350 A.2d 1, 7.) Accordingly the New Jersey court concluded that the United States Supreme Court's abandonment of the emergency prerequisite for price regulation generally was fully applicable to rent control legislation. (Id., at pp. 556–561, 350 A.2d at pp. 8–10.) The same conclusion was reached by the Maryland Court of Appeals in *Westchester West No. 2 Ltd. Part. v. Montgomery County* (1975) 276 Md. 448.

[21] Before the present case California appellate courts have not been called upon to consider the validity of a rent control measure. However, the United States Supreme Court's previously described enlargement of its view of the scope of the police power to regulate prices and its consequent repudiation of any "emergency" prerequisite for price or rent controls find their parallels in our own decisions. It is now settled California law that legislation regulating prices or otherwise restricting contractual or property rights is within the police power if its operative provisions are reasonably related to the accomplishment of a legitimate governmental purpose (*Wilke & Holzheiser, Inc. v. Dept. of Alcoholic Bev. Control* (1966) 65 Cal.2d 349, 359, 55 Cal.Rptr. 23, 420 P.2d 735; *Allied Properties v. Dept. of Alcoholic Beverage Control* (1959) 53 Cal.2d 141, 146, 346 P.2d 737; *Wholesale Tobacco Dealers v. National etc. Co.* (1938) 11 Cal.2d 634, 643, 82 P.2d 3) and that the existence of an emergency is not a prerequisite to such legislation (*Jersey Maid Milk Products Co. v. Brock* (1939) 13 Cal.2d 620, 637–638, 91 P.2d 577; *Wholesale Tobacco Dealers v. National etc. Co.*, supra, 11 Cal.2d at pp. 654–655, 82 P.2d 3).[27]

[22] Plaintiffs contend that a more pressing necessity is constitutionally required for regulation of rents than for the regulation of prices generally because of the historic preference for real property exemplified by the legal presumption that breach of an agreement to transfer real property cannot be adequately compensated by money damages (Civ.Code, § 3387;

27. Both these decisions relied extensively on *Nebbia v. New York*, supra, 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940, in upholding legislation regulating prices and rejected efforts to confine the *Nebbia* principles to legislation of a temporary or emergency nature. The discussions of this point are as follows:

"*Amici curiae* seek to distinguish the *Nebbia* case from the instant case, and particularly call our attention to the fact that the New York statute was of a temporary duration while the California act is without any limitation as to duration, but they fail to show how this difference in the two statutes does in any way divest the legislature of the power to protect an industry from a perilous condition which is permanent in character. Furthermore, the rule appears to be well established that, 'Failure by the Legislature to limit the operation of the law to a definite term does not render the law invalid so long as the conditions which justify the passage of the law remain.' *People by Van Schaick v. Title & Mortgage & Guarantee Co.*, 264 N.Y. 69, 190 N.E. 153, 162, 96 A.L.R. 297." (*Jersey Maid Milk Products Co. v. Brock*, supra, 13 Cal.2d at pp. 637–638, 91 P.2d at p. 587.)

"It is quite significant that the various cases relied upon by appellant in the instant case were cited in the dissenting opinion in the *Nebbia* case. The rule of the *Nebbia* case has been since followed. *Borden's Farm Products Co. v. Ten Eyck*, 297 U.S. 251, 56 S.Ct. 453, 80 L.Ed. 669. It is true that in these cases the United States Supreme Court emphasized the emergency nature of the legislation. The emergency referred to was in fact part of the background of the statutes. In determining judicial action, however, the character of the situation sought to be remedied rather than its abruptness is the governing factor. As we interpret the *Nebbia* case and the cases from this court hereafter referred to, in passing upon the validity of such statutes the sole constitutional yardstick by which they should be measured is the necessity for and the reasonableness of the regulation. The question as to whether the statute involves direct or indirect price fixing is a false quantity." (*Wholesale Tobacco Dealers v. National etc. Co.*, supra, 11 Cal.2d at pp. 654–655, 82 P.2d at p. 15.)

EXHIBIT A

... *Ciciliot* (1943) 59 Cal.App.2d ... 120, 138 P.2d 306). This contention is without merit. Among the foremost ... of proper exercises of the police ... are restrictions on the use of real property. (See, e. g., *Consolidated Rock ... Co. v. City of Los Angeles* ... 57 Cal.2d 515, 20 Cal.Rptr. 638, 370 ... 342; *Miller v. Board of Public Works* ... 195 Cal. 477, 234 P. 381.) Plaintiff's contention was fully answered in the earliest of the rent control cases on which they rely, where the court referred to such restrictions on the use of real property as ... height limitations and succinctly observed that "if to answer one need the ... nature may limit height to answer another it may limit rent." (*Block v. Hirsh*, ... 256 U.S. 135, 156, 41 S.Ct. 458, 459, ... L.Ed. 865.) The court also stated that ... restrict landlords to "a reasonable rent" ... little if at all farther than the restriction put upon the rights of the owner ... money by the more debatable usury ..." (256 U.S. at p. 157, 41 S.Ct. at p. ... Moreover, the virtual equivalence ... for modern conditions between the rental ... of property for residential purposes ... the purchase of consumer goods and services (see *Green v. Superior Court*, ... 10 Cal.3d 616, 623, 627, 111 Cal.Rptr. ... 517 P.2d 1168) points to our applying ... same constitutional standards to the regulation of rents that we apply to the regulation of other consumer prices.

[23] It is suggested that the existence of a serious public emergency should be constitutionally required for rent controls because they create uncertainty about returns from capital investment in rental housing and thereby discourage construction or improvement of rental units, exacerbate any rental housing shortage, and so adversely affect the community at large. Such considerations go to the wisdom of rent controls and not to their constitutionality. In determining the validity of a legislative measure under the police power our sole concern is with whether the measure reasonably relates to a legitimate governmental purpose and "[w]e must not confuse reasonableness in this context with wisdom." (*Wilke & Holzheiser, Inc. v. Dept. of Alcoholic Bev. Control*, supra, 65 Cal.2d 349, 359, 55 Cal.Rptr. 23, 30, 420 P. 2d 735, 742; accord, *Consolidated Rock Products Co. v. City of Los Angeles*, supra, 57 Cal.2d 515, 522, 20 Cal.Rptr. 638, 370 P.2d 342.)

[24] We turn then to the question of whether the imposition of any form of residential rent controls for the purposes stated in the present charter amendment is within defendant's police power in that it is reasonably related to the accomplishment of an objective for which the power can be exercised. It has long been settled that the power extends to objectives in furtherance of the public peace, safety, morals, health and welfare and "is not a circumscribed prerogative, but is elastic and, in keeping with the growth of knowledge and the belief in the popular mind of the need for its application, capable of expansion to meet existing conditions of modern life." (*Miller v. Board of Public Works*, supra, 195 Cal. 477, 234 P. 381; accord, *Consolidated Rock Products Co. v. City of Los Angeles*, supra, 57 Cal.2d 515, 521–522, 20 Cal.Rptr. 638, 370 P.2d 342.) The charter amendment includes in its stated purposes for imposing rent control the alleviation of the ill effects of the exploitation of a housing shortage by the charging of exorbitant rents to the detriment of the public health and welfare of the city and particularly its underprivileged groups. (§ 1.)[28] The amendment thus states on its face the exis-

[28] The text of the charter amendment's section 1 is as follows:

"Statement of Purpose. A growing shortage of housing units resulting in a critically low vacancy rate, rapidly rising and exorbitant rents exploiting this shortage, and the continuing deterioration of the existing housing stock constitute a serious public emergency affecting the lives of a substantial proportion of those Berkeley residents who reside in rental housing. These emergency conditions endanger the public health and welfare of the City of Berkeley and especially the health and welfare of the poor, minorities,

EXHIBIT A

tence of conditions in the city under which residential rent controls are reasonably related to promotion of the public health and welfare and are therefore within the police power.

[25, 26] However, the constitutionality of residential rent controls under the police power depends upon the actual existence of a housing shortage and its concomitant ill effects of sufficient seriousness to make rent control a rational curative measure. Although the existence of "constitutional facts" upon which the validity of an enactment depends (see *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 15, 112 Cal.Rptr. 786, 520 P.2d 10) is presumed in the absence of any showing to the contrary (*In re Petersen* (1958) 51 Cal.2d 177, 182, 331 P.2d 24; *Hart v. City of Beverly Hills* (1938) 11 Cal.2d 343, 348, 79 P.2d 1080), their nonexistence can properly be established by proof. (*D'Amico v. Board of Medical Examiners* (1970) 6 Cal.App.3d 716, 727, 86 Cal.Rptr. 245; see *United States v. Carolene Products Co.* (1938) 304 U.S. 144, 152, 58 S.Ct. 778, 82 L.Ed. 1234.)

[27] In the present case the trial court received evidence presented by the parties from which it made findings concerning the existence of facts justifying the rent control provisions of the charter amendment and concluded that the emergency conditions that the court deemed constitutionally required for rent control did not exist. As already stated no such emergency was constitutionally required. On this state of the record our task is to review the findings (there being no reporter's transcript) and to sustain the propriety of rent controls under the police power unless the findings establish a complete absence of even a debatable rational basis for the legislative determination by the Berkeley electorate that rent control is a reasonable means of counteracting harms and dangers to the public health and welfare emanating from a housing shortage. (*Hamer v. Town of Ross* (1963) 59 Cal.2d 776, 783, 31 Cal.Rptr. 335, 382 P.2d 375; *Lockard v. City of Los Angeles* (1949) 33 Cal.2d 453, 461–462, 202 P.2d 38.) In reviewing the findings we also look to the trial court's memorandum opinion as an aid to their interpretation. (*Williams v. Puccinelli* (1965) 236 Cal.App.2d 512, 516, 46 Cal.Rptr. 285; 6 Witkin, Cal.Procedure (2d ed. 1971) Appeal, § 231, p. 4221.)

Far from dispelling any rational basis for rent control, the findings affirm the existence of housing problems that correspond in kind even if not in degree of gravity with the conditions described in section 1 of the charter amendment (see fn. 28, *ante*). A clause appearing at the outset of the findings on the "emergency" issue states that "whole segments of Berkeley's population suffer from a serious housing shortage." Additional findings indicating serious rental housing problems in Berkeley when the charter amendment was adopted include the following:

1. The City of Berkeley "offers a distinctive and attractive life style, and a superior school system which, because integrated, is desirable to minorities and to young people generally, . . . is the site of the original campus of the University of California and has an established reputation as a university city . . . [, and] is primarily residential in character with some industrial areas."

2. The vacancy rate for residential housing was "in excess of 3%" and "such a vacancy rate is low." According to the court's memorandum opinion, the vacancy rate for *apartment* rental housing was 3.1 percent and "[b]y any standard the rate is low."

3. "The population of [Berkeley] . . . was approximately 116,000 of which approximately 63% were tenants. Of the total population, approximately 30,000 persons comprise a group which spends in

students and the aged. The purpose of this Article, therefore, is to alleviate the hardship caused by this emergency by establishing a Rent Control Board empowered to regulate residential housing and rentals in the City of Berkeley."

EXHIBIT A

excess of 35% of its income for housing . . . Of said 30,000 persons, about [illegible]0 were in the group earning under $5,000 per year, and such group consisted largely of students, low income (aged, minorities, and disabled) and 'other young people' in about equal numbers. . . . It is evident that the housing conditions of low-income persons in Berkeley are serious . . . ."

4. In 1970 Berkeley had a black population of approximately 23.5 percent. These residents have received housing aid from "federally-funded assistance programs" but such programs "have, for the most part, ceased." "Many of the families of South Berkeley and West Berkeley [predominantly black] had low incomes or were receiving public assistance."

5. "[S]ome of the aged and disabled persons in Berkeley suffer adverse conditions in their capability of finding reasonably priced low-cost housing, . . . and it is recognized that aid programs are inadequate for their needs. . . . [T]he housing conditions for such groups in Berkeley were and are serious."

6. The group designated "other young people" "for the main part, consist of non-students who choose to live in Berkeley because they are attracted to its life style. Many of them have marginal incomes and the condition of their housing is generally comparable to that of the low-income group."

Offsetting these findings of serious housing problems are other findings of ameliorative conditions which would provide appropriate material for arguing to a legislative body that it should not enact rent controls but which do not dispel the constitutionally sufficient rational basis for residential rent control provided by the charter amendment's statement of purpose (§ 1; fn. 28, *ante*) and the findings previously summarized. The findings of ameliorative conditions are of three kinds.

First are findings of improvement in housing conditions which state as follows: Between 1960 and 1970 new rental housing increased faster than population and the vacancy rate rose from 2.6 percent in 1971 to 3.1 percent in 1972. At the time of trial further vacancies were expected to result from the carrying out of the plans of certain employers to move out of Berkeley or to reduce personnel. Dormitory space was available for almost all university students needing it and according to a university official adequate financial aid was available for students who established that their parents could not support them. The percentage of rental housing available for less than $200 per month in certain districts of Berkeley in 1970 ranged between 85 and 98 percent. Nonwhite home ownership increased markedly between 1960 and 1970. While all these facts are encouraging they do not push beyond the pale of rational debate the existence of a housing shortage and accompanying excessive rents serious enough to warrant the imposition of rent controls.

The second category of ameliorative findings consists in comparisons between housing conditions in Berkeley and in adjoining areas. It is found that Berkeley is "part of one continuous urban area geographically indistinguishable from Richmond on the north through Oakland on the south" and that the rental housing vacancy rate in both Richmond and Oakland was 6 percent as compared to 3.1 percent in Berkeley. With respect to the low-income group designated as "other young people" it is found that "their mobility is such as to make it possible for them to live in surrounding, relatively high vacancy areas." On the other hand the finding stating the adverse housing problems faced by the aged and disabled group in Berkeley adds that "their condition is not unlike that experienced in other metropolitan areas."

[28] Neither the availability to some low-income residents of housing in adjoining cities nor the fact that the problems of the aged and disabled in Berkeley are no worse than in other metropolitan areas de-

EXHIBIT A

tracts from Berkeley's power to safeguard and promote the health and welfare of persons who choose to live in that city. In a field of regulation not occupied by general state law such as rent control each city is free to exercise its police power to deal with its own local conditions which may differ from those in other areas. (See *Galvan v. Superior Court*, supra, 70 Cal.2d 851, 863–864, 76 Cal.Rptr. 642, 452 P.2d 930.) Among Berkeley's local conditions, according to a previously quoted finding, are a distinctive lifestyle, school system, and reputation as a university city all of which attract residents and offer a likely explanation for a rental housing vacancy rate that is markedly lower than in adjoining cities. Berkeley is not constitutionally required to ignore any of its housing problems on the ground that they would not exist if some of its residents were to live elsewhere.

Finally the findings indicating the existence of serious housing problems are offset by statements in the findings that such problems "are not so wide-spread as to constitute an emergency" and that "no such emergency as referred to in [section 1 of the charter amendment] actually existed." We have already held herein that the existence of such an emergency is not a constitutional prerequisite for the imposition of rent controls. Plaintiffs contend however that the declaration in the charter amendment's preamble of the existence of "a serious public emergency" with respect to housing problems in Berkeley (§ 1, quoted in fn. 28, *ante*) makes the amendment invalid unless such an emergency actually existed even though the amendment would be valid in the absence of such declaration. With this contention plaintiffs challenge the measure not by disputing its statement of *constitutional* facts but by disputing statements *not necessary* to constitutionality. Their position is that the city electorate cannot have intended to adopt the charter amendment unless the preamble's statement of underlying facts were true and that such truth can be determined by a court which can then declare the measure invalid if it finds upon sufficient evidence that the statement is incorrect.

[29] Even if it be assumed that legislation can be invalidated for mistakes in its preamble concerning facts not essential to constitutionality or legislative authority, the mistakes asserted here are not grounds for invalidation. They involve at most only descriptive differences in the degree of seriousness of the housing problems sought to be remedied and any question of their correspondence with the findings could have been completely eliminated by only minor changes of wording.[29] The preamble accurately declares the nature of the conditions to be alleviated and it is to be presumed that the Berkeley electorate became sufficiently informed from election campaign arguments for and against the measure to decide for themselves whether those conditions gave rise to a "public emergency" or were simply "serious." The ballot argument in favor of the charter amendment contained no representation of the existence of any emergency. We conclude that the "emergency" wording of the preamble did not prevent the adoption of rent controls to deal with those conditions

29. Section 1 of the charter amendment would unquestionably be consistent with the findings if the following five words shown as stricken were replaced by the wording shown in italics: "Statement of Purpose. A growing shortage of housing units resulting in a ~~critically~~ low vacancy rate, rapidly rising and exorbitant rents exploiting this shortage, and the continuing deterioration of the existing housing stock constitute a serious ~~public emergency~~ *housing problem* affecting the lives of a substantial proportion of those Berkeley residents who reside in rental housing. These ~~emergency~~ conditions endanger the public health and welfare of the City of Berkeley and especially the health and welfare of the poor, minorities, students and the aged. The purpose of this Article, therefore, is to alleviate the hardship caused by this ~~emergency~~ *problem* by establishing a Rent Control Board empowered to regulate residential housing and rentals in the City of Berkeley."

described in the
sistent with the tri
Constitutional I
Amendmen
Fixing
Having sustain
limit residential
the purposes stat
ment, we now co
of the means pr
for fixing and a
As already state
the police power
lated to the le
control, like any
is unconstitution
criminatory, or
the policy the L
and hence an un
interference w
(*Nebbia v. New*
539, 54 S.Ct. 50
cord, *Permian*
(1968) 390 U.S
1344, 20 L.Ed.2d

[30] The ch
that its rent con
to counteract th
ing and exorbi
housing] short
sions are withi
are reasonably
cessive rents ar
landlords with
on their proper
ent from the
their effect w
rents more tha
sidered to be
stated purpose,
confiscatory.
Natural Gas P
575, 585–586,
Hutton Park C
pra, 68 N.J. 5
16.)

[31] Defer
tend that any
possible confis

EXHIBIT A

scribed in the preamble which are consistent with the trial court's findings.

Constitutional Deficiencies in Charter Amendment's Provisions for Fixing Maximum Rents

Having sustained defendant's power to limit residential rents within the city for the purposes stated in the charter amendment, we now consider the constitutionality of the means provided by the amendment for fixing and adjusting permissible rents. As already stated these means are within the police power if they are reasonably related to the legislative purpose. "Price control, like any other form of regulation, is unconstitutional only if arbitrary, discriminatory, or demonstrably irrelevant to the policy the Legislature is free to adopt, and hence an unnecessary and unwarranted interference with individual liberty." *Nebbia v. New York,* supra, 291 U.S. 502, 537, 54 S.Ct. 505, 517, 78 L.Ed. 940; accord, *Permian Basin Area Rate Cases* (1968) 390 U.S. 747, 769–770, 88 S.Ct. 1344, 20 L.Ed.2d 312.)

[30] The charter amendment declares that its rent control provisions are intended to counteract the ill effects of "rapidly rising and exorbitant rents exploiting [the housing] shortage." (§ 1.) The provisions are within the police power if they are reasonably calculated to eliminate excessive rents and at the same time provide landlords with a just and reasonable return on their property. However, if it is apparent from the face of the provisions that their effect will necessarily be to lower rents more than could reasonably be considered to be required for the measure's stated purpose, they are unconstitutionally confiscatory. (*Federal Power Comm'n v. Natural Gas Pipeline Co.* (1942) 315 U.S. 575, 585–586, 62 S.Ct. 736, 86 L.Ed. 1037; *Hutton Park Gardens v. Town Council,* supra, 68 N.J. 543, 565–571, 350 A.2d 1, 13–21.)

[31] Defendant and interveners contend that any present consideration of the possible confiscatory effect of the charter amendment is premature until the amendment has been allowed to become operative and the actual rent ceilings imposed under it can be measured against constitutional standards. It is true that whether a regulation of prices is reasonable or confiscatory depends ultimately on the result reached. (*Federal Power Comm'n v. Hope Nat. Gas. Co.* (1944) 320 U.S. 591, 602, 64 S.Ct. 281, 88 L.Ed. 333.) However, such a regulation may be invalid on its face when its terms will not permit those who administer it to avoid confiscatory results in its application to the complaining parties. (*City of Miami Beach v. Forte Towers, Inc.* (Fla.1974) 305 So.2d 764, 768; see *Mora v. Mejias* (1st Cir. 1955) 223 F.2d 814.) It is to the possibility of such facial invalidity that our present inquiry is directed.

As heretofore explained the charter amendment establishes the maximum rent chargeable for each housing unit by fixing the unit's base rent and providing for subsequent upward or downward adjustments on a unit-by-unit basis. We consider first the base rent provision. The base rent is stated to be "the rent in effect on August 15, 1971 or any rent in effect subsequent to this date if it was less. If no rent was in effect on August 15, 1971, . . . the base rent shall be established by the [Rent Control] Board based on the generally prevailing rents for comparable units in the City of Berkeley." (§ 4.) Rent control enactments typically use the rent charged on a prior date as a starting point for the fixing of maximum rents on the theory that it approximates the rent that would be paid in an open market without the upward pressures that the imposition of rent control is intended to counteract. (See *Delaware Valley App. House Own. Ass'n v. United States* (E.D.Pa.1972), 350 F.Supp. 1144, aff'd, 482 F.2d 1400; *Chatlos v. Brown* (Emer.Ct.App.1943) 136 F.2d 490, 493.) The prior date is set early enough to avoid incorporating last-minute increases made by landlords in anticipation of the controls. (See *Marshal House, Inc. v. Rent*

EXHIBIT A

Control Board (1971) 358 Mass. 686, 701, 266 N.E.2d 876.)

[32] Selection of August 15, 1971, as the key date for determination of base rents under the charter amendment was appropriate and reasonable. The possibility of rent controls in Berkeley arose at least as early as March 1971 when controls were recommended in a minority report of the city council's rental housing committee. (See fn. 3, *ante*.) On August 15, 1971, the President of the United States, acting pursuant to the Economic Stabilization Act of 1970 (P.L. 91–379, 84 Stat. 799), ordered all rents frozen for 90 days at their highest level during the 30-day period prior to August 15, 1971. (Exec.Order No. 11615, 36 Fed.Reg. 15727.) Subsequent rent controls under the act used August 15, 1971, as the primary base date for calculating maximum rents. (See 6 C.F.R., pt. 301, 37 Fed.Reg. 13226 (July 4, 1972).)[30] Thus the advantages of selecting August 15, 1971, as the key date for base rents under the charter amendment were that (1) it marked the latest time at which rents had been set in an unregulated market and (2) the importance of the date under the federal regulatory scheme greatly increased the probability that landlords would have records concerning rents on that date readily available.

The charter amendment provides that the rollback of rents to base levels is to take effect 90 days after election of the rent control board. (§ 4.) This election was held on January 23, 1973, but the rollback was enjoined by preliminary injunction on April 26, 1973, and enforcement of the entire charter amendment was thereafter enjoined by the present judgment on June 22, 1973. Plaintiffs contend that marked rises in property taxes, utility rates, and the costs of goods and services since 1973 have eliminated any reasonable grounds which then existed for using August 15, 1971, as a rollback date and have made it highly probable if not certain that the present imposition of such a rollback would reduce rents to confiscatorily low levels pending individual upward adjustments. Interveners reply to this contention by pointing out that the present litigation has caused at least a three-year postponement in the charter amendment's operation which was not contemplated by those who selected the rollback date. Interveners propose that we remedy the problem created by the postponement by setting a new rollback date or by ordering that appropriate relief be provided upon remand. Such action on our part is unnecessary in view of our hereinafter explained conclusion that the charter amendment's provisions for *adjusting* maximum rents are constitutionally insufficient to relieve landlords from confiscatory rent levels even if the base rents were keyed to a more current date. To eliminate any issue of the propriety of using August 15, 1971, as the date for fixing base rents under section 4, we assume for purposes of the remaining discussion that the date used for this purpose would be the date this opinion is filed.

[33] We turn to the charter amendment's provisions for adjustment of maximum rents. Plaintiffs contend that these provisions fail to provide sufficient standards for the guidance of the rent control board in acting upon petitions for increases or decreases in maximum rents and thereby constitute an unlawful delegation of legislative power. A municipal legislative body is constitutionally prohibited from delegating the formulation of legislative policy but may declare a policy, fix a primary standard, and authorize executive or administrative officers to prescribe subsidiary rules and regulations that implement the policy and standard and to determine the application of the policy or standard to the facts of particular cases. (*Kugler v. Yocum* (1968) 69 Cal.2d 371, 375–376, 71 Cal.Rptr. 687, 445 P.2d 303.)

30. The act expired on April 30, 1974. (Economic Stabilization Act Amendments of 1973, P.L. 93–28, § 8, 87 Stat. 29.)

EXHIBIT A

The charter amendment provides that "[i]n reviewing . . . petitions for [rent] adjustments, the Board shall consider relevant factors including but not limited to the following: (a) increases or decreases in property taxes; (b) unavoidable increases or decreases in operating and maintenance expenses; (c) capital improvement of the rent-controlled unit, as distinguished from ordinary repair, replacement and maintenance; (d) increases or decreases in living space, furniture, furnishings or equipment; (e) substantial deterioration of the rent-controlled unit other than as a result of ordinary wear and tear; and (f) failure on the part of the landlord to provide adequate housing services." (§ 5.) It is argued that this listing of factors does not adequately inform either the Board or a court reviewing the Board's actions just how the presence of the factors under particular circumstances is to be translated into dollar increases or decreases in rent. Another criticism is the omission of factors that might have prevented the base rent from reflecting general market conditions such as a seasonal fluctuation in the demand for the kind of housing involved or the existence of a special relationship between landlord and tenant resulting in an undercharging of rent. (See *Hillcrest Terrace Corp. v. Brown* (Emer.Ct.App.1943) 137 F.2d 663.)

[34] However, section 5 provides that the foregoing factors which it lists are not exclusive but illustrative of the "relevant factors" to be considered by the Board. Moreover, the Board is given other significant guidance by the charter amendment's statement of purpose in section 1. Standards sufficient for administrative application of a statute can be implied by the statutory purpose. (*In re Marks* (1969) 71 Cal.2d 31, 51, 77 Cal.Rptr. 1, 455 P.2d 441; *In re Petersen*, supra, 51 Cal.2d 177, 185–186, 331 P.2d 24.) Here the charter amendment's purpose of counteracting the ill effects of "rapidly rising and exorbitant rents exploiting [the housing] shortage" (§ 1) implies a standard of fixing maximum rent levels at a point that permits the landlord to charge a just and reasonable rent and no more. (*Hutton Park Gardens v. Town Council*, supra, 68 N.J. 543, 570, 350 A.2d 1, 16.) Indeed section 3, subdivision (g), directs the Board to "issue and follow such rules and regulations, including those which are contained in this Article, *as will further the purposes of this Article.*" (Italics supplied.)

[35] "The rule that the statute must provide a yardstick to define the powers of the executive or administrative officer is easy to state but rather hard to apply. Probably the best that can be done is to state that the yardstick must be as definite as the exigencies of the particular problem permit." (*Cal. State Auto. etc., Bureau v. Downey* (1950) 96 Cal.App.2d 876, 902, 216 P.2d 882, 898.) By stating its purpose and providing a nonexclusive illustrative list of relevant factors to be considered, the charter amendment provides constitutionally sufficient legislative guidance to the Board for its determination of petitions for adjustments of maximum rents.

[36] However, legislative guidance by way of policy and primary standards is not enough if the Legislature "fail[s] to establish an effective mechanism to assure the proper implementation of its policy decisions." (*Kugler v. Yocum*, supra, 69 Cal. 2d 371, 376–377, 71 Cal.Rptr. 687, 690, 445 P.2d 303, 306.) "The need is usually not for standards but for safeguards. . . . When statutes delegate power with inadequate protection against unfairness or favoritism, and *when such protection can easily be provided*, the reviewing courts may well either insist upon such protection or invalidate the legislation." (Italics supplied.) (1 Davis, Administrative Law Treatise (1958) § 2.15; see *Kugler v. Yocum*, supra, 69 Cal.2d at 381.)

[37] Here the charter amendment drastically and unnecessarily restricts the rent control board's power to adjust rents, thereby making inevitable the arbitrary imposition of unreasonably low rent ceilings.

EXHIBIT A

It is clear that if the base rent for all controlled units were to remain as the maximum rent for an indefinite period many or most rent ceilings would be or become confiscatory. For such rent ceilings of indefinite duration an adjustment mechanism is constitutionally necessary to provide for changes in circumstances and also provide for the previously mentioned situations in which the base rent cannot reasonably be deemed to reflect general market conditions. The mechanism is sufficient for the required purpose only if it is capable of providing adjustments in maximum rents without a substantially greater incidence and degree of delay than is practically necessary. "Property may be as effectively taken by long-continued and unreasonable delay in putting an end to confiscatory rates as by an express affirmance of them . . . ." (*Smith v. Illinois Bell Tel. Co.* (1926) 270 U.S. 587, 591, 46 S.Ct. 408, 410, 70 L.Ed. 747 (enjoining enforcement of telephone rates because of unreasonable delay in acting upon application for rate increase).) The charter amendment is constitutionally deficient in that it withholds powers by which the rent control board could adjust maximum rents without unreasonable delays and instead requires the Board to follow an adjustment procedure which would make such delays inevitable.

[38] The provisions of the charter amendment in which those delays inhere must be examined in relation to the magnitude of the job to be done. The amended complaint alleges that Berkeley has some 30,000 rental units of which 22,000 are subject to rent control under the charter amendment. Although this allegation is denied for lack of sufficient information or belief and the findings do not directly resolve the issue, they do state that the city's population is 116,000 of whom 63 percent, or 73,080, are tenants. The findings also indicate that the city has at least 16,000 rental units, and the trial court's memorandum opinion indicates there are over 17,000 *apartment* rental units.[31]

The Board has no power to adjust rent ceilings on any one of these thousands of units until it has received a separate petition for that unit and considered the petition at an adjustment hearing. (§ 5, 1st par.; § 6, subd. (a); see fn. 7, *ante*.) A landlord may not file a petition without simultaneously filing a certificate from the city building inspection service that the premises comply with state and city codes based upon an inspection made within the preceding six months. (§ 5, 3d par.)[32] Consolidation of petitions for hearing is permitted only if they relate to units in the same building and then only with the written consent of

31. A finding states that "there existed a vacancy rate in excess of 3% (actual number of vacancies approximating 500 rental units)" and another finding states the vacancy rate "increased from 2.6% to 3.1% between 1971 and 1972." The memorandum opinion states that "the apartment rental unit vacancy rate rose from 2.6 in 1971 to 3.1 in 1973. (In actual numbers, an increase from 467 to 534.)" The indicated number of units is determined by dividing the vacancy rate into the number of vacancies.

32. Defendant contends that "nothing in the law's procedures prevents consideration by the Board of a petition for rental adjustment that is not accompanied by a building certification" and that "the Board may consider a petition which is accompanied by an adequate excuse for the failure to supply a building certification—such as delay by the City Building and Inspection Services." But the charter amendment (§ 5) states unequivocally that "[a]ny landlord who petitions the Board for an upward rent adjustment *shall* file with such petition a certification . . . that the premises in question are in full and complete compliance with the applicable [codes] . . . . (Italics supplied.) The power of the board to make findings contrary to the certificate and nevertheless grant a rent increase does not affect the requirement that the certificate be filed.

Plaintiffs contend that the charter amendment would deny them due process by failing to provide landlords with any remedy against arbitrary refusal of the required certification or unreasonable delay in its issuance. Nothing in the charter amendment inhibits defendant's city council, Board or other organs from exercising their respective powers to prevent or alleviate such refusals or delays and therefore we cannot assume that any such denial of due process would occur.

ten consent of
§ 6, subd. (h
must be "supp
of the evidenc
§ 6, subd. (g)
ord must inclu
documents req
into evidence d
of participants
testimony acce
statement of
ticed; all find
each exceptio
presented; all
ders or rulings
orders; and tl
mended and e
ruling." (§ 6, s

Moreover, tl
delegating the
staff person o
its members.
ed "until after
tition *at an ad*
supplied.) (§
members of t
three constitute
firmative votes
including all n
of the Board.
Board member
full-time offici
paid $50 per
maximum annu
(§ 3, subd. (k).)

These provis
cedural strait j

33. Defendant
scription again
hearing proced
in order to mal
in the case of
trolled units in
ten consent o
required." We
written consen
for units in the
of prohibiting
petitions that
pertain to sepa

34. Section 3,
Board to "issu

EXHIBIT A

...en consent of a majority of the tenants. ...6, subd. (h).)[33] Any rent adjustment ...st be "supported by the preponderance ... the evidence submitted at the hearing." ...6, subd. (g).) The public hearing rec... must include "all exhibits, papers and ...cuments required to be filed or accepted ...to evidence during the proceeding; a list ... participants present; a summary of all ...estimony accepted in the proceeding; a ...atement of all materials officially no...ced; all findings of fact; the ruling on ...ach exception or objection, if any are ...resented; all recommended decisions, or...ers or rulings; all final decisions and/or ...rders; and the reasons for each recom...mended and each final decision, order or ...uling." (§ 6, subd. (f).)

Moreover, the Board is precluded from delegating the holding of hearings to a staff person or even to one or a panel of its members. No adjustment can be granted "until after *the Board* considers the petition *at an adjustment hearing.*" (Italics supplied.) (§ 6, subd. (a).) Of the five members of the Board (§ 3, subd. (a)) three constitute a quorum and "[t]hree affirmative votes are required for a decision, including all motions, orders, and rulings of the Board." (§ 3, subd. (i).) Yet Board members are not compensated as full-time officials. Each member is to be paid $50 per meeting but is limited to a maximum annual compensation of $2,400. (§ 3, subd. (k).)

These provisions put the Board in a procedural strait jacket. It cannot order general rental adjustments for all or any class of rental units based on generally applicable factors such as property taxes.[34] It cannot terminate controls over any housing. It cannot consider a landlord's petition that is not accompanied by a current building inspection certificate of code compliance. It cannot dispense with a full-blown hearing on each adjustment petition even though all nonpetitioning parties are given ample notice and none requests to be heard. It cannot accept petitions pertaining to more than one unit or consolidate petitions pertaining to individual units for hearing even in the absence of objection except when the majority of the tenants in a building give written consent to consolidation of the petitions relating to that building.[35] It cannot delegate the holding of hearings to a hearing officer or a member of the Board. In short, it is denied the means of reducing its job to manageable proportions through the formulation and application of general rules, the appropriate delegation of responsibility, and the focusing of the adjudicative process upon issues which cannot fairly be resolved in any other way.

The impracticability of regulating an enormous number of highly varied transactions wholly on a case-by-case basis has frequently led to regulation by means of rules and schedules derived from evidence typical of the members of the regulated group, subject to the right of any member to make a showing of sufficient deviation from the norm to warrant special treat-

33. Defendant argues that "there is no proscription against consolidating petitions and hearing procedures on the petitions submitted, in order to make [rental] adjustments, except in the case of petitions relating to rent-controlled units in the same building where written consent of a majority of tenants is required." We disagree. The requirement of written consent for consolidation of petitions for units in the same building evinces a policy of prohibiting the Board from consolidating petitions that are *less* related in that they pertain to separate buildings.

34. Section 3, subdivision (g), directs the Board to "issue and follow such rules and regulations . . . as will further the purposes of this Article," but such rules could not undercut the express provision that "[n]o rent adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing" (§ 6, subd. (g)).

35. Although tenants of a building would have an understandable motive for agreeing to consolidation of their own petitions for rent *decreases*, they would ordinarily have little or nothing to gain from signing a consent to a consolidation designed to make it easier for the landlord to obtain permission to raise their rents.

EXHIBIT A

ment. One of the important reasons that hearings on the circumstances of each individual's situation are not constitutionally required for the imposition of regulation in such cases is that such individual treatment would be impracticable. (*Permian Basin Area Rate Cases*, supra, 390 U.S. 747, 756–758, 768–770, 88 S.Ct. 1344, 20 L.Ed.2d 312; *Chicago & N.W.R. Co. v. Atchison, T. & S.F. Ry. Co.* (1967) 387 U.S. 326, 340–343, 87 S.Ct. 1585, 18 L.Ed.2d 805; *New England Divisions Case* (1923) 261 U.S. 184, 196–199, 43 S.Ct. 270, 67 L.Ed. 605; *Wilson v. Brown* (1943) (Emer.Ct. App.1943) 137 F.2d 348, 352–354; *Amalgamated Meat Cutters v. Connally* (D.D.C. 1971) 337 F.Supp. 737, 758.) In the present case the *imposition* of rent ceilings in the form of a rollback to base rents is virtually automatic. Thereafter, regardless of how inequitable any rent ceiling may be under all the circumstances, it cannot be adjusted except by a procedure that inherently and unnecessarily precludes reasonably prompt action except perhaps for a lucky few.

Defendant and interveners argue that any concern over whether maximum rents will be adjusted with a constitutional minimum of promptitude is speculative and premature because it must be presumed that the Board will not deliberately deprive landlords of their constitutional rights. They refer us to *Butterworth v. Boyd* (1938) 12 Cal.2d 140, 149, 82 P.2d 434, 439, where we said: "It is to be presumed that the board will exercise its powers in conformity with the requirements of the Constitution; and if it does act unfairly, the fault lies with the board *and not the statute*." (Italics supplied.) The delays in rent adjustment with which we are concerned stem not from any anticipated dereliction of duty on the part of the rent control board but from defects in the charter amendment itself.[36]

36. Interveners postulate that a landlord's application for an upward rent adjustment under the charter amendment would be acted upon in two or three months, citing a study which states that under the Massachusetts rent control law (Mass.Acts 1970, ch. 842) "[t]he average length of time between filing a petition and receiving a decision from the Rent Control Board ranges from four to five weeks in Somerville to 10 to 12 weeks in Brookline." But the Massachusetts statute gives local rent control boards the very powers which we have described as being withheld from the Berkeley Board by the charter amendment.

Interveners also attach to one of their briefs a declaration of the person who served as the Berkeley Rent Control Board's chief executive officer prior to the judgment below, describing the Board's plans for dealing with petitions for rent adjustments. We consider the declaration not as evidence of any facts or occurrences but for whatever light it may shed on the kinds of adjustment procedures that might be possible under the charter amendment. The declaration states in part: [¶] "The Board never completed action on determining the exact procedures to be followed in dealing with applications for rent adjustments. However, all of the proposals being considered involved the development of standardized formulae and procedures for determining the approved rent on any given rental unit. The Board's goal was to develop a formula that would allow it to calculate the rent it would approve on a given housing unit simply by taking into account data that would be provided yearly involving the owner's costs and equity investment in the building being considered. To the figure thus calculated, an adjustment would be made depending upon whether the building was 'average,' 'above average,' or 'below average,' in its condition and maintenance. Evidence as to condition and maintenance would be provided by the owner and tenants themselves as well as investigators working for the Board. The goal of these procedures was to be standardized and virtually automatic decisions in cases, with the Board setting policies to be administered by its staff. These policies would, hopefully, minimize contested hearings and allow decisions in the overwhelmingly vast majority of cases to be worked out informally by interested parties and the Board staff. Where decisions could not be worked out informally, hearing would be held by Board hearing officers with final decisions to be made by the Board. With these procedures, we anticipated that any given rent adjustment request could be handled and closed within 30 to 45 days."

The difficulty with these plans is that they were beyond the Board's powers under section 6. Rent adjustment decisions could not be worked out informally between the parties

EXHIBIT A

39] A different question would be presented if the delays inherent in the charter amendment's requirement that rents be adjusted only on the basis of unit-by-unit hearings before a single tribunal were essential to its purpose. Clearly the Board's powers could be broadened so as to ameliorate the delays sufficiently while preserving the rights of all concerned. Nor do we preclude the possibility of other legislative solutions to the problem. But under the charter amendment as it now stands the combination of the rollback to base rents and the inexcusably cumbersome rent adjustment procedure is not reasonably related to the amendment's stated purpose of preventing excessive rents and so would deprive the plaintiff landlords of due process of law if permitted to take effect.

Finally there appears no way of severing the invalid limitations on the Board's powers to adjust maximum rents from the remainder of the charter amendment. The unconstitutional defect cannot be cured simply by excision but only by additional provisions that are beyond our power to provide. (*Dillon v. Municipal Court* (1971) 4 Cal.3d 860, 871, 94 Cal.Rptr. 777, 484 P.2d 945.) Moreover, the argument in support of the charter amendment distributed to the electors who voted on its adoption assured them that the measure "establishes an elected five member Rent Control Board to regulate rents . . . and evictions in Berkeley on a case by case basis. . . . [T]he plan proposed here is extremely flexible [sic], with each case handled individually by the Board." Thus it is by no means clear that the electorate would have approved the measure if the Board had been given broader rental adjustment powers. (See *Methodist Hosp. of Sacramento v. Saylor* (1971) 5 Cal.3d 685, 691, 97 Cal.Rptr. 1, 488 P.2d 161; *Carter v. Seaboard Finance Co.* (1949) 33 Cal.2d 564, 580–582, 203 P.2d 758.)

The judgment is affirmed.

McCOMB, TOBRINER, MOSK, SULLIVAN, CLARK and RICHARDSON, JJ., concur.

APPENDIX

AMENDMENT TO BERKELEY CITY CHARTER

(Stats.1972 (Reg.Sess.) res. ch. 96, p. 3372)

That the first sentence of Section 8 of Article V of the Charter of the City of Berkeley be amended and a new Article XVII, consisting of twelve (12) sections, be added to the Charter of the City of Berkeley to read as follows:

Section A. Add the following new Article XVII:

1. Statement of Purpose. A growing shortage of housing units resulting in a critically low vacancy rate, rapidly rising and exorbitant rents exploiting this shortage, and the continuing deterioration of the existing housing stock constitute a serious public emergency affecting the lives of a substantial proportion of those Berkeley residents who reside in rental housing. These emergency conditions endanger the public health and welfare of the City of Berkeley and especially the health and welfare of the poor, minorities, students and the aged. The purpose of this Article, therefore, is to alleviate the hardship caused by this emergency by establishing a Rent Control Board empowered to regulate residential housing and rentals in the City of Berkeley.

2. Definitions: The following words or phrases as used in this Charter Amendment shall have the following meanings:

a) Board: The Rent Control Board established by Section 3 of this amendment.

and the Board staff but in *all* cases would have to be based on the preponderance of the evidence submitted at a hearing on a particular rental unit, documented by a detailed hearing record. Moreover, hearings could not be held by "hearing officers" but only by the Board itself.

EXHIBIT A

APPENDIX—Continued

b) Commissioners: Commissioners of the Rent Control Board established by Section 3 of this amendment..

c) Controlled rental units: All rental units in the City of Berkeley except:

(1) rental units in hotels, motels, inns, tourist homes and rooming and boarding houses which are rented primarily to transient guests for a period of less than fourteen (14) days;

(2) rental units in non-profit cooperatives;

(3) rental units in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an institution of higher education;

(4) rental units which a governmental unit, agency or authority either owns, operates, manages, or subsidizes.

d) Housing services: Housing services include but are not limited to repairs, replacement, maintenance, painting, providing light, heat, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, refuse removal, furnishings, telephone, and any other benefit, privilege or facility connected with the use or occupancy of any rental unit. Services to a rental unit shall include a proportionate part of services provided to common facilities of the building in which the rental unit is contained.

e) Landlord: An owner, lessor, sublessor or any other person entitled to receive rent for the use and occupancy of any rental unit, or an agent or successor of any of the foregoing.

f) Rent: The consideration, including any bonus, benefits or gratuity demanded or received for or in connection with the use or occupancy of rental units or the transfer of a lease for such rental units, including but not limited to monies demanded or paid for parking, pets, furniture, subletting and security deposits for damages and cleaning.

g) Rental housing agreement: An agreement, verbal, written or implied, between a landlord and tenant for use or occupancy of a rental unit and for housing services.

h) Rental units: Any building, structure, or part thereof, or land appurtenant thereto, or any other real property rented or offered for rent for living or dwelling purposes, including houses, apartments, rooming or boarding house units, and other properties used for living or dwelling purposes, together with all housing services connected with the use or occupancy of such property.

i) Tenant: A tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a rental housing agreement to the use or occupancy of any rental unit.

3. Rent Control Board:

a) Composition: There shall be in the City of Berkeley a Rent Control Board. The Board shall consist of five elected Commissioners. The Board shall elect annually as chairwoman or chairman one of its members to serve in that capacity.

b) Eligibility: Residents of the City of Berkeley who are duly qualified electors of the City of Berkeley are eligible to serve as Commissioners of the Rent Control Board.

c) Full disclosure of holdings: Candidates for the position of Rent Control Board Commissioner, in addition to fulfilling the requirements of Article III, Section 6½, when filing nomination papers, shall submit a verified statement listing all of their interests and dealings in real property, including but not limited to its ownership, sale or management, and investment in and association with partnerships, corporations, joint ventures and syndicates engaged in its ownership, sale or management, during the previous three (3) years.

d) Method of election: Commissioners shall be elected at general municipal elections in the same manner as set forth in Article III, except that the first Commis-

EXHIBIT A

APPENDIX—Continued

...ers shall be elected within 180 days ...fter approval of this Article by the State ...egislature in accordance with the provi...ns of Article III.

...) Term of office: Commissioners shall ...e elected to serve terms of four years, ex...ept that of the first five Commissioners ...lected in accordance with Section 3(d), ...he two Commissioners receiving the most ...otes shall serve until the first general mu...nicipal election held more than three years ...fter their election and the remaining three ...ommissioners shall serve until the first ...eneral municipal election held more than ...e year after their election. Commission...ers shall serve a maximum of two full ...erms.

i) Powers and duties: The Rent Control Board is empowered to set maximum rents for all residential rental units in the City of Berkeley with the exception of those classes of units exempted under Section 2(c). The Board is empowered to roll back rents to a base rent established under Section 4(a). The Board is empowered to adjust maximum rents either upward or downward after conducting appropriate investigations and hearings as provided under Section 6. The Board may make such studies and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties. The Board may seek injunctive relief under the provisions of Section 11 in order to carry out its decisions and may settle civil claims in accordance with the provisions of Section 10.

g) Rules and regulations: The Rent Control Board shall issue and follow such rules and regulations, including those which are contained in this Article, as will further the purposes of this Article. The Board shall publish its rules and regulations prior to promulgation in at least one newspaper with general circulation in the City of Berkeley. All rules and regulations, internal staff memoranda, and written correspondence explaining the decisions and policies of the Board shall be kept in the Board's office and shall be available to the public for inspection and copying. The Board shall publicize this Charter Amendment through the media of signs, advertisements, flyers, leaflets, announcements on radio and television, newspaper articles and other appropriate means, so that all residents of Berkeley will have the opportunity to become informed about their legal rights and duties under rent control in Berkeley.

h) Meetings: The Board shall hold two regularly scheduled meetings per month. Special meetings may be called upon the request of at least two Commissioners. All meetings shall be open to the public. Maximum rent adjustment and eviction hearings shall be conducted in accordance with the provisions of Sections 6 and 7.

i) Quorum: Three Commissioners shall constitute a quorum. Three affirmative votes are required for a decision, including all motions, orders, and rulings of the Board.

j) Dockets: The Board shall maintain and keep in its office rent adjustment and eviction certificate hearing dockets. Said dockets shall list the time, date, place of hearing, parties involved, the addresses of the buildings involved, and the final disposition of the petitions heard by the Board.

k) Compensation: Each Commissioner shall receive for every meeting fifty dollars ($50.00), but in no event shall any Commissioner receive in any twelve month period more than twenty-four (24) hundred dollars for services rendered.

l) Vacancies: If a vacancy shall occur on the Board, the Board shall appoint a qualified person to fill such a vacancy until the following general municipal election when a qualified person shall be elected to serve for the remainder of the term.

m) Recall: Commissioners may be recalled in accordance with the provisions of Article IV of the Charter of the City of Berkeley.

n) Staff: The Board shall employ, subject to the approval of the City Council, such staff as may be necessary to perform

EXHIBIT A

APPENDIX—Continued

its functions. Board staff shall not be subject to the requirements of Article VII, Section 28(b) and (c) and Article IX, Section 56 of the City Charter.

4. Maximum Rent:

a) Base rent: The base rent shall be the rent in effect on August 15, 1971 or any rent in effect subsequent to this date if it was less. If no rent was in effect on August 15, 1971, as in the case of newly constructed units completed after this date, the base rent shall be established by the Board based on the generally prevailing rents for comparable units in the City of Berkeley. The base rent shall take effect ninety (90) days after the election of the Board and the Board shall administer a rollback of rents in all controlled units to this level and shall determine, where necessary, the actual rent level in effect on August 15, 1971. Upon approval of this Charter Amendment by the California State Legislature and pending the establishment of base rents and the rollback of rents to the base rent level, no landlord shall increase rents in a rent-controlled unit.

b) Registration: The Board shall require registration of all rent-controlled units, their base rents, and the housing services provided on forms authorized and voted by the Board.

5. Maximum Rent Adjustments:

The Board may make individual rent adjustments, either upward or downward, of the maximum rent established as the base rent for rent-controlled units under Section 4(a). The Board shall receive petitions from landlords and tenants for such adjustments, and shall conduct hearings in accordance with the provisions of section 6 to rule on said petitions.

In reviewing such petitions for adjustments, the Board shall consider relevant factors including but not limited to the following: a) increases or decreases in property taxes; b) unavoidable increases or decreases in operating and maintenance expenses; c) capital improvement of the rent-controlled unit, as distinguished from ordinary repair, replacement and maintenance; d) increases or decreases in living space, furniture, furnishings or equipment; e) substantial deterioration of the rent-controlled unit other than as a result of ordinary wear and tear; and f) failure on the part of the landlord to provide adequate housing services.

Any landlord who petitions the Board for an upward rent adjustment shall file with such petition a certification from the City of Berkeley Building Inspection Service which states that the premises in question are in full and complete compliance with the applicable State of California Health and Safety Codes and the City of Berkeley Housing Code based on an inspection made no more than six months prior to the date of the landlord's petition. Such certification shall be prima facie evidence of the nonexistence of Code violations, rebuttable by other competent evidence introduced by the tenant, certification notwithstanding. The Board may refuse to grant an upward adjustment if it determines that the rent-controlled unit in question does not comply with the requirements of the aforementioned Codes and if it determines that such lack of compliance is due to the landlord's failure to provide normal and adequate housing services.

6. Maximum Rent Adjustment Hearings:

a) Petitions: The Board shall consider an adjustment of rent for an individual rent-controlled unit upon receipt of a petition for adjustment filed by the landlord or tenant of such a unit on a form provided by the Board. No such adjustment shall be granted until after the Board considers the petition at an adjustment hearing.

b) Notice: The Board shall notify the landlord, if the petition was filed by the tenant, or the tenant, if the petition was filed by the landlord, of the receipt of such a petition. The Board shall schedule a hearing no earlier than the sixteenth (16th) day after the postmark of the notice of the hearing sent to the parties and shall

APPEND

notify both parties
place of the hear
scheduled for time
parties, including
Hearings may be
for good cause pre
ceive timely notice

c) Records: Th
ther party to a re
provide it with all
and papers. Such
available to the
seven days prior
fice of the Rent C

d) Open hearir
hearings shall be

e) Right to ass
hearing may hav
evidence and d
from attorneys, l
representatives o
nated by said par

f) Hearing re
make available f
by any person
shall constitute t
cision on the is
record of the he
shall be obtainat
The record of
all exhibits, pap
to be filed or ac
the proceeding
present; a sum
cepted in the p
all materials o
ings of fact; th
or objection, if
commmended d
all final decisio
reasons for eac
nal decision, orc

g) Decisions
final decision
after the concl
rent adjustmer
supported by th
dence submitte
ties to a heari

697

EXHIBIT A

APPENDIX—Continued

...tify both parties as to the time, date and ...ce of the hearing. Hearings shall be ...heduled for times most convenient for all ...arties, including evenings and weekends. ...earings may be postponed or continued ...r good cause provided that all parties re...eive timely notice of such action.

c) Records: The Board may require ei...ther party to a rent adjustment petition to ...rovide it with all pertinent books, records ...nd papers. Such documents shall be made ...vailable to the parties involved at least ...even days prior to the hearing at the of...fice of the Rent Control Board.

d) Open hearings: All rent adjustment hearings shall be open to the public.

e) Right to assistance: All parties to a hearing may have assistance in presenting evidence and developing their position from attorneys, legal workers, tenant union representatives or any other persons designated by said parties.

f) Hearing record: The Board shall make available for inspection and copying by any person an official record which shall constitute the exclusive record for decision on the issues at the hearing. The record of the hearing, or any part of one, shall be obtainable for the cost of copying. The record of the hearing shall include: all exhibits, papers and documents required to be filed or accepted into evidence during the proceeding; a list of participants present; a summary of all testimony accepted in the proceeding; a statement of all materials officially noticed; all findings of fact; the ruling on each exception or objection, if any are presented; all recommmended decisions, orders or rulings; all final decisions and/or orders; and the reasons for each recommended and each final decision, order or ruling.

g) Decisions: The Board shall make a final decision no later than fifteen days after the conclusion of the hearing. No rent adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing. All parties to a hearing shall be sent a notice of the Board's decision and a copy of the findings of fact and law upon which said decision is based. At the same time, parties to the proceeding shall also be notified of their right to judicial review of the decision pursuant to Section 9 of this Charter Amendment.

h) Consolidation: The Board may consolidate petitions relating to rent-controlled units in the same building with the written consent of a majority of the tenants and all such petitions may be considered in a single hearing.

i) Repetition: Notwithstanding any other provision of this Section, the Board may, without holding a hearing, refuse to adjust a maximum rent level upward for an individual rental unit if a hearing has been held with regard to the rental level of such unit within the prior twelve months.

j) Inadequate or false information: If information filed in a petition for rent adjustment or in additional submissions filed at the request of the Board is inadequate or false, no action shall be taken on said petition until the deficiency is remedied.

7. Evictions:

a) No landlord shall bring any action to recover possession of a rent-controlled unit unless:

(1) the tenant has failed to pay the rent to which the landlord is entitled under the rental housing agreements; (2) the tenant has violated an obligation or covenant of her or his tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after having received written notice thereof from the landlord; (3) the tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the rent-controlled unit, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or other occupants of the same; (4) the tenant is convicted of using or permitting a rent-controlled unit to be used for any illegal purpose; (5) the tenant, who had a rental housing agreement which has terminated

EXHIBIT A

APPENDIX—Continued

has refused after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms as are not consistent with or violative of any provisions of this Charter Amendment and are materially the same as in the previous agreement; (6) the tenant has refused the landlord reasonable access to the rent-controlled unit for the purpose of making necessary repairs or improvement required by the laws of the United States, the State of California or any subdivision thereof, or for the purpose of inspection as permitted or required by the rental housing agreement or by law or for the purpose of showing the rental housing unit to any prospective purchaser or mortgagee; (7) the tenant holding at the end of the term of the rental housing agreement is a subtenant not approved by the landlord; (8) the landlord seeks to recover possession in good faith for use and occupancy of herself or himself, or her or his children, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law; or (9) the landlord seeks to recover possession to demolish or otherwise remove the rent-controlled unit from housing use.

b) A landlord seeking to recover possession of a rent-controlled unit shall apply to the Board for a certificate of eviction. Such application shall include a copy of the notice to quit served on the tenant(s) and must contain statements made under pains and penalties of perjury that: (1) there are no outstanding Code violations on the premises or, if there are any, they were all substantially caused by the present tenants; (2) the landlord or her or his agent has properly sent to or personally served on the tenant a notice terminating the tenancy and said notice has taken legal effect; and (3) there exist facts which justify issuance of a certificate of eviction under Section 7(a).

c) The Board shall notify all concerned tenants of the landlord's application for a certificate of eviction and of their right to contest issuance of such a certificate by requesting a hearing within five (5) days after receiving such notification from the Board. Said notification shall include a copy of the landlord's application and statements and attachments.

d) If the tenant requests such a hearing, the Board shall schedule such a hearing within seven (7) days after receipt of the tenant's request and notify all parties as to the time, date and place of the hearing.

e) At said hearing the burden of proof is on the landlord to prove the facts attested to in her or his application. No eviction certificate shall be issued if: (1) the landlord fails to prove that no Code violations exist on the premises or that any violations which do exist were substantially caused by the present tenant(s); or (2) the eviction is in retaliation for reporting Code violations or violations of this Article or for organizing other tenants, or for enforcing rights under this Charter Amendment. The provisions of Section 6(d), (e), (f), (g), (h), (i), and (j) apply in a similar manner to eviction hearings.

f) The Board shall grant or deny the certificate of eviction within five (5) days after a hearing is held on the landlord's application.

g) A landlord who seeks to recover possession of a rent-controlled unit without first obtaining a certificate of eviction or who recovers possession without first obtaining a certificate of eviction shall be in violation of this Article and shall be subject to the civil penalties available to the Board, the City or the tenant under Section 10. This subsection shall not apply if, after the landlord has applied for a certificate of eviction, the tenant voluntarily abandons the rent-controlled unit. The provisions of this Section shall be construed as additional restrictions on the right to recover possession of rent-controlled units. No provision of this Section shall entitle any landlord to recover possession of such a rent-controlled unit. Upon a decision of the Board concerning the granting or withholding of a certificate of eviction, either party may seek judicial re-

APPENDI

iew of this decisic
the provisions of Sec

8. Non-Waiverab

Any provision wh
or pertaining to a
ment whereby any p
for the benefit of a
be deemed to be ag
shall be void.

9. Judicial Revie

A landlord or te
action, regulation, o
may seek judicial re
appropriate court

10. Civil Remedi

a) Any landlord
receives, or retains
excess of the maxin
lation of the provi
any rule, regulatic
promulgated, shall
provided to the te
payment is demand
retained, for reasor
costs as determined
ages in the amount
($200.00) or not m
the amount by whi
ments demanded, a
tained, whichever is

b) If the tenant
ment is demanded
retained in violati
this Article or an
der hereinunder pr
an action under th
days from the da
the violation, the
claim arising out
such action. Ther
whose behalf the B
also bringing actio
regard to the sam
Board has made a
the Board settles
titled to retain the
settlement thereof,
whom the violati
shall be entitled to

EXHIBIT A

APPENDIX—Continued

...w of this decision in accordance with ... provisions of Section 9.

... Non-Waiverability:

Any provision whether oral or written, ... or pertaining to a rental housing agreement whereby any provision of this Article ... the benefit of a tenant is waived, shall ... deemed to be against public policy and ...all be void.

... Judicial Review:

A landlord or tenant aggrieved by any ...tion, regulation, or decision of the Board ...y seek judicial review by appealing to the ...ppropriate court within the jurisdiction.

10. Civil Remedies:

a) Any landlord who demands, accepts, ...ceives, or retains any payment of rent in ...xcess of the maximum lawful rent, in violation of the provisions of this Article or ...ny rule, regulation or order hereunder promulgated, shall be liable as hereinafter provided to the tenant from whom such payment is demanded, accepted, received or retained, for reasonable attorney's fees and costs as determined by the court, plus damages in the amount of two hundred dollars ($200.00) or not more than three (3) times the amount by which the payment or payments demanded, accepted, received or retained, whichever is the greater.

b) If the tenant from whom such payment is demanded, accepted, received, or retained in violation of the provisions of this Article or any rule, regulation or order hereinunder promulgated fails to bring an action under this Section within thirty days from the date of the occurrence of the violation, the Board may settle the claim arising out of the violation or bring such action. Thereinafter, the tenant on whose behalf the Board acted is barred from also bringing action against the landlord in regard to the same violation for which the Board has made a settlement. In the event the Board settles said claim, it shall be entitled to retain the costs it incurred in the settlement thereof, and the tenant against whom the violation has been committed shall be entitled to the remainder.

c) A judgment for damages or on the merits in any action under this Section shall be a bar to any recovery under this Section against the same landlord on account of any violation with respect to the same tenant prior to the institution of the action in which such judgment was rendered. Action to recover liquidated damages under the provisions of this Section shall not be brought later than one year after the date of the violation.

d) The Municipal or Superior Court, as the case might be, within which the rent-controlled unit affected is located shall have jurisdiction over all actions and complaints brought under this Section.

e) Any tenants who have paid in excess of the maximum rent set by the Board as determined at a hearing held by the Board or whose rent was suspended due to a violation of this Article shall be entitled to a refund in the amount of the excess payment. Tenants may elect to deduct such amount of the refund due them from their future rent payments, rather than pursuing the remedy provided under Section 10(a), provided that they inform the landlord in advance in writing as to their intention to do so. Tenants shall not be penalized by landlords for deducting their refund pursuant to this Section.

f) If a landlord evicts a tenant without a certificate of eviction obtained from the Board, the tenants' obligation to pay rent to the landlord during the period beginning with the date of the actual eviction and continuing for the period in which the tenant is dispossessed for a maximum of one year is automatically suspended and the tenant is entitled to a refund of rent in accordance with the provisions of Section 10(e).

11. Injunctive Relief: The Board and tenants and landlords of rent-controlled units may seek relief from a Municipal or Superior Court to restrain by injunction any violation of this Article and of the rules, regulations and decisions of the Board.

EXHIBIT A

APPENDIX—Continued

12. Partial Invalidity: If any provision of this Article or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

Section B. The first sentence of Section 8, Article V of the Charter of the City of Berkeley is amended to read as follows: "The elective officers of the City shall be a Mayor, an Auditor, eight (8) Council Members, five (5) School Directors, and five (5) Rent Control Board Commissioners."

130 Cal.Rptr. 504.

In re Frank William DEDMAN, Jr., on Suspension.

S. F. 23396.

Supreme Court of California, In Bank.

June 22, 1976.

In disciplinary proceeding, the Supreme Court held that facts and circumstances of case were relevant in determining appropriate discipline to be imposed, that burden was on petitioner to show board's recommendation was erroneous, that convictions for grand theft and falsifying documents warrant five years' suspension, including three years' actual suspension from effective date of Supreme Court's order.

Ordered accordingly.

1. Attorney and Client ⇐39

For purpose of disciplinary proceedings, crimes of grand theft and falsifying documents to be used in evidence are crimes involving moral turpitude. West's Ann.Pen.Code, §§ 134, 484, 487.

2. Attorney and Client ⇐53(2)

Plea of nolo contendere to two counts of theft and one count of preparing false evidence constitutes conclusive evidence of guilt in a disciplinary proceeding. West's Ann.Bus. & Prof.Code, § 6101; West's Ann.Pen.Code, §§ 134, 484, 487.

3. Attorney and Client ⇐53(1)

In a disciplinary proceeding, facts and circumstances surrounding convictions upon plea of nolo contendere to crimes involving moral turpitude are relevant, not on the issue of moral turpitude, but to determine the appropriate discipline to be imposed.

4. Attorney and Client ⇐57

In a proceeding to review the disciplinary recommendation of the state bar for an attorney's suspension from practice, the burden is on the petitioner to show the board's recommendation is erroneous.

5. Attorney and Client ⇐58

Crimes of grand theft and falsifying documents to be used in evidence are gross crimes and convictions therefor warrant disbarment in the absence of mitigating circumstances.

6. Attorney and Client ⇐58

Each disciplinary proceeding must be resolved on its own particular facts, and there are no rigid standards as to the appropriate penalty to be imposed, so that similar offenses may receive widely varying degrees of punishment.

7. Attorney and Client ⇐58

The Supreme Court retains the final word as to discipline to be imposed in a disciplinary proceeding.

8. Attorney and Client ⇐58

The recommendation of the disciplinary board of the state bar is given great weight in a disciplinary hearing.

9. Attorney and Client ⇐58

In a disciplinary proceeding, restitution of misappropriated property may be

CITY OF OXNARD

EXHIBIT A

50

MEMORANDUM

October 13, 1977

To: Paul E. Wolven, City Manager

From: S. M. Roberts, Director of Finance

SUBJECT: Rent Control Program Resource Requirements

In response to your request for an organizational outline of the administrative tasks necessary to implement a rent control program, the Finance Department conducted a survey of a number of cities in California considering Rent Control for general rental housing to help determine the specifications and resources necessary to implement such a program. The organizational structure, capital outlay, and staff requirements needed to establish a Local Rent Control Program for Mobilehomes, presented in this report, are patterned much in accordance to the provisions contained in the proposed Santa Barbara Rent Control Amendment.

Local Rent Control Programs are under consideration in Santa Barbara, Santa Monica, San Diego, Los Angeles, and Berkeley. Most of the work pertaining to rent control measures has been undertaken by local community groups. Their efforts have been devoted mostly to getting rent control initiatives on local ballots. Little if any actual work has been done by California Cities in the development of Administrative guidelines or office procedures.

Administrative Cost & Organization

A local rent control program specifically for mobilehomes tailored similarly to the specifications of the Santa Barbara Rent Control Amendment would consist of 5 appointed Board members, who would meet weekly, to adjust, set or remove rent ceilings for controlled rental units, conduct investigations and preside over hearings between landlord and tenants. The Supportive Staff would be left to the discretion of the Board, but speculation of operational responsibilities indicates a mimimum requirement of one other staff member plus a part-time steno-secretary.

A Staff Assistant III has been specified to handle all administrative tasks, as follows: maintain an up-to-date register of all rental units under control, record all fee payments, act as public liaison e.g. notifying the news media of any rule or regulation change, monitor the vacancy rate, publicize hearings, post public announcements, and conduct research and investigative work requested by the Board.

A steno-secretary would be responsible for all typing, filing, and

correspondence necessary to conduct the business of the Board. In addition, the steno-secretary would be responsible for the preparation of the agenda, informing respective parties of time, date and place of hearings, and make available to the Public, hearing records, exhibits, papers, and documents.

The office space required to accommodate the staff and records of the Board is estimated to be 420 square feet. It is assumed that the rental agreement based on $.55 per square foot will include payment for water, sewer, refuse collection, maintenance, and custodial service. (Refer to exhibit "A" for details for office space requirements).

The initial capital outlay costs needed to purchase the necessary office furniture and equipment (listed in exhibit "B") for the projected staff amounts to $3,080.00.

Survey results demonstrated a consensus towards a self-supporting program financed through a per unit registration fee paid by landlords. Revenues collected would support operational & capital requirements deemed necessary by the board to carry out its duties. The estimated expenditures required to conduct a rent control program are itemized in exhibit "C".

Determination of Need for Rent Control

In accordance with the City Attorney's findings, the non-personal expense item in the proposed budget entitled Professional and Consulting Services is for a study of the Oxnard Mobilehome Market "directed toward establishing the constitutional facts" for enacting a local rent control ordinance. The study would be undertaken in two phases. The initial phase would be devoted to the gathering of reliable factual information pertaining to the shortage of mobilehome spaces and the adverse consequences of such shortage. Estimated cost of this study is $6,000 to perform work defined as Phase I in Exhibit D, attached.

The first phase of the study could be completed within one to two months following award of the contract. The selection of a consultant, following City procedures involving contracts over $5,000.00, would take a minimum of one month. The expense related to the initial phase of the report would be paid by the City if rent control is not enacted. (Phase I study estimate is $6,000.00.) The cost of the study would be borne by the Rent Control Board if a rent control ordinance is adopted.

Program for Administration of Rent Control if Ordinance is Adopted

If a rent control measure is ultimately adopted on the basis of the information generated by the first phase of the study, the second phase would be undertaken to determine the basis for adjusting and controlling rent levels. This phase cannot be undertaken until a rent control ordinance is actually adopted which empowers the City to obtain audited income and expense statements from mobilehome park owners. These statements will be needed to determine what constitutes a reasonable return for mobilehome park owners. It is unlikely that this phase of the study will provide a single formula to be used in all cases to determine what constitutes a reasonable return. Rather, this determination would be made by the Rent Control Board on an individual basis using various recognized methods of determining "fair rate of return." The consultant study should provide appropriate guidelines for determination of "fair rate of return."

The study as outlined would also address problems of organization and procedures to be followed by the Rent Control Board and its administrative staff.

All persons concerned with this matter should realize that a fair and equitable rent control program properly administered in many cases will not result in providing any financial relief to tenants. It is probable that many park owners have not unreasonably increased rents. Without question, there have been significant cost increases in recent years. It has also been common practice when parks are originally opened to establish rent levels that are not sufficient to yield a "reasonable return on investment." This method has no doubt been used to rapidly attract tenants. Also, from our small sample survey of tenant finances and rentals, it is indicated that many persons who occupy mobile homes have very limited financial resources. Thus, the low income and elderly will continue to have great difficulty in paying rentals that are even very reasonable and below "reasonable return" rates. For this reason, in our previous report on this matter, other suggestions have been made that are specifically directed to this problem.

Cost Summary

In summary, the salary for supportive staff accumulated to $27,100.00. Total cost to initially make the program operational would require $52,150.00. Recurring annual costs would be $34,070.00. Revenues to cover the expenses with approximately 2500 rental spaces would require a registration fee of $20.86 per unit in the initial year and $13.63 per unit the succeeding year.

X 4 of 3

S. M. Roberts
Director of Finance

SMR:RD:ct

EXHIBIT A

RENT CONTROL BOARD

Estimated Personnel and Floor Space Requirements

Personnel Requirements

Position	
Board Members	5
Staff Assistant III	1
Steno-Secretary	.5
Total	6.5

Space Requirements*

Type	Size (Sq. Ft.)
Private Office	
Staff Assistant III	120
Steno-Secretary	80
File and Storage	100
Public Waiting Area	120
Total	420

Annual Rent

.55 per sq. ft x 420 x 12 =	$2,772

*Floor Space requirements are based on the standards contained in the report prepared by the Finance Department entitled "Office Floor Space Analysis" dated January 1977.

**Rental rate included charges for water, sewer, refuse collection, building maintenance, and custodial services.

EXHIBIT A

EXHIBIT B

RENT CONTROL BOARD

Schedule of Capital Outlay Items

1 desk	250
1 desk + typewriter return	350
2 chairs	300
desk supplies	200
3 file cabinets	480
3 book cases	450
1 typewriter	825
1 calculator	225
Total Estimated Capital Outlay	3,080

EXHIBIT A

EXHIBIT C

RENT CONTROL BOARD

Estimated Expenses

Personal Services:

No	Position:	Productive Salary	
5	Commissioners (52 x $25 x 5)	$ 6,500	
1	Staff Assistant III	14,480	
.5	Steno-Secretary	6,120	
	Total Estimated Personal Services		$27,100
	Non-Personal Expenses		
	Office Supplies	500	
	Office Supplies (under $100)	200	
	Telephone	300	
	Rent (See Exhibit "A" for detail)	2,770	
	Motor Vehicle Expense	2,000	
	Overhead Charge (Accounting, 2 Payroll & Legal)	1,200	
	Professional and Consultant Services*	15,000	
	Total Estimated Non-Personal Expense		$21,970
	Capital Outlay (See Exhibit "B" for detail)		3,080
	Total Estimated Account Expense		$52,150

Source of Funds:*

Registration Fees (20.86/unit x 2500) $52,150

* Est. cost Phase I - $6,000 Phase II - $9000

*The Registration Fee Necessary to cover expenses in the second year would be $13.63 per unit.

EXHIBIT D

EXHIBIT A

PROPOSED OUTLINE FOR RENT CONTROL REPORT

Phase I

I. Purpose:
   A. Collect Economic and Demographic Data Necessary to Determine Need for Rent Control
   B. Collect Data Necessary to Determine Consequences of Present Mobilehome Housing Situation

II. Data Collection:
   A. Determine Vacancy Rate
   B. Tenant Data:
      1. Demographic:
         a. Age and Sex of each household member
         b. Household size
         c. Years at Present Mobilehome Space
      2. Economic:
         a. Employment Status
         b. Gross Income
         c. Taxes on Mobilehome
         d. Coach Payments (Principal and Interest)
         e. Space Rental
         f. Calculate Ratio of Living Expenses to Gross Income

Phase II

I. Purpose:
   A. Develop Standards for Adjusting and Controlling Rent Levels.
   B. Develop Administrative Procedures for Conducting Hearings and Disseminating Information

II. Data Collection:
   A. Park Data:
      1. Three Year Income and Expense History (Audited)
      2. Current Rental Schedule (itemized by Space Number)
      3. Loan Balance
      4. Original Loan Amount
      5. Original Down Payment
      6. Principal and Interest Payments

III. Determine Actual Rate of Return

IV. Determine "Reasonable" Rate of Return

V. Develop Guidelines Computing Rental Adjustments

VI. Develop Administrative Procedures

Reno Council Split on Mobile Home Rent Control

NEVADA APPEAL
FEB 26 1979

By ANN HALEY

Uncertain of its legal footing, the Reno City Council Monday deadlocked 3-3 over the issue of rent controls for mobile home parks.

The City Council was faced with a complex scheme to get a proposed rent justification ordinance before the state courts for a constitutional review.

But some council members advocated waiting for the state Legislature to consider several pending rent control-related bills in the hope that the question of whether the city or the state has the right to enact rent control legislation will be cleared up.

The 3-3 tie, with Councilman Ed Oaks absent, means the City Council took no action.

The matter could be brought before the City Council again, but no mention of such a move was made Monday.

As a crowd of some 100 persons watched, proponents and opponents of the proposed rent justification ordinance tried to sway City Council members.

The City Council late last year voted to back the rent justification ordinance in concept and sent it to Washoe District Court for judicial review.

Judge James Guinan earlier this month tossed out the review request, saying the court could not render an advisory opinion.

The ordinance is aimed at controlling skyrocketing mobile home park rents.

Under a process proposed by Councilman Ed Spoon, the City Council would pass the measure, but the city attorney's office would instruct the city clerk not to publish the ordinance as required by law, claiming it is unconstitutional.

Proponents of rent ordinance could then go to court and ask that the city clerk be compelled to publish the ordinance. The courts could then rule on the measure's constitutionality.

But Spoon, after he explained the process, said he would not vote for it. Instead, he urged tenants' representatives to go to the state Legislature to seek rent controls.

Barbara Bennett, United Mobile Tenants' Association representative, tangled with Mayor Bruno Menicucci after the mayor and City Council decided to open the discussion to public comment.

Mrs. Bennett began to chastise the mayor and City Council for not giving enough support to rent control measures when Menicucci interrupted to urge her to be courteous to the council members.

"Has anyone from this (City Council) table gone to the Legislature?" she asked.

"Mrs. Bennett, have you?" Councilman Bill Granata shot back.

"We have some legislation down there," Mrs. Bennett responded. "But the Legislature is going to pay more attention to the City Council than to Barbara Bennett."

Councilman Bill Wallace advocated seeking rent control measures through the state Legislature, but Mrs. Bennett objected.

"We're being shuffled off to the Legislature," she said, adding, "If you want to find a way to deal with this problem, you can.

"I'd really feel better if the City Council would submit a request to the Legislature tomorrow asking for enabling legislation (to enact rent justification measures.)"

Opposing the rent justification ordinance were: former Washoe County District Attorney Larry Hicks, representing the Coalition for Fair Housing, a business group opposed to rent control; Jack Schroeder, representing the Northern Nevada Mobile Home Park Association, Inc., a recently formed mobile home park owners' group; and Scott Brenneke, of the Northern Nevada Apartment Association, a coalition of apartment owners.

Hicks, noting that four rent control bills are pending in the Legislature, said, "We can expect legislation will take some particular form."

The city currently does not know if it has the authority to pass rent control or justification ordinances, Hicks said, and should wait for some indication on the matter from state lawmakers.

"If you act today, you have no guidelines," Hicks said. "It is premature at this point in time. Let's wait and see."

Schroeder joined Hicks in urging City Council members to "defer to the eegislature."

He protested potential use of "police power to control one little element" in the Reno community and added, to audience jeers, "When you step into this area of free enterprise, just how far should you go?"

Walter Bantz, owner of the A-1 Mobile Village, told the City Council that his park has had less than a 5 percent return over the last three years. Proponents of the rent justification measure have contended that landlords are engaging in rent gouging and are reaping excessive profits.

Bantz said spaces in his park average $127 per month and cited mobile home park prices for areas in California.

"Mobile home spaces in Reno are well below the market price," Bantz said.

The audience laughed and again jeered as he added, "Tenants are well aware of the benefits they're getting."

With the City Council deadlocked on whether to proceed with the ordinance or wait to see what, if any, rent measures the state Legislature will pass, Menicucci suggested mediation.

Calling Mrs. Bennett, Hicks, Brenneke and Schroeder to the council table, he asked if their organizations could sit down and talk over the mobile home park rent situation.

But his efforts fell flat as Mrs. Bennett responded that the tenants' group tried talking to landlords about the rent hikes before seeking the rent justification legislation.

EXHIBIT A

10-3. Original

LAS VEGAS SUN
FEB 2 1979

LV Couple Faces Eviction From Mobile Home Park For TV Remarks On Rent

LVS 2-2-79

By ALISON HARVEY
SUN Staff Writer

A Las Vegas couple faces eviction from a local mobile home park Monday because the husband complained of rent increases on a television news show, the park manager admitted to the SUN.

Dorothy Whitehead, manager of Trailerdale, confirmed that she is seeking to throw Stephen Benke and his wife out of the trailer court because he made "an untrue statement" on television.

Benke and representatives of Trailerdale will appear Monday in the court of Justice of the Peace John McGroarty for a hearing on Benke's eviction.

Benke said he appeared on KORK-TV news Nov. 29 to comment on trailer park rent increases.

"Although I was not affected personally, I was concerned about a hell of a lot of people who were," Benke said.

But Whitehead said Benke lied when he said rents have doubled. Rents at Trailerdale went up from $50 to $75 per month, a 50 percent increase, she said.

"That was one of the main reasons right there," she said of Benke's comments. "He degraded the court. He's got to go."

Asked whether Benke has a right to freedom of speech under the the U.S. Constitution, Whitehead said "He does, but not when he tells lies."

Meanwhile, the Benkes are without heat because Whitehead shut off the electricity in the midst of a snowstorm Wednesday.

"They dismembered the meter," Benke said. He said he is heating his home with his gas stove.

Since his television appearance, "the harrassment has been something awful," Benke said.

In addition to the electricity shutoff, Benke said he and his wife were assaulted by Whitehead and her son in a tussle over an eviction notice.

Benke said he has filed a battery complaint.

Whitehead said the electricity was shut off because Benke has not paid his rent.

Benke will be represented in court by attorney Alan Johns, hired by the Mobile Home Owners League of the Silver State.

League Vice President Vickie Demas said the main issue is freedom of speech and trailer park tenant harrassment.

"We still have freedom of speech in this country, at least I hope," she said.

"If we don't do something now, it's going to get worse and worse," she said. "They harass old people all the time, but this is an absolute classic case."

Benke said his hypertension is getting worse because of the worries over the eviction process. His wife is in the hospital, he said, because she broke her leg in three places in a fall on their ice-covered driveway Thursday.

The Benkes have lived in Trailerdale for 17 years.

EXHIBIT A

240

NEVADA APPEAL

JAN 18 1979

Glover introduces bill to regulate mobile park increases

1-18-79 N A

Assemblyman Alan Glover, Carson City, Wednesday introduced legislation providing for the regulation of increases in rents in mobile home parks in counties where the vacancy in mobile home lots is less than three percent.

The measure, AB100, also provides that the landlord must pay for the removal of a mobile home if he requires it be moved and the occupant had occupied the lot continously for five years.

The bill notes the existence of a "serious shortage of housing in the state, particularly rental housing in mobile home parks, which is likely to worsen..."

"The regulation of rents charged in mobile home parks is necessary at this time in order to prevent the execution of unjust, unreasonable and oppressive rent agreements, and to forestall profiteering, speculation and other disruptive practices tending to impair the public health, safety and general welfare," says the bill.

The measure says that if a board of county commissioners finds by resolution that the percentage of vacancy in mobile home lots in the county is more than three percent, that finding excludes the county from the operation of the provisions.

The exclusion would be terminated if it is found that the percentage of vacancy had declined.

The bill sets forth a formula based on a base index, consumer price index and current index are used in its provisions for when a landlord may not increase the rent charged.

It also says that any proposed increase in rent must be approved by a certified public accountant who is not employed by the landlord or any tenant of the park to insure the requirements are met. The fee of the accountant must be paid by the tenants on a pro-rate basis.

Should a landlord require that a mobile home be moved from the park and the tenant had occupied his lot for five years, the landlord must pay the removal fee and the towing fee for a distance of 25 miles or less.

The bill notes that with swift increases in population in certain areas of the state construction of new housing is unable to keep up with the need for housing.

"The percentage of vacancy in housing has declined as more tenants find themselves financially unable to purchase homes because of escalating prices," the bill says.

It says that in the absence of the regulation of rents "there have ensued exorbitant rent increases particularly in mobile home parks which have resulted in serious impairment to the health, safety and welfare of a large segment of the population..."

The bill was referred to the Assembly Judiciary Committee.

Earlier Wednesday, an Assembly Concurrent Resolution was introduced directing the legislative commission to study the problems of owners and renters of mobile homes.

The resolution says the legislature is "concerned with the problems of owners and renters of mobile homes, especially problems related to the scarcity of spaces in mobile home parks at reasonable rents."

The Legislative Commission is directed to submit a report of its findings and recommendations for legislation to the 61st session of the legislature.

EXHIBIT A

711

NEVADA STATE JOURNAL
FEB 20 1979

Tenants Win Round in Landlord Fight

By JOHN ZAPPE NSJ 2/20/79

A small victory has been won by about 100 mobile home tenants in their fight for a court overhaul of a centuries-old property law.

Washoe District Judge Peter Breen granted the tenants a 60-day extension of a court order that prevents landlord Dr. Clyde Emery from collecting a $40-a-month increase in rents in Glen Meadows Mobile Home Village in Verdi.

The tenants, led by Mrs. Lee Beall, chairman of their ad hoc committee, are trying to stop the Los Angeles-based physician from imposing the rent increase which they said was the third in a year.

Traditional landlord-tenant law allows a landlord to charge whatever rent he thinks he can get and allows a tenant who doesn't want to pay that rent to move.

Without a lease, a landlord can raise the rents monthly if he chooses or even order a tenant to leave, sometimes on only 30 days' notice.

In this case, the Glen Meadows tenants claim the law should be altered because they have invested an average of $3,000 each in landscaping and moving the mobile homes to the property and can't sell or move their homes and recoup their investments on 30 days' notice.

Breen, who issued a written decision in granting the extension of the restraining order, noted that what the tenants are ultimately asking from the court is a form of judicial rent control.

"I agree," the judge said, "that the proposition of restraining the landlord from fixing the amount of rent is a novel concept in the law."

Breen said that in "pursuing a novel concept of law there is less likelihood of success" but he said the temporary restraining order could be fashioned to protect both parties against monetary loss.

EXHIBIT A

212

Council to Take Up Rent Control Issue

The Reno City Council will once again take up the issue of rent control Monday when council members discuss a proposed rent justification ordinance during their regular council session Monday.

The City Council meeting will start at 8 a.m. in the city hall council chambers at the corner of Center and Liberty streets.

Councilman Ed Spoon will reintroduce the rent ordinance, which city and tenant's association representatives tried to have reviewed earlier this month in Washoe District Court.

Also to be considered Monday are plans for Virginia Lake Plaza, a massive office-condominium complex dubbed the "Aztec Temple" because of its futuristic design.

The City Council will take up discussion of Mayor Bruno Menicucci's proposal for consolidation of the Reno, Sparks and Washoe County governments, an item postponed from their last meeting Feb. 12.

City officials will also report on the progress of a city audit of the Reno Disposal Co. to determine whether proposed rate increases attached to use of mobile-toter garbage cans in the city are justified.

The rent justification ordinance, backed by the United Mobile Tenants' Association, was submitted for judicial review late last year by the City Council. The council voted to back the ordinance "in concept" in a move aimed at getting the District Court to rule on the proposed statute's constitutionality before it was actually incorporated into the city code.

However, District Judge James Guinan earlier this month tossed out the review request, saying the court could not render an advisory opinion.

The ordinance is aimed at controlling skyrocketing mobile home park rents.

Under a plan to be proposed Monday by Spoon, the City Council could approve the rent justification ordinance. The city attorney's office, however, would order the city clerk not to publish the ordinance as required by the city code on the grounds that the ordinance is unconstitutional.

Proponents of the rent justification ordinance could then go to court seeking a writ of mandamus, which if granted would compel the clerk to publish the ordinance.

If the court found the ordinance constitutional, it would have to be published and would become law, according to Spoon. If it is found unconstitutional, the matter would die.

But City Council passage of the ordinance is uncertain.

Spoon, who is expected to introduce the proposed ordinance Monday, said he has not yet decided how he will vote on the rent measure.

"I have very mixed emotions," Spoon said, explaining that he believes Reno's rent crunch is lessening.

But, "If we're going to resolve this thing one way or another, perhaps we should follow this path," he said.

Councilman Marcel Durant also was not certain of how he would vote and termed rent control "a very, very touchy thing."

However, he added that, "I'm leaning toward doing something (about rent control). I really don't know what else you can do."

Councilman Bill Wallace, noting that a mobile home park rent control measure is pending in the state Legislature, said he believes city council passage of the rent justification ordinance before the Legislature has ended would be "somewhat of an exercise in futility."

Mayor Bruno Menicucci said he is leaning against voting for the measure.

"I still do not feel I could vote for something to fix prices or wages," the mayor said.

The City Council is expected to take up the rent justification item at 10 a.m. as part of its agenda dealing with concerns of the mayor and council members.

Also at 10 a.m., the council is expected to discuss Menicucci's consolidation proposal.

Despite a negative reaction from the city of Sparks, the mayor last week defended his merger idea on a "Face the State" segment broadcast on KTVN.

The Sparks City Council has rejected the idea of consolidating its government with those of Reno and Washoe County. However, the Washoe County Commission has passed a resolution calling for a department-by-department study to determine if consolidation is economically feasible.

Under the mayor's proposal, consolidation would go to an area-wide vote. The 1981 Legislature would be asked to approve the plan, and Reno, Sparks and county departments could be merged on a gradual basis taking several years.

NSJ 2/24

NEVADA STATE JOURNAL
FEB 24 1979

EXHIBIT A

FEB 7 1979

V-T
2/7/79

Political Pot Starting to Boil

That political pot is starting to boil behind the scenes at the Nevada Legislature.

In hushed hallway conversation, some legislators are whispering about an issue which could blow the lid off what has been a comparatively serene session this year.

The issue is rent control.

AND THEY'RE NOT JUST TALKING about previously publicized proposals to control rents for mobile home owners. They're talking about laws which would govern rent for apartment dwellers too.

It seems almost unbelievable that here in Nevada, in this bastion of rock-ribbed individualism, some lawmakers are seriously considering proposals to limit rent hikes.

But legislative insiders insist that proponents of the idea have been quietly floating trial balloons and have found surprising support for the idea.

Renters surely have been left behind in the rush to slash taxes for property owners. And with the thousands of voters who don't own homes, it could be a politically popular move.

BUT YOU CAN BET that the powerful landowning interests — once they hear about it — will descend on Carson City with a gaggle of high-priced lobbyists, spouting the virtues of "free enterprise" and the evils of "government interference."

A knowledgeable guess says it'll never get off the ground.

But informed sources insist an effort has already started behind the scenes.

"If they put it together and introduce a bill," says one legislative observer, "you'll see a donnybrook like you've never seen before."

Amen.

EXHIBIT A

214

Mobile home tenants win round in rent battle

By JOHN ZAPPE

A small victory has been won by about 100 mobile home tenants in their fight for a court overhaul of a centuries-old property law,

Washoe District Judge Peter Breen Friday granted the tenants a 60-day extension of a court order which prevents landlord Dr. Clyde Emery from collecting a $40-per-month increase in rents at Glen Meadows Mobile Home Village in Verdi.

The tenants, led by Mrs. Lee Beall, chairman of their ad hoc committee, are trying to stop the Los Angeles-based physician from imposing the rent increase which they said was the third in a year.

Traditional landlord-tenant law allows a landlord to charge whatever rent he thinks he can get and allows a tenant who doesn't want to pay that rent to move.

Without a lease, a landlord can raise the rents monthly if he chooses or even order a tenant to leave, sometimes on only 30 days notice.

In this case, the Glen Meadows tenants claim the law should be altered because they have invested an average of $3,000 each in landscaping and moving the mobile homes to the property, and can't sell or move their homes and recoup their investments on 30 days notice.

Breen, who issued a written decision in granting the extension of the restraining order, noted that what the tenants are ultimately asking from the court is a form of judicial rent control.

"I agree," the judge said, "that the proposition of restraining the landlord from fixing the amount of rent is a novel concept in the law."

He pointed out that, "As the law of landlord and tenant has unfolded for several hundred years, the courts have not intervened with the landlords' rights to run his business. We do see some legislation developing on this subject, but not in Nevada."

However, Breen pointed to special factors in this case which make it different from other types of landlord-tenant relationships, especially the apartment dwellers.

"According to the proofs (submitted by the tenants), substantial sums of money have been spent by the plaintiffs by way of landscaping and location costs. They stand to lose the benefits of these expenditures if evicted," the judge said.

The judge admitted that in "pursuing a novel concept of law there is less likelihood of success," but he said the temporary restraining order could be fashioned to protect both parties against monetary loss.

He ordered the tenants to provide an $8,000 bond equal to the additional rent the tenants would be paying for the 60 days if no order were issued. In the event the tenants lose when the court decides the case on its merits, Emery would still be paid his rent increase.

If the tenants are victorious, they would not be required to pay that money.

The order does not necessarily mean each of the 100 tenants participating in the court suit will have to put up $80. Instead, a bond could be purchased by the tenants for less if they can find a company willing to take the risk the tenants might lose.

In the meantime, Breen ordered that a hearing on the case be held within the 60-day period of the restraining order.

Should the tenants win, they are asking the court to issue a permanent injunction preventing Emery from imposing the $40-per-month increase and ordering him to negotiate a lease with them.

Perilous

Local officials are charged with protecting the health, safety and welfare of local residents.

What can they do under this mandate to protect the health, safety and welfare of mobile home residents who are subject to shocking rent increases?

At least two mobile home parks in the Reno area have announced rent increases of more than 50 percent.

Tenants of Rolling Wheel park were notified that their rents would go from $75 a month to $130.

Tenants of Farview park are having their rents raised from $90 to $140 if they live in a singlewide mobile home, or up to $155 for a doublewide home.

These increases appear exorbitant under any standard — but so are increases in the value of these parks.

Both Rolling Wheel and Fairview were sold recently. The new owners say rent increases are necessary if they are to meet mortgage payments and make a return on their investment.

Naturally, the former owners had either paid off their mortgages or were paying off mortgages, perhaps at lower interest rates, on land which was worth a fraction of the amount for which they sold it.

The renter is thus occupying land which is suddenly worth a great deal more than when he moved in.

Mobile home occupancy is probably the most perilous dwelling style in the county, particularly if the land on which the unit rests is rented.

An unscrupulous or difficult landlord may impose ourtrageous rent increases and make absurd demands on tenants and usually have his way. An apartment renter need only move his furniture. A mobile home tenant must move the entire home at considerable expense. And with the present shortage of mobile home spaces in Washoe County, it is possible that he will be unable to find a place.

There is no provision governing the amount which a mobile home park landlord may charge, nor is the rent of increase regulated.

The state law applying to mobile homes requires a 60-day notification of a rent increase. And the Washoe County District Attorney's office is now investigating the possibility that Rolling Wheel and Fairview failed to give adequate notification.

Even California, where landlord-tenant laws are somewhat stricter than Nevada, has no provision regulating the rate at which a landlord may raise rents. Its notification requirements are identical to Nevada's.

The California Legislature has preferred to leave rent controls to local entities, reasoning, correctly, that conditions vary throughout the state. However, efforts by some organizations to pass laws which would prevent local entities from passing rent control ordinances have been defeated.

If two mobile home parks are making exorbitant rate increases, it is likely that others will follow, particularly after a sale. And due to the nature of the mobile home dweller, who tends to be less affluent than the average renter and often on a fixed income, the rent increases are falling on those who can least afford them.

We do not like rent controls nor fixing rates at which landlords may raise rents. But neither do we favor the present combination of boom conditions and the restricted capability to build housing.

It is an artificial situation and calls for action.

Local officials should enact ordinances which would either regulate the rate of rent increases or require that the higher the rate of increase, the longer the notification period that would be required.

Such restrictions might also have an effect on the inflationary spiral in the value of these parks which may be the result of the enormous freedom which landlords have to demand and get extravagant rent increases.

Recently, there were reports that mobile home dealers were offering large premiums for mobile home spaces, and it was feared that some park owners were evicting tenants in order to collect the premiums.

This is only one example of the kinds of abuses to which mobile home parks are subject. Local government should do what it can to prevent them.

NEVADA STATE JOURNAL
JUL 14 1978

NEVADA STATE JOURNAL

JUL 13 1978

Mobile Home Rent Increases Probed by District Attorney

By LENITA POWERS

Owners of two Reno mobile home parks are being investigated for complaints they gave tenants improper notice of rent increases, Shirley Katt, head of the Consumer Protection Division of the Washoe County District Attorney's Office, said Wednesday.

Ms. Katt said the Rolling Wheel and the Fairview Mobile Manor parks, located next to each other in the 2000 block of Kietzke Lane, could be in violation of state law which requires 60 days notice be given on rent increases in mobile home parks.

She said that 30 days notice is required for rent increases on houses or apartments. The 60 days notice for mobile home park rent increases apparently was intended to allow for the time it takes to obtain another space and movea mobile home, said Ms. Katt.

"In a day or two, we will have decided what course of action we think is appropriate," she said of the investigation.

According to statute, violation of the law is a misdemeanor punishable by a maximum fine of $500 and six months in the county jail.

Both mobile home parks recently changed hands and the new owners say they have to raise the space rents to pay for their purchase of the parks.

The tenants of Rolling Wheel were notified their space rent will go from $75 per month to $130.

Residents of Fairview are having their monthly space rents increased from $90 to $140 if they live in singlewide mobile homes or up to $155 if they have doublewide homes.

Ms. Katt said complainants from Rolling Wheels say they were given notice during the first part of July that their rent increases would go into effect on August 1, less than the required 30 days notice.

"Rolling Wheel could be in possible violation," she said.

However, in the case of Fairview, Ms. Katt said a typographical error could be the reason for complaints of insufficient notice.

A complainant said he received a notice around July 3 that rent would be increased Sept. 1 at the Fairview. But the notice bears the date July 27.

EXHIBIT A

NEVADA STATE JOURNAL
AUG 29 1978

Mobile Home Owners Ask City Council for Rent Controls

By PAT O'DRISCOLL

A crowd of 150 angry mobile home owners took their plea for rent control over "greedy, gouging landlords" to the Reno City Council Monday afternoon.

Although they were promised a City Hall look-see into the possibility of city action, the rent crusaders were told that city government isn't likely to be their savior.

Labeling recent rent increases in Reno area trailer parks as the cause of "a disaster and an emergency," spokespersons for the United Mobile Tenants' Association sought council action to roll back rents and restrain the "greedy instincts" of some park owners.

Their emotional appeal was met first by Councilman Ed Spoon's call for immediate drafting of an ordinance to do just that. But the audience's thundering applause in reaction shrank swiftly into restless silence as City Attorney Bob Van Wagoner told the council the control of rents isn't within its designated city powers.

At the end of the hour-long protest, Mayor Bruno Menicucci promised nonetheless that the city attorney's office will investigate the possibilities for the city to take rent control action on its own. That investigation might also cover the potential for the City Council to declare an emergency — "a state of martial law," as Van Wagoner explained it — because of the dire stories outlined Monday about mobile home park tenants threatened with loss of their homes or, at least, with loss of a place to put them.

The audience filled the council chambers in Reno City Hall, applauding loudly and enthusiastically after each of several association members spoke. Most of those present were senior citizens who association speakers said live on modest fixed incomes that are being sucked up by large rent increases on their mobile home spaces in several city trailer parks.

In a prepared statement, association spokeswoman Barbara Bennett of Reno said, "I think it should be obvious to everyone in this room that the private sector — except in a few cases where the landlords have proven they do care about people — has been remarkably ineffective in getting their gouging cohorts to restrain their greedy instincts. That failure forces us to come here today and insist that local government entities — and I include the City of Sparks and the Washoe County Commission — to take immediate action to roll back rents and come up with a rent stabilization program."

She went on, "I have no doubt that if you direct the same level of energy displayed in assisting the advocates of economic expansion in the area to the solving of our problems, we will have speedy solutions."

A principal target for criticism from Ms. Bennett and several other speakers was Reno developer and casino owner John Cavanaugh, who owns Northgate Mobile Village. She said Cavanaugh has imposed on his 211 tenants a "very inflationary and very unjustifiable increase in a ten-month period," bringing rent to $195 a month, including water, trash collection and sewer service, for a double-wide mobile home. She said that amounts in a year's time to nearly half the individual income of 21 percent of the park's residents.

"Believe me, 50 percent of one's income is not an uncommon figure," she added. "The mess we are caught up in not only impacts harmfully on rent paying tenants, it also has an equally damaging impact on homeowners and small business people. Inflation damages everyone and with housing costs a major contributing factor to inflation, rent gouging hurts the entire community."

Northgate resident Ray Waters complained that Cavanaugh has refused invitations from the park's residents three times to sit down and discuss the rent increase problem. "He sends his attorney instead," Waters said, "and all he (the attorney) says is, 'No comment' or 'I don't know.'"

Still another Northgate Village resident, Linda Riggs, said residents in her park have been given 60 days' notice before their trailer space rents go up. With 30 days past, she added emphatically, "We can wait no longer. Something has to be done now.

"I don't know what you (the council) can do. But you're our leaders and we have elected you to help us with our problems."

One woman in the audience approached the council podium and asked her friend "Nancy" out in the audience to stand up. "Social Security pays her $200 a month," the woman said. "Her rent is $195. How does she eat? You want examples. THERE'S your example."

A young man pleaded both the case of elderly persons on fixed incomes and the case of young marrieds trying to keep their first house.

(See RENT CONTROL, Page 5, Col.1)

EXHIBIT A

878

Rent Control

(Continued from Page 1)

The speakers also spoke of two unpleasant rumors circulating about mobile home parks. The young man said he heard that a park owner whose relative is a partner in a local mobile home sales firm has a rule that if a tenant with a mobile home that is 10 or more years old wants to sell it, the home can't be kept in the park.

The other was mentioned by Waters, who said he had heard that some park owners are considering clearing out the mobile homes and building apartments in their place, leaving the trailer owners with no place to park their homes in the virtually closed trailer park market. Councilman Bill Wallace acknowledged he had received a phone call from one such park owner. "I told him he won't get MY vote," Wallace said.

In reply to all the pleas, Spoon proposed asking Van Wagoner to prepare an ordinance "to provide for rent controls in the city of Reno for mobile home parks and apartments."

Despite the pleas, the mobile home tenants were told the city has little authority to hold down rent increases to put other controls on landlords.

Van Wagoner reminded the councilmen that they "asked me months ago" what could be done, and that "I told all of you" there is no city charter provision to cover rent controls. He said the state has the authority since it has power over landlord-tenant relations.

Even if the city were to attempt rent controls, Van Wagoner said, the legal challenge to an authority he believes is the state's could shoot down the whole proposition. He added, "Can we enforce it and are we prepared to back up such wage and price controls? I think we had better think very hard on it."

Ms. Bennett countered that although Van Wagoner said there is no authority given cities under state law to control rents, "there's nothing that prohibits you from controlling rents either." But Van Wagoner replied that state law pre-empts the city from enacting any laws stronger than those under the state's control.

When Van Wagoner said the only possible, but very slim outlet for the rent control appeal would be declaration of a city "disaster" akin to public emergencies, Ms. Riggs said, "This is a disaster to us. It really is." Others in the audience echoed her comments as the crowd buzzed with conversation.

But Van Wagoner said the chances would be very slim that such a declaration could be made.

The city attorney also exhorted the councilmen not to create a rent control law that would require dozens of new employees to answer complaints about noncompliance by landlords. After the meeting, he expanded on his misgivings, saying, "When we had wage and price controls on the federal level, how many billions of dollars did they spend on the mechanism to enforce it? Even if we overcame the legal challenge, how who would enforce it? The public works department? The police department?"

719

EXHIBIT A

NEVADA STATE JOURNAL

JUL 13 1978

Mobile Home Rent Increases Probed by District Attorney

By LENITA POWERS

Owners of two Reno mobile home parks are being investigated for complaints they gave tenants improper notice of rent increases, Shirley Katt, head of the Consumer Protection Division of the Washoe County District Attorney's Office, said Wednesday.

Ms. Katt said the Rolling Wheel and the Fairview Mobile Manor parks, located next to each other in the 2000 block of Kletzke Lane, could be in violation of state law which requires 60 days notice be given on rent increases in mobile home parks.

She said that 30 days notice is required for rent increases on houses or apartments. The 60 days notice for mobile home park rent increases apparently was intended to allow for the time it takes to obtain another space and movea mobile home, said Ms. Katt.

"In a day or two, we will have decided what course of action we think is appropriate," she said of the investigation.

According to statute, violation of the law is a misdemeanor punishable by a maximum fine of $500 and six months in the county jail.

Both mobile home parks recently changed hands and the new owners say they have to raise the space rents to pay for their purchase of the parks.

The tenants of Rolling Wheel were notified their space rent will go from $75 per month to $130.

Residents of Fairview are having their monthly space rents increased from $90 to $140 if they live in singlewide mobile homes or up to $155 if they have doublewide homes.

Ms. Katt said complainants from Rolling Wheels say they were given notice during the first part of July that their rent increases would go into effect on August 1, less than the required 30 days notice.

"Rolling Wheel could be in possible violation," she said.

However, in the case of Fairview, Ms. Katt said a typographical error could be the reason for complaints of insufficient notice.

A complainant said he received a notice around July 3 that rent would be increased Sept. 1 at the Fairview. But the notice bears the date July 27.

EXHIBIT A

720

4020 10.3. Lan
2 cm

Valley Times
OCT 11 1978

Clark Mobile Home Revolt

By LARRY WHITE
Times Staff Writer

Frightened by the prospects of skyrocketing rent and angered by "unreasonable" park rulings, a growing number of Clark County mobile home owners are banding together for legal protection and moral support.

But fear of eviction has kept many residents, among them retirees on fixed incomes, from joining the Mobile Homeowners League of the Silver State, Inc., and giving the four-year-old organization more clout.

The league already has influenced enactment of more protective laws for homeowners.

According to league officials, there are 46,000 persons residing in 218 mobile home parks in the county. Of that total, 45 parks have residents in the league with memberships slightly below 10 per cent of the total.

But memberships have tripled since last February, according to Shannon Zivic, the league's legal director, and will continue to grow, she predicts.

The latest park to organize, Royal Mobile Park at 4470 Vegas Valley Drive, signed up 20 homeowners to "at large" memberships within the last two weeks and, after a presentation by the league attended by 36 residents Monday night, at least 11 more indicated their desire to join and form a chapter for their park.

A handful of residents in the 176-space park are charging management with harassment, using a double standard to enforce park rules and negligence in park upkeep.

Their problems peaked recently when four residents who signed a letter requesting a meeting with Luther Kutchner, park owner, to

(Please turn to page A-14)

EXHIBIT

121

Mobile Home Owners Revolt

(Continued from page A-1)

discuss the alleged harassment by Mr. and Mrs. Bob Large, park managers for two years, received eviction notices from the management three days after the letter was written Sept. 13.

The meeting with the owner unexplainably never occurred.

Zivic said the Monday night meeting at the park's clubhouse met with opposition from management, and it took one of the league's attorneys to remind the managers they would be violating Nevada Revised Statute 118 if the hall was closed to the meeting.

"They used the excuse the recreation hall was reserved," Zivic said.

Three of the evicted residents, ironically, own Schnauzer dogs. Pet ownership and related rules and regulations are central to the controversy as well as an alleged personality clash with the managers.

Their letter to the owner, however, specifically asked that the managers not be removed, but that the "harassment" stop.

Residents also are complaining about shower heads being capped off at the swimming pool areas, in apparent violation of the law, and the lack of street lighting.

A fight over the evictions is brewing. Three of the four residents evicted are either widowed or retired and one owner is confined to a wheel chair with health problems.

They have 30 to 45 days to move out, depending on the size of their homes, but they claim the eviction notices were not properly served.

Under the law (Assembly Bill 201) the eviction must contain specific facts with dates, time, place and circumstances that can be proven. The final notice also must be served by a constable and be recorded in his office.

One of the evictees, Mrs. Alice White, a widow who has lived in the park seven years, said it would cost her at least $1,500 to move her 12-foot wide home.

"Their eviction notices are not legal," Zivic told the gathering. "We have no sympathy if you're openly violating the rules," she said at another point in the two-hour meeting.

"They will put you out if you let them, and it will cost you more to move than to fight," added Zivic, who also resides in a mobile home. She said it is management's burden to prove a tenant should be ousted.

While it is the discretion of park management to establish

EXHIBIT A

NEVADA STATE JOURNAL

NOV 6 1978

Rent Control: Next Battle on Housing Front

By DOUG McMILLAN

Developer Don Ekins caused quite a stir last April 24 when he appeared before the Reno City Council asking for permission to change his Grand Apartments west of the MGM Grand Hotel to a motor hotel.

Three councilmen, including banker Ed Oaks who was a partner with Ekins on another real estate venture at the time, joined in the 3-2 vote to grant the request.

The action created such an uproar among citizens' groups in this apartment-short city that the council called a special meeting two days later, amid hot debates over the desirability of the Grand's "kitchen-shared" units, to change the 216-room "Grand Motor Lodge" back to apartments.

Today, the Grand is renting those kitchen-sharing apartments at $100 for studios, $60 for a bedroom with private bath and no kitchen, or $160 for a combination of the two rooms ... quite reasonable — except the rates are by the week. With the apartment charging $15 for each additional person more than three, the resulting charges of more than $700 a month approach some weekly motel rates. The Grand might as well have been a hotel anyway, one local housing official observed dryly.

While few landlords are getting that much from their units, many are raising rents in line with the soaring Reno rental market, beset by one of the lowest vacancy rates in the nation.

Angry tenants at the 257-unit Oasis Homes gathered Sunday afternoon to protest a $95-a-month rent increase for their one- and two-bedroom units.

Sierra Grove Apartments recently imposed an extra $50 monthly charge for people with pets.

While these examples might not be the general rule, the increasing frequency of large rent increase notices is creating a climate in which rent control could become the next big housing issue in the Truckee Meadows.

That is one premise on which both spokesmen for the apartment industry and economists agree. They also agree that rent controls are not the answer.

But Reno-Sparks renters unlucky enough to have been living in apartment complexes or mobile home parks bought by new investors who greeted their new tenants with rent increases of up to $50 a month have called for rent controls to curb the spiral.

Mobile home owners organized the United Mobile Tenants' Association to muster 150 angry people demanding rent controls at a Reno City Council meeting in August. The council defused their anger by putting the question out to study. The tenants' association last week requested that the council consider their proposed "rent justification ordinance" next Monday.

Barbara Bennett, leader of the mobile home owners, said the ordinance would apply only to mobile home park residents, not apartments. She said she expects apartment tenant associations to follow suit with their own rent control proposals if mobile home tenants are successful.

Ralph Heller, executive director of the Reno Board of Realtors, took note of this agitation in the September issue of the board's monthly magazine. In an article entitled, "Rent Control: Prescription for Municipal Disaster," he chronicled some of the worst case studies of the 300 or so American cities which have invoked rent controls.

In Boston, the percentage of gross income that landlords spent on maintenance slipped from 10 percent to 7 percent after rent control laws were passed, the number of conventionally financed rental units dropped 68 percent, and 6,700 rental units were demolished.

The Rutgers University Center for Urban Policy Research found that apartment buildings in Fort Lee, N. J., with a 72 percent apartment population and rent controls, declined 50 percent in value, Heller added.

And in Madison, Wisc., a liberal city with its

-over-

EXHIBIT

large student population, a citizens committee studied rent controls and concluded that the mass of red tape they would create would cost more in taxes than renters would save.

"Still, there are those who would advocate rent control for Reno and Sparks," Heller said darkly. "In so doing, they would ignore economic reality as well as historic experience."

Rent control "just kills off capital investment in housing better than anything else," agreed Steven O'Heron, economic analyst for the Farm Home Loan Bank in San Francisco. With Washoe County's housing shortage that is precisely what you want to avoid, he said.

O'Heron cited a 50 percent drop in building permits in Los Angeles last month in the wake of temporary rent controls that took effect there Oct. 1. He said landlords also scrimp on building maintenance during rent control periods, which leads to the "New York City Syndrome" of run-down, dilapidated and deserted housing. Rent controls also could affect the location of housing, he added. Unless all three local governments in Washoe County adopted uniform rent controls, apartment builders would start to "build across the border" in the jurisdiction without rent controls.

Scott Brenneke, past president of the Northern Nevada Apartment Association, an organization of 165 landlords representing 8,500 apartments, said rent controls are self-defeating. He said that when controls are lifted, apartment owners merely play "catch-up" with costs that have risen in the meantime, raising rents to the same level they would have reached without controls as soon as the controls end.

"Any time you put rent control on ... let's say for a year, taxes or something else go up. When there is no increase in rent, people come into the market buying up properties in anticipation of raising rents when the controls end.

"Meanwhile, apartments won't get built. That threat comes from the lender, not the builder. The developer just can't get top money. And owners have no reason to put more money into their buildings. They can't decrease the mortgages they are paying. That's impossible. They will not reduce their income, if they can help it. So what's the first expense that's going to go? Maintenance."

But Mrs. Bennett said the arguments posed by Heller and Brenneke are standardized, biased data distributed by real estate groups all over the country to be used by members to fight local attempts to curb rents.

She said the mobile home dwellers' ordinance has safeguards insuring continued investment in rental units. A City Council-appointed "rent justification board" made up of two landlords, two tenants and a fifth, impartial member would allow landlords to raise rents to cover capital improvements, maintenance costs and taxes, if landlords could justify them.

Also, she said, it would be temporary, ending when the vacancy rates for mobile home parks rose to 5 percent, the rate economists agree is a normal rental market. Currently, rental vacancies in the Reno-Sparks area are virtually nil.

Mrs. Bennett also scoffed at the "deinvestment" theory, the idea that investors, developers and banks turn their backs on any community with rent controls. "If they're going to continue to build homes we can't afford, we don't need them anyway," she said.

Tied to the vacancy rate, the rent justification ordinance would provide plenty of incentive for new units, she said. The investment community would want to build more units to get rid of the temporary controls, she reasoned.

A March study by the California Department of Housing and Community Development also concluded that "moderate rent controls" (those which allow increases for maintenance and improvements, as opposed to flat ceilings on rents) do not necessarily curb apartment building.

"No evidence of statistical significance can be found to support the contention that short-term, moderate rent control has led to a reduction in multi-family residential construction, a decline in maintenance, or an erosion of the tax base, relative to non-controlled cities," the study concluded.

The California report added that many studies that reached negative conclusions used "selective statistics."

The California study found that apartment construction in New Jersey areas without rent controls declined 65 percent, compared to a 19 percent drop in towns with controls. New Jersey studies citing bad effects of rent controls on construction drew their data from a period when construction in general took a nosedive in New Jersey, it added.

The report also cited Massachusetts studies that found that apartment construction in rent-controlled cities in that state actually exceeded apartment building in non-controlled cities by 54 percent.

The California report also cited findings that maintenance was unaffected by rent controls in New Jersey, Massachusetts and Florida. It quoted Fort Lee, N.J., officials as saying their ordinance made it much easier to make landlords correct bad conditions because they had to show that they were maintaining their buildings in good repair to get permission to raise rents.

The California study also noted similar studies showing that assessed valuation continued to increase sharply with rent controls, sometimes faster than in cities and counties without controls.

Davis, Palo Alto, San Francisco and Santa Cruz are among California cities that have rent control measures on the November ballot. The city councils of Oakland and San Jose are considering ordinances. Los Angeles and El Monte already have them.

Mrs. Bennett said mobile home tenants are asking for their own ordinance because they think their chances would be much slimmer trying to overcome the opposition of "savings and loan associations and apartment owners, some of which are huge corporations with major bankrolls on the line."

Mobile home parks are different, at any rate, because tenants provide much of the maintenance themselves by keeping up their own homes. They have to, under state and local laws, she said.

Mrs. Bennett said she has received reports of mobile home park rental increases varying from $50 to $93 a month. Added to the time payments for the mobile homes themselves, plus taxes and utilities, total costs for mobile home residents are ranging from $400 to $450, higher than it costs to buy a regular single-family home in most parts of the nation, she said.

"The problem is now that if a landlord of a 100-space park gets a tax increase of $5,000 (and we know of none that large), you're talking about an average increase of $4.25 per space. Instead, he'll say, 'I have to raise the rent $25 a month.'"

"I had a call from one elderly woman who was so upset she was crying," said Mrs. Bennett. "She had picked the park several years ago because she knew she could live without amenities and afford it. She had not complained about rent increases until now, but now she can no longer afford to live there."

Mrs. Bennett said she thinks her group's rent justification ordinance has a good chance to pass because elected officials are aware that if tenants do not get action, "there is always the option of an initiative petition that would roll back rents and start a rent freeze."

One Reno City Hall official, declining to be identified, said that while rent controls have been shown to raise havoc in other housing markets, some local landlords seem to be asking for it with the size of the rent increases they have been demanding.

EXHIBIT A

NEVADA STATE JOURNAL

NOV 15 1978

Mixed Reviews for Reno Rent Control

By ANN HALEY

The Reno, City Council's endorsement of a form of mobile home park rent control was met with varied reaction Tuesday.

A local apartment tenants' group lauded the success of the United Mobile Tenants Association in convincing the City Council to approve in concept a rent justification ordinance that would set up a board empowered to hold hearings and adjust mobile home park rents. One Sparks City Council member said he favors the rent justification idea.

But a Reno area mobile home park owner said she would prefer to see the cycle of supply and demand even out the skyrocketing mobile home park rents. And Sparks Mayor Jim Lillard expressed concern about government intervention into rent matters.

The Reno council, concerned over questions of the legality of any type of rent control, also decided Monday to submit the proposed ordinance to Washoe District Court for judicial review before actually making the proposed ordinance law.

"We're in full support of what the mobile home tenants are doing," said Ted Scharf, acting chairperson of the Northern Nevada Tenants' Association.

The tenants' association, which mainly represents apartment dwellers, said it has no definite plans to introduce a similar call for apartment rent control. But Scharf said the group is considering such action.

Helen Close, owner of the Traveler Residential Community on Gentry Way, pinned the blame for current mobile home rent hikes on the Regional Planning Commission, which she said has not zoned enough land for mobile home developments. If more land were made available for mobile home parks, rents would be "competitive," Miss Close said.

"The law of competition would take care of this problem if the planning commission would zone (for mobile home parks)," she said.

Miss Close, who said she designs and builds mobile home parks, said planning commissioners have "really dragged their heels" and added, "What we need is people to come in and build parks."

Mobile homes now cost between $25,000 to $50,000, Miss Close said, and low space rents are not sufficient to cover park amenities needed to complement the more expensive mobile homes.

"The old image of the trailer is gone, yet a lot of people want to still pay $45 to $50 per month in rent. They haven't changed," she said.

Miss Close said that as a park owner she would not object to a rent justification board, but would prefer to have an accountant, a businessman and a tenant's representative sitting on the board rather than the five-member board of two tenant representatives, two park owners and one professional arbitrator suggested in the proposed rent justification ordinance.

Park operators and tenants would be at each others' throats on such a board, she said.

A certified public accountant could audit mobile home park books to ensure rent increases were justified, she said.

Miss Close mentioned a 50 percent profit margin as being too high, but declined to say what sort of profit margin on mobile home parks are fair.

"I've been very slow to raise my rents," she said. Rents at Traveler are currently $110 a month per space and include such amenities as garages, she said.

She decried sudden rent increases and suggested that park owners who sell others who then raise rents to cover the mortgage should try to give tenants a six-month notice that rents will go up.

Sparks Mayor Lillard, noting that Sparks does not have the mobile home park rent problems currently plaguing Reno, said any rent justification ordinance introduced in Sparks would require extensive study.

Lillard declined to take a position on rent control, but said, "I'm very cautious of government stepping into too many things." He prefers to let prices fluctuate with supply and demand, he said.

While he would be concerned about government regulation of rents, Lillard said if any similar law comes befre the Sparks City Council he would call for a probe into the proposed ordinance's legality.

Sparks councilman Valdo Renucci said he thinks some form of rent control is needed, and said, "If it was legal I would be in favor of something like this."

EXHIBIT A

LV Mobile Home Tenants Threaten Big Rent Strike

The Valley Times DEC 5 1978

By RICHARD CORNETT
Times Staff Writer

A statewide mobile home owners association has vowed support to hundreds of local tenants in 14 mobile home parks who say they will refuse to pay rent increases in January.

"They can't throw them all out," said Vickie Demas, vice president of Silver State Mobile Home Owners Association, which claims to represent 43,000 mobile home owners in Clark County's 120 parks.

"Many people are being forced out of their homes because of rent increases. Seventy per cent are tenants barely surviving on fixed incomes," said Demas.

The managers at Kensington Manor Mobile Home Park, among the 14 parks that will increase rent in January, say they "will take the necessary procedures" to evict any tenant refusing to pay next month's rent.

"We will be increasing our rent from $85 to $100 per month because we plan to repave portions of the park," manager Doug Ferguson said. "Like any other business if we don't collect our money we will be forced to hand out eviction notices."

Co-manager Audrey Ferguson added that "vandalism" is one reason for the added increase.

"Some people allow their children to do anything. Portions of the park have been turned into 'skid row' because the tenants just don't care."

Some 800 mobile home owners gathered Sunday at the Las Vegas Convention Center to air complaints of "unjustified rent increases, harassment and discrimination" to a battery of local elected officials.

Officials included Mayor Bill Briare, District Attorney-elect Robert Miller; Clark County Commissioner David Canter and Lt. Gov.-elect Myron E. Leavitt.

Others on hand were Mike Fitzpatrick, an assemblyman-elect; assemblywoman Karen Hayes, County Assessor Jean Dutton and Wilbur Faiss, state senator from North Las Vegas.

"I got the impression the officials will give the issue a favorable review," Demas said Monday. "We are currently drafting an ordinance similar to the one recently approved in Reno.

"We are asking for a rent justification board to oversee future

(Please turn to Page A-2)

726

EXHIBIT A

(Continued from Page A-1)

rent increases and to serve as a vehicle where tenants can bring complaints if they feel the increases are not warranted."

Demas added it is not the association's wish that permanent rent controls be implemented, saying that when additional mobile home parks are opened in and around Las Vegas the law of supply and demand will trigger a "competitive atmosphere" making relaxation of the ordinance possible.

Barbara Bennett, spokesperson for United Mobile Tenants Association based in Reno, said that the Reno city council recently passed an ordinance mandating the formation of a board of justification and short term rent controls which will automatically be abolished once the city's mobile home vacancy rate reaches a 5 per cent ratio, instead of the 1 per cent which now prevails.

"The ordinance has a high degree of fairness which allows the park owner a reasonable rent increase because of maintenance and inflation," she said.

Reno's new ordinance is currently undergoing intense scrutiny in District Court over its constitutionality. If upheld, the ordinance will mark a historical precedent with far reaching ramifications.

"The overriding complaint aired by local tenants is that the mobile home dweller is completely at the mercy of park owners who can raise monthly rent whenever they wish.

"Some of the tenants have had their rent increased as much as three times over the last two years," Demas said. "For many living on fixed incomes this presents a very real hardship."

Dick Dickinson, district president of the mobile home association, blamed high rent on the County Commission, which in 1976 began denying zone changes for mobile home park development. Dickinson alleged the shortage of spaces is the reason for rent increases.

He said the 1977 State Legislature would not pass laws which allowed rental agreements and leasing with no rent increase stipulations during the duration of the agreement. As a result, he claimed, mobile home owners are "captive tenants" who have to pay extra charges for taxes, pets, sewage, water, permits and gas.

According to County Commissioners Thalia Dondero and Mannie Cortez, any forthcoming help in rent relief will have to be implemented at the state level.

"There's no doubt that mobile home owners are being discriminated against but all we can do at county level is to coordinate efforts with the cities to present some relief in the form of legislation to the 1979 Legislature," Cortez said.

Dondero said: "We are dealing with the problem. The commission just recently approved five sites for mobile home parks which will open up 200 to 300 new spaces each."

According to Cortez, one big "loophole" now existing in the framework of mobile home park regulations is that, theoretically, the park owner can hike rent payments every 60 days if he wishes.

Both commissioners said they "sympathize" with the plight of mobile home dwellers and said they would be in favor of an ordinance formulating the equivalent of a board of equalization if the language was properly worded.

According to Demas that ordinance is currently being drafted and if the county commission fails to approve the measure her mobile home owners association will resort to a mass picket demonstration against the commissioners.

EXHIBIT A

IN FAVOR

EXHIBIT B

Date of Hearing 3-24-79

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
Barbara Bennett	United Methodist Women	✓	
Mike Hennessy	" " " "		
Thelma Puryear	" " " "	✓	
Bob Meyer	" " " "	✓	
Glenn Anderson			✓
Fred Arend			✓
Dale Mc			✓
Albert Blake			
John Blouin			
Joanna Blouin			
Donna Dunn			✓
[illegible]			✓
[illegible]			✓
[illegible]			✓
[illegible]			—
Robert Ballard			✓
M Tuma			—
A Hudson			✓
B. Lowe			—
L. Rossman			✓
J. Herzog			
C. Parsons			✓
K. Cibot			✓
V. Fred			✓

EXHIBIT B

Date of Hearing 3-24-79

FOR

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
G. Francis	UMTH		X
Jane D. McCabe	UMTA		X
Jol H Bennett	UMTA		X
Denise L Cobb	UMTA		X
Hazel Bath	"		"
J Ken		X	
[redacted]	~~UMTA~~		X
Ann Marfisi	umta		
E J Mathews	U.M.T.A.		
Doretta Logan	U. M. T. A.		X
THEO R KENNEDY			
Nancy Calvert	U. M. T. A.		
F. Van Gorden	UMTA		
O.T. Kirkland	U. M. T. A.		X
BARBARA FREDERICK	UMTA		X
PALMER BRODHEAD	"		X
JOAN "	"		X
Mabel M GRAY	"		
C.T. GRAY	"		
J.W. McNaughton	"		
Patricia McNaughton	"		

FOR

EXHIBIT B
Date of Hearing 3-24-79

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
Frank Gilman	AMTA		✓

FOR

EXHIBIT B
Date of Hearing 3-24-49

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
Evelyn Dion	United Mobile Tenants		✓
J. K. Dunn	" " "	✓	
Lillian Gear	" " "		
Patricia Jeppson	" " "		✓
Gene Bland	" " "		
Pee Gregory	" " "		
Christopher Patterson	" " "		✓
Norma Hicks	" " "	✓	
Blanche Kearns	" " "		
Dorothy Condara	" " "		
A. Condara	" " "		✓
W. CHIDSEY			✓
Lucia Jones			✓
Henry Ekblund			✓
Lucy Temming			✓
Ernest Temming			
Augie Connis			✓
Grady Powell			✓
Lorraine Freed	UMTA		✓

EXHIBIT B

FOR

Date of Hearing 3-24-79

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
[illegible]	[illegible]		✓
WILLIAM EWARD SOMS	UNITA		✓
Jean Colbu	KOA.		✓
E.R. Coburn	KOA.		✓
W.A. Lath.	Senior Cit.	✓	~~✓~~
[illegible]	Comstock Mobile Village (SEN. OR CIT.)		✓
MILDRED A WILKINSON	COMSTOCK MOBILE VILLAGE		✓
Elmer Peters	Comstock Mobile Village		✓
Eleanor Reimers	Frontier Mobile Park	?	
Esther E. North	Comstock Village Sr. Citizen		✓
A.M. North	" " " "		✓
Michael Sommer	" " "	✓	~~✓~~
Helen Sommer	" " "		✓
Clifford Sanford			✓
[illegible]	[illegible]	✓	

IN FAVOR
~~AGAINST~~

Date of Hearing 3-24-79

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
NORMAN MACLEOD	Comstock	X	
J MACPHERSON	"		
Theodosia Mountana	"		
ELAINE MARTIN	"		
~~[illegible]~~	~~[illegible]~~		
W Blum	Comstock		
Chas. Quinitto	"		
M Adams	Hillside		
F Van Gorden	Hillside		
[illegible]	Oase Trailer Haven		
H.C. Mueller	Comstock		

EXHIBIT B

TO:

Mayor Menicucci

Councilmen Biglieri

Councilman Durant

Councilman Granata

Councilman Oaks

Councilman Spoon

Councilman Wallece

City Manager Etchemendy

Copies for Inspection

Review material for February 26, 1979 agenda item:
Rent Justification

Submitted by: United Mobile Tenants Association. Contact Barbara Bennett at 358-6019 with questions.

The scarcity of mobile home spaces, along with the exorbitant increases in rents for those spaces, and the abuses in the industry, should provide adequate defense of a rent justification ordinance. However, the national Institute of Real Estate Management mounts strong, well financed objections to this sort of effort in any city where the threat of controls, no matter how moderate, appears. They fail to distinguish between the methods and effects of restrictive controls and those which are moderate and temporary in nature. United Mobile Tenants Association's Rent Justification ordinance falls into the latter group and the aim of moderate rent control is to avoid the very problems to which they constantly allude---the problems traditionally associated with restrictive controls. Moderate controls are designed to prevent rent gouging while being fair to landlords as opposed to general rent relief. The ordinance addresses itself to "reasonable rate of return" for landlords, is protective of due process and is not confiscatory.

Realtors objections are standardized and rendered suspect because the data used is often that of non-representative sampling and highly selective statistics. The purpose of this packet is tell the other side of the story concerning:

1. "Owners of rental property tend to reduce the amount they spend on maintenance and repairs--"
2. That rent controls are responsible for increasedtaxes to owners of single-family dwellings.
3. That abandonment is an unavoidable effect of control.
4. That construction of additional rental units grinds to a halt. (And please keep in mind that we are dealing the rental of mobile home lots.)
5. That controls fail to discriminate intelligently.
6. That controls are impossible to modify or repeal.

"OWNERS OF RENTAL PROPERTY TEND TO REDUCE THE AMOUNT THEY SPEND ON MAINTENANCE AND REPAIRS--"

The data supplied to support that argument is provided for the most part by real estate organizations rather than from audited income statements from rent boards. It is likely that data submitted by landlords would contain exaggerated operating costs and understated rents. For example: according to the Tax Assessor of Fort Lee, New Jersey, the total rents collected by landlords are significantly understated compared to actual rents charged to tenants(Pentifallo, 1977:9) Pentifallo found that landlords understated the amounts of rents collected by an average of 38%. Sternlieb's study in Boston is one study frequently used by rent control opponents. An examination of Sternlieb's own sample ("Average Annual Operating Results from, etc"--attached) shows that a slightly higher percentage of net rent received went into building maintenance and services between 1971 and 1973 in the rent control sample. It also indicates an almost parallel increase in the amount going into maintenance in controlled buildings compared to non-controlled buildings. In Sternlieb's Fort Lee, New Jersey study (it is necessary to use data from other states as we have nothing on this in Nevada) indicates that the amount of money going into maintenance increased by 21.4% during rent control. A 1977 study in Mass. showed that rent controlled properties in Brookline increased the average percentage of the rent dollar going into maintenance and repair from 4.2% to 5.0%.

All of which proves that one can usually prove anything with statistics---it depends entirely upon what one looks for. More to the point is that mobile home parks are maintained largely by tenants; it is also true that many parks in the area have failed to put any significant amount of rent dollars back into parks to prevent an accumulation of what may eventually become, because of neglect, serious maintenance problems.

P 15

Average Annual Operating Results from Sternlieb's Sample

Greater Boston Area

	Rent Control Sample	Non-Rent Control Sample
Building Maintenance & Services		
1971	$28,052	58,868
1972	$31,160	62,475
1973	$33,584	71,489
Average Percent Change		
1971-72	11.1%	6.1%
1972-73	7.7%	14.4%
1971-73	19.7%	21.4%
Increase in Maintenance Costs as a Percentage of Net Rent Received		
1971	14.8%	14.4%
1972	15.5%	13.7%
1973	16.6%	15.0%

From: The Realities of Rent Control in the Greater Boston Area, by George Sternlieb

EXHIBIT B

FORT LEE, NEW JERSEY
AVERAGE ANNUAL OPERATING RESULTS
for 11 Apartments

Adopted in 1972 - 1974

Building Maintenance and Service	
1972	254,193
1973	264,460
1974	308,024

Average Percent Change	
1972-1973	+ 4.04
1973-1974	+16.47
1972-1974	+21.13

Operating Results as a Percentage of Net Rent Received	
1972	21.67
1973	21.95
1974	24.90

Source: Lett, Monica; Rent Control 1976, Center for Urban Policy Research, Rutgers University.

EXHIBIT B

A report comparing the tax base of 26 controlled and 37 non-controlled cities in New Jersey offers no evidence of a decline in a city's tax base and, in fact, controlled cities experienced a parallel increase in total assessed value compared to non-controlled cities.

Again, please keep in mind that this kind of data is unavailable on mobile parks; what we present here, and what opponents present is based on other types of multi-family dwellings.

Two studies which examined the impact of moderate rent controls on the valuation of apartments concluded that the burden of taxes did not shift from multi-family apartments to single-family housing. (Eckert, 1977; Gilderbloom, 1978.) Eckert's 1977 study says the burden of taxes did not shift from landlords to homeowners. Gilderbloom says: "A regression analysis--controlling for tax rate increase, city type, percent tenant, median rent, multi-family residential construction, city size, number of demolitions and municipal population growth---found that the variable rent control had no net effect on total taxable output of rental property in controlled cities in comparison to non-controlled cities. In addition, it was found that there was no statistically significant relationship between rent control and increase in the tax rate---one plausible explanation is that moderate rent controls do not necessarily reduce rents below the market, but instead bring them in line with rent in non-controlled cities. Another interpretation is that moderate rent controls regulate only the proportion of the housing stock that is subject to erratic or extreme rent increases.--" The latter statement is appropriate to the rental of mobile home lots.

As a counter argument it hardly seems necessary to mention that local citizens have seen their tax bills double and triple in Reno, a city which currently has no controls!

Opponents claim that controls cause a local tax base to decline. That is only plausible if one concedes the alleged adverse effects of rent control upon new construction and maintenance. We maintain that will not happen with moderate, temporary controls and we deal with those issues elsewhere in these materials. Even drawing a correlation between rent controls and the total tax base is subject to question. "Rent control properties are not sufficiently isolated from other types of non-controlled properties (industrial, commercial, sinfle family, etc.) to establish the claimed negative correlation." (Gilderbloom, 1978). For example: mobile parks make up only a small proportion of the total property tax base in the Reno area. More important here is that moderate rent control does not necessarily reduce rents below the market, but merely brings them in line with rent in non-controlled cities. Please keep in mind that we are again talking only about mobile homes and the need for regulation exists because they have been subject to erratic and extreme increases. In the Truckee Meadows area for instance rent increases for mobile home lots have increased by about 58% during a period of time when the CPI was rising 9% (from Jan. 1, 1978 to present)

EXHIBIT B

No empirical evidence supports that claim; even studies examining the restrictive controls of New York have been unable to prove a causal relationship between controls and abandonment. For example a nationwide study of abandonment ranked New York fifth, behind four non-controlled cities (St. Louis, Cleveland, Chicago and Hoboken).

Studies aside, this is certainly not a problem in our area. To some extent the reverse is true here--we are seeing evidence that some tenants are being forced to abandon their older, small mobile homes because of landlord attempts to force tenants to "upgrade" their (the landlords) property. A classic example locally concerns the . The park has been inhabited almost entirely by those on fixed and low incomes. Recently it changed hands and the realtor who bought it ordered the tenants to "upgrade" things. The cost of bringing the homes up to standards demanded by the new landlord were prohibitive and a number of tenants were evicted or forced out. No other park in the area would take them, they couldn't sell the coaches and ultimately were/forced to abandon their extremely modest homes so the owner's efforts at "upgrading" could permit him to charge more for his lots. This took place in a park which more resembles a junk yard than a mobile park--a foul odor permeates the area, coming we presume from an open improperly cared for cesspool sewer system; there are no paved roads--actually all "streets" are full of large chuck holes. It is very undesirable and unhealthy for those who live in the "park", including children.

EXHIBIT B

This is a serious charge, particularly in an area already hard pressed to provide adequate, affordable housing. Again I shouldlike to remind you that we are dealing with an ordinance which affects only mobile parks and we have already exhausted about all the available land zoned for mobiles in Reno. For all intents and purposes mobile park construction is already at a standstill. But let's look at the two studies upon which most reports attempt to support this claim: Sternlieb, 1974-75 and the Urban Land Institute, 1976. We submit that deficiencies in data gathering and analysis puts into question the validity of other studies which have used their work.

Sternlieb reported that 74% and 68% of the bankers interviewed in Boston and Fort Lee indicated rent control "influenced" loan activity. However, the questions asked were ambiguous in that "influences" means different things to different people: some may be lending but only on certain terms,(higher interest, shorter loan terms) consideration can depend on the kind of rent control (repressive? moderate?); some lending institutions may not lend for capital improvements but will lend for mortgages; still other factors enter into the decision---availability and cost of land, etc. and in this area we must also contend with available sewer capacity and zoning along with the Regional Plan.. Such claims can be self prophesizing--will lending institutions simply refuse to make loans to prove their point? We hope not and do not think this would happen, after all, they are in the business of making money and that is best accomplished by making loans. The validity of the banker's statements might have been verified by examining permits issued for new multi-family construction.

Another failing of the mentioned studies is that they did not match construction in non-controlled studies during the same time. For example: How does one explain the 90 to 100% drop in construction in such non-controlled cities in New Jersey as Trenton, Camden and Vineland; and in such California cities as Anaheim, Torrance

EXHIBIT B

Emeryville, San Bruno, San Mateo, Palo Alto? Then too, how do they explain the doubling of construction in rent controlled cities of Jersey City, Bayonne City, Edison Township, Dumont Borough, Linden City and Springfield during the same period?? The attached charts show there is no strong relationship between construction and rent control. Gilderbloom, 1978 says: "An examination of multi-family residential construction in 63 New Jersey cities---26 rent controlled and 37 non-rent controlled--found no empirical evidence that rent control causes a decline in construction".

Additional information and statistics are available to support our contention should you wish to review them. It is important to keep in mind that the guarantee of a "reasonable rate of return", which is called for in the ordinance under consideration is crucial to a builder's decision to stay and build in rent controlled areas; it is also a consideration of those who lend money for such projects.

LOCATIONAL DISTRIBUTION OF RESIDENTIAL BUILDING PERMITS, BY TYPE
(THESE PERMITS INCLUDED CONDOMINIUMS)

County		1972 Number Total	1972 Number Apt.	1972 Percent Total	1972 Percent Apt.	1976 Number Total	1976 Number Apt.	1976 Percent Total	1976 Percent Apt.	Change 1972-1976 % of Construction in Rent-controlled Communities Total	Change 1972-1976 % of Construction in Rent-controlled Communities Apt.
Bergen	rc	3268	2862	72.6	94.3	892	548	50.8	92.6	-21.8	-1.7
	nrc	1236	174	27.4	5.7	863	44	49.2	7.4		
Camden	rc	2159	900	46.0	36.6	706	158	30.0	23.0	-16.0	-16.6
	nrc	2538	1557	54.0	63.4	1644	529	70.0	77.0		
Passaic	rc	709	468	51.9	72.0	405	134	58.6	90.5	+ 6.7	+18.5
	nrc	658	182	48.1	28.0	286	14	41.4	9.5		
Union	rc	883	355	51.7	59.2	519	316	74.9	100.0	+23.2	+41.8
	nrc	824	245	48.3	40.8	174	-0-	25.1	-0-		
Essex	rc	2068	1566	89.9	99.6	1022	824	67.8	68.5	-22.1	-31.1
	nrc	233	7	10.1	0.4	486	379	32.2	31.5		
Hudson	rc	1973	1535	89.4	94.4	531	349	48.6	66.2	-40.8	-28.2
	nrc	235	91	10.6	5.6	561	178	51.4	33.8		
Middlesex	rc	3238	1991	68.8	75.2	2590	1503	86.3	97.4	+17.5	+22.2
	nrc	1468	658	31.2	24.8	412	40	13.7	2.6		
Total	rc	14298	9677	66.5	76.9	6665	3832	60.1	76.4	- 6.4	- 0.5
	nrc	7192	2914	33.5	23.1	4426	1184	39.9	23.6		

Source: New Jersey Department of Labor and Industry, Division of Planning and Research; U.S. Department of Commerce, Construction Reports.

From: Gruen & Gruen (1977)

EXHIBIT B

TABLE II

Residential Construction in Selected Counties: Number of Permits Issued -- Includes Condominiums and Insured

	1972		1975		1976	
County	Total	Apt.[1]	Total	Apt.[1]	Total	Apt.*
Bergen	4504	3036	1408	455	1755	592
Camden	4697	2457	1886	188	2350	637
Passaic	1367	650	579	246	691	148
Union	1707	600	448	133	693	316
Essex	2301	1573	1148	878	1508	1203
Hudson	2208	1626	990	671	1092	527
Middlesex	4706	2649	2147	968	3002	1543

Residential Construction in Selected Counties: Percent of State Construction (Permits Issued) - Includes Condominiums and Insured

	1972		1975		1976		Change from 72-76 Percentage Change in Rent Control Counties
County	Total	Apt.*	Total	Apt.*	Total	Apt.*	
Bergen*	6.9	10.0	6.1	8.2	5.8	8.0	-02.0%
Camden*	7.2	8.1	8.1	3.4	7.8	9.3	+01.2%
Passaic*	2.1	2.1	2.5	4.5	2.3	2.0	-00.1%
Union	2.6	2.0	1.9	2.4	2.3	4.3	+02.3%
Essex	3.5	5.2	4.9	15.9	5.0	16.2	+11.0%
Hudson*	3.4	5.4	4.3	12.1	3.6	7.1	+01.7%
Middlesex	7.2	8.7	9.2	17.5	9.9	20.8	+12.1%
Total		5.92		9.14		9.67	+ 3.75

[1] Apartment category includes structures with 5 or more dwelling units.

Sources: New Jersey Department of Labor and Industry, Division of Planning and Research; U. S. Department of Commerce, Construction Reports.

From: Gruen and Gruen (1977).

EXHIBIT B

URBAN SUBURBAN
NON-PUBLIC, MULTI-UNIT FAMILY RESIDENTIAL
CONSTRUCTION TOTALS AND % CHANGE

Urban Suburban	1970-72	1973-75	Number Change	% Change from Col. 1 to Col. 2
Rent Control				
Fair Lawn Boro.	0	0	0	0.0
Elmwood Park	0	0	0	0.0
Dumont Boro.	0	36	+ 36	----
Cliffside Park Boro.	821	1,390	+569	+ 69.3
Palisades Park Boro.	36	0	- 36	-100.0
Verona	0	336	+336	----
Highland Park Boro.	200	100	-100	- 50.0
Roselle Twp.	80	0	- 80	-100.0
Total	1,137	1,862	+725	+ 63.8
Non-Rent Control				
Collinswood Boro.	6	35	+ 29	+483.3
Haddonfield Boro.	0	135	+135	----
Montclair	7	93	+ 86	+122.9
Kearny Town	101	6	- 95	- 94.1
Carteret Boro.	36	0	- 36	-100.0
Hawthorne Boro.	306	9	-297	- 97.1
Phillipsburg Town	229	0	-229	-100.0
Roselle Park Boro.	122	28	- 94	- 77.0
Saddle Brook Twp.	58	0	- 58	-100.0
Hillside	0	0	0	0.0
Pennsauken Twp.	0	0	0	0.0
Total	865	306	-559	- 64.6

Source: State of New Jersey Department of Labor and Industry, Division of Planning and Research

EXHIBIT B

That connotes that non-controlled cities (like Reno?) do discriminate intelligently! They tell us tenants benefit regardless of need--we tell them that under existing conditions landlords benefit regardless of need. If our efforts at rent justification are successful they certainly will not result in any calamitous shift of wealth from landlords to tenants but it might permit those on low, fixed, moderate and, yes, even median income families, to survive the rent crisis in this community. A crisis which is driving people from our area because they cannot stretch their incomes to meet the soaring cost of surviving in the community---the cost of living, due in large part to exorbitant housing costs, is now among the highest in the nation. Has anyone stopped to consider that the commitment of a disproportionate share of one's income to housing affects the economic health of the entire community? Some examples: Who will realtors sell homes to when young couples trying to raise a family (traditionally the major source of real estate home sales) commit so much of their present earning capacity to paying rent that it is unlikely, if the present costs continue, they will ever be able to buy a home? What happens when people cannot afford food, doctor or dentist visits? postpone purchases of needed clothing? buy less gas? go out to dinner less often? are unable to accumulate enough money to buy the cars and furniture they need?? What happens is that they drastically cut down on or do without these things. Everyone is stung, all in the name of "getting all the market will bear". A look at the realities of the housing situation in Reno makes it clear that it is becoming impossible for the vast majority of working men and women to find housing which takes only 25% of even combined incomes: When payments on a mobile home are $250 a month; space rent $200 and taxes, insurance and utilities easily exceeding $50 a month, one can readily see that we are talking about $500 a month for supposedly low-cost housing. What percentage of workers in this area earn $24,000 a year? The emergency impacts most negatively on those who have modest, fixed incomes, but none of us are left unscathed.

Note: It is also possible to exclude "luxury" units from controls so that relief is given to those who need it (as opposed to those affluent enough to pay any amount of rent).

"CONTROLS ARE IMPOSSIBLE TO MODIFY OR REPEAL---"

That is a statement appropriate only to repressive controls which do not specify a termination date. Our suggested ordinance does. Controls would cease to exist when the mobile home lot vacancy rate reaches a normal 5%.

We readily admit that to achieve that vacancy factor it is probably going to be necessary for the City to zone some lands for mobile parks. It would also help a great deal if we had an ordinance which would prohibit dealers from tieing up almost/every space as it becomes vacant thereby making the lot unavailable on an individual basis. Such a practice promotes the sale of new coaches but makes the rental of such lot contingent upon purchase of that particular dealer's coach, at his price. It also causes the buyer to assume the cost of renting and tieing up that space in the cost of a new home---that amounts to paying rent for a time during which the tenant had no access to the space, a practice we maintain is illegal, but nonetheless, widespread.

The sooner we stop profiteering and ridiculous speculating (a practice which affords many landlords considerable tax savings when they write off the full amount of depreciation in just a few years, then resell the park to begin the cycle with a new landlord taking advantage of the same tax breaks all over again), the sooner we can realize a return to a normal rental market.

We agree that controls <u>should be</u> dropped as soon as it is feasible.

It is important to realize that the statistics which are cited by opponents of rent control do not deal with mobile home rental sites. For that reason their arguments, and even ours, are moot---they simply have little or nothing to do with rent control (more specifically, rent justification) in mobile parks. We feel compelled to respond to their claims, even though they are often based on selective, non-representative data. OK?

The data contained in this package deals with the Reno-Sparks-Verdi area, similar stats are available from the Mobile Owners League of the Silver State in Las Vegas.

New York City is most often cited as the prime example of rent control failure, but it is important to keep in mind that even we admit as much because of two reasons: (1) they are of a very restrictive nature; and (2) have been around entirely too long (30 plus years). We seek neither. What we ask is for moderate, temporary controls to assist through emergency times. Even opponents cannot deny that the elements which comprise "emergency conditions" exist: exorbitant rent increases and a/critical shortage of mobile home rental spaces.

Attached you will find copies of testimony given to the Reno City Council and some other materials which cover most of the legitimate questions dealing with rent controls.

United Mobile Tenants Association

by: Barbara Bennett

EXHIBIT B

Barbara Bennett

August, 1978

IN DEFENSE OF RENT JUSTIFICATION

Since the First World War many rent control statutes have been enacted to meet temporary shortages. We suppose the success or failure of such statutes depends largely on whether one is a tenant or a landlord or realtor! Such statutes have almost always been enacted to prevent rent gouging during emergency conditions. That is precisely the reason we cite in declaring a need for legislation which will provide a short-term solution to a temporary housing crunch in the mobile home field. At least, we are being told that it is a temporary problem. One year, perhaps two; depending on our ability to cope with the vacancy rate. HUD defines a <u>critically</u> low vacancy rate as 3% and that explains why we request a 5% vacancy rate as the point at which rent justification ordinances would self destruct. It seems true that housing needs (and this is especially true when it comes to developing additional mobile home spaces) do not especially influence developers---witness the continued building in this area of 70 or 80,000dollar homes when the demand is for affordable housing. They are either unwilling or unable to develop those units for which there is the greatest demand. This eventuality further exacerbates an already critical situation.

In the ordinance which we submitted to the Reno City Council for consideration we attempted to deal with what we believe to be the legitimate concerns of rent control legislation. For example: we have the means (pass through mechanisms) for protecting the landlord's investment. The ordinance imposes no specific limitations on reasonable and necessary operating expenses; it deals with inflationary increases; it considers the right of the mobile park owner to receive a fair and reasonable profit and it suggests a time for termination of the ordinance. As a matter of fact, it contains a built-in fairness which has not been forthcoming from landlords in their dealings with tenants.

Those opposed to any kind of rent controls harp on "disinvestment" (a term used to indicate the outflow of investment capital from the rental housing market through reduced maintenance and repair on dwelling units). Unfortunately tenant groups lack the national networks and the financial resources of those who oppose controls (realtors, contractors, landlords, etc.) and materials supporting controls are difficult to locate, but occasionally even an essentially negative document can and does support one or more of our contentions. From the Catholic University Law Review, Spring 1978, Vol. 27:609-- "Prior to the 1970's disinvestment, was well as the failure of the market to attract additional investment capital was not serious becuase rent control was imposed only in response to temporary emergency conditions which caused a shortage of rental housing, an increase in rent costs, or both. Since these conditions were <u>temporary</u> rent control and resulting investing problems were temporary." Those remarks might have been written in response to local situations. Maintenance and repairs are not a significant expense in mobile home parks because the tenant is responsible for most of the upkeep. That responsibility has the weight of law behind it: all park rules include such a requirement and failure to abide by park rules is cause for eviction. It is also true that many landlords currently put very limited amounts of their rent dollars back into repairs. We have received countless complaints from tenants who have substantial proof that they live with the problems of inadequate water pressure and sewer systems--some of tha latter so serious that their homes have been befouled with backed up sewage--, unsafe and inadequate electrical systems; roads in a perpetual state of disrepair and violations of fire codes which endanger their safety. We do not see rent controls impacting in a <u>more</u> negative manner!

We believe rent control (especially the much less sever alternative of rent justification) can also be defended on the ground that temporary dislocation of supply and demand in the rental market has created an emergency. The Supreme Court has ruled that rent controls are justified when the demand for rental housing exceeds the supply. It is also interesting to note that in Apartment and Office Bldg. Assn. v Washington, D.C., 1977, the District Court of Appeals

asserted that "rent controls are a valid means of dealing with the housing shortage."

UNITED MOBILE TENANTS ASSOCIATION

By: Barbara Bennett

EXHIBIT B

Barbara Bennett

Reno City Council testimony on behalf of United Mobile Tenants Association August 28, 1978.

It is regrettable that we must discuss what is essentially a humanitarian problem in terms of dollars and cents, but we seem to have reached the point where that is the prevailing language in this community.

My major purpose for being here is to provide you with some facts and figures about what the crippling rent increases in the Reno mobile home parks are doing to people-- especially those on low to moderate fixed incomes and salaries. A recent survey in one of the largest mobile parks in Reno showed that 62.5% live on fixed incomes. Better than half, 51% of these, have incomes under $7500 a year and 21% of them have incomes under $5000.!

I can remember a couple members of this Council saying in the past that mobile homes are the answer to the problems of low-cost housing in this area, it is not. If you doubt that check and see what parks are charging!

It is true that the state, with it's 100 million plus surplus does offer some modest--very modest--relief to seniors over 62 whose income does not exceed $11,000 a year. In view of the latest national figures setting median income at $16,000 a year, that seems a reasonable upper limit on low-moderate income. But the amount of the state refund is based on(and I am quoting from the state law,) "That portion of the rent which is deemed to constitute accrued property tax." Example: [redacted] age owner, Mr. [redacted] pays $18,880.56 in property taxes on that parcel of land, The same [redacted], who also owns the [redacted] but still imposes the second, inflationary and unjustifiable increase in ten months upon his tenants, has 211 spaces in that park. That means he pays approximately $89.48 taxes per year on each of those spaces. With the latest increase bringing the cost of a double wide space to $195, each of those tenants will pay him $2340 rent in a year--that is unless he decides he can bleed us still further--. A senior citizen on a fixed income of $5000 is entitled toa refund of 50% of the landlord's $89.48 taxes on that particular space, or $44.74. That amounts to two-tenths of one percent and is why I call t the refund modest. ($2340. minus 44.74=$2295.26 and $44.74 divided by $2340 = .02) The end result is that one on a fixed income of $5000 commits a debilitating 45.9% of their income <u>just</u> to the payment of space rent. The picture becomes even more glum if you consider that many are also making payments on their homes! But <u>all</u> must <u>also</u> pay utilities, insurance and personal property taxes on their coach. Perhaps now you can see what a dangerous proportion of their income people are paying just to keep that "low-cost housing" roof over their head,

This tragedy does not confine itself to Northgate. Tenants from other parks: Rolling Wheels, Coachmen, Fairview Manor, Glen Medows, to name a few, find themselves in similar, tragic circumstances. Believe me, 50% of income paid just for a mobile space is <u>not</u> an uncommon figure.

2.

Please do not tell me "the same thing is going on all over the country, unless you are prepared to compare us with communities which have similar wage scales--- not average per capita income, but wages. The mess we are caughttup in not only impacts harmfully on rent paying tenants, it has an equally damaging impact on home-owners and small business people---inflation damages all and with housing costs a major contributing factor to inflation, rent gouging seriously affects the entire community.

I am distressed to learn that this Council has joined in a Nevada League of Cities effort to increase taxes for the mobile home residents. Never let it be said that we are unwilling to bear our fair share of the tax burden, but you have heard only one side of the story. Let me tell you the other. A few minutes ago I said _____ taxes amount to approximately $89.48 per space in Northgate. The average personal property tax paid by a tenant on that same space is $122.21. Furthermore, _____ doesnot pay that amount out of his profits at the end of the year! We pay it for him in the form of monthly rental payments. In addition to those two taxes when one purchases a mobile home: let's say for $20,000 (that is not an exceptional figure in today's market) one pays $700 in sales tax. Another point to keep in mind is that in talking about mobile homes we are talking about a depreciating (5/3/79 not true presently) home while a conventional home appreciates in value. Another point which must be kept in mind is that few--correction, veryfew parks accept children so we are talking essentially about a segment of the population who have already owned conventional homes, paid their share of taxes on them and no longer have children.. What I am saying is that we do not contribute significantly to the most costly of all services--education.

I am not relating the horror stories of people who have had to be supported by the government during their lifetimes-- I'm talking about hard working, contributing members of society. People, who, at the end of their financially productive years are being told that if they cannot afford the going rates here: MOVE OUT! Where do they go? And what about those who have been brought here to work in low paying jobs and find themselves unable to cope with the cost of living? Do you want them to move out too? I will tell you one thing, we are not going to sit idly by and be run out of town by greedy landlords intent upon playing the Scrooge role to the hilt.

Now we are hearing much talk about equalizing the tax burden and I'm all for that, but let's find out first why so many prosperous businesses and landlords have not had their property reassessed since 1973. Ask the Assessor's office to comply with the law requiring him to diligently examine all real and personal property yearly. His office has no problem getting around to reassessing, annually, conventional homes(particularly those of low amd moderat cost)each year. Perhaps, if something must be skipped, it can be the home-owners--that should leave him time to concentrate on updating those long neglected properties.

I think it should be obvious to everyone in this room that the private sector--except in a few cases where landlords have proven that they do care about people--the private sector has been remarkably ineffective in getting their gouging cohorts to restrain their greedy instincts. That failure forces us to come here today and insist that local goverment entities-- and I include the

City of Sparks and the Washoe County Commission along with the City of Reno-- to take immediate action to roll-back rents and come up with a rent stabilization program!! Emergency measures are needed and we expect you to act promptly. I have no doubt that if you direct the same remarkable level of energy displayed in assisting the runaway economic expansion in the area, to solving <u>our</u> problems, we will have speedy solutions.

EXHIBIT B

Barbara Bennett

(note: We were unable to give this testimony (all of it) because the mayor controlled the format & we would have been out of order if we refused to stay within the boundaries.)

Mr. Mayor and Councilmen:

Six months have passed since we first appeared asking for a rent justification ordinance to halt widespread gouging in mobile home parks. At that time, your endorsement of the concept on a 5 to 1 vote indicated to us that you understood the seriousness of the problems with which we are faced. Since then we have been to court and been told that the judiciary cannot render an advisory opinion; in effect they have told us that they cannot act until there is something to act on: namely, an ordinance. Our attorney has discussed this matter with Mr. Van Wagoner and Mr. Test and stated that this ordinance can be acted upon without jeopardizing the City.

Survey 7
Count 6 1/2

I wish I could report that things have improved, that we no longer need your help, but I cannot. Rent hikes in numerous parks have now exceeded 100% in a year or less. Overall, they are running about 9 times the increase in the Consumer Price Indix for the same period of time. We have stopped talking about "average rents" because some landlords have latched onto that as an excuse for imposing yet another increase on the basis that "this is to bring us in line with what other parks in the area are charging". We still see little indication of any relationship between rent increases and the landlord's actual increased costs of operation.

We see no end in sight unless you are willing to act by giving more meaningful and practical support to that earlier endorsement by passing this ordinance. Over 7000 people in Reno live in mobile homes and their rent payments alone pour over 6 million dollars back into the economy of this city. We do not believe that entitles us to any preferential treatment, but we do believe that you have a responsibility to act in our best interests rather than in the interest of a select opposition group who don't give a hoot about what's right or fair so long as they are permitted to go right on charging all the market will bear. We acknowledge everyone has a right to lobby their elected representatives over issues which concern them, no matter how selfish their interest; but while they fret over maximizing profits we worry about our economic survival and we think it would be nice if those who hide behind such innocuous, misleading titles as "Nevada Environmental Action Trust" and the "Coalition for Fair Housing" would identify themselves. Who are they? Are they the Board of Realtors? The Chamber? Contractors? Are they landlords who will turn around and increase our rents so that we are actually paying for what we hear is a $1000 assessment each, to fight against our best interests? They [redacted] attack moderate rent justification measures with the same fervor with which they attack efforts for repressive controls. They cite highly selective, non-representative data to back up claims which they repeat in every city across the nation where citizens are pushed into a corner and forced to finally seek help from governmental entities like this council. These so-called environmentalists and fair housing advocates are not the least bit reluctant to indulge in any tactic which will help them get their own way. For instance on a local level they have publicly said that tenants are thieves conspiring to steal from the poor landlord! That would be laughable, if it weren't so tragic. We submit that they are half right---there is thievery going on, but we are the victims, not the perpetrators.

From day one, we have recognized a landlord's right to a fair and reasonable profit, that simply is not enough for too many of them, and we charge that their selfish concerns are doing a great disservice to the entire community. It is not only the tenants who pay the price for their greed--we are all the poorer for the experience: the young family; the elderly on fixed incomes and even the so-called middle class who have now reached the point where even they cannot afford housing costs in this community. And what about other segments of the business community? We wonder if they are content to let landlords go on cornering such a disproportionate share of our income that we can no longer afford their services or products? Many residents have already gone broke and been forced from the city because they could not stretch budgets far enough to contend with a cost of living which is among the highest in the nation---mainly thanks to housing. What can they give up after they've done

without that new pair of shoes for the kids? a needed doctor or dentist visit? Decided they can't afford that new or used car they need? Or indefinitely delayed the purchase of furniture? Maybe some of them only get haircuts less often or have to give up an occasional dinner: while still others may have to make further cuts in already meager diets? Seniors in their late sixties and seventies are being forced back into low paying jobs to survive. Husbands and wives are both working and still can't make it.---What do we do now?? Send the kids to work: well, it seems that unless employers are willing to solve the problem by providing a salary level of 25 or$30,00--- in keeping with the ridiculous housing costs in this area; that they too ought to be joining with us in our efforts to bring things under control.

We must say now, as we have said before, that there are some good and reasonable landlords out there and at times like these we really appreciate them and would like to say that they need have no fear of a moderate rent justification ordinance; the very aim of moderate controls is to halt rent gouging and to avoid the problems traditionally associated with restrictive controls such as: declines in rates of construction (contributing factors, outside rent justification will have a far greater impact on continued construction in this area) nor are levels of maintenance going to be affected. This type of control is the kind which courts around the country have ruled must be enacted to guarantee due process and fairness to property owners.

It is the responsibility of this council to protect our health and welfare, especially during emergency conditions; normally we wouldn't need your help, but there is nothing normal about the situation in which we are caught up. We know that that you are capable of providing solutions when you want to do so---witness the sewer situation : you responded to that emergency by expanding the capacity of a plant which had none; cesspools have been approved, you've dealt with private sewer plants so building could continue. Our predicament is no less critical and deserving of that same considerate attention in solving a grossly unfair mobile home rental emergency.

Have you requested enabling legislation from legislature?

EXHIBIT B

November 13, 1978

Testimony before the Reno City Council: re Rent Justification

Because there are other concerned citizens who may wish to testify about the need for rent controls, my remarks shall be brief.

Since first appealing for rent stabilization before this Council on August 28th, the only change has been that the need has become even more urgent. Rent increases are being imposed at a destructive rate and with ever greater frequency---in many instances 2 increases in 6 months, in others, 3 or 4 in a year. One owner when asked "Why?" by his tenants, quite candidly answered: "Because everyone else is doing it." A rotten reason for another rent increase, but an honest answer.

It is difficult to discuss the pros and cons of rent control legislation with those who are unaffected by the rent gouging going on in this community. What we really should be talking about anyway is what is happening to people as a result of that gouging. I must tell you that it is downright repugnant to have to justify the very real need for relief to anyone who profits from the existing conditions. That comment is not necessarily directed to members of this Council, but I must say that we have been confronted with the question of whether or not some members of local governing bodies are indulging in the speculation which is contributing so greatly to tenant problems. We <u>can</u> say, with great conviction, that people, especially our elder citizens and those in low-paying jobs (and there are thousands of them) should not have to chose between paying their rent and a needed visit to a doctor; nor should they have to chose between paying the rent and putting food on the table. They should also not have to commit 50% or more of their income to a landlord or landlord/investor whose most earth-shaking decision will be where to invest the exorbitant rent moneys he collects in order to get a maximaum return on his investment.

It is widely accepted that emergency conditions do exist when there is a shortage of units--especially affordable units--or, when there is a rent gouging. There is ample evidence that both those conditions are a fact of life in this area. And so, we again ask that you move quickly to afford the relief that is so desperately needed.

United Mobile Tenants Association

by: Barbara Bennett

EXHIBIT B

Barbara Bennett

UNITED MOBILE TENANTS ASSOCIATION

The attached survey represents a cross section of mobile parks in the Reno, Sparks, Verdi area. We have included large and small parks; those that are adult only and those that allow children; those with all amenities, those with none and those with some; there are new parks and old parks. A complete survey is impossible for us to perform as we are not welcome in all parks and most prohibit soliciting. There are parks where the ownership has remained stable over many years, others that have recently changed hands.

We do not submit average rents because that would be akin to comparing beans and caviar! A park with unpaved roads, no amenities and an unkempt atmosphere might rent for $60 while another with some amenities would rent for $150. Can we then say that the average rent is $105? If we did, the owner of the park with rates at $60 would likely raise his rent to that "average", but we know the other owner is not going to reduce his rent to that "average"(nor should he). "Average rents" tells us nothing, the percent increase a park imposes upon tenants in a certain period of time does and we have something to compare to---other parks, as well as the CPI.

In the Truckee Meadows area there are 10,138 mobile homes; 64 parks which rent spaces; 5073 rental spaces so 50% of mobile home dwellers live on rented spaces.

The attached survey will show that rents from January 1, 1978 to the present have increased an average of 58% while the CPI for the same period of time was 9% higher; or: rents increased approximately 6½ times faster than the CPI. The 24 parks represent 54% of the rental parks spaces in the area and we do not believe the figure would change significantly if this were a 100% sample. The 3 parks with the smallest increase (18%) were twice that of the increase in the CPI; the largest increase was 9 times higher.

EXHIBIT B

Park Name	# Spaces	% Increase, Jan 78 to present	Comments
Airway	36	75	no amenities, no major imprvs.
C-Mor	72	100	" " " "
Coachman	50	50	" "
Crystal Park	31	54	" "
Covered Wagon	75	75	" "
Fairview Manor	92	91	sm. laundry room, "
Four Seasons	20*	25	tiny spaces
Glen Meadows	239	94	has all amenities, "
Hellman's	44	42	no amenities "
La Rambla	50	68	" "
Lucky Lane	300**	68	clubhouse, lndry, no pool
Mobil Aire	42	62	no amenities , no improvements
Oasis	80	61	
Paso Tiempto	24	29	no amenities "
Reno Cascade	245	30	all amenities
Reno Sahara	25	108	a "junk yard"
Rolling Wheel	70	73	no amenities
Northgate	211	48	all amenities, no improvements
Woodland	20	23	no amenities "
Sierra Shadows	298	41	family park, clubhouse, playgrnd
Thunderbird	169	18	clubhouse, pool closed as a rule
Sun Valley	32	18	no amenities, no improvements
Skyline	307	58	family park, clubhouse, playgrnd
Travelier-Posy	250	56	no amenities, but well kept
	2782	58% avg. increase	

* permanent spaces in an RV park

** transitional, count uncertain

Study covers slightly more than 50% of the total spaces in the Reno-Sparks-Verdi area. In each community we have included large and small parks, new and old parks, those which have changed hands and those which have not.

Section 1. Chapter 118 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

(Section 2. - 1. Please delete the entire sub-section.)

Add: Section 2. If the governing body of the city or the county determines there is 5 percent or less vacancies of mobile home lots in mobile home parks in the city or county it shall be the authority of the governing body to establish an ordnance and determine the provisions and procedures of the ordnance to accomplish itds purpose.

(Section 2 - 2. Please delete the entire sub-section.)

Add: Section 2 - 1. Board for Rent Review.

(a) The governing board shall appoint a 7 member board for rent review. The board for rent review shall be comprised of; 2 members from the mobile home owners in rental parks, 2 rental mobile home park owners and 3 members not associated with the mobile home industry in any way. The members of the board of rent review shall serve at the pleasure of the governing body and are not entitled to receive any salary for their work. The governing body shall provide for it's organization.

(b) The board for rent review shall have jurisdiction of all rent increases or other charges and shall approve, adjust or deny such increases. The board of rent review may recommend changes to the governing body in any applicable ordnances or in the procedures of the board for rent review.

(Section 2. - 3. Please delete the entire sub-section, to include (a), (b), (c), (d) and (e).)

Add: Section 2 - 2. Emergency rulings. The emergency ordnance shall establish emergency Rulings pursuant to resolving the problems resulting from the 5 percent vacancies of mobile home lots in mobile home parks. The rulings may deal with problems not included in the NRS chapter 118. The rulings shall provide:

(a) Equality to both the tenant and the landlord,

(b) Maximum use of available mobile home lots in mobile home parks,

(c) Development of future mobile home parks based on the requirements of the community.

(Section 2 - 4. Please delete the entire sub-section.)

Add: Section 2 - 3. The governing body of the city or county shall have individual jurisdiction and shall provide for the enforcement of section 2, sub-section 1 and 2 of this chapter.

ADD: Section 2 - 4. The emergency ordnance shall remain valid until the mobile home lot vacancies are determined to be 5 percent and is consistent for 6 months.

EXHIBIT B

Sections 2 — In it's present form this provides only the enabling authority to "recommend a settlement through the means of an advisory opinion. It also only says that local governments "may" provide for rent review boards: it does not compel them to act nor does it require landlords to accept the board's "recommendation". It is not the kind of legislative help we requested. We do not know who submitted this portion of the bill in it's present form. Mark Handelsman would like to testify on recommended amendments to this section. (illegible)

Section 3 — No change. Reason for request: We feel it is "unconscionable"for an owner to use the availability of certain amenities to attract tenants to a park and have a rental agreement read: "--nothing in this agreement mandates the responsibility of the owner to provide same." We also feel it is "unconscionable" to make promises in a rental agreement which he can later renege on because he included the following phrase: "The attached rules and regulations and any changes or modifications that may be formulated in the future by the owner--- are herein part of the rental agreement". By merely incorporating into the new rules and regulations any change the owner wants he can thereby remove any benefit or promise made in the rental agreement. (A sample copy of a rather standard rental agreement is attached.)

Section 4 — No amendments. Requested because we have received numerous complaints of trespass which tenants view as harassment. We believe the landlord should have the right of access, but that it should not be abused.

Section 5, through Section 7 — This testimony will be given during the hearings in Las Vegas. (The need for legislation to deal with this is more acute in that area than here in the north and we do not want to waste your time hearing the same testimony twice.)

Section 8 — No amendments. NRS 118.241 to 118.320 deal with:Rental agreements; required and void provisions; Posting of NRS; disclosing name and address or managers and owners; deposits; landlord responsibility; rules and regulations; prohibited charges and practices by landlord; right of landlord upon sale; termination of rental agreement and grounds for termination; retaliatory conduct prohibited by landlord; and, alternative remedies when tenant's home made unfit for occupancy. Remedies for unlawful termination of rental agreement by landlord. Present penalties are barely more than a slap on the wrist, and as a result we

EXHIBIT B

see no evidence that present penalties are sufficient to deter the practice of illegal charges or unlawful evictions.

Section 8 continued — Very few owners have provided their tenants with copies of the law as they are now required to do. Some tenants still do not know who owns their park nor do they have addresses. Where deposits are concerned some tenants have been told at the time a "deposit" is paid that they "will only get some of it back--" In those cases a "deposit" is really an illegal fee, but few will argue or complain if that landlord has the only space in town. We have had a complaint that one couple lost 4 sales of their home because the landlord simply refused to approve the buyers (one was lost because he said he "would not tolerate two women living together in his park"; we don't know what his attitude would have been concerning two men living together.) We have tenants who have been harassed and intimidated, some to the point where they could no longer take it and were forced out. If a landlord has used illegal means to terminate a tenancy it is little consolation to the tenant to be able to collect 6 months rent (present law) if he or she could find no place which would take their coach and so had to sell a $20,000 home for $10,000---assuming they can find a buyer and afford to file legal action, in which case, they would have to wait months before the case could be heard in court. If one can prove they have lost $10,000 through a landlord's illegal actions they should be able to recover that amount---not 6 months rent, or $1200 (Example)

Section 9 — No amendments. To make the penalty for illegal fees stiff enough to halt practice.

Section 10 — Merely adds age and marital status to other prohibitions on discrimination. Some parks which are presently "family" parks are no longer renting to those who have children. The marital status deals with things like the sale I've already mentioned to two women. We are seeing more and more "doubling-up" to save on housing costs.

Section 11 — Doesn't deal with mobile homes.

Section 12 — NRS 118.100 Subsection 1 through subsection add "or mobile home lot" after "Dwelling" in each section.

Section 13 — Merely includes mobile home lot tenants in the provisions concerning guide dogs.

Section 14 — We asked that other damages be added because discrimination often involves losses that are not economic (all that is allowed under present law).

Section 15 — Amend AB 525 and present law (NRS 118.230) by adding definition for vacancy. Vacancy means a mobile home lot in a mobile home park which is available on an individual basis to a tenant who will reside, physically, on said lot.

EXHIBIT B

Section 16 Amend AB 525 and NRS 118.241 to read: A written rental agreement or lease shall be executed between the landlord and tenant at the time of initial occupancy of any mobile home lot. etc.

Section 17 and 18 To bring new sections into conformance.

Section 19 NRS 118.249, subsection 3. We requested this addition to the law to compel landlords to inform their tenants of why moneys from a deposit are being withheld and because there is rarely a reason for a deposit on a mobile home lot. Often the "deposit" is charged when there is nothing but dirt and sagebrush on a lot. Until mobile home tenants began to be hit with exorbitant rent increases they were an extremely stable population. A park with 200 spaces, charging a deposit of $100 each would put $1000. (at 5%) interest in the landlord's pocket in just the first year. If he feels safer charging a deposit, when the money is returned it should include whatever interest it has earned during the years it was in his bank. Until the mobile lot crunch and run-a-way rent increases we almost never heard of deposits. A mobile lot is not like an apartment where great damage can be done, a mobile park owner rarely suffers any damage to a lot.

Section 20 NRS 118.251, subsection 2---We have asked removal of "except that repeated damage from misuse or vandalism is grounds for suspension of maintenance or repair of a facility or appliance." This section of the law provides an excuse for leaving a sauna or a swimming pool, etc inoperable by charging, whether true or not, that they are not going to maintain or repair a facility which has been promised to a tenant and may have been a strong consideration in the tenant renting in that particular park. Then too, if there is misuse or vandalism the landlord has the means at his disposal for dealing with the problem without punishing all the residents in a park. It really has provided owners with a "catch-all" that permits them to unfairly eliminate a promised amenity.

Section 21 NRS 118.260 Section 1---among the changes we requested was one that would

EXHIBIT B

Section 21 continued

read: " The landlord may adopt rules and regulations which are not in conflict with other sections of this chapter concerning----" the reason we made that request was to make it impossible to write and frequently change rules and regulations which erode promises in a rental agreement. Perhaps our request is superfluous: is it unnecessary to say this can't be done?

subsection 2 (c) we asked for the addition of "Adopted in good faith and not for the purpose of evading any obligation of the landlord arising under the law or any prior conduct or activity which the landlord or his authorized agent had approved; and--- Instances: landlord gives approval for the planting of a tree, then orders it dug up; permission to put down a certain kind of rock or bark then changes his mind and orders it removed; or, says there will be no rock or bark, then orders a garden ~~replaced with it;~~ approves construction of a fence or wall then demands it be torn down.

No amendments to this section of AB 525, but some explanation for the changes we requested: We don't want to have to get the approval of the front office to have a guest in our home and we don't want to have to give them the name and address of a guest in our home; we view this as an unnecessary invasion of our privacy. We ask that all managers, not just resident managers be bound by the same rules and regulations as the paying tenants. Example: if parking privileges in front of a club house, swimming pool, or whatever are denied tenants why should managers be permitted such a privilege? The should stop harassing families with children because those children stray into adult areas when the areas in which they are permitted are not clearly identified. Since the acute shortage of available mobile home lots rules and regulations have not only become more oppressive but also more lengthy, more demanding of tenants and it sometimes seems they change as often as the weather. We ask that owners only be permitted to change them every 120 days instead of every 60.

Section 22

NRS 118.270 All changes requested are the result of abuses in the area of mobile home lot rentals.

subsection 1: Amend present law and AB 525 to read: Refuse to rent or otherwise make a mobile home lot unavailable to a tenant who will physically reside on said lot; unless said lot is in a mobile home park which has held itself out as being an "adults only" park and does not allow children.

EXHIBIT B

Section 22 continued — add: subsection which reads: Deny the tenant any privilege of access to and from his mobile home lot. Apparently this problem has arisen in Las Vegas and they will testify on this during hearings in the south.

Most of the changes in this section are self-explanatory, but some additional explanations are here offered: rent increases are presently imposed with a 60 day notice; we ask that be extended to 90 and that new tenants be told of a pending increase in rent. We have had countless complaints where an increase was scheduled, perhaps 30 days after a tenant moved into a park. If the increase is substantial, and they most often are, one might not elect to move in--once they are there it is too late and too costly to do anything about it.

subsection 2(f): we would like to amend this by deleting---(unless the landlord has acted as the mobile home owner's agent in the sale pursuant to a written contract.) The potential for abuse is rather obvious: kickbacks and pressure to have a landlord acting as agent are two which come to mind.

Section 23 — subsection 3 --Our requests for changes in NRS 118.280 included deletion of 3 a and b; permitting a landlord to require removal of a mobile home because of it's size or age has created some critical problems for owners of mobile homes. If a home is well kept, what difference does it make if it is 10 feet wide or 12 feet wide. If it is unsafe or unkempt 3 d permits its removal. By compelling removal of a home because it is more than 10 years old is to create a graveyard of older coaches and the potential for numerous abuses. If you do not wish to remove the age factor entirely, we ask that a more realistic number be adopted---perhaps 17 to 20 years.

Section 24 and 25 — Testimony will be offered in Las Vegas.

Section 26 — No amendments.

Section 27 and remeinder of AB 525 ---Testimony will be offered in Las Vegas.

Submitted by:

Barbara Bennett, for

United Mobile Tenants Assn.

[illegible]8-6019

3. ((a) Less than 12 feet wide;

(b) More than 10 years old;) Delete

EXHIBIT B

g. 14 Section 24 - NRS 118.291.

1. (c) Twenty days for failure of the tenant to pay rent and utilities.

3. If a tenant remains in possession of the mobile home lot with the landlord's consent after expiration of the term of the rental agreement, (the tenancy is from week-to-week in the case of a tenant who pays weekly rent, and in all other cases the tenancy is from month-to-month.). The tenant's continued occupancy shall be on the same terms and conditions as were contained in the rental agreement unless specifically agreed otherwise in writing.

g 15 Section 25 - NRS 118.295.

1. Failure of the tenant (for the third time within a calendar) to pay rent, utilities or reasonable service fees within (10) 20 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280.

. 15 (2) Please delete entire subsection.

(3) 2. Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation established pursuant to NRS 118.260, or to cure any violations of the rental agreement within a reasonable time after receiving notification of noncompliance or violation;

(4) Delete the entire subsection.

(4) 3. If tenant fails to correct any violations within a reasonable length of time the landlord may serve the tenant a notice of termination of the rental agreement as provided in NRS 118.291, subsection 2. The notice shall be served in the manner provided in NRS 40.280.

Add: 4. If the rental agreement is terminated for reason as provided in NRS 118.295 subsections 1. and 3. and the notice to terminate has expired, the landlord may file an unlawful detainer to be served to the tenant as provided in Nrs. 40.280. The tenan may file a protest of the eviction during the following five days from the date of the process to the tenant. If a writ of restitution is awarded to the landlord, following specified time to move his mobile home from the premises:

(a) Thirty days; except for,

(b) Ten day if nonpayment of rent.

g. 17 Section 32 - NRS 40.250.

1. (a) Add following at the end of subsection; except in the case of a mobile home lot, termination notice shall be in the manner provided in NRS 118.291.

Pg. 3 Section 5. of 1. (b) Gas shall be charged (by the number of applications using gas in the park and charging each tenant according to the number of these appliances on his lot and) by the size of the mobile home. If a tenant owns a mobile home which does not have any gas appliances he may not be charged for any gas.

3. If the utility charges are included in the tenants' rent, the landlord shall itemize the gas rate on the rent bill and give the tenant 60 days written notice of an increase in gas rates, or the same amount of notice given to the landlord from the appropriate utility.

Section 6 Add: 2. No utility may be connected to a permanently located mobile home or trailer unless it is inspected by an inspection agency if the utility is master metered in the mobile home park, or serviced direct from the appropriate utility.

Section 7 - 1. Every mobile home park for which construction begins after July 1, 1979, must provide direct electric and gas service from the appropriate utility to each individual lot in the park providing such utility services are available.

g. 6 Section 12 - NRS 118.100

Sub-sections 1. thru 5. - add: or Mobile home lots, following dwellings

g 8 Section 16. NRS 118.241 - Rental Agreement. A written rental contract or lease must be executed between a landlord and tenant to rent or lease any mobile home lot. The written contract must be for a term of one year, unless agreed to a lesser term by the tenant and the landlord and must contain but is not limited to provisions relating to the following subjects:

. 11 Section 21 - NRS 118.260 - Park rulings.

2. All such rules or regulations may not change the provisions of Chapter 118.241 and must be:

Add 7. The landlord may not provide that the tenant make any cost additions, or changes to his mobile home or lot than agreed to at the time of taking occupancy.

. 11 Section 22. - NRS 118.270 Prohibitive practices and charges.

2. (f) Any transfer or selling fee or commission as a condition to permitting a tenant to sell his mobile home within the mobile home park even if the mobile home is to remain within the park. (unless the landlord has acted as the mobile home owner's agent in the sale pursuant to a written contract.)

Pg. 12 (g) Any (security, or damage) deposit the purpose of which is to avoid compliance with the provision of subsection 6.

6. Prohibit any meetings held in the park's community or recreation facility by the tenants, tenant's association or occupants of any mobile home in the park to discuss

(b), (2), (III). A notice of (10) 60 days where the tenant has failed to perform a contractual obligation and the failure is ground for termination of the rental agreement under NRS 118.295.

(c) Possession after default in rent. When he continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing requiring the alternative the payment of the rent or the surrender of the detained premises, remains uncomplied with for a period of 5 days, or in the case of a mobile home lot, 20 days as provided by NRS 118.295, after service thereof.

(d) Add: Following the end of the subsection: In the case of a mobile home lot, notice shall be made according in the manner provided in 118.291. NRS.

5. If, in the case of a mobile home lot, a writ of restitution is issued, the tenant has 30 days from the date of issuance of the writ to remove his mobile home from the park, except in the case of non payment of rent, the tenant shall have 10 days to move the mobile home from the park.

EXHIBIT B

Testimony of Glenn Anderson
3/24/79

In November of 1975, my wife and I bought a mobile home in Fair View Manor. I am on Social Security and a pension. We put a large down payment on our home so we would have law monthly payments of $67 per month whic we are still paying. Trailer space was $75. We only had a raise of $15 on space rent in 3 years.

Ray Grims bought Fair View Manor in July 1978, and gave us a notice that-rent spaces for singles would be $50 more, for double wide, $65 more. To be in effect in September, 1978.

Mr. Frims met with tenants, before raise came into effect. We told him many of us were on a fixed income, and this was too much of a raise. He said, his mortgage payments were high for the park, and he couldn't lower the raise. He did tell us (25 tenants were there) when asked, if he intended to raise us again soon. He said no, unless his taxes went up in Spring.

In the summer for years there has always been severe problems and low water pressure. This happened a couple of time with Grims. We were informed if he had any more plumbing trouble, he would have to raise our rent. It was causing $100 per month for repairs. He did not have a qualified plumber called in. He has two men on Social Security who get a discount on space rent. This is the only maintneance that has been done here. We do our own yards, cut our branches on trees, etci.

February 1, 1979 he was again going to raise our rent $25 because of higher insurance, larger staff and high maintenance. This will cost those in single trailers $165, the doubles $180 to come in to effect April 1, 1979.

This is an old park, no swimming pools, no club house, and no lights in the lower end of the park.

Some of the older people who have their trailers paid for are really hurting. Paying a $165 space rent, high utilities, doesn't leave much for essential things of life, like doctor bills, medicine, and food.

People who bought homes before he, Grims, took over, find now they can't keep up the trailer payments and high space rent. They are trying to sell, but because of high space rent dan't sell their homes. They can't even get their equity out of them.

Before Brims bought this park, all 91 trailers were filled with the owners. Now there are over 20 trailers up for sale.

We are happy to hear from the lawyers of Mobile home park owners that the average rate of rent space is $27. For us in Fair View, and other parks who are paying anywhere from $145 to $180 per month that we are being over charged by their clients.

There are small parks that are renting for $100 and a little more, but they are far and few between.

Anyone who buys a trailer in park, if it's a single, they are charged $140 security charge and $140 first month's rent. The doubles are charged $165 security charge and $165 first month's rent. This too will be higher under the April 1 rent raise. Why such a large deposit on a lot?

I'll be 71 in April, and can work part time and we were hoping to pay our bills up, pay off the trailer, try to sell our trailer and get out of Reno. We love it here, and hate to leave, but living here is just too high. If a rent control is not put in efect here, the park owners will raise space again. We need help and this seems to be our last chance. People who say rent control won't work are the apartment owners, trailer park owners and real estate.

Mr. Grims said, one thing that I agree with. Don't jump on me about the raises, it's the City fathers that allowed these Casinos to be built, and never provided for the out of state workers for a reasonable place to live.

Testimony of Vickie Demas
March 24, 1979

To the Assembly Commerce Committee
Mr. Chairman, Members of the committee, Assemblymen Hayes, Prengamen and Ladies and Gentlemen:

We are grateful to have this opportunity to point out to you the needs of the mobile home people. We are happy to see som many bills introduced on the behalf of the mobile home people and we appreciate the fact that our law makers are finally recognizing us as people (We are now 70,000 strong in this state and well organized.) We are non-profit and cannot afford expensive lobbyists or to bring you officiants from afar who bring you no solutions. We do not live in California or New York City.

We would point out to the legislators that when we submitted our bill to the legislative counsel bureau, we did not ask to have fixed rent control. In the first draft we were given it and we have submitted our amendments asking that the gegislature grant the local government the authority to deal with their problems. As they sould on a local basis. We do not feel the state should be asked to solve our local problems. We may never ask our local government for rent justification as their are many other ways the problems of space shortage could be resolved, but the local government must have the authority to do this. As the problems arise on a day to day basis, they must fact them and resolve their problems, whether they wish to or not. The owners and other organizations such as dealers, manufacturers, lenders and realtors hope we never pass anything, so they can continue to drain the people and the state for all they can. The 70, 999 mobile home people are the viable of this viast empire. Without us there would be no industry. They fail to remember this .

Have all of you received this letter (attached hereto as an exhibit) written very cleverly to indicate it cam to you from a local owner? This man is an out of state owner as 75% of the owners in this state are. He refers to anyone who cannot pay the high rents as indigents who should be on federal or state welfare. He also states that he receives his rent in cash from people who work in caninos for tips they don't declare to the IRS. Gentlemen, if this is the type of owners which such attitudes we are attracting to our state, maybe we sould take a second look at the sickness the mobile home industry has here, and solve the problems we have before we go on to more progress that will place more people in the same boat we are in now. As to deterioration, I feel that these people are talking mainly about apartments, but, if they are talking about mobile home parks, we have that now. You will say, this is only one man, I say to you, we have heard this from almost every out of state owner and some local owners.

As a result of all this, the mobile home owners are caught in a kind of web. I think you realize from what you have heard, this is not a problem of a few, but of everyone in this room. There is an owner vacancy rate in the Carson City area, the dealers have any and all available spaces taken, this results in more oppressive rules, unfair evictions, harrassment, and rents based on what the market will bear.

The mobile home owners are not second class citizens, nor are we indigents or thieves. We pay more than our fair share of tax, as we pay the owner's property tax through our rent, we pay personal property tax on our coach, we pay sales tax when we buy our home. Our homes are comparable to the conventional and in most instances built better. We pay thousands of dollars for our homes and from 1,000 to 1,500 to move them. Our senior population which is 70% of the 70,000 is a permanent pop that takes no ones job, and is self sustaining. They are here to stay, we are here to stay and getting stronger by the year. We have faith that you, our law makers, will realize the great state of Nevada must take care of their own. To quote Thomas Jefferson, who once said," The function of government is to furnish the greatest good for the greatest number," this is as true today as it was when he said it. We would hate to go home and aske the people for an initiative petition to put this matter on the ballot, as is being done in California at this moment, so we trust in you that you will take a close look at AB 525 and give us what we must have to exist.

Thank you.

EXHIBIT B

Tropicana Village West Company

Tropicana Village West Mobile Home Park

6300 W. Tropicana Avenue
Las Vegas, Nevada 89103

Phone: (702) 876-4778 or (702) 876-4779

2/16/1979

POSITION MEMORANDUM ON NEVADA RENT CONTROL BILLS #100,#195 OR ANY OTHERS FOR MOBILE HOME PARKS IN NEVADA

To Whom It May Concern:

On behalf of our Company(owner of one of Nevada's largest mobile home parks and a member of the Southern Nevada Mobile Home Park Association), we urge your support in defeating any Assembly Bill attempting to enforce rent control on mobile home parks in Nevada for the following reasons:

1. A rent control bill of any form or kind(if passed)will discourage,if not eliminate completely,the development of additional mobile home parks and spaces. Thus, the mobile home space shortage problem,rather than solved through a rent control bill,will be compounded!

2. Justifiable rent increases of any kind will always be exhorbitant and oppressive to tenants who are financially indigent. Financial indigency of some tenants, and not rent increases justified by increased operating costs(many caused by government, e.g. property taxes, sewer and water treatment fees, licenses, etc.), is the problem that needs to be addressed, and rent control bills do not(nor are they the proper way to)address such a problem.

3. None of these bills provide financial protection on the downside for landlords who are undertaking great risks and management "headaches" to own and develop mobile home parks. To curtail the profit incentive to own and develop such parks,and not provide security for risks taken on the downside when operating costs exceed income collected, is unfair, unreasonable, and unconstitutional! None of these bills is acceptable for this reason also.

4. Nevada has always been a State that has supported the "free enterprise" system. Its success in attracting investment capital in mobile home parks and all other industries is a result of this historic posture the State has taken heretofore. A rent control bill is in violation of Nevada's historical posture, which has lead to desert and other deprived areas to become bountiful for everyone, and which has kept government controls to an absolute minimum. To change a "winning posture" economically speaking by approving a rent control bill is tantamount to taking arsenic in a small dose. And we all know what "economic arsenic" will do to a economy if taken, which will be the case if rent controls are approved in any form.

5. When operating costs increase faster than the Consumer Price Index (which these rent control bills are geared to), such a bill, if passed, could cause a park to lose money, go into bankruptcy, and thus close. Again, the problem will be compounded through such bills rather than be solved.

EXHIBIT B

Tropicana Village West Company

Tropicana Village West Mobile Home Park

6300 W. Tropicana Avenue
Las Vegas, Nevada 89103

Phone: (702) 876-4778 or (702) 876-4779

2/16/1979

6. To our knowledge,and almost without exception, the rent increases our park and others in the Southern Nevada Mobile Home Park Association have implemented were justified due to the increases we all have been experiencing in operating costs, increased financing costs, increased inflation, and the need to make capital improvements. We contend that the assertion that rents have become oppressive and exhorbitant (excluding tenants who are financially indigent) is basically inaccurate on the whole. According to our Association's statistics average space rentals are equalling about $97.00/pad a month. Thus, we cannot believe the false assertions made in these rent control bills, and we hope you also can come to the same realization since spendable incomes have also been increasing on the average.

In light of the above reasons, it is our Company's sincere hope that everyone concerned will join us in our attempt to defeat any rent control bill of any kind for the betterment of our whole industry, including the tenants, who are being treated most fairly on the whole. Obviously, those tenants who are financially indigent, we grieve for, and they need help in the form of government subsidies, government housing, etc. which rent control bills do not address, nor should they. Rather than possibly deterioriate the mobile home park industry through a rent control bill, we urge everyone involved to concentrate their efforts instead to work on approaches to provide reasonable housing for tenants who are financially indigent and defeat any rent control bill.

Respectfully yours,

Paul F. King, Jr.

Paul F. King, Jr.
Managing General Partner

EXHIBIT B

TO: All Legislators of the 1979 Legislative Session

FROM: Mobile Home Owners League of the Silver State, Las Vegas, Nevada
United Mobile Tenants Association, Reno, Nevada

Abuses and problems in the field of mobile home landlord/tenant relations and also those involving mobile home dealers are so enormous and widespread in the major population centers of the State of Nevada that we shall detail here only some of the circumstances which prompt our plea for Legislative relief. For verification of that statement, you may want to contact the Consumer Protection Division of the Washoe County District Attorney's office.

We are fully aware that some (actually, most) of our proposals would impose restrictions upon landlords which will be bitterly resented and opposed. Nevertheless, it is their abuses which makes it necessary to seek expanded legislative protection for mobile home tenants who have a significant investment in their home and should not be entirely at the mercy of capricious or vindictive landlords.

Because penalties are presently non-existent or too inadequate to act as a deterrent, we ask that existing laws be strengthened. Landlords have, all too frequently, exploited gaps and weaknesses in 118 and there is little incentive to obey a law if, even after being fined, one can profit from illegal activities.

The Washoe County District Attorney has successfully prosecuted numerous breaches of existing low but there is little even they can do about hundreds

EXHIBIT B

of additional violations which cannot be pursued because tenants have been threatened with eviction if they file an action. The critical shortage of mobile home lots exacerbates this fear as does the likelihood of additional, exorbitant rent increases (over 90% in some parks in less than a year). As a result, tenants tolerate broken promises in rental agreements (sample copy attached), breaches of their rights under the law, oppressive rules and regulations (sample copy attached) and numerous other indignities, not the least of which is loss of one's home. The dearth of available mobile home lots and the resultant rent gouging combine to create a genuine, serious emergency. Sadly, there are some vacant lots, but they are unavailable on a free choice, individual basis because collusion between mobile park owners and/or managers, and mobile home dealers results in vacated spaces being monopolized by dealers who make space availability contingent upon purchase of their coach at their price. (What happened to the free market concept?) We ask for legislation which will make it impossible to exclude the public from these vacant or unoccupied spaces.

We further request that (if needed) local governments be given the enabling authority to enact rent stabilization during emergency conditions.

We believe you are aware of the critical nature of mobile home tenant problems and we thank you for your time. We also ask for an opportunity to discuss these issues with you, personally.

If you have questions about the attached legislative proposals please contact:
Shannon Zivic in Las Vegas --- 876-1745 or,
Barbara Bennett in Reno ---358-6019

EXHIBIT B

The attached survey represents a cross section of mobile parks in the Reno, Sparks, Verdi area. We have included large and small parks; those that are adult only and those that allow children; those with all amenities, those with none and those with some; there are new parks and old parks. A complete survey is impossible for us to perform as we are not welcome in all parks and most prohibit soliciting. There are parks where the ownership has remained stable over many years, others that have recently changed hands.

We do not submit average rents because that would be akin to comparing beans and caviar! A park with unpaved roads, no amenities and an unkempt atmosphere might rent for $60 while another with some amenities would rent for $150. Can we then say that the average rent is $105? If we did, the owner of the park with rates at $60 would likely raise his rent to that "average", but we know the other owner is not going to reduce his rent to that "average"(nor should he). "Average rents" tells us nothing, the percent increase a park imposes upon tenants in a certain period of time does and we have something to compare to---other parks, as well as the CPI.

In the Truckee Meadows area there are 10,138 mobile homes; 64 parks which rent spaces; 5073 rental spaces so 50% of mobile home dwellers live on rented spaces.

The attached survey will show that rents from January 1, 1978 to the present have increased an average of 58% while the CPI for the same period of time was 9% higher; or: rents increased approximately 6½ times faster than the CPI. The 24 parks represent 54% of the rental parks spaces in the area and we do not believe the figure would change significantly if this were a 100% sample. The 2 parks with the smallest increase (18%) were twice that of the increase in the CPI; the largest increase was 9 times higher.

EXHIBIT B

Park Name	# Spaces	% Increase, Jan 78 to present	Comments
Airway	36	75	no amenities, no major imprvs.
C-Mor	72	100	" " " "
Coachman	50	50	" "
Crystal Park	31	54	" "
Covered Wagon	75	75	" "
Fairview Manor	92	91	sm. laundry room, "
Four Seasons	20*	23	Tiny Sphere
Glen Meadows	239	94	has all amenities, "
Hellmen's	44	42	no amenities "
La Rambla	50	68	" "
Lucky Lane	300**	68	clubhouse, lndry, no pool
Mobil Aire	42	62	no amenities , no improvements
Oasis	80	61	
Paso Tiempto	24	29	no amenities "
Reno Cascade	245	30	all amenities
Reno Sahara	25	108	a "junk yard"
Rolling Wheel	70	73	no amenities
Northgate	211	48	all amenities, no improvements
Woodland	20	23	no amenities "
Sierra Shadows	298	41	family park, clubhouse, playgrnd
Thunderbird	169	18	clubhouse, pool closed as a rule
Sun Valley	32	18	no amenities, no improvements
Skyline	307	58	family park, clubhouse, playgrnd
Travelier-Posy	250	56	no amenities, but well kept
	2782	58% avg. increase	

* permanent spaces in an RV park

** transitional, count uncertain

Study covers slightly more than 50% of the rental spaces in the Reno-Sparks-Verdi area. In each community we have included large and small parks, new and old parks, those which have changed hands and those which have not.

Vickie Demas

EXHIBIT B

mobilehome owner's league of the silver state, inc.

P.O. BOX 2891 LAS VEGAS, NEV. 89104

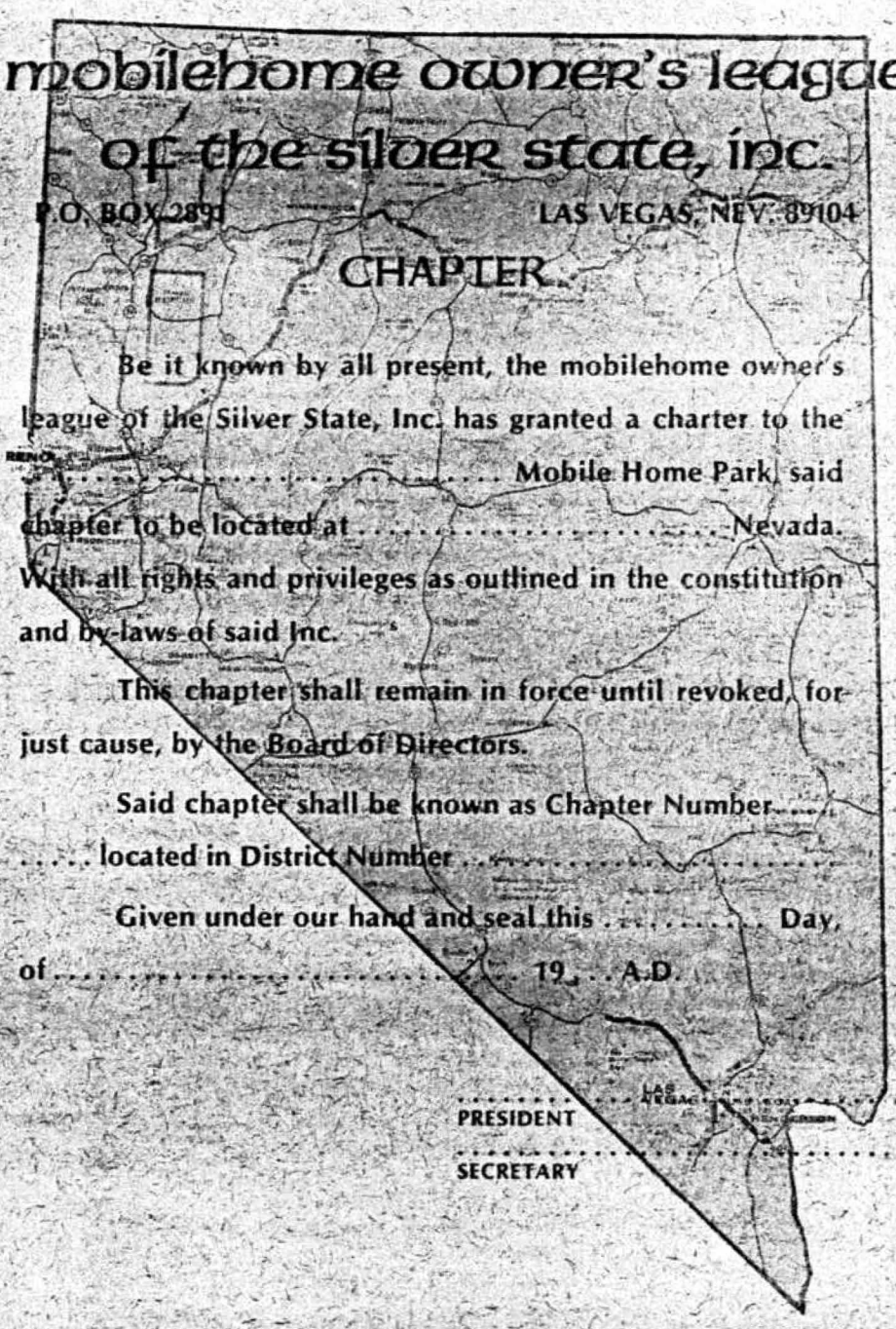
CHAPTER

Be it known by all present, the mobilehome owner's league of the Silver State, Inc. has granted a charter to the ..... Mobile Home Park, said chapter to be located at .....Nevada. With all rights and privileges as outlined in the constitution and by-laws of said Inc.

This chapter shall remain in force until revoked, for just cause, by the Board of Directors.

Said chapter shall be known as Chapter Number..... ..... located in District Number .....

Given under our hand and seal this ..... Day, of ..... 19.. A.D.



.....
PRESIDENT

.....
SECRETARY

PROPOSED BILLS FOR MOBILE HOME OWNERS

TO ALL STATE OF NEVADA LEGISLATORS

The Mobile Home Owner's League of the Silver State presents this booklet to all Legislators. It's purpose is to explain the reasons that have brought about these proposed mobile home legislative bills.

In considering the needs and logic of our bills, we ask that all legislators consider the following facts:

* * * *

Unlike conventional home owners, mobile home owners own their own homes and rent the land that their homes are located upon; are restricted to zoned parks; pay a property tax on our homes and a sales tax on the home when it is purchased; required to improve our lots at our own expense, which immediately reverts to the park owner; pay the land tax through the rent, along with the park maintenance, repair and all licenses and permit increases; pay the mortgage and all mortgage increases; pay gas and electric utilities and pet charges. Their collective investment as home owners exceeds the park owner approximately 2/3rds. In truth, they are comparable with conventional home owners except they did not put a down payment on the land but pay for everything that the home owner does.

The similarity stops there. The conventional home owner has no rules and regulations, no rent increases other than normal tax increases The mobile home owner lives in a restricted zoned park. He enters into a one-sided rental agreement, on a month to month bases, that is binding only to him, not to the landlord, because the park rulings are incorporated into the rental agreement that may be changed by giving a sixty (60) day notice to the tenant. The landlord has unrestricted authority to make a change in park rules. Mobile home owners are subjected to many more park rules than apartment dwellers. Many of these park rules legally violate the personal rights of the tenants, and often are the direct cause of the loss of their homes and their financial investment.

Heretofore, it has been the misconception of the public, the courts and many law makers to index mobile home owners in the same classification as apartment dwellers. We request when our bills are being considered that the above facts be related to our proposed changes and mobile home owners not be classified as "apartment dwellers".

We ask that these laws protect the fundamental rights of every citizen who owns his own home. We recognize there must be mandated rules for the benefit of every tenant that protects his rights and that of the park owner. However, we also maintain that these rules should be controlled by laws and protected by an enforcing agency.

We believe that the rights of free enterprise must be protected but if a mobile home park owner opts to offer his land for mobile home owners investments, that mobile home owner investor has the right to also expect his investment to be protected.

There are approximately 70,000 mobile home people residing in the State of Nevada. Basing the fact that the mobile home people increased

10,000 in Clark County in 1978 would indicate that the growth factor will continue. If this is to be the case, we are requesting that the legislators also look to the future and properly provide for the necessary laws that are needed.

The fact that there is a mobile home space shortage of less than 1/5th of 1% will give evidence that greater legal protection is of paramount importance to all mobile home owners in the State of Nevada.

1. Control over management mandated park rulings.
2. Dealer functions, to include warranty protection.
3. A binding rental agreement.
4. Evictions:
   A. Evictions based on equitable moving costs.
   B. Recognization in the courts of the difference in evictions of apartment dwellers and mobile home owner rental lots.
   C. A set procedure for summary of evictions, to be included in NRS Chapter 118 - Mobile Home Owners renting a mobile home lot.
5. Public Service Commission jurisdiction in mobile home parks with master meters for utilities.

The following pages are numbered by chapter and sub section numbers. The explanation for each proposed change or amendment is defined as to why the legislation is needed. We frevently hope that each Legislator review our explanations and approve our bills if possible.

We thank you for your time and consideration.

Please see Chapter 118.241 - Rental Agreement

EXHIBIT B

Due to the great cost of moving into a mobile home park we are asking that the rental agreement become a binding agreement between the park management and the tenant. It presently is from a month to month basis which is as an apartment renter receives. The mobile home owner is involved in a much greater cost of moving.

We ask that any requirements that cost the tenant additional monies if the agreement is changed be included in the rental agreement and may not be changed unless it is specifically agreed upon when the agreement is consummated.

All existing rental agreements, rather than stating that the tenants shall abide by park rulings, state that the park rulings shall be included in the rental agreement and due to the fact that the law permits the park management to mandate and change park rulings, the rental agreement can be changed completely by merely changing any park ruling. We ask that no park ruling can change any part of the binding rental agreement.

Please see Chapter 118.249 - Deposits

We are asking that all charges, other than rental charges, be specified in the rental agreement and shall not be added to or changed by the park rulings.

Please see Chapter 118.249 - Deposits

Section 3. Request that the tenant be informed as to what the amounts were used for when returning the deposit and that the tenant be given the benefit of the interest earned while the money was in the custody of the landlord.

Please see Chapter 118.251 - Responsibility of Landlord.

This ruling gives the right of a landlord to discontinue any facility or amenities that were agreed to in the rental agreement if they are misused or vandalized. This law can be misused and used as an excuse to discontinue such services.

Please see Chapter 118.260 - Rules and Regulations

Section 1. We are asking that the park rulings that are newly mandated or changed may not be in conflict with the binding rental agreement.

Section 3. When a park ruling is mandated it is enforceable by law. It also can create great hardship on the tenants. Very often sixty (60) days is not enough notice to correct a situation. Since the ruling is permanent and the tenant did not agree to it when entering into the rental agreement, we are asking that a longer period of time be allowed to meet the obligation before it becomes effective. We ask that it be changed from sixty (60) to one hundred twenty (120) days. This would not affect any emergency ruling that would be mandated to protect the safety and welfare of the people.

Added Section 5. May not prohibit a tenant from having a guest or guests, unless the guest would be constituted a nuisance.

This ruling of prohibiting guests from staying with a mobile home owner is applicable to apartment dwellers because they are renting the dwelling. Mobile home owners only rent the lot. The dwelling is ours. Since we pay the gas and electric there is no additional cost to the landlord and the wear and tear is not costing the landlord, this should not be permitted as a park ruling.

Added Section 6. Reference is made to the above Section 5. Again, we own that dwelling. The depreciation for use of our dwelling is at our cost. The landlord mandates how many people may reside in the coach. He charges additional charges over the designated amount of people. The fact that we have a guest in our home, at no cost to him, should not allow him the right to add additional costs to the tenant for the guest. He can mandate how long the guest can stay, that should be sufficient. It is also reasonable that the landlord should never mandate that the guest cannot stay less than two (2) weeks.

Added Section 7. May not establish restricted adult areas in a family-adult park unless the areas are specifically posted.

If a buyer purchases a coach in the park and has children, that buyer can be mislead by the seller into believing that he is buying in a family section. If the buyer fails to register with the landlord prior to moving in and has bought in an adult area, the manager may refuse to permit the buyer from moving into the coach and will request that the coach be moved. We are attempting to protect the new buyer by requiring that all adult areas be posted to indicate that it is an adult area.

Added Section 8. Rules and/or regulations shall not be for the purpose of evading any prior approval of the landlord or his authorized agent.

It is the practice of landlord's requiring prior approval of pets, dogs and landscaping. In most instances the approval is oral, not written. Mobile home parks change managers from time to time. If prior approvals are not given to the tenant in writing it is not possible for the tenant to verify that such approval was given and the new manager may mandate that the tenant no longer has such approval. We are asking that all approvals be in writing and can not be changed at a later date.

<u>Please see Chapter 118.270 - Prohibited charges, practices by landlord.</u>

Section 2. Due to the excessive rent increases, we are asking that the sixty (60) day notice of rent increases be extended to ninety (90) days. The current law relates to rent increases only. It is frequently misinterperted as to the uniformity of rents to not include a new tenant. Therefore, new tenants are charged more than the established tenants, thus creating a non-uniform standard of rents in the park. We are asking that this law specify that all rents must be uniform at all times. We also request that if a notice of a rent increase is in effect when the new tenant moves into the park the tenant be advised of the pending rent increase when entering into the rental agreement.

Section 4. Prohibit any tenant from selling his mobile home or other possessions.

It is the practice of many parks to prohibit mobile home tenants from advertising their cars or other personal possessions for sale. This creates a hardship on the tenants in selling their possessions and can cause them to lose money on their investments. We ask that no tenant can be prohibited from selling his possessions by use of a sign or advertising his address.

Added Section 6. Refuse to rent a lot to any person unless it is a family applying for an adult lot.

It is requested that due to the space shortage, no persons be denied the right to rent a space if it is available and that person can qualify as an acceptable renter.

Added Section 7. Demanding or accepting monies that do not qualify as a security, rent or utility charge without substantiating the purpose of the charge by written notice to the tenant prior to the time the charge is to be paid.

If a landlord does not specify the charges for pets, additional children or any other extra charges, it is possible that a non-uniform charge be discriminately made to individual tenants.

Added Section 8. Deny bargaining rights to a tenant organization.

As a result of unreasonable rulings, discriminating among the tenants and other unfair practices it is necessary that an elected spokes group negotiate with the management to resolve such problems to the benefit of the landlord and tenant. If a manager refuses to discuss any problem with the spokes group it frequently results in unnecessary evictions and emotional hardship upon the tenant.

Added Section 9. Revoke prior approval of children to reside in the mobile home park.

When a landlord opts to establish a family park he takes on the responsibility of permitting the family mobile home owner to move into his park at great cost. He also does this knowing full well what entails family park requirements and related problems. Many landlords decide to change that park from family residents to adult only because of the easier and less problems. This places and unfair hardship on the part of the family tenant. He cannot sell his home because it usually is a larger home and does not suit the needs of an adult couple. Also, they frequently remove the childrens playground and place stringent rulings upon the children. If a tenant has another child only it can cause the eviction of the family because they are bringing another child into the park. We are asking that no family can be moved from a park based on the change to adult park.

Added Section 10. Disconnect service of utilities except for non-payment of rent or utilities.

If a park landlord furnishes the utilities through master metering or by flat rate charges, that landlord has the means of disconnecting the

utilities without the services of the gas company being involved. It often happens in a conflict with the landlord. It can cause a health hardship for the tenant. We ask that this be prohibited by the law including during the time of the eviction process.

Please see Chapter 118.280 - Rights of landlord upon sale of mobile home located in park.

Section 1. The landlord as absolute authority to refuse any prospective tenant from taking occupancy of the mobile home when it is purchased from the seller in the park.

This has been the cause of extreme hardship on the part of the tenant and can cause financial loss of the tenants home. It also can cause a financial disaster to the new buyer who is not aware that he must get prior approval from the manager before moving into the park. This is particularly bad during the present space shortage and is used as a means of getting a vacant space to deal with a mobile home dealer.

Section 2. The tenant may be required to remove the coach from the park if he sells his coach it is is less than 12 feet wide, more than ten (10) years old, or in disrepair.

Due to the lack of spaces in mobile home parks, this law is used to obtain the spaces for the dealers. In normal times it would not be such a lethal law, but during the shortage of spaces it spells doom for approximately 41 percent of the older mobile homes. We are asking that it be eliminated at this time to protect the older tenants, many who are the senior people in the mobile home parks. This law is also not compatible with the recent extensions of the longer terms authorized for the mortgage pay off which is now twenty (20) years and over in some instances.

Please see Chapter 118.291 Termination of rental agreement by landlord.

Section 1. It is requested that the requirement of thirty (30) days for mobiles 16 feet or under and forty-five (45) days for over 16 feet mobiles notice of termination be changed to a sixty (60) day period for all size mobiles. It takes the same arrangements to move both sizes. The fact that a great cost factor is involved in the moving of mobiles and that apartment rentals are given the same amount of time when their cost is not comparable, does not seem equitable.

Please see Chapter 118.295 - Grounds for termination.

Section 1.Changes the delinquency time of notice to twenty (20) days from ten (10) days. Adding the provision that a tenant cannot be evicted only after the repeated offense three (3) times in a calendar year. This is being requested because of the great moving expense involved for a mobile home. We ask that the Legislature again recognize that the mobile home owner rents a lot and is not comparable to the apartment renter.

Section 2. Failure of the tenant to correct any noncompliance to laws or regulations. Based on the requirement that the tenant maintain the lot as to landscaping, it is requested that the tenant must be given

a warning notice to cure any violations before a termination notice is given to vacate the premises.

Section 4. Violation of valid rules of conduct, occupancy or use of park facilities. It is requested that the word occupancy be removed from this paragraph and that the tenant be given a ten (10) day warning notice to cure the violation before serving the eviction notice according to NRS 40-280.

Section 5. Condemnation or change of land use. Considering the present space shortage and the fact that the closing down of a park can create great hardships for the tenants, it is requested that the tenants be given twelve (12) months notice and a final notice of sixty (60) days before the park can be closed down.

Please see Chapter 118.300 Retaliatory conduct by landlord prohibited.

The tenant now has the legal right to join a league or other tenant association. However, the forming of this league, or association, in a park is frequently denied to the tenant when they are promoting the recruiting of members. We are asking that no landlord be allowed to refuse the tenant the right to recruit members in the park.

Please see Chapter 118.310 Alternative remedies when tenant's mobile home made unfit for occupancy.

Section 1. There has been great confusion regarding the interpretation of this law because the law states that the tenant may not obtain an abatement until the servie is out for forty-eight (48) hours. The landlord is refusing to pay the first two (2) days. We are requesting that the law state from the first day of the outage.

Section 2. We are requesting that this law be clarified to provide the tenant with accommodations as substitute housing when it is necessary. The law reads - but not more than an amount equal to the rent for the mobile home lot. The law can be interpreted that only in the amount of the day's lot rent or in the amount of the entire rent charge for the month, even though the service was out more than the full thirty (30) days. It is not possible for a tenant to obtain substitute housing for the amount of the day's rent. We ask that the requirement "But not more than an amount equal to the mobile home lot" be deleted.

Please see Chapter 118.320 Remedy for unlawful termination of rental agreement by landlord.

If a tenant is evicted from the park and vacates because of the writ of restitution, then appeals and wins the proceedings after moving from the park, it can cost them a greater amount than six (6) months rent for moving costs. We ask that the "or" be removed and that "and" be included, thereby permitting both the rent charges and cost damages to be awarded to the tenant.

Please see.. Chapter 118.340 - Penalties.

The charge to the landlord for violating Chapter 118.241 to 118.310 and 118.330 is only a misdemeanor and often is ignored by repeated offenses. If a landlord repeats the violations it can cost the tenant

a great hardship. It is requested as an arbitary of such offenses that the third (3rd) violation constitute a gross misdemeanor.

Summary proceedings for Termination of Premises

It has become a serious problem in the evictions of mobile home tenants from rental parks due to the application of the process of evictions for apartment tenants being applied to mobile home owners of a lot. NRS Chapter 40.215 through 40.255 is used and the requirements conflict with the provisions of NRS 118. The chapter 40.215 through 40.255 applis to 118A which is an apartment dwellers law. We are requesting that we be allowed a law that applies only to the rental of a lot in a rental park. The renting of a mobile home to a renter will remain as required by Chapter 40 and Chapter 118A.

PROPOSED CHANGES TO CHAPTER 489

There is a very serious problem resulting in the warranty factor for new mobile homes as sold by the mobile home dealer. The Federal law requires that a one (1) year warranty be upheld for the structural and safety factors. It does not require protection to the mobile home buyer for the material and workmanship. We are requesting that the Commerce Department also include that in their jurisdiction and enforcement.

PROPOSED CHANGES TO PUBLIC SERVICE COMMISSION - NRS 704

The Public Service Commission has no jurisdiction over a mobile home park for the utilities that are master metered to the tenant. They do have the jurisdiction when the park is connected to the individual tenant from the gas company.

The fact that the utilities are an only source leave the tenant with no alternative but to accept inequities existing in the purchasing of gas from the park management. We are particularly in trouble with the parks that fail to sub-meter the utilities for there is no metering of the exact amount that they are using. They are charged a flat rate which can be charged excessively for a service that they must use. Further, no consideration is given to the mobile home owner of all electric when the gas is included in the bill. If a park is having trouble in maintenance of the lines the Public Service Commission cannot come into the park to enforce proper service.

In order that we eliminate these problems, we are asking that all new parks be developed to provide gas and electric service direct from the local operating utility companies. We further are asking that the practice of flat rate charges included in the rent be discontinued by requiring that all parks not having sub-metering when it is a master metered park be either required to install sub-meters or obtain direct services to the local operating utility company.

EMERGENCY AUTHORITY FOR MOBILE HOME HOUSING SHORTAGE TO LOCAL GOVERNMENTS

We are assured that all legislators recognixe that there is a space shortage and as a result there exists a problem of excessive

rents and other problems such as oppressive and unfair practices in mobile home parks.

The Mobile Home Owner's League of the Silver State have attempted to obtain help from the local governments throughout the year of 1978. With no success. It has been repeatedly stated that these local governments do not have the authority to help the mobile home people. We have been advised from the State that only the State has the power to mandate any rulings for mobile home parks.

This League has not proposed a rent control bill to the Legislators because the problem exists only in certain counties and such a bill would not be applicable to the other counties that are not experiencing such problems. The excessive rent is not the only problem that is causing the many hardships to the mobile home owners. There are many other problems that must be considered along with the excessive rents. If we ask only for a rent relief ruling we would still be in the position to be told that the local governments cannot help us solve these problems. We are only asking that the local governments be given the power to approach our problems with the authority required and that they afford themselves to the expiditing of regulatory rulings that will resolve as many of these problems as possible. We are asking that each local government be allowed to assist there people on the local level where action can be taken during the next two (2) years rather than waiting for another legislative session to appeal for help. It is a local problem and can better be handled in the immediate area.

We are provided no enforcement provisions from the State. Commerce Department has no authority to enforce Chapter 118. It requires a citizens civil action at great expense to the tenant. If the local governments had the authority to mandate necessary rulings to effectively resolve our problems and enforce all the laws governing mobile home parks, it would put the problem where it belongs and give the mobile home owners the local protection that is not now available to them.

EXHIBIT B

RULES AND REGULATIONS

FOR

[redacted]

The following regulations concerning the use and occupancy of mobile home lots, the grounds and facilities of [redacted] shall apply to all tenants.

Recreation, laundry and other service facilities are available to tenants for their convenience but nothing contained in these Rules and Regulations mandates the responsibility of the Owner to provide same, and nothing contained herein shall be construed that these facilities are to be provided as part of the rent paid for space the tenant occupies.

I

Each mobile home lot is rented on a month-to-month tenancy and the rent due and payable for each mobile home lot shall be paid on or before the first of each month.

A fee of Ten Dollars ($10.00) shall be charged if the rent for the mobile home lot is not paid on or before the tenth day of the month.

A charge of Five Dollars ($5.00) shall be collected if any check for the monthly rental is returned by the bank for any reason.

II

The address for each mobile home lot corresponds to the specific street and space assigned to the tenant. The zip code is [redacted].

III

Each mobile home lot shall accommodate one mobile home which may be occupied by no more than two adults.

If said mobile home is to be occupied by more than two adults or by persons other than those listed on the original rental application, approval must be obtained from the park management prior to their occupancy.

IV

No tenant shall permit or allow a minor child to reside in the mobile home.

A minor child who is visiting a tenant shall first be registered with management and then may reside in the mobile home for not more than four consecutive days. Upon specific request by the tenant, this time may be extended by the park management.

A minor child visiting a tenant shall play only on the tenant's mobile home lot or within the tenant's mobile home.

A minor child visiting a tenant may use the swimming pool between the hours of 9:00 a.m. and 1:00 p.m. only, if accompanied and supervised by the host tenant.

V

A tenant is not allowed to have a pet unless said pet is approved and registered with the management and appropriate forms completed.

If approved by the park management, a tenant may keep a small pet under the following conditions:

1. All pets must be kept on a leash when not in your mobile home. Any animal found loose on the premises will be taken to the animal shelter.
2. No pet shall be permitted to invade the privacy of another tenant's homesite, including flower beds, shrubs, yard, etc..
3. No pet is allowed in the clubhouse, pool, laundry or recreation areas.
4. No pet shall cause any disturbance, such as barking, snarling, growling, etc. which will annoy other tenants.
5. All pet droppings must be picked up and removed daily.

Any violation of the above stated conditions will result in the management revoking the approval to keep the pet on the premises and/or to terminate tenant's occupancy.

VI

A tenant shall not:

1. Construct or place any fence on the mobile home lot.
2. Construct or install any steps which do not conform to the specifications and requirements established by the park management.

A tenant may, upon prior written approval of the park management, make any improvements to the landscape of the mobile home lot during his tenancy.

A tenant shall maintain his mobile home lot and perform all necessary maintenance to said mobile home lot.

A tenant may use dry landscaping in front of the mobile home, except that no red cedar or bark shall be used.

Any landscaping installed by a tenant shall remain on the property and becomes a permanent part of the mobile home lot and cannot be removed when the tenancy is terminated.

A tenant may plant a vegetable garden on his mobile home lot provided:

1. The area is not presently grassed;
2. If the area is grassed, management approval must be secured to remove the grass to plant the garden. Management approval will only be granted if the tenant will (a) make a cash deposit adequate to replace the grass, or (b) sign an irrevocable agreement to replace the grass prior to vacating the park;
3. The garden does not encroach upon or disturb his neighbor;
4. All such garden vegetation shall be removed at the end of each growing season.

In the event management determines that a tenant has neglected the landscaping on his mobile home lot, the maintenance thereof shall be performed by the park management and the tenant shall be charged $7.50 per hour plus cost of materials for all such maintenance. Tenant agrees to pay any such charges with his regular monthly rent. Failure to pay said charges shall constitute a default on the part of tenant in the same manner as failure to pay rent.

VII

Each tenant shall use the designated parking space for parking cars and shall not park cars in the street. Any car parked in the street will be removed at the owner's expense.

No tenant shall park a recreational vehicle in the automobile parking space provided for the mobile home lot.

No tenant shall park any commercial vehicle in the automobile parking space provided for the mobile home lot.

Recreational vehicles, boats and campers are not permitted to park or to be stored within the complex. (Amended as of July 11, 1978)

No tenant shall bring any vehicle onto a mobile home lot if said vehicle is in an unsightly or inoperable condition. No tenant may undertake to make repairs to his vehicle on a mobile home lot or in the parking space assigned to said lot.

Guests of tenants may park in the unnumbered spaces. It is understood and agreed that guest parking is on a short term basis only.

Tenants shall not park in any unnumbered spaces.

VIII

For each mobile home lot, the tenant will be furnished with one trash can for trash removal purposes. Each tenant shall have no more than three trash cans. A tenant shall, on [redacted] morning, place the trash cans at the curb for trash removal.

Except for trash removal day, a tenant shall situate the trash cans in such a manner as to conceal the trash cans from view from the street or adjoining mobile home lots.

IX

A tenant shall, within thirty days after the beginning of the tenancy, provide and install skirting on the mobile home. The skirting shall be aluminum, shall be vented on three sides, and shall comply with all municipal or government regulations.

A tenant shall, within ninety days after the beginning of the tenancy, provide and install awnings on the mobile home. An awning shall be a minimum of 10 feet by 20 feet in size.

A tenant shall, immediately at the beginning of the tenancy, provide and install any tie downs required by the State of Nevada, County of Washoe or City of Reno.

X

A tenant using the laundry facilities shall remove the laundry from the machines as soon as the laundry is finished.

A tenant shall not use dye in any of the machines.

247
X The management is not responsible for articles of clothing lost or damaged while such clothing is in the laundry facility.

Tenants are not permitted to hang or dry clothes outside of any mobile home.

XI

A tenant shall observe the posted speed limit of 15 miles per hour while driving in the mobile home park.

A tenant may ride a motor bike within the park, if the motor bike:

1. Is used as principal transportation to and from the tenant's mobile home lot;
2. Has appropriate sound mufflers; and
3. Is operated within the posted speed limit of 15 miles per hour.

XII

A tenant shall not play or operate a musical instrument, radio, stereo, television or other sound device in a loud manner.

A tenant shall not permit or allow conduct of any kind which constitutes annoyance to other tenants or interferes with park management.

XIII

All common areas of the park shall be kept in a clean and safe condition and shall not be damaged in any manner.

The park management may suspend the continued use of any park facility if the tenants misuse or vandalize said facility.

XIV

The landlord and tenant may agree as to a specific date for termination of any tenancy.

A tenancy may be terminated if the tenant:

1. Fails to pay rent, utility charges, landscape charges or other agreed fees within 10 days after written notice of the delinquency;
2. Fails to correct any noncompliance with the law, ordinance, or governmental regulation pertaining to mobile homes;
3. Fails to correct any noncompliance with a valid regulation;
4. Fails to cure any violation of the rental agreement within a reasonable time after receiving notification of noncompliance or violation;
5. Conduct of the tenant in the mobile home park which constitutes an annoyance to other tenants or interferes with park management;
6. Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant;
7. Condemnation or a change in land use of the mobile home park; or
8. Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140.

XV

A tenant shall not place a television antenna on the mobile home if such television antenna is higher than the air conditioning units placed on top of the mobile homes.

A tenant shall not install a citizens band antenna on a mobile home lot if such antenna requires supporting wires or is higher than the air conditioning units placed on top of the mobile homes.

XVI

If a tenant intends to sell his mobile home and have the mobile home remain in the park, the tenant must first notify park management in writing of his intention to sell prior to any offering of his mobile home for sale. Park management shall have 10 working days in which to give written notice of its acceptance or rejection for continued tenancy of the mobile home in NORTHGATE in the event of sale. 2.49

Park management may require that the mobile home be removed from the park if the mobile home is:

1. Less than 12 feet wide;
2. More than 10 years old;
3. Deemed by the park management to be in rundown condition or in need of repair; or
4. Unoccupied for more than 120 consecutive days.

A tenant selling his mobile home may display one sign advertising the sale of the mobile home if:

1. Such sign is not larger than 2 feet by 3 feet; and
2. The sign is attached to the mobile home.

A tenant who has been granted park management's approval for the mobile home to remain in NORTHGATE must request, in writing, park management's approval or disapproval of the prospective buyer/tenant prior to the actual sale of the mobile home. The prospective buyer must make application and qualify for tenancy in NORTHGATE in the same manner as any other person or persons desiring to live at NORTHGATE. No sale shall be valid or consumated until all of the foregoing matters have been approved by management.

Renting or leasing of a mobile home in [redacted] will not be allowed.

XVII

A tenant may rent, at the prevailing rent, an existing utility building on the mobile home lot from the park management.

A tenant shall not have more than one utility building of any type on the mobile home lot.

XVIII

A tenant shall give at least 30 days written notice before the termination of a tenancy. Failure of a tenant to give said notice shall constitute forfeiture of any deposits.

XIX

Recreation facilities are for the use of tenants and their accompanied guests. Guests may not use the facilities unless the tenant is present.

No food or beverages are permitted in the publicly used areas of the clubhouse facility where the floor area is carpeted.

XX

The following regulations apply to the recreational facilities located at NORTHGATE:

SWIMMING POOL

1. The swimming pool may be used only when the pool is opened for use and is operational. The operational period will be determined by the park management depending on weather conditions, etc.

SWIMMING POOL (cont'd)

2. The swimming pool hours are from 9:00 a.m. to 9:00 p.m.
3. Children are not allowed in the swimming pool area except between the hours of 9:00 a.m. and 1:00 p.m. and only if accompanied and supervised by the host tenant.
4. Only water soluable suntanning lotions are to be used.
5. A guest may not utilize the swimming pool unless accompanied by a tenant.
6. A person utilizing the swimming pool must wear a swimming suit. No cut off jeans are permitted.
7. Any person having long hair must tie the hair back or wear a swimming cap.
8. No food, beverages or glass containers are allowed in the swimming pool area.
9. No running in and about the swimming pool area is allowed at any time.
10. Tenants are required to read and comply with all notices posted at the swimming pool concerning state health regulations and the availability of lifeguards.

JACUZZI POOL

1. The jacuzzi is to be used for therapeutic purposes only.
2. No person may use suntanning lotion prior to entering or while in the jacuzzi.
3. No person shall put any foreign matter into the jacuzzi.
4. All persons using the jacuzzi must wear swimming suits. No cut off jeans are permitted.
5. No children under 12 years of age shall enter the jacuzzi area. Children over 12 years of age must be accompanied and supervised by the host tenant.
6. No food, beverages or glass containers are allowed in the jacuzzi area.

BILLIARD ROOM

1. A minor child is not permitted to use or be in the billiard room at any time.
2. All persons using billiard room must be properly attired, including shirts and shoes.
3. No food or beverages are permitted in the billiard room.

SAUNA

1. A minor child shall not be permitted to use the sauna unless accompanied by the host tenant.
2. Dressing apparel shall be worn at all times when utilizing the sauna.
3. No food, beverages or glass containers are allowed in the sauna area.

BANQUET ROOM/KITCHEN

Tenants may use the banquet room and/or kitchen under the following terms and conditions:

1. Prior reservations are made with the park management at least ten (10) days prior to the function date. Approval of the function is at the discretion of the park management.
2. The facilities are used at reasonable hours. An additional charge may be imposed if the function is approved to extend beyond regular clubhouse hours; this charge will be used to provide for additional staff time.
3. The facilities are not otherwise in use.

BANQUET ROOM/KITCHEN (cont'd)

The main purpose of these facilities is to provide a convenient location where the residents may be entertained and gather at social functions. Therefore, the facilities WILL NOT be used by a tenant or any other person for:

1. any political purposes,
2. any commercial or business purposes, or
3. any other purpose which the park management determines would not be in the best interests of the tenants or management of NORTHGATE.

Any person using the banquet room and/or kitchen shall make a monetary deposit in cash, which amount will be determined by the park management. The deposit will be refunded if the premises are left in the original condition as determined by the park management.

Any damage to the banquet room, kitchen or other clubhouse facilities occurring as a result of the function shall be paid by the tenant and withheld from the deposit. Damages exceeding the deposit will be charged to the tenant who signed for the function.

The tenant signing for the function must be present in the clubhouse facility at all times during the function.

Guests attending the function must park on the city street, either Silverada or Carville and the side entrance door should be used. Guests attending the function are not to use the other facilities within the clubhouse (i.e. jacuzzi, saunas, billiard room, library, etc.) excluding the restrooms.

No minors will be allowed at any function in the banquet room when alcoholic beverages are to be served. If minors are present, they must be supervised at all times. They must remain in the banquet room area and be accompanied by an adult when using restroom facilities.

Any violation of the above rules relative to the use of the banquet room and/or kitchen will result in the immediate termination of the function.

Park management will have sole authority to make any exceptions to the foregoing rules and regulations and to render decisions on any situation not explicitly covered in the foregoing rules and regulations.

Dated this [redacted] day of [redacted], 1978.

EXHIBIT B

JOHN VERGIELS
ASSEMBLYMAN
DISTRICT NO. 10 (CLARK)
3966 VISBY LANE
LAS VEGAS, NEVADA 89109
TELEPHONE 735-1314

COMMITTEES
CHAIRMAN
EDUCATION
MEMBER
WAYS AND MEANS
LEGISLATIVE FUNCTIONS

Nevada Legislature

SIXTIETH SESSION

March 1, 1979

M E M O

TO: ALL MEMBERS OF COMMERCE COMMITTEE

FROM: ASSEMBLYMAN JOHN VERGIELS

RE: A.B. 100 and A.B. 195

I am forwarding to your committee correspondence that I believe you may be interest in when considering A.B. 100 and A.B. 195. Enclosed please find letters from Rose Held and the R & B Apartment Management Company, the operators of Oakwood Garden Apartments - Village Green. I believe that they are self-explanatory.

Thank you for your consideration.

Jeffrey

EXHIBIT B

AB 100
AB 195

2/24/79

Dear John—

I am enclosing herewith a letter I received from the new owners of Village Green. I am a widow and a senior citizen (67 yrs old) I feel the 12% per increase is much too high on my social security

3

with no extras in it—

inflationary?

With Village pres—

the 7 yrs rose at

$10 every 18 months—

was much better than

$35 for 12 months.

I believe this

onslaught on senior

citizens should be stopped.

4

what can you do to help? Please try!

Many thanks for your immediate attention to this urgent matter

Sincerely

Joe G. Held
732 Oakmont Ave
Las Vegas Nev
APT 405 89109
732-8085

EXHIBIT B

February 15, 1979

Dear Resident:

I would like to take this opportunity to tell you something about the organization which is directing the operation of Oakwood Garden Apartments - Village Green.

Our firm, R & B Apartment Management Co., a division of R & B Enterprises, has been involved in property management for the past 17 years. Currently, we operate a chain of 30 Oakwood communities, encompassing more than 18,000 units throughout California, Arizona, Texas, Virginia and now in Las Vegas, Nevada.

A policy of extra service to our residents, which we call the "We Care" attitude, is the keystone of our operating philosophy. Some of the extras which we provide include a fulltime on-site professional management and maintenance staff. We attempt to resolve all maintenance problems with dispatch and make your life as comfortable as possible. Our policy calls for operating every day of the week, with hours of 10 AM to 7 PM to accommodate working schedules.

At Village Green, we intend to carry out our operating philosophy. You might be interested in some of the rehabilitation we plan in the near future. This includes:

- 100 new chaise lounge chairs for the pools
- New sets of stone furniture for the pool areas
- The heating of at least one pool year-round
- Refurbishment of all wood exterior trim
- Painting of interior hallways
- Reseeding of all lawns so they will be green year-round
- Painting of perimeter iron fencing
- Painting of all stairwells and banisters

We sincerely hope this work will be accomplished with virtually no disturbance of your daily routine. These are just a few of the things we hope will make you proud to live at Oakwood.

Another company policy is what we consider our moderate rent increase program. Although Village Green residents typically have received two rent increases per year, our philosophy is based on one moderate rate increase per year, not to exceed 12%. In addition, we guarantee that we will not increase your rent more than once during any 12 month period.

At this time, we have reassessed the rent level of your apartment and will adopt the following measure. Your rent on apartment no. 405 will be increased from $ 295.00 per month to $ 330.00 per month, commencing with the payment due on April 1, 1979.

We sincerely hope you are enjoying your stay with us and will continue to make your home with us for a long time to come.

Sincerely,

H. Y. Rosenblum
President

AGAINST

EXHIBIT BC
Date of Hearing 3-24-79

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No
Bill Jowett	Coalition For Fair Housing	~~✓~~	[illegible]
Bill Fleiner	Coalition For Fair Housing	✓	
Norman Flynn	Coalition For Fair Housing	✓	
Curtis Aller ~~Mehosic~~	Coalition For Fair Housing	✓	
George Mehocic Larry Pegram	Coalition For Fair Housing Coalition For Fair Housing	✓	
Ralph Heller	Coalition For Fair Housing	✓	
Clint Wooster	No NV Apt. Owners	✓	
Al Cartlidge	No NV Apt. Owners	✓	
Jack Schroeder	No NV Mobile Home	✓	
Al Fisher	↓ Park Assoc	✓	
Mary Fischer	Cottonwood Mobile Home Pk	✓	
Ross E Stolz	Park owner		✓
R.W. Wright	" " " "		✓
Walt Bentz	A-1 Mobile Village	✓	
Bill Cozart	Nev. Assoc. of Realtors	X	
[illegible] Taylor	So. Nev. Mobile Park Owners Assoc.		
Jim Joyce	Savings & Loan League	X	

controls ultimately lead need only examine the experience of New York City, where 30 years of rent controls have had a devastating effect on private-apartment housing. In recent years, apartments have been abandoned at a rate of more than 25,000 a year. Some areas where handsome apartment buildings once stood resemble bombed-out European cities in the aftermath of the war.

True, many economic and sociological factors have contributed to the shocking state of affairs in the city. But numerous studies make clear that rent-control laws have had a major role in the decay of the city's housing supply. Declares Roger Starr, former head of New York City's Housing and Development Administration: "Rent control discourages investment in older housing, hastens the deterioration of existing buildings and keeps the supply permanently inadequate."

Rent controls also have contributed significantly to New York's fiscal crisis. The city has lost tens of millions of dollars in property taxes because of abandonments and reduced assessments on decaying rent-control properties. Yet administering controls costs taxpayers more than $13 million annually.

Throughout my political career I have worked to promote decent housing for poor and elderly Americans. Opposition to rent controls is consistent with this record. The Washington *Star* put it best by comparing such controls to hard drugs: "Starting is euphoric. Trying to stop is painful. Continuing is disaster."

REPRINTED FROM THE AUGUST 1977 ISSUE OF READER'S DIGEST

A Reader's Digest REPRINT

Why Rent Controls Don't Work

Across the nation, rent-control ordinances are gaining acceptance. But—as one Democratic legislator has learned—they play a cruel hoax on the very people they're designed to help

By Sen. Thomas F. Eagleton (D., Missouri)

Retired teacher Alicia Byrd (not her real name) lived for 38 years in the same impeccably maintained Washington, D.C., apartment development. When the city government adopted strict rent controls, Miss Byrd and her 174 fellow tenants liked the idea. After all, who wants to pay higher rents? Now, four years later, she says, "I see how ill-advised rent controls can be."

Earlier last year, in what came as a traumatic shock to many of the residents—especially the elderly—the apartments' owners announced that the buildings had been sold and soon would be razed for construction of an office building. "We had no choice," say the owners. "With rents controlled and operating costs skyrocketing, the buildings were simply no longer profitable."

Alicia Byrd learned the hard way that rent controls provide a cure worse than the disease. Yet government control of rents has gained widespread acceptance in this country. In the last four years, some 200 cities and counties have adopted controls, and hundreds more are considering them.

Not long ago, rent controls were regarded as a wartime phenomenon, imposed along with wage and price controls to block profiteering in times of national emergency. But following expiration of the Nixon

Administration price controls, which covered housing, there were immediate pressures on localities to impose long-term ceilings on rents. Many quickly acceded. From a political standpoint, it was not surprising. There are far more renters than landlords. And when prices soar, immense pressure is exerted on government officials to stop the spiral. While restriction of commerce is usually beyond the legal reach of local officials, they can enact statutes limiting rents.

Had I been serving on a city council, I, too, could well have voted to impose controls. However, as chairman of the Senate District of Columbia Committee (which reviews the actions of Washington's elected city government), I conducted a wide-ranging investigation into rent control in the nation's capital. The facts that emerged have had a profound impact on my attitudes toward rent control. For the sad truth is that rent controls—enacted for the best of motives to protect middle- and low-income tenants—actually work against the very people they were designed to aid.

Washington's rent-control program has driven apartment owners, large and small, out of business. For example, more than 60 renters lost their apartments when their building was converted into a more profitable home for the aged. Recently, a modern 170-unit apartment structure—built less than ten years ago—went on the market with advertising publicly warning that as a residential rental property it was not a good investment.

Studies estimate that Washington will need more than 1200 new rental units each year to keep up with demand. Since the implementation of rent controls, however, the city has experienced a net loss in available units. Worse still, the construction of private apartments has virtually ceased. Washington's leading mortgage lender has publicly stated that no loans will be considered for apartment development until there is an adequate return to the investor. Even city officials who once championed rent control now concede that the program should be phased out.

In a free-market economy, price and supply are regulated by demand. If prospective tenants outnumber available apartments, rents will increase, but so, too, will investments, prompting more apartment construction. Ideally, as the number of available apartments increases, prices will stabilize. Controls, however, interfere with the law of supply and demand. As George Sternlieb, a respected housing authority and head of Rutgers University's Center for Urban Policy Research, testified before my committee: "By cutting off the creation of new housing, you will have further housing squeezes, justifying the continuance of rent control, because clearly the housing shortage will get worse, not better."

The effect of rent control on apartment-building maintenance is also insidious. Today, instead of replacing leaky roofs, owners frequently patch them. Painting has been postponed indefinitely in many projects. In one 35-year-old building, the pipes are sorely in need of replacement. Once, says the owner, he would have replaced them all. Now he is making only emergency repairs because he insists that he can't get the rent increases needed to make new plumbing worthwhile. Moreover, with no end to controls in sight, he questions whether he should invest any substantial sum to upgrade his property.

Unfortunately, it is the poor and lower-income residents of apartment buildings—the very people rent controls are supposed to help most—who are the primary victims of a system which provides an incentive for decay. (Affluent apartment dwellers typically live in newer structures valued more by owners and less dependent on timely maintenance.) The owners of one development in Washington appealed to the rent commission for increases to finance essential roof repairs. Shortly after the appeal had been turned down, building inspectors demanded that a roof be repaired and threatened to lift the owners' apartment license if it was not. Result: a 17-unit building was closed; its windows were boarded up and its tenants left to find housing elsewhere. Declares Flaxie Pinkett, head of a property-management firm and one of the city's most progressive citizens: "No one in his right mind would consider substantial rehabilitation of a property in the city as long as this law is on the books."

Along with contributing to urban blight, the city's rent-control procedures also create demoralizing and costly red tape—"an administrative nightmare," says the Washington *Post*. It took one apartment-building owner six months—and a good lawyer—to win a hardship rent increase despite the fact that not a single tenant opposed his application. Another modest apartment investor waited more than two years before winning an emergency increase on a building that clearly was losing money throughout the period. "I spend more time coping with rent control than I do running a good apartment building," he says.

Often "hardship increases" do not approach the actual rise in owners' costs. In court actions, apartment owners have argued that they should be allowed to pass-through unavoidable increases in operating costs. But the city contends: "Unlimited pass-throughs would mean no control of rents at all."

Even the act of registering with the rent-control office is a major hassle. A government worker who owns four rental units told our committee how he went to the rent commission on his lunch hour, intending to register his modest properties quickly. Instead, he was given 15 pages of forms which were so complex he had to seek legal help to complete them.

Those who want to see where rent

Rent Control: Prescription For Municipal Disaster

By Ralph Heller

The apartment vacancy rate in the Reno-Sparks area is less than one percent and rents have been rising to the point where an unusual number of people are finding it increasingly difficult to find apartments in which they can comfortably afford to live. What to do?

There are two answers, and only two; and any one of the dozens of would-be bureaucratic solutions you read about falls into one category or the other. The first answer is to build more rental units, thereby bringing the supply of apartments into line with the increasing demand. The free market situation thusly created — including a touch of old fashioned, healthy competition between landlords to provide the best apartments for the dollar — will provide its own check on precipitous rent increases.

But building more apartment units — or building much of anything else these days — is not so easy, what with limited municipal sewerage capacity, costly environmental impact statements, multiple project reviews and countless other hurdles awaiting the builder. Indeed, any modern city planner or newspaper reporter worth half his pay can find a hundred reasons why something should not be built; rarely can he come up with even a single reason to approve a newly proposed building project — at least none so compelling that he will compromise his lengthy list of objections.

No — instead, those who have succeeded in bringing new apartment construction almost to a halt are forced into advocating the only alternative solution available — some sort of artificial, arbitrary means whereby rent increases can be checked. Call their solutions what you wish; whether it be by state statute, local ordinance or whatever, they are talking about rent control . . .

The Incredible Record

. . . and the historic record of the effectiveness of rent control indicates that for most cities that give it a try, rent control is a veritable prescription for disaster. Recently the National Association of Realtors contacted political leaders, real estate experts and urban planners in cities now utilizing some form of control, only to find that condemnation of rent control was nearly universal. Respondents were almost unanimous in pointing to six negative side effects of rent control now plaguing their cities.

First, owners of rental properties tend to reduce the amount of money they spend on repairs and maintenance, largely due to a profit squeeze.

Secondly, property tax increases on single-family dwellings and commercial properties are usually necessitated by reduced taxes on properties brought under rent control which inevitably suffer some decrease in market value.

Thirdly, the complete abandonment of some rental properties becomes surprisingly commonplace, as the ability to turn a profit vanishes.

Fourth, construction of additional rental units tends to grind to a halt, and conversion of rental units to condominiums increases.

Fifth, rent control ordinances usually fail to discriminate intelligently, so that those people who can easily afford to pay higher rents benefit along with the people the rent control ordinance is supposed to help.

Sixth, once enacted rent control legislation quickly becomes an emotional, ideological and social issue — not an economic one — and becomes all but impossible to repeal or even modify.

Still, there are those who advocate some form of rent control right in the Reno-Sparks area. About 300 municipalities have experimented with rent control at one time or another, and it is worth the time of those who would bring rent control to the Truckee Meadows to take a look at how it is working elsewhere.

The Besieged East

Rent control was adopted by five cities in Massachusetts about a decade ago. Boston, Cambridge, Somerville and Brookline are still struggling with it, while Lynn, Massachusetts abandoned it in 1976 after a six-year trial. Other cities, including Brockton and Amherst, rejected rent control after observing its ill effects on their sister cities in the Commonwealth.

Last year Boston Mayor Kevin White appointed a committee to examine the city's housing market, assess the administration of rent control, and report on the impact of rent control on housing supply. "The continuation of rent control," the committee's report stated, "may in the long run reduce both the quality and quantity of units available for low and moderate income families." The committee went on to recommend that present rent control procedures be dropped "as soon as feasible."

Yet rent control in Boston continues as usual. Why? Because rent control has become an emotional issue, not an economic one, according to Dexter Kamilewicz, the managing director of Boston's Rental Housing Association. Kamilewicz reports that not only has rent control managed to reduce both the supply and quality of rental units available, but through the resultant scarcity it has created one of the very conditions it was supposed to remedy — high rents.

According to data collected by the Institute of Real Estate Management, an affiliate of the National Association of Realtors, Boston landlords spent about 10 percent of their gross income on repairs and maintenance in 1968 and 1969, the two years before the enactment of rent control legislation; between 1970 and 1975, however — subsequent to rent control — such expenditures slid to roughly seven percent.

Even more devastating for the city, of the 6,700 rental units demolished between 1970 and 1976, nearly 6,000 were units under rent control. Meanwhile, privately financed rental construction dwindled, as conventionally mortgaged units built in Boston slid from 68 percent between 1960 and 1969 to 28 percent privately financed between 1970 and 1976.

In neighboring Cambridge, Massachusetts, the assessed value of real property has dropped by more than $3 million since the implementation of rent control in 1970. In 1976, according to city assessor Charles Laverty, sales of rental properties in non-rent control communities around Cambridge ran about five times gross income — or roughly 40 percent higher than they were in Cambridge in the same year.

An especially interesting case study on one side effect of rent control is provided by the city of Fort Lee, New Jersey — a commuter city directly across the Hudson River from Manhattan — where 72 percent of all housing units are rental units. Fort Lee enacted its rent control ordinance Feb. 2, 1972, and over the

years the controls have become increasingly stringent. In 1974, for example, allowable rent increases could not exceed 2.5 percent. Rutgers University's Center for Urban Policy Research decided to take a closer look at the Fort Lee experience and concluded that with rental increases of 2.5 percent, increased expenses of eight percent, and a capitalization rate increased by 10 percent, net income as a percent of rent received would decline a total of 58 percent from 1974 to 1980, while the buildings would actually decline in value by more than 50 percent during that time.

Tax abatements are hitting the relatively few single family homeowners in Fort Lee very hard; there simply aren't enough of them to absorb the added tax burden.

The classic study of rent controls, of course, is New York City where more than 1,400,000 residential units are subject to rent control. In its 15th Interim Report to the Mayor on the effects of rent controls, the Temporary Commission on City Finances last year echoed its 14 predecessors:

"Calculation of the costs versus the benefits of rent control with regard to the city's housing, finances and economy, clearly demonstrates the net adverse effect of rent control and rent stabilization. The effect, if not the purpose, of rent control is subsidization of renters by owners."

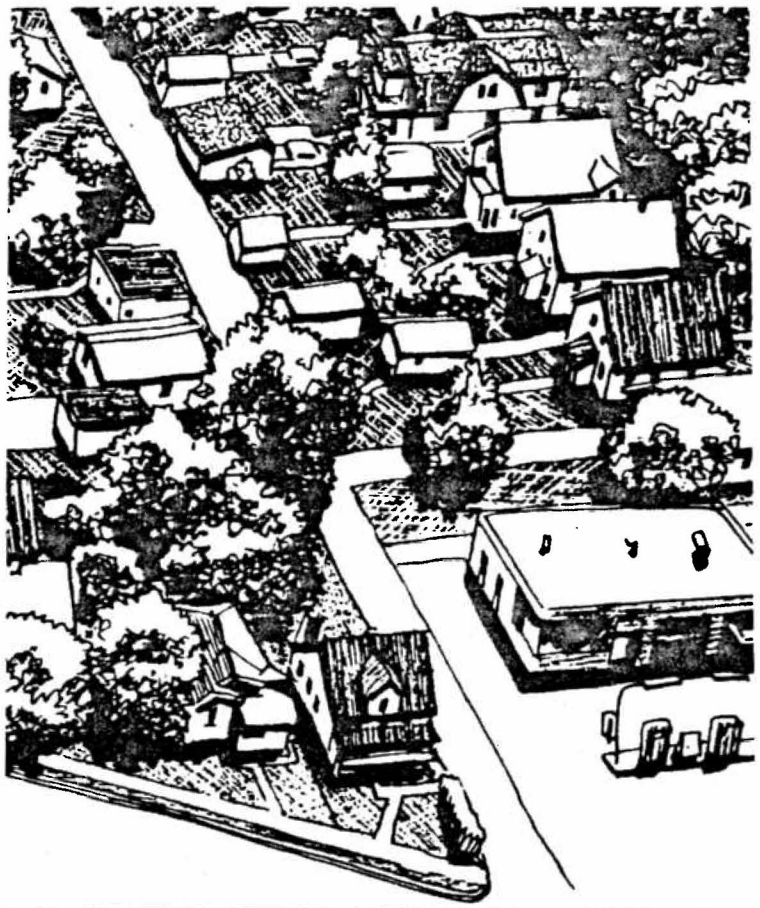
Unambiguous enough? In 1969 the Rand Institute in New York City estimated that rent control provided an income transfer averaging about $650 each to some 1,240,000 renters since the start of controls. The total to date is more than $20 billion.

Last year the city's own investigative commission called rent control in New York City an "unmitigated disaster."

In 1974 — and not withstanding the experience of cities in Massachusetts, New Jersey, New York and elsewhere — Washington, D.C. enacted rent control legislation to combat rising rents and an increasingly tight rental market. The immediate effect was the rapid conversion of countless rental units to condominiums, although subsequent legislation makes such conversion much more difficult to implement. Private construction of rental units in Washington has since 1974 come almost to a complete halt, and many major lenders won't even finance capital improvements or rehabilitation.

Senator Thomas F. Eagleton (Democrat, Missouri), the chairman of the Senate District of Columbia Committee, investigated the impact of rent controls in Washington and concluded that they don't work. His comments — the words of a well known liberal who is generally sympathetic to urban needs — are worth quoting:

"Government has a responsibility to guarantee all citizens an opportunity for decent and affordable housing. However, my experience with rent control has shown that this is not the way to reach our goal. While it may offer the tenant some short term economic benefit, in the long run it leads to deteriorated housing, apartment shortages and higher rents. In other words, rent control eventually works against the people it is supposed to help."



Has the West Learned?

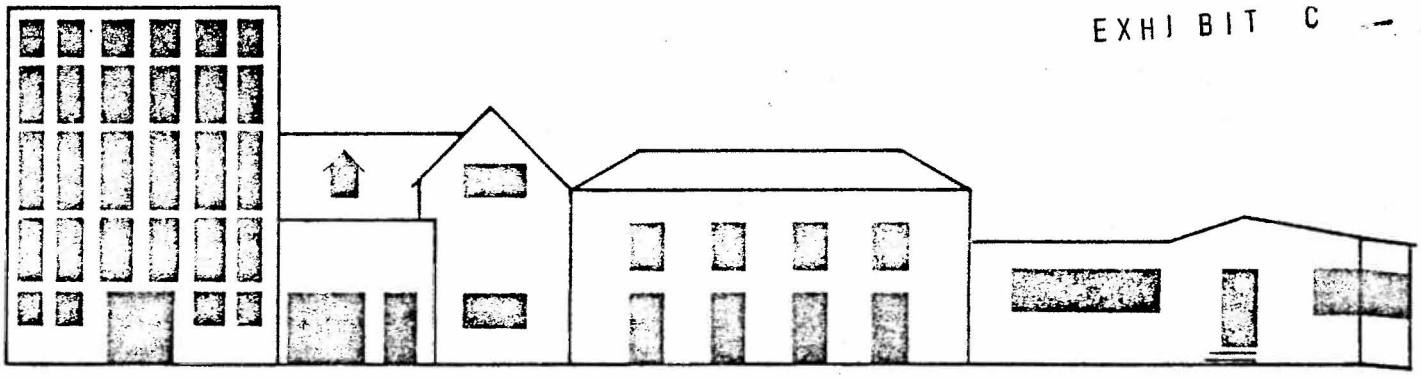
The uniformly bad effects of rent control as seen in America's eastern cities would seem to dictate caution for westerners contemplating similar controls. And although some spokesmen cry out for measures that add up to some form of rent control, perhaps the message has been received and understood. Last year a large midwestern university city turned thumbs down on rent control despite the fact that 51 percent — 85,000 of the city's 170,000 citizens — are renters. In Madison, Wisconsin, where 35 percent of the registered voters are undergraduates at the University of Wisconsin, rent control went down in flames in every precinct in the city, largely thanks to a group calling itself the Coalition Against Rent Control. Comprised of home owners, students and distinguished faculty members, the Coalition did its homework and determined that administration of the rent control ordinance would have cost the City of Madison in excess of $2 million per year, that under rent control single family homeowners would have been heavily penalized with an additional tax burden of between six and 14 percent, and that if the proposed rent control board met five nights a week it would have to establish rents on 120 apartments per meeting to cover all of Madison's rental units in a year.

Still, there are those who would advocate rent control for Reno and Sparks. In so doing they ignore economic reality as well as historic experience. The National Association of Realtors addressed the issue of rent control in the association's 1978 Statement of Policy:

"Rent control threatens not only the traditional property rights of citizens, but significantly affects the housing inventory by hastening the deterioration of existing housing while it discourages the construction of new housing."

Everywhere it has been tried rent control has been a prescription for municipal disaster. But that won't stop some reporter, some editorial writer, some bureaucrat or some political candidate from advocating it as a solution to soaring rents in the Reno-Sparks area. Hopefully, 51 percent of the people have learned the lesson of experience, and will consign the idea to the ash heap of failed social concepts if they are called upon to do so some future election day.

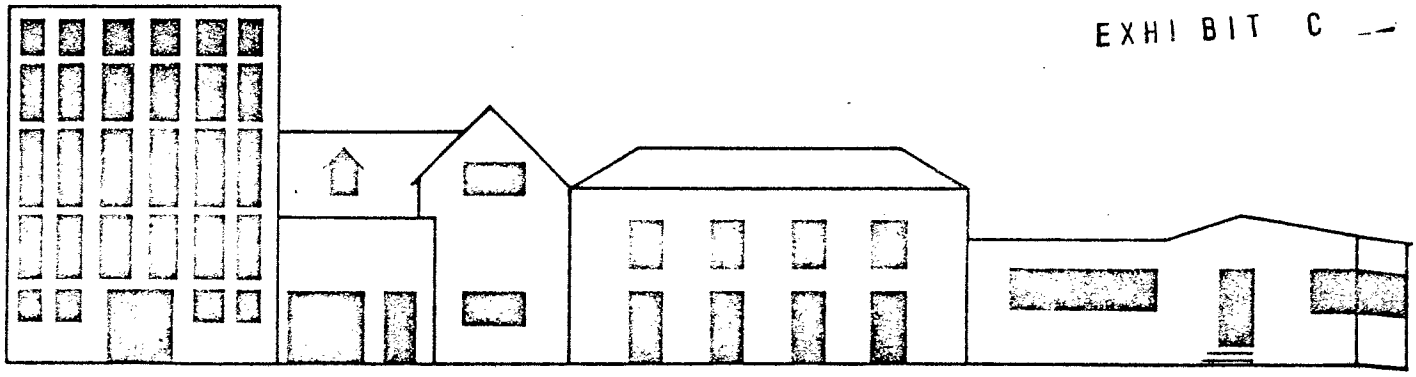
EXHIBIT C



COALITION FOR FAIR HOUSING

TABLE OF CONTENTS

EXHIBIT C



COALITION FOR FAIR HOUSING

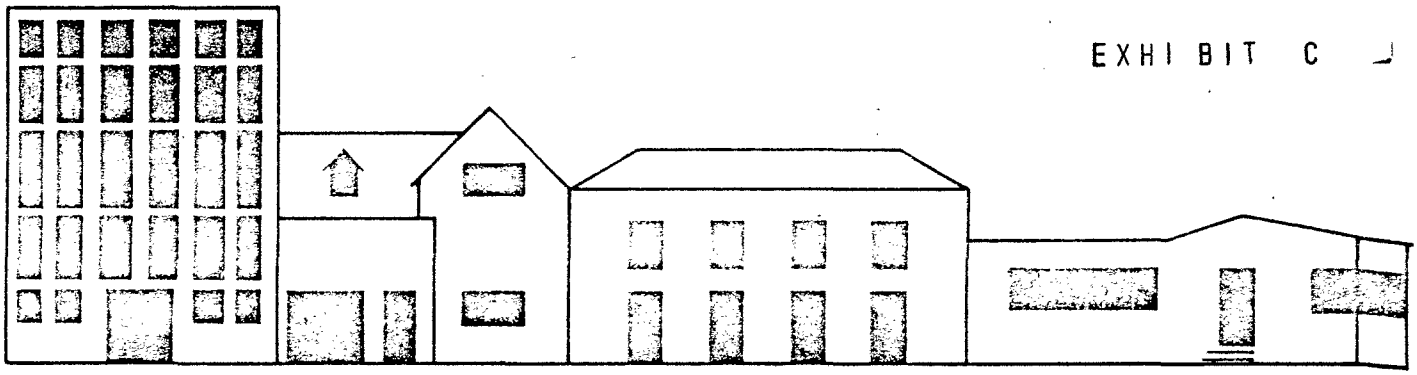
NORMAN D. FLYNN

Norman D. Flynn is the past Chairman of the National Association of Realtors' Ad Hoc Committee on Rent Control and President of Flynn- Baker Investment, Inc. in Madison, Wisconsin. As a real estate practitioner, he specializes in investment counseling and the marketing of financial investment products.

Mr. Flynn is Chairman of the Committee for More and Better Housing, which has waged three successful campaigns against rent controls in Madison. He is the former President of the Greater Madison Board of Realtors and of the Madison Area Apartment Owners, the 1975 "Realtor of the Year" in Madison and has been actively involved in various capacities with the Wisconsin Realtors Association.

A recipient of B.S. and M.S. degrees from the University of Wisconsin, Mr. Flynn is regarded as one of the nation's foremost authorities on rent control. In his capacity as Committee Chairman, Mr. Flynn has represented the National Association of Realtors as their spokesman at numerous functions.

EXHIBIT C



COALITION FOR FAIR HOUSING

CURTIS C. ALLER

Dr. Curtis C. Aller is professor of economics, presently the Director of Employment Studies at San Francisco State University. He is also an elected trustee of PEALTA Community Colleges. He serves as a member of several California State Agencies such as the Advisory Council on Vocational Education and the Manpower Services Council.

His educational background is:

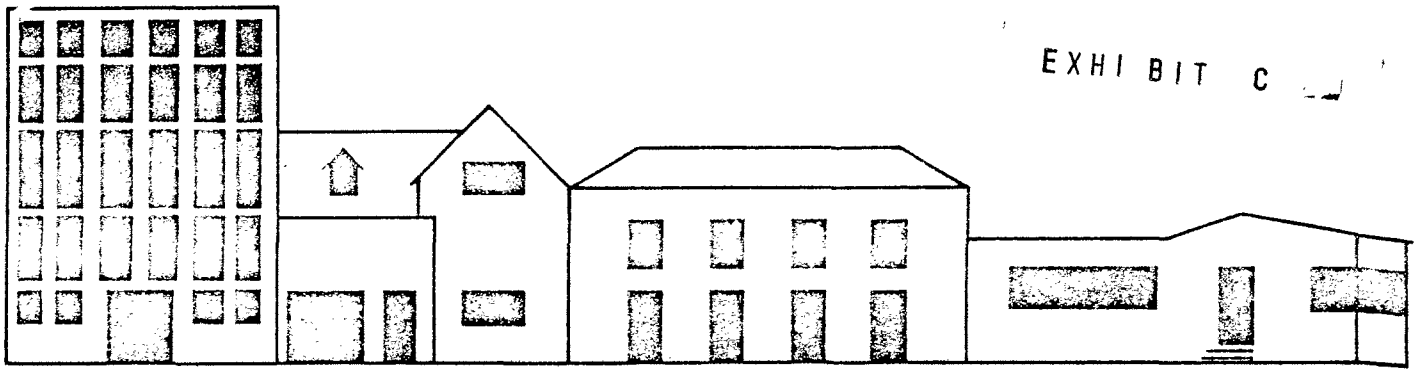
Received his Bachelors degree from the University of Washington.
PhD from Harvard in Economics and Government
Advanced degree from Oxford

Early in his career, Dr. Aller served with the office of price administration in Seattle and as Director of Wage Stabilization in Hawaii. He was later the associate manpower administrator for the United States Department of Labor where he was responsible for all manpower legislation over a three year period.

During the Korean War as Director of Economic Analysis for the United States Government he established the U.S. Wage Stabilization Board.

Dr. Aller is a past chairman of the Twin Pines Savings and Loan Association in Berkeley California.

EXHIBIT C



COALITION FOR FAIR HOUSING

GEORGE MEHOCIC

George Mehocic joined the National Rental Housing Council as Vice President of field services August 1, 1978. Mr. Mehocic is familiar with the Washington scene having served with the federal government as an assistant to the administrator of the Environmental Protection Agency and as an official of the Federal Energy Administration. At FEA he managed the residual fuel oil allocation program as well as the crude oil allocation program: thus he is intimately familiar with government regulations and public policy making.

Mr. Mehocic has had extensive political campaign organization experience at the local, state and national levels.

In addition, George Mehocic has lived in both New York City and Washington D.C. and has observed the effects of rent control first hand.

EXHIBIT C

National Rental Housing Council

1800 M Street, N.W., Suite 285-N • Washington, D. C. 20036 (202) 659-3381

March 24, 1979

STATEMENT TO THE NEVADA STATE LEGISLATURE

BY
GEORGE R. MEHOCIC
VICE PRESIDENT - FIELD SERVICES

Mr. Chairman, members of the committee, ladies and gentlemen. Thank you very much for allowing me to speak this morning on the subject of rent control.

My name is George Mehocic, I am Vice President of Field Services for the National Rental Housing Council. The National Rental Housing Council is a housing industry trade association with executive offices in Washington D.C. The purpose of the council is to inform the general public and elected officials to the negative impact that rent control has on the housing supply and the financial stability of our cities.

Although I have a way to go before I can be considered a housing expert, I do have first hand experience in regulatory matters. From 1973 to 1974 I was an assistant to the Administrator of the Environmental Protection Agency. In the subsequent four years I was an official of the Federal Energy Administration, now part of the Department of Energy.

As manager of the residual fuel allocation program and also the

EXHIBIT C

crude oil allocation program, I had first hand experience with the drafting and administration of regulations. I believe my experience provides me a unique insight to the workings of a bureaucracy and to the ability of government regulations to become so complex as to obscure the original purpose of the regulations; to become so complex as to be almost impossible to administer; and to be so complex that the actual benefits are so much less than they were expected to be.

I am here this morning at the invitation of the Northern Nevada Coalition for Fair Housing. I was asked to appear because rent control has no track record in Nevada and therefore we must look elsewhere to analyze the impact of rent control and to determine whether it is desirable for this state.

In my capacity as Vice President for Field Services of the National Rental Housing Council, I have conducted many hours of personal research into the subject and discussed it with the people affected. For example, this past week I met with the Rent Stabilization Association of New York City and learned first hand the problems of that city. What I learned is that there are several fundamental arguments against rent controls:

a) Rent controls lead to the inability to finance new rental units.

EXHIBIT C

b) Rent controls lead to the inability of existing property owners to maintain their buildings.

c) Rent controls lead to the weakening of the local tax base.

d) Rent controls create a housing shortage which result in a myriad of problems for the locality that has controls.

e) Rent controls result in more bureaucracy and administrative costs.

At the National Rental Housing Council we have collected numerous studies done by local governments, congressional committees or academic research that indicate the negative impact of rent control. However, one aspect of rent control that is very difficult to quantify is the extent to which a whole system of regulations has to be developed, regulations that will not solve the problems they are intended to solve, regulations that only benefit the bureaucrats and others who make their living from it.

Last year, press reports indicated that the annual rate of inflation was 9%. This year the rate is even higher. Inflation coupled with a strong demand for housing has put an upward pressure on rents and has shrunk the vacancy rate. The only solution to a low vacancy rate is to increase the supply of housing. I challenge anyone to step forward and prove that rent control increases the supply of housing. On the contrary studies we have show that in

EXHIBIT C

area of Connecticut, Maryland, New York and New Jersey, where rent controls have existed the development of conventional new housing has virtually stopped.

In an era of rapid inflation and escalating rents, there are some people who are on fixed incomes who may suffer. However, it does not make sense to impose an entire complex bureaucratic process that would affect all of the people in the state regardless of need because a few people of the state have a problem. If the state legislature is concerned about a certain segment of the population then perhaps the state legislature should develop some very specific legislation that provides some direct relief to these individuals.

As I mentioned earlier I was with the Federal Energy Administration during the energy crisis of 1973 - 1974. At the beginning we attempted to handle as many problems as possible and expedite them the best way we knew how. The first few cases that we handled were taken care of over the telephone, but then the lawyers told us that we needed to document our actions in writing. As a result we started sending out telegrams and after a few of these telegrams were challenged in court we had to start sending out such long documents that we could no longer use telegrams and what used to

take a two minute telephone call evolved into a twelve page letter which required several levels of signature and approval before any action was undertaken.

As you know the energy crunch of 1974 was essentially over by the middle of 1974. The Federal Energy Administration at the time I left had 2,000 employees. It now has 20,000 employees and spends more money on its budget then the entire United States spends to look for oil.

I know that the areas of energy and housing are totally separate and distinct. However, whether it is energy, housing, airplanes, trucking, or speed limits, there is ample evidence to show how government bureaucracy only feeds on itself rather than solving problems.

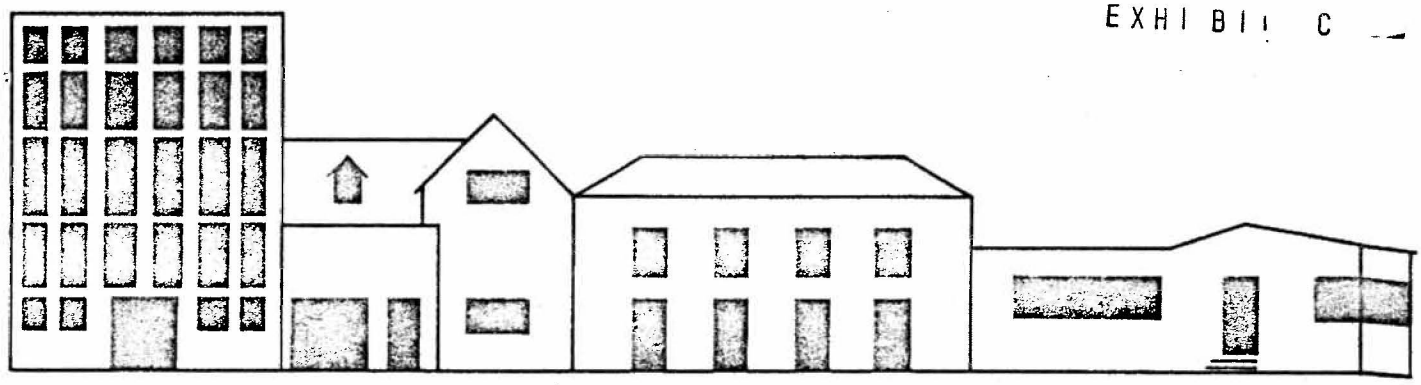
In closing I would like to read to you a portion of the February 22, 1979 Washington Post regarding the administration of rent control in Washington D.C.: "the office (which administers the city rent control program) has been criticized by both landlords and tenants during the past year who charge that a high turnover of employees, lost hearing evidence, inefficiency, administrative

mismanagement, and a long wait for decisions have been common occurrences...".

In 1975 a socialist government in Sweden removed rent control after it had been in effect for 33 years because it did not work. In 1978 a communist government in Italy removed rent control after 40 years because it was a hopeless failure. In 1979 I cannot imagine how the government of the state of Nevada could possibly embrace a concept that has proven to be a failure everywhere it has been tried.

Thank you Mr. Chairman for allowing me to address you and the committee this morning. I will now be happy to answer any questions you may have.

EXHIBIT C



COALITION FOR FAIR HOUSING

LAURENCE R. PEGRAM

Laurence Pegram is a second term city councilman from San Jose, California - one of the fastest growing cities in America (pop. 587,700). He is a member of the executive committee of the Association of Bay Area Govenors, serving with the mayors of San Francisco and Oakland. Mr. Pegram also serves on the Revenue and Taxation Committee of the League of California Cities.

Mr. Pegram is working with the National Rental Housing Council, a housing industrial association with executive offices in Washington D.C. Its purpose is to inform the public and elected officials of the negative impact rent control has on the housing supply and the financial stability of our cities.

Mr. Pegram is President of Economic Development Systems, an economic consulting firm. He is a specialist and noted authority in municipal finance.

EXHIBIT C

National Rental Housing Council

1800 M Street, N.W., Suite 285-N • Washington, D. C. 20036 (202) 659-3381

March 24, 1979

STATEMENT TO THE NEVADA STATE LEGISLATURE

BY
LAWRENCE R. PEGRAM
VICE PRESIDENT - GOVERNMENTAL RELATIONS

Mr. Chairman, Members of the Legislature, ladies and gentlemen, good morning! My name is Larry Pegram, P-E-G-R-A-M. I am Vice President, Governmental Relations for the National Rental Housing Council and president and owner of Economic Development Systems, an economic and management consulting firm. I am also a City Councilman in the City of San Jose, California.

I was invited to be here today because not too many months ago, rent control was an issue before the San Jose City Council. Last summer, a number of renters in San Jose petitioned for some measure of rent control. I believe that the situation facing you is very similar to the situation in San Jose last summer.

As you may know, our local economy in Santa Clara County is booming with the strength of the electronics industry. We have virtually full employment, an extremely low vacancy factor for both mobile homes and multi-family dwellings, upward pressure on rents, and we share the high national inflation rate.

I also wish to tell you that voting for a measure to control rents would have been a very easy thing to do from a political standpoint.

When the chambers are packed with the 4 - 500 renters, the arithmetic is simple.

Senator Proxmire stated for the Congressional Record on September 18, 1978 that, "Rent control has the most obvious kind of political appeal. There are more tenants than landlords. Every tenant likes to have his rent held down. No tenant wants to have his rent increased. So the political arithmetic is straightforward and deadly. Fix rents by law. What could be simpler. The only trouble with that solution, is that it does not work."

In fact, in California during the past 13 months there have been 10 local elections to determine whether or not rent control should be imposed and in 8 out of 10 of those elections the voters have said they don't want rent control in their cities.

February 1978	- Cotati	50% renter	Rejected	55-45%
June 1978	- Santa Barbara	55% "	"	64-36%
	- Santa Monica	78% "	"	56-44%
	- San Francisco	67% "	"	53-47%
	- Palo Alto	46% "	"	63-37%
	- Santa Cruz	47% "	"	50.3 to 49.7%
March 1979	- Santa Cruz		"	54-46%
	- Long Beach	56%	"	68-32

The two cities voting for rent controls were Berkeley, and Davis, both university towns where the population reflects a short outlook regarding housing.

I didn't support rent control in San Jose - neither, by the way did a majority of our Council. The facts relating to rent control were made available to us in hearings, letters and various reading material. I think each of us came to the same conclusion in a variety of different ways for a variety of different reasons.

Among the many arguments that were presented against rent control are:

1. A drying up of investment funds in our city causing a greater shortage in mobile home and multi-family dwellings.
2. A continuing housing shortage that causes business and industry to decide to locate in other regions.
3. A deterioration in housing stock due to reduced levels of maintenance.
4. An increase in abandonments of residential and commercial property
5. A shift in the tax burden from rental residential property to single family residential property tax payers.
6. Rent control did not deal with need. Every renter, no matter what his or her income, benefited equally only because of the commonality of tennancy.

I found two arguments to be most significant.

The first was the costs to our community, both to government and to our residents, of rent control. We looked at the cost of administering a rent control

ordinance to a city with 600,000 residents about 35% of whom live in some form of rental housing. We looked across the nation at costs to administer and found costs running anywhere from $2.01 per unit per year in New Haven, Connecticut to $20.70 per unit per year in New York City. With approximately 73,000 units in San Jose the direct costs would run between about $150,000 and $1,500,000. Mr. Charles Laverty, the City Assessor for Cambridge, Massachusetts, has estimated that the true administrative costs are about 5 times the budget appropriation.

The higher cost estimate includes time of all of the city offices involved with rent control. (Inspections, legal, clerical, courts, etc.) When we looked at Laverty's statement and estimated $7 million per year for rent control administration and enforcement in these times of rapidly increasing government costs and restricted revenues, we couldn't decide which of our services we should significantly reduce or eliminate to control rents.

We also felt that there would be a significant cost to our residents in the form of decreased overall economic activity. Private investment in our community would dry up. Plants would locate in other areas, new jobs would not be created in our manufacturing, service, and commercial sectors, and construction activity would take a significant downturn. By pulling those dollars out of our local economy, we would lose the multiplier effect of those dollars, thus beginning a regional downturn.

We did not wish this to happen to our constituents.

The second argument of great significance to me was the concern that rent control would damage the quality of life in our valley. We should probably look at the factors that determine the quality of life.

First, is whether or not you have a job, and what your income level is. Second, what kind of housing you inhabit - whether or not it is standard or substandard - how many people occupy what space. Third, what community amenities are available - availability of goods and services, recreational opportunities, community facilities, streets, urban/suburban infrastructure, parks and the like. And then fourth, the traditional environmental concerns, i.e., air and water quality, etc.

We felt once again, that the economic problems associated with tinkering with the free market and private investment opportunity would act as a severe detriment to quality of life factors in our valley.

We could see a turn down. We could see a halt in building of rental properties directly affecting our low and moderate income residents. We saw the cost of rent control administration taking necessary funds away from public amenities. We felt that just as private funds would evaporate for rental housing, private funds would eventually evaporate for investment in other needed community amenities

Yes, rent control does effect the quality of life.

Professor Assar Lindbeck, author of "The Political Economy of the New Left: An Outsider's View, writes that, "in many cases, rent control appears to be the most efficient technique presently known to destroy a city - except for bombing."

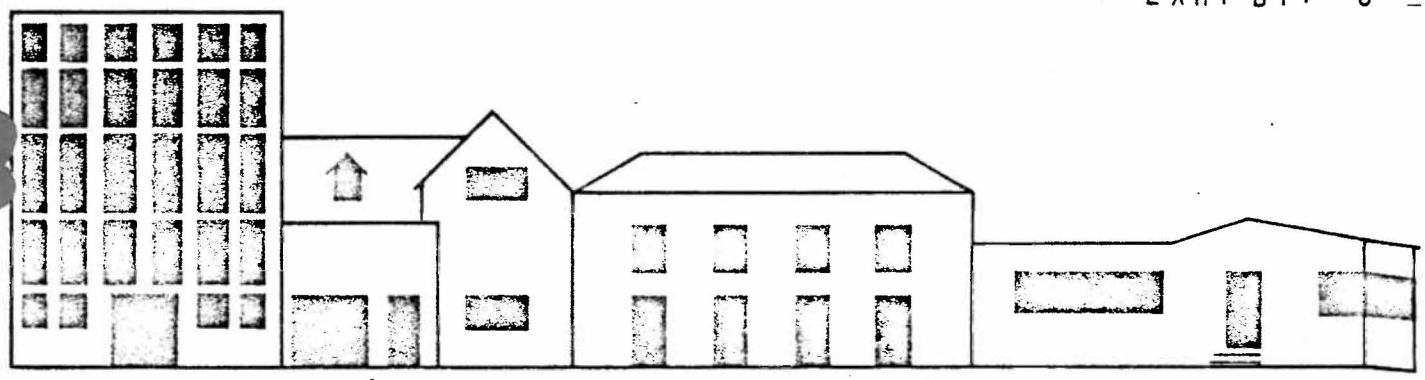
We made the decision in San Jose not to impose any controls on rents whatsoever. We did so because the evidence was clear. It was clear that rent control flew in the face of every goal of our City. It did not accomplish what we wanted it to. In fact, it exacerbated the problems

You have a decision to make. You have a decision to make that will directly affect the economic well being of the State of Nevada, the fiscal posture Cities of this State, the number, type and quality of units of housing that your residents will inhabit, and ultimately this decision will affect the quality of life of each and every resident of Nevada.

It is a fact that under rent control, "Investors don't invest; lenders don't lend; and builders don't build!"

The case is clear. The evidence leads only to one conclusion. We should not consider rent control to be a solution for our housing problems.

Thank you. I will be happy to answer any questions.



COALITION FOR FAIR HOUSING

RALPH T. HELLER

Ralph T. Heller is our concluding speaker. A list of some of Mr. Heller's activities follows:

Presently:

Executive Vice President, Reno Board of Realtors, Inc., Reno, Nevada and Editorial Director of the Board's monthly magazine, "The Reno Realtor"

Formerly:

Manager of Research Projects, American Management Association, New York, New York

Senior Managing Editor, Ebel-Doctorow Publications, Inc., Clifton, New Jersey

Former Public Offices:

Deputy Mayor and Councilman, Township of Chatham, New Jersey

City Council President, City of Albion, Idaho

Have served on municipal Planning Board, Zoning Board and Environmental Commission

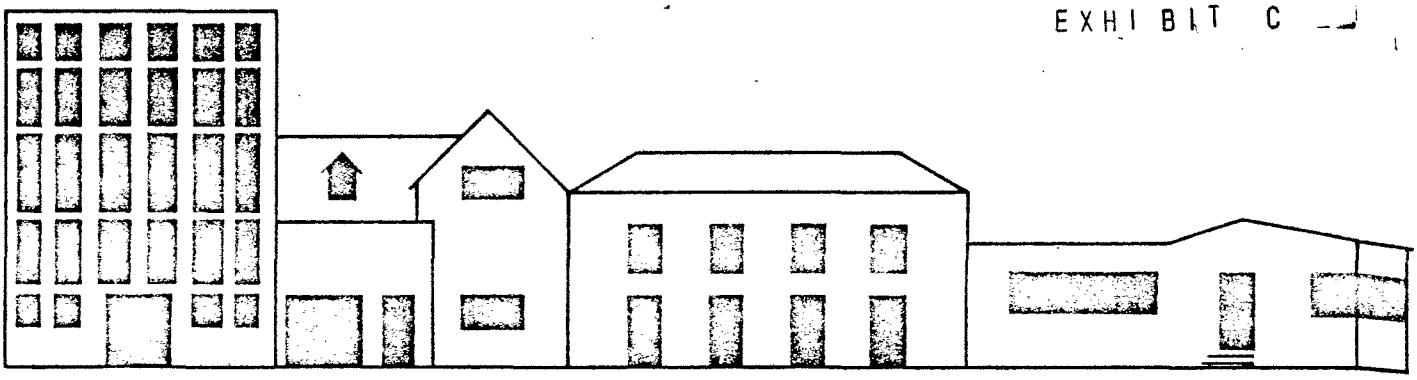
Legislative Aide to State Senator, New Jersey

Widely published writer and consultant on business, economics, development:

Published in:
"Nevada State Journal"
"Reno Evening Gazette"
"Twin Falls Times-News"
"South Idaho Press"
"Salt Lake Tribune"
"Newark News"
"National Review"
Others

Consultant to Association of Idaho Cities (growth, magazine development)
Idaho State University (development)
Pomerelle Ski Resort (land use, development)

EXHIBIT C



COALITION FOR FAIR HOUSING

At this point we would like to call your attention to the total housing cost presently paid by Mobile Home Park tenants as compared to that paid by apartment renters. The average cost to a mobile home tenant who has paid cash for his mobile home is 26.15¢ per square foot. The cost to the same tenant who chooses to finance 75% of the purchase price of his mobile home is 36.06¢ per square foot. The average cost per square foot to the apartment dweller is 42¢.

The figures for the mobile home owner do not take into consideration tax savings from accrued depreciation nor any possible appreciation in value at the time of resale.

The statistics to support the above figures can be found on the following pages.

EXHIBIT C

824

220 Space park to be built at Sutro & McCarren (SE Corner), Reno, Nevada
$190/Pad/Month rental (theoretical) - Actual equal or about $165/mo.

1		2	3	4	5	6	7	8	
Mobile home each	- size	Sq. Ft.	Cents/Sq Ft $190÷Sq Ft	(Estimated) Cost of home	75% Loan 15 yrs-13.29% (assumption)	Payment Per month	Payment ÷ Sq Ft	Interest write off 1st year ÷ Sq Ft *	Total cost/mo. 3 ÷ 7 - 8 = Cost/mo./Sq Ft
16	14'x62'	868	21.88¢	$25,000	$18,750	$238.18	27¢	$51.75 = 6¢	42.88¢
13	14'x67'	938	20.25¢	$27,500	$20,625	$262.00	28¢	$57.00 = 6¢	42.25¢
13	24'x48'	1152	16.50¢	$35,000	$26,250	$333.46	29¢	$72.50 = 6.3¢	39.20¢
18	24'x52'	1248	15.22¢	$38,000	$28,500	$362.04	29¢	$78.75 = 6.3¢	37.92¢
10	24'x57'	1368	13.88¢	$41,000	$30,750	$390.62	29¢	$85.00 = 6.2¢	36.68¢
22	24'x60'	1440	13.19¢	$44,000	$33,000	$419.20	29¢	$91.25 = 6.3¢	35.89¢
104	24'x64'	1536	12.37¢	$47,000	$35,250	$447.79	29¢	$97.50 = 6.3¢	35.07¢
9	34'x60'	2040	9.30¢	$50,000	$37,500	$476.37	23¢	$103.75 = 5¢	27.30¢
15	34'x64'	2176	8.70¢	$55,000	$41,250	$524.00	24¢	$116.25 = 5.3¢	27.40¢
220								7,887.85 ÷ 220 =	35.85¢

* Assumes the taxpayer is in the 25% bracket

Tenant has financed 75% of the cost of his mobile home

EXHIBIT C

825

220 space mobile home park to be built at Sutro & McCarren (SE CORNER) Reno, Nevada
$190/Pad/Month rental (theoretical) - Actual equal to or about $165/mo.

1		2	3	4	5	6	7
Mobile home each	- size	Sq. Ft.	Cents/Sq Ft $190÷Sq Ft	(Estimated) Cost of home (CASH)	Pass Book Int. lost @ 5% per yr per mo.	Int./mo. ÷ Sq Ft	Total cost/mo. 3 + 6 Cost/mo./Sq Ft
16	14'x62'	868	21.88¢	$25,000	$1250 - 104.00	11.89¢	33.77¢
13	14'x67'	938	20.25¢	$27,500	$1375 - 114.58	12.20¢	32.45¢
13	24'x48'	1152	16.50¢	$35,000	$1750 - 145.83	12.65¢	29.15¢
18	24'x52'	1248	15.22¢	$38,000	$1900 - 158.33	12.68¢	29.90¢
10	24'x57'	1368	13.88¢	$41,000	$2050 - 170.83	12.48¢	26.36¢
22	24'x60'	1440	13.19¢	$44,000	$2200 - 183.33	12.73¢	25.92¢
104	24'x64'	1536	12.37¢	$47,000	$2350 - 195.83	12.74¢	25.11¢
9	34'x60'	2040	9.30¢	$50,000	$2500 - 208.33	10.21¢	19.51¢
15	34'x64'	2176	8.70¢	$55,000	$2750 - 229.16	10.53¢	19.23¢
220						5,753.14 ÷ 220 =	26.15¢

Tenant has made a cash purchase of his mobile home

EXHIBIT C

CROSS SECTION OF RENO APARTMENT COSTS

Apt. Complex	Total Units	Apts. offered Bdrm	Bath	Sq. Ft.	Cost/mo. $	Cost/mo./Sq Ft
Meadowood	704	1	1	650	290	44.60¢
		2	1	860	340	39.50¢
		2	2	920	360	39.00¢
		2 TH	11/2	1100	390	35.00¢
Village of the Pines	272	1	1	592	280	47.30¢
		1	1	627	290	46.25¢
		2	1	760	320	42.00¢
		2	11/2	840	335	39.88¢
		3	2	1060	420	39.60¢
		3	2	1440	480	33.00¢
Open Circle West	168	Studio		440	260	59.00¢
		1	1	540	295	54.60¢
		2	2	770	360	46.70¢
Moana West	165	2	11/2	840	325	38.70¢
Lakeridge	126	1	1	810	350	43.00¢
		2	11/2	1035	395	38.00¢
		2 TH	11/2	1310	475	36.25¢
		3	21/2	1510	575	38.00¢
Sundance West*	409	Studio		444	278	64.00¢
		1	1	650	325	50.76¢
		2	1	850	385	45.88¢
		2	2	950	405	43.00¢
Kirman Garden	84	1	1	650	277	43.80¢
		2	1	650	277	43.80¢
The Grand (Weekly rate adjusted to monthly cost)	216	Studio		500	388	77.60¢
		1	1	448	260	58.00¢
Country Club	50	Studio		400	235	58.75¢
		1	1	600	290	49.00¢
		2 TH	11/2	900	337	38.00¢
		3 TH	11/2	1050	365	34.76¢
Ala Moana	156	1	1	700	275	40.00¢
		2	2	850	297	35.90¢
Lakeside Village	260	1	11/2	1016	440	48.00¢
		2	13/4	1022	460	45.00¢
		2 TH	21/4	1154	500	43.00¢
		3 TH	21/2	1415	580	41.00¢

Apt. Complex	Total Units	Apts. Offered Bdrm	Bath	Sq. Ft.	Cost/mo. $	Cost/mo./Sq Ft
Williamsburg	74	2	1	960	340	35.00¢
		2	11/2	960	340	35.00¢
		3	11/2	1116	370	33.00¢
		3	11/2	1323	395	29.80¢
		4	2	1344	440	32,70¢
Amesbury Place	332	1	1	650	280	43.00¢
		2	2	950	335	35.00¢
		3	2	1120	385	34.00¢

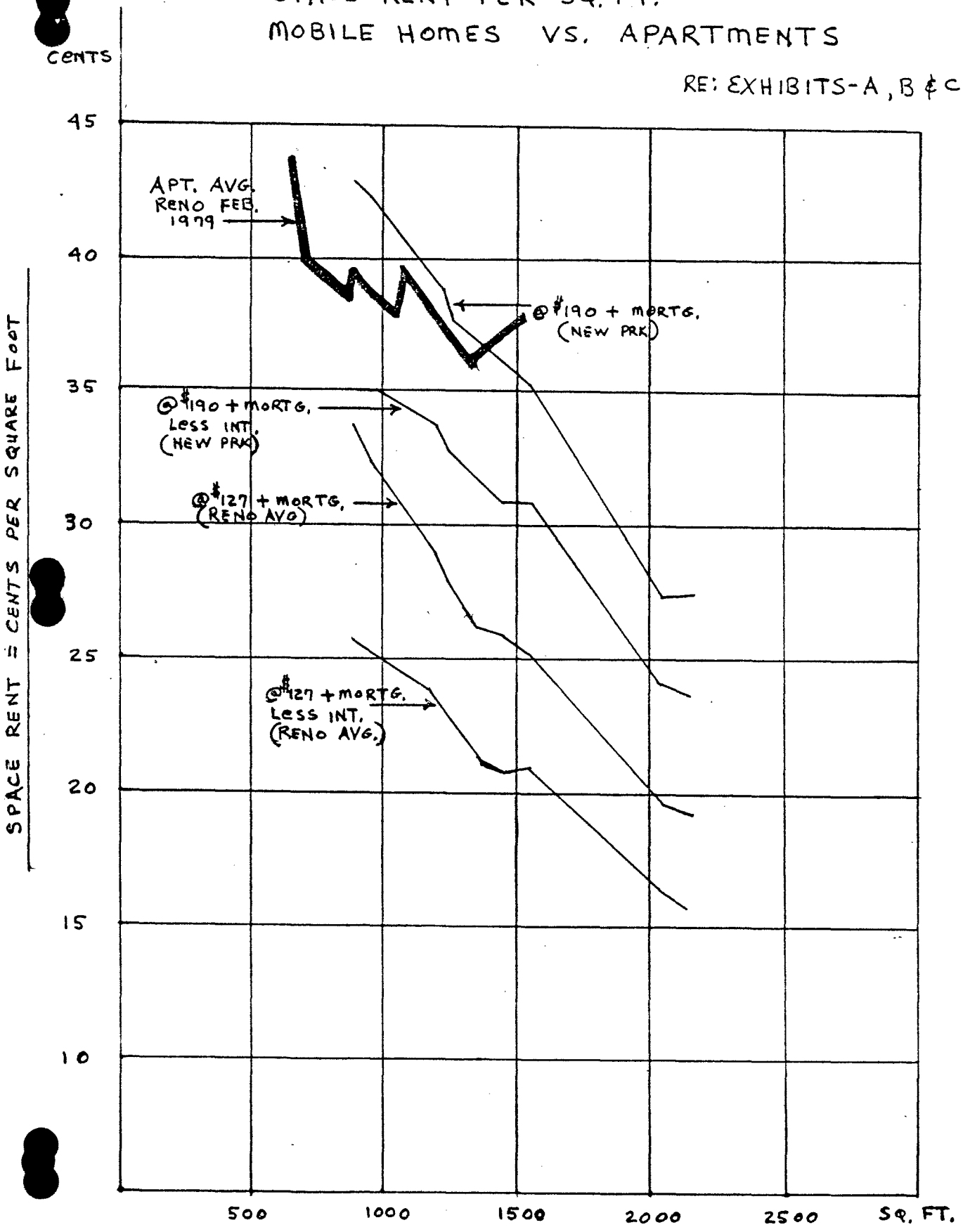
* Owner pays all utilities.

Excluding the figures from The Grand which are weekly and not typical the average cost to tenants per square foot is 42¢.

AVERAGE COST PER SQUARE FOOT = 42¢

SPACE RENT PER SQ. FT.
MOBILE HOMES VS. APARTMENTS

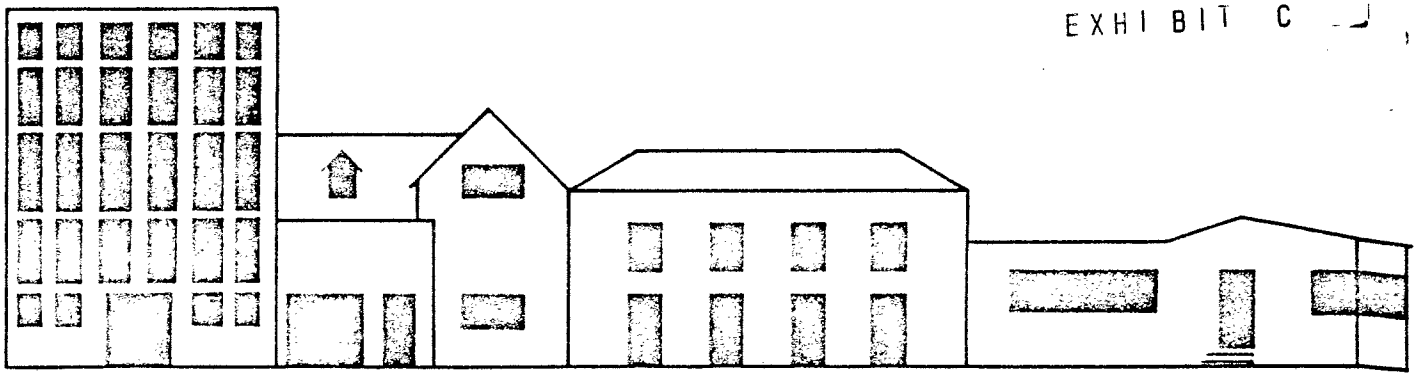
RE: EXHIBITS-A, B & C



SQUARE FOOTAGE OF MOBILE HOME
RE: EXHIBIT "A" & "B"

3-14-79

EXHIBIT C



COALITION FOR FAIR HOUSING

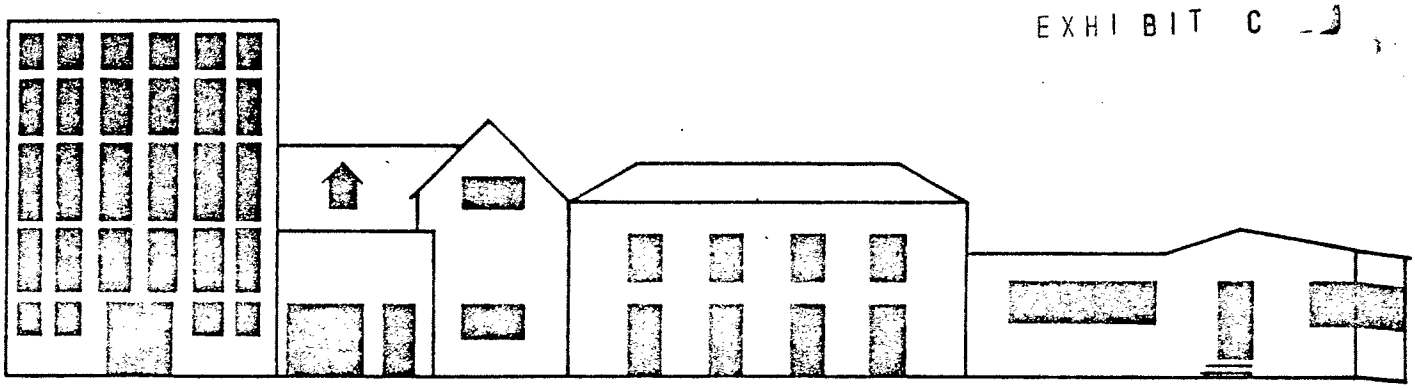
The following new mobile home spaces will be available in the Las Vegas area prior to September 30 this year.

Parks	Estate Lots
1	1002

Parks	Rental Lots
8 (6)	1415 (1108)

Two of the rental parks with 307 spaces have stopped production due to investment monies being withdrawn because of potential rent control legislation in Nevada.

EXHIBIT C



COALITION FOR FAIR HOUSING

"STATEMENT OF POLICY"

The Coalition for Fair Housing is a volunteer, non-profit organization of members from diversified types of businesses throughout the Greater Reno area.* An Executive Committee comprised of representatives of all fields of business holding membership in the Coalition meets regularly at a pre-announced location to govern the affairs of the organization, and an Executive Officer, employed by the organization, coordinates the functions and activities of the Coalition.

The goal of the Coalition is to promote and establish a fair housing environment in the Greater Reno area. To realize this goal the Coalition will make every effort to educate local and state lawmakers as well as the general public with regard to programs and prospective laws that are sound and those that are unsound. The Coalition recognizes that, historically, the free market is the best and most efficient supplier of adequate housing as well as the best guarantor of fair housing opportunities for all Americans.

The Coalition shall vigorously oppose any and all measures, such as rent control, that threaten adequate housing supplies and opportunities for the citizens of our area; and should it appear that such measures are likely to be enacted, the Coalition will make every effort to influence the content and purpose of such measures so as to minimize the inevitable adverse affects that arise from such measures.

It is part of the policy of the Coalition for Fair Housing to accept contributions from the business community, from homeowners associations and from other organizations whose aims and purposes are in sympathy with the goal of the Coalition.

* Home Builders Association of Northern Nevada
Reno Board of Realtors, Inc.
Northern Nevada Apartment Association
Nevada Manufactured Housing
Northern Nevada Mobile Home Park Owners Association
Associated Builders and Contractors

EXHIBIT C

Western Pacific Financial Corporation

3100 Mill Street, Suite 111
Reno, Nevada 89502
(702) 786-0144

February 5, 1979

Coalition for Fair Housing
527 Lander
Reno, Nevada 89509

Attention: Bill Fleiner

Dear Mr. Fleiner:

This is to advise you that Western Pacific Financial Corporation has no investors for apartment financing in the Reno area at the present time. The possibility of rent control in Reno has caused our apartment investors to shy away from this area.

Sincerely,

LaDonna Downs
Assistant Vice President
Manager

ld

EXHIBIT C

THE GIDDINGS COMPANY
MORTGAGE BANKERS SINCE 1953
1005 TERMINAL WAY, SUITE 140/RENO, NEVADA 89502/(702) 323-1853

March 19, 1979

Collaction for Fair Housing
527 Lander Street
Reno, Nevada 89509

Attn: Mr. Bill Jowett

Dear Bill:

As specialists in financing of commereial property we would find it basically impossible to arrange new financing on apartment units in the Reno area, if this area were indeed under a rent control program.

Sincerely,

JAMES M. SHEA
Vice President

JMS:cmb

A STATE CHARTERED SAVINGS ASSOCIATION SINCE 1931

EXHIBIT C

AMERICAN SAVINGS

AND LOAN ASSOCIATION

March 21, 1979

JAMES L. LEWIS
PRESIDENT

Mr. William Jowett
Coalition For Fair Housing
527 Lander
Reno, Nevada 89509

Dear Mr. Jowett,

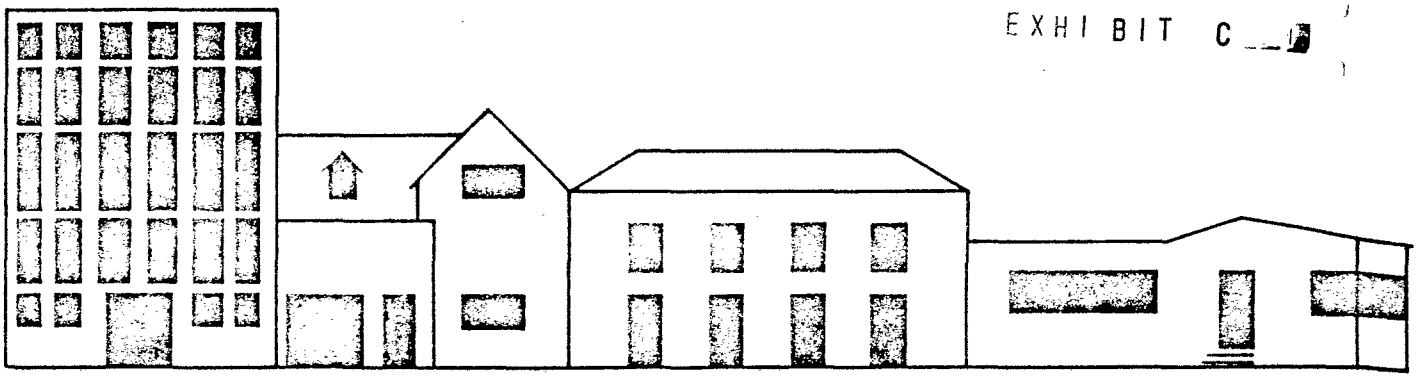
You have inquired what the position of this Association would be regarding its lending policies in the event that rental controls were in effect. It would be my opinion that unless there was some unusual and extenuating circumstances this Association would not make any loans on rental properties, be they multiple or single units, if the rental income of these properties were controlled.

I believe this has been the policy of other lending institutions in areas where rent control is in effect.

Sincerely,

JLL/lt

EXHIBIT C



COALITION FOR FAIR HOUSING

PROPOSED SOLUTION NO. 1

Probably one of the best accepted programs of the federal government is the Section 8 Housing Assistance Program of the Department of Housing and Urban Development (HUD). As you know its aim is to assist the moderate or fixed income family.

Recently there has been increased interest within this State, by both voters and legislators, to develop programs designed to protect the interests of our senior citizens. Many of our senior citizens live in urban mobile home parks to avail themselves of the amenities and necessities to life contained within the park or located nearby. Some of these are companionship, shopping centers, urban transportation and medical facilities. Additionally this is often the only type of home ownership they can afford.

HUD's Section 8 program does not adapt itself to mobile home owners because the space rent they pay represents only a portion of their total housing cost. The space rent portion of their housing cost does not exceed, the Section 8 established, 25% of their income.

We recommend the State of Nevada take action to assist those low and fixed income families who have invested in a mobile home and placed it in a Mobile Home Park. We recommend this be accomplished by establishment of a State program paralleling HUD's Section 8 but designed to assist the Mobile Home Park tenant.

The framework to do this already exists. State funds could be directed through the same channels used by the Section 8 program. The Section 8 program is administered by local authorities. For example in Washoe County the Section 8 program is administered by the Housing Authority of the City of Reno.

The figures established by the federal government for their Section 8 program could be used by the State of Nevada in its program. Necessarily, adjustments must be made in the areas of maximum fair value rent and in the percent of income the family must pay for space rent. Our study suggests using a 40% factor against the Section 8 figures would result in a fair and workable program. An example of this is shown for 1, 2 and 3 bedroom units. Also shown is a suggested unit breakdown similar to that of Section 8 with an estimated total cost for Washoe County. The Section 8 funds presently being spent in Washoe County are approximately $300,000.00 annually.

As utilities would be nearly the same for the Section 8 renter and the mobile home space renter the utilities are subtracted prior to applying the 40% factor then added after the 40% application. The figures used are for Washoe County and were obtained from the Section 8 office in Reno.

Family income year/mo	Bdrm	Max HUD rent	less util	Adj. HUD rent	40% HUD rent	plus util	Max MH space rent	*Paid by renter	Paid by State
8000/670	1	274	34	240	96	34	130	67	63
9000/750	2	343	43	300	120	43	163	75	88
10000/830	3	410	50	360	144	50	194	83	111

*10% of monthly income

A demonstration of probable cost to the State of Nevada for Washoe County using the above example and the indicated suggested unit allocation is shown.

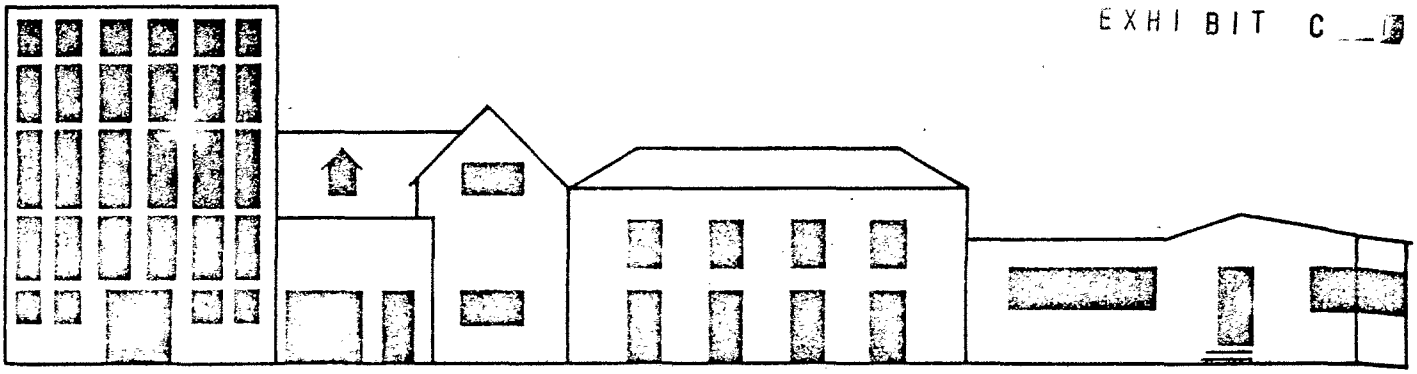
Unit allocation	Bedrooms	State cost
15	1	11,340
90	2	95,040
15	3	19,980
Sub Total		126,360
Administrative cost @ 10%		12,636
Total		$138,996

As you can see the entire program for the State of Nevada can be administered for less than $600,000 with 90% of the money going to the direct support of our needy families.

While this plan parallels the federal Section 8 program and is available to all families that qualify we believe it will be more applicable to our senior citizens than the younger low income groups due to the home ownership aspect of Mobile Home Park living.

This is a positive plan to help our senior citizens and we think a good alternative to rent control.

EXHIBIT C



COALITION FOR FAIR HOUSING

PROPOSED SOLUTION NO. 2

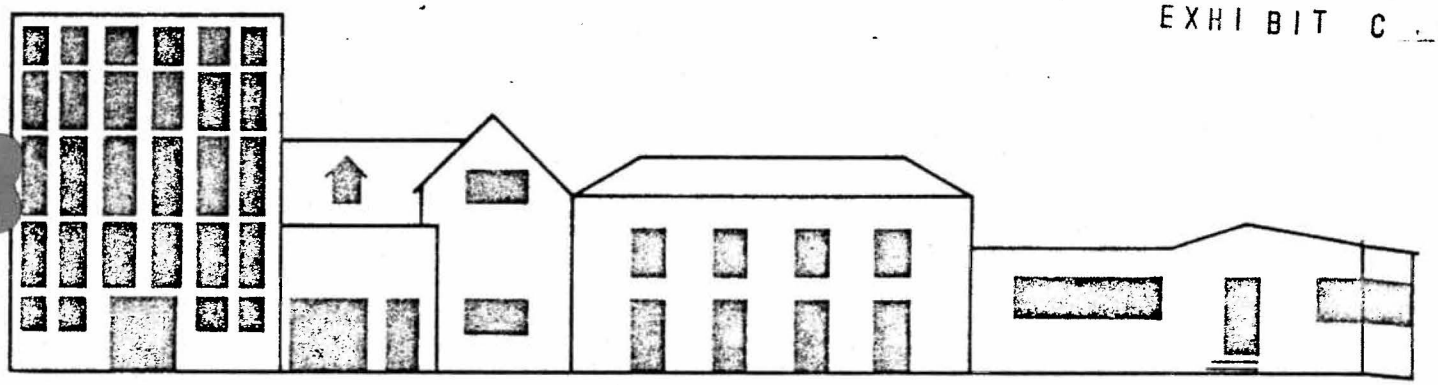
At this time very few tenants occupy their mobile home space on a lease basis. They occupy the space on a month to month basis.

We suggest the use of leases would give both the tenant and the landlord a better degree of security. As far as rent increases are concerned, the tenant enjoys a degree of stability for the term of the lease.

Leases should include provisions for passing on those expenses over which the landlord has no control such as those imposed by governmental bodies and utility rates.

To insure the use of leases are available the legislature could require the use of a lease for a minimum term to be decided by the lawmakers when at lease one of the parties so desires.

EXHIBIT C



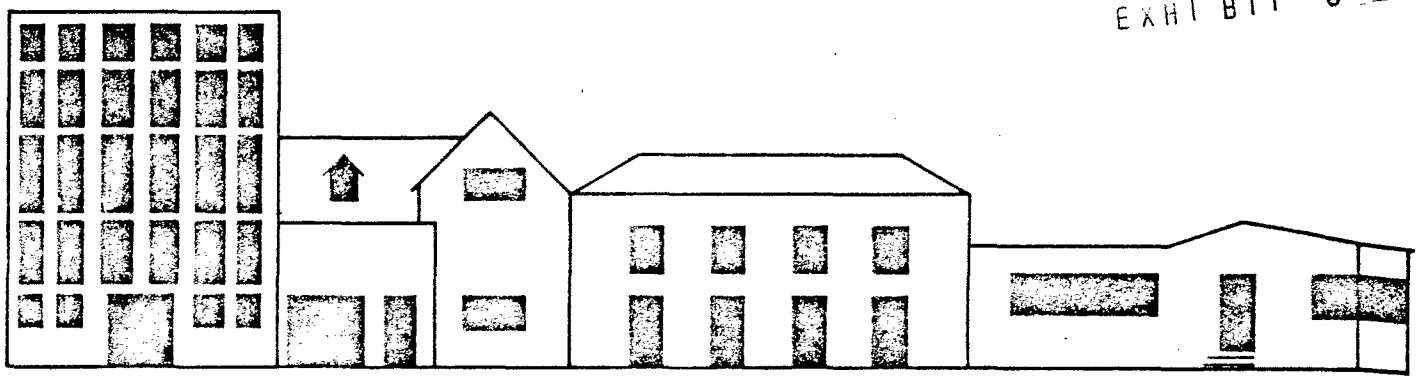
COALITION FOR FAIR HOUSING

PROPOSED SOLUTION NO. 3

In order to encourage local governments to act under the provisions of NRS 279.382 to 279.680 inclusive (community redevelopment), we propose the state legislature offer some incentive, in accordance with NRS 279.490, in the form of percentage matching funds to those funds raised by local government. These funds may be in the form of loans and or grants.

The use of these funds to redevelop certain areas could be used in the construction of mobile home parks.

EXHIBIT C



COALITION FOR FAIR HOUSING

PROPOSED SOLUTION NO. 4

Every economic, social and political question has its effects as well as its basic causes. Tenants have identified increasing rents as a basic cause, when if fact higher rents are one of the effects, merely a symptom of a basic problem that rent control can't cure. Indeed, it is likely that rent control will aggravate the problem, making it infinitely worse.

The problem, of course - the basic cause or difficulty we face - is an unrealistically short supply of places for people to live in the face of a rapidly growing demand. Moreover, we can readily identify one of the major reasons for that short supply, especially as it exists in the Reno-Sparks area. The lack of sewerage treatment capacity has imposed an artificially low growth rate on our housing supply, precisely at the time it was essential to have an expanded treatment capacity to meet legitimate citizen demand. Under present design and construction schedules, sewerage treatment capacity in the Reno-Sparks area will not be adequate to meet the demand until 1984.

The imposition of rent control, in any form whatever, will do nothing to alleviate this difficulty. It will treat one symptom of this serious, pervasive problem - inviting all the negative side effects rent control always induces - while ignoring government's responsibility to encourage adequate housing for everyone.

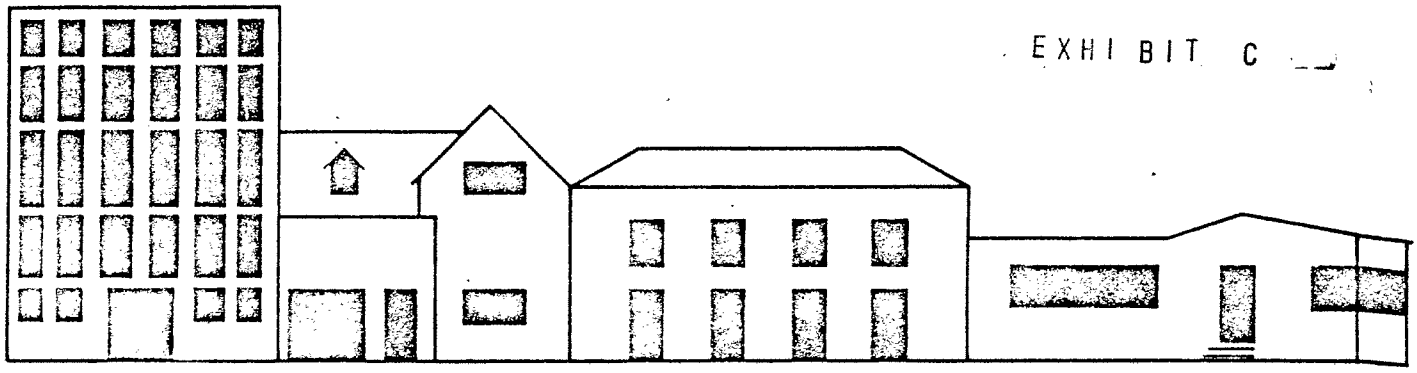
Why not, instead, tackle the problem itself? Why not at last address the short supply of housing? Why not try to solve this basic problem that seems to be the cause of so many unsatisfactory symptoms?

We recommend that the Legislature undertake a more active role of encouragement with regard to the rapid design and construction of adequate sewerage treatment facilities for the people of Nevada, thereby easing the housing shortage that is hurting most citizens. Both government and privately financed sewerage treatment facilities should be encouraged until Nevadans have an adequate housing supply.

EXHIBIT C

We do not need to invite additional housing difficulties by treating one symptom with a known economic depressant like rent control. It is high time to face our real problem squarely, rather than constantly putting off a solution to another day; and the problem is a housing shortage which can only be made worse by inviting economic regulation such as rent control.

EXHIBIT C



COALITION FOR FAIR HOUSING

CONCLUSION

Historically the topic of rent control has been debated at various levels in many states. We feel our arguments against the establishment of rent control laws in this state have been direct and conclusive. In addition, we believe our presentation has been unique in that we have not only addressed the adverse effects of rent controls but have offered solutions to the aspect of increasing rents.

John Nicholas Schroeder
Attorney and Counselor at Law
Security National Bank Building, Suite 602
One East Liberty Street
Reno, Nevada 89501
(702) 329-3000

EXHIBIT C

March 24, 1979

Assemblyman John E. Jeffrey
Chairman - Commerce Committee
Nevada State Assembly
Legislative Building
Carson City, Nevada 89710

Re: Proposed Legislation Controlling Rent in Mobile Home Parks (A.B. 100; A.B. 195; A.B. 390; and A.B. 525) - Reasonable Alternatives are Available

Dear Assemblyman Jeffrey:

I represent Northern Nevada Mobile Home Park Association, Inc. The owners of mobile home parks are very concerned about proposed rent control bills and my client requests this Committee to consider viable alternatives to rent control.

This letter is written for the purpose of setting forth alternatives to rent control, to provide background and to set forth my client's objections to rent control legislation. Therefore, you will find attached herewith separate sheets covering each topic.

Yours truly,

JOHN N. SCHROEDER
Lobbyist to Northern Nevada Mobile Home Park Association, Inc.

JNS:dj

cc: Hank Batis, President
Northern Nevada Mobile Home Park Association, Inc.

Ernie Baker, Vice President
Northern Nevada Mobile Home Park Association, Inc.

EXHIBIT C

I.

FACTUAL BACKGROUND AND ARGUMENT

Northern Nevada Mobile Home Park Association, Inc., is a non-profit corporation. The main purpose of the corporation is to protect the rights of mobile home park owners. Also, it is interested in arriving at a solution to the pending problems with respect to helping those in need.

The proponent organizations of rent control are known as United Mobile Tenants Association and Mobile Home Owners League of the Silver State. To our knowledge, these organizations have not disclosed the number of its members; we have 18 members. The substance of our emphasis on this failure to disclose its members is that you are allowing an unknown number of people influence this Legislature. We submit that mobile home park owners are entitled to as much protection from bureaucratic-governmental interference as any other business. There should be some real soul searching and fact gathering before the Nevada Legislature authorizes regulation and control of private enterprise.

We understand that there are only 2,669 rental spaces in the City of Reno and only 10,600 mobile homes in Washoe County. Furthermore, we hear that approximately 22,000 mobile home spaces are located in Clark County.

Our survey reflects that the average rent for a mobile home space in the Reno area is between $114.00 and $125.00 per month. The survey with respect to these mobile home parks in the Reno Area is attached hereto and marked Exhibit "A", pages 1 and 2.

Finally, we think evidence and facts must be put forth before you in order to justify an emergency and to override the explicit prohibitions set forth in the United States and State of Nevada Constitutions. You should not: deprive an owner of his property without due process of law; take private property for public use without compensation and impair contracts. In other words, we submit that facts must be established showing that the situation is so serious and grave that a menace to the health, morality and comfort of the people at large exists. Then it must be shown that rent control has some connection on a rational basis in affecting a solution to the emergency.

II.

ARGUMENTS AGAINST RENT CONTROL

A. Practical Objections:

a. If you were to pass rent control legislation, we feel that many land owners would convert the use of their land from a mobile home park to a more profitable use.

b. Rent control introduced in other areas of the country has been unsuccessful. Neighborhood decay, decreased number of rentals and many other problems have occurred. Examples are New York and Washington, D. C., wherein abandonment, neighborhood decay and unavailability of financing have resulted.

c. In all likelihood, if rent control is instituted, bank financing and other institutional lending will be denied to any developer.

d. Rent control forces mobile home park owners to subsidize other private individuals, their tenants.

e. New investors are not going to appear in the market area because there is no reason to pursue this type of investment. Rent control creates an uncertainty in returns from the capital investment and, thereby, people are discouraged from contructing new parks or improving parks and the shortage gets worse.

f. In some of the proposed bills, a voluntary rent board is proscribed, such boards are known not to consist of sufficient numbers with proper expertise and they lose interest because of the time involved.

Sources for the above-referred to observation are: "Report on the New York City Loan Program," from the Committee on Banking, Housing and Urban Affairs, United States

Senate, 94th Congress, Second Session, Report No. 94-900, 1976, pages 3 and 14; Reader's Digest, August 1977, reprint of article written by Senator Thomas F. Eagleton; San Francisco Sunday Examiner and Chronicle, February 4, 1979, TC, page 7, article quoting Senator Eagleton's recent attack on rent control; Reno Evening Gazette, January 24, 1979, page 19, wherein Washoe County District Attorney is quoted; 28 Hastings L. J. 630; observations and conclusions made by the membership of this corporation at its meetings.

B. Constitutional and Legal Objections:

a. Denial of Due Process of Law: Any of the proposed bills would force a land owner to dedicate his land for a public use without being compensated and without due process of law. The laws would take away landlords' legal remedies and this is a deprivation of property without due process of law. Some of the propoed bills use such terms as "unconscionable" or "justified under the circumstances of the case"; these terms are too indefinite to meet constitutional test.

b. Infringement of Contracts: An owner of land has the right to charge for the use of his land without governmental interference. The very foundation of freedom of contract is impaired.

c. Denial of Equal Protection: Any of the proposed bills would set aside tenants of mobile home parks as a special class being afforded special rights. There also exists a prohibited discrimination against mobile home park owners.

d. Denial of Trial by Jury: The proposed legislation involved herein denies the right of a landlord to trial by jury.

e. Declaration of Emergency: In a number of instances in the past wherein the courts have upheld this proposed type of legislation, there have been extensive hearings by the legislature in order to determine if the problem is so serious as to constitute a menace to health, morality and comfort of the population. A hearing in Carson City and a hearing in Las Vegas is not enough. A real study should be made.

f. Unlawful Delegation of Legislative Power: In most of the proposed bills, the powers given to the rent control board are too broad, so that inevitably, arbitrary imposition of low rent ceilings will be made; and there is not any guarantee of a prompt decision process.

g. Involuntary Servitude: The landowner is often called upon to do certain things in the proposed bills or face a criminal charge, such as accept any new tenant-buyer (p. 9 in A.B. 525) or pay a moving fee (p.3 in A.B. 100). This type of legislation is prohibited by our constitution.

h. Special Legislation: Many of the proposed bills provide punishment of alleged crimes committed by only one type of landlord, the mobile home park owner.

The above statements are valid legal arguments which might be made against any of the proposed bills. Sources are: City of Miami Beach v. Fleetwood Hotel, Inc., 261 So. 2d 801 (1972); Birkenfeld v. City of Berkeley, 550 P. 2d 1001 (1976); Levy Leasing Co. v. Siegel, 258 U.S. 242 (1922); Block v. Hirsh, 256 U.S. 135 (1921); Marcus Brown Holding Co. v. Feldman, 256 U.S. 170 (1921); 28 Hastings L. J. 630; 2 Industrial Relations L. J. 632, pp. 649-651; and 7 McQuillin, "Municipal Corporations" §24.563(d).

In summation, we submit that the constitutionality of these measures depends upon the actual proof of a mobile home space shortage, a factual finding of ill effects and a rational connection being found that rent control does constitute a curative measure.

III.

SOLUTIONS

A. The State of Nevada assist low and fixed income families in the payment of their rent. Ths program would be similar to what is presently being done to assist apartment tenants. We suggest that the program be administered by the housing authority of the respective cities involved. The plan would have statewide effect and would not only be implemented in Clark and Washoe Counties, but all other counties. Those in need would receive assistance.

B. The State of Nevada subsidize mobile home parks in designated areas where need has been shown.

C. The State of Nevada implement and provide tax incentives to mobile home park owners who agree to operate their park or portions of their park to meet the needs of these fixed income people.

D. The State of Nevada offer special loans or guaranteed loans to anyone who will build a new mobile home park in the affected areas. Of course, these builders of mobile home parks must guarantee for a number of years that they will charge certain base rents to "X" number of mobile home park tenants, those who have limited incomes.

E. That this legislature assign this problem to its Legislative Functions Committee, pursuant to Joint Resolution No. 3, in order to extensively and objectively study the problem for the next two (2) years and, thereafter, arrive at a reasonable solution. This Committee should also find out if it is feasible to have Reno and Sparks give priority issuance of sewer permits for mobile home park developers.

EXHIBIT C

RENO PARKS:

Airway	$135	36	spaces
A-1	97	50	
Cozy	115	52	
Carmelita	65	47	
Chism	100	97	
Covered Wagon	101	44	
Earl's	130	56	
Fairview	172	92	
Green Acres	80	75	
J.L.	95	66	
La Rambla	120	50	
Lucky Lane	127	183	
Northgate	186	211	
Reno Cascade	137	245	
Rolling Wheel	125	66	
Skyline	145	307	
Tiki	155	44	
Town & Country	75	25	
Keystone	90	40	
Travelier	125	223	
Starlite	110	31	
Thunderbird	133	169	
Woodland	100	20	
Mar Don	95	20	
Sierra Shadows	120	198	
Maverick	90	33	
Mountain View	90	72	
Silver Lode	92	30	
		2,582	spaces

$114.46 average rent

EXHIBIT "A"

- 1 -

Cozy	Presently $100; effective 5/1/79, $115
C-Mor	72 spaces presently; 28 open on 4/1/79, County (not Reno)
Country Mobile	$90 average ($72-$105; 2 spaces at $125)
Earl's	Presently $110-$120; $15 increase effective 4/1/79
Fairview	Presently $140-$155; effective 4/1/79, $165-$180
Lucky Lane	183 spaces, Reno City limits, single-$120, double-$135
Northgate	$186 average rent
Pony Express	100 spaces
Triple C	$90 average rent
Reno Cascade	Reno City limits
Skyline	307 spaces, $140-$150
Town and County	Reno City limits
Travalier	$15 increase effective 4/1/79
Woodland	$100-$110
Bonanza	Presently $100; effective 5/1/79, $125
Crystal	$85-$105
Lemmon Valley	$95-$125
Mar Don	Reno City limits
Riverbelle	$85-$100
Sierra Shadows	Reno City limits,
Silver Crown	28 spaces only

Parks not listed:

Coachman	Sparks, 50 spaces, $150
Glendale Manor	Sparks,
Maverick	Reno, 33 spaces, $90
Mountain View	Reno, 72 spaces, $90
Silver Lode	Reno, 30 spaces, $92
Truckee River	County, approx. 25 spaces,
Y-Rancho	Sparks, 102 spaces, $87

EXHIBIT C

GREATER RENO-SPARKS CHAMBER OF COMMERCE

LEGISLATIVE ACTION REPORT

FROM THE DEPARTMENT OF ECONOMIC DEVELOPMENT / BOX 3499 / RENO, NV 89505 / 702-786-3030

March 23, 1979 Volume I-D

TO: Members of the Nevada Legislative Action Committee, Labor Management Committee, Taxation Committee, Committee on Commerce, Board of Directors.

FR: Jack Young, Chairman, Nevada Legislative Action Committee

---

At a meeting on Tuesday, March 20, 1979, the State Legislative Action committee adopted the following positions; which have been transmitted to each member of the Washoe County delegation and to the chairmen of the various committees.

AB 536
SUPPORT

Labor Management Committee

Changes maximum amount of compensation which may be used to determine industrial insurance premium.
With current conditions and a healthy fund balance and reserve, the reduction of the maximum wage amount appears reasonable at this time and we urge support.

AB 537
OPPOSED

Labor Management Committee

Extends coverage for occupational heart disease to all occupations.
There is strong opposition to this or any other similar type bill which would include heart disease coverage under occupational NIC coverage. All no causal relationship yard stick is available to indicate under all circumstances that in fact, heart disease could be related to the job. This is complicated further if an effort were made to determine any percentage of disease to job related activity.

AJR 22
SUPPORT

Labor Management Committee

Proposes to amend Nevada constitution to prohibit denial of opportunity of employment because of nonmembership in labor organization.
Nevada's Right to Work law has become a major element in providing a needed balance between Labor and Management. It is essential to the continued economic health of our state and encouragement of providing diversified payrolls and job opportunities. Any steps to strengthen this law, which is also extended to freedom of choice of the worker, is encouraged.

SJR 2
QUALIFIED SUPPORT

Committee on Taxation

Proposes to amend Nevada constitution to require two-thirds vote in each house of legislature to pass certain tax bills and to permit legislature to provide separately for assessment of taxes on certain residential real property.

over . . .

The amendment of Section 18 of Article 4 of the constitution of this bill requiring two-thirds vote of each house to pass tax increase bills is supported. Pertaining to Section One of this bill, there is serious concern on the option of providing for dual level taxation. Recognizing the need for personal property tax relief, we believe that separate classifications would not solve the problem since any increased costs to commercial properties are ultimately passed on to the consumer. We believe that permanent and fair reduction in the right combined with a capital spending limitation on all levels of government can accomplish this needed reform without discriminating between classes of taxpayers.

SJR 15
OPPOSED

Committee
on Taxation

Proposes to amend Nevada's constitution to permit Legislature to provide separately for assessment of tax on different classes of real property.
This bill would drastically revise the uniform tax code on Nevada. Among other things, it would lead to administrative cost increases and would pit various classifications of class owners against each other in attempt to reduce their own tax classifications, thereby resulting in additional Legislative costs in future years. More importantly, it must be stressed that every consumer ultimately pays this cost, regardless of how it appears on the surface. Your opposition is urged for this and reasons stated above in SJR 2.

AB 525
OPPOSED

Committee
on Commerce

Revises landlord and tenant relationships in mobile home parks.
Even while recognizing that a serious problem exists in the rising costs of rental and purchase housing, we are opposed to any form of rent control as being counter-productive and as aimed to the surface of the problem, rather than the underlining causes. Rent controls or any other type of price control have never worked to our knowledge in the history of this country. Among other things, there could be substantial added costs to the government to enforce and police such controls. There would be interference of government promoted, which would create additional costs for owners and operators of rentals and lead to a greater breech between landlords and tenants. It would either lead to increased costs of new units or would completely dry up available sources for new units, both of which exaggerate rather than solve the problem. We suggest strongly that two important steps be taken to hit at the real cause of the problem. Serious tax reform, which would help the tenant in two ways by reducing the tenants personal taxes and by reducing tax on rental property, which could be passed on as a savings to the renter. The second important step would be for the Legislature and local governments to aggressively pursue every avenue to cut the red tape involved in securing building permits, so that additional housing can be built to meet market demand. History has indicated that if supply exceeds demand, prices will reduce, or at the very least, stabilize.

m o r e . . .

EXHIBIT C

SPECIAL NOTE: The Greater Reno-Sparks Chamber of Commerce has very few apartment house or mobile home park members. The opposition presented here would be presented for any type of controls of this nature. Since they would ultimately result in a situation counterproductive to the people they are designed to help.

EXHIBIT C

LEAVITT & LEAVITT
ATTORNEYS AT LAW

ELWIN C. LEAVITT
BRENT E. LEAVITT

LAW BUILDING
229 LAS VEGAS BOULEVARD SOUTH
LAS VEGAS, NEVADA 89101
TELEPHONE (702) 384-3963

February 5, 1979

To all Nevada State Assemblymen:

Re: Rent Control of Mobile Home Parks

Dear Sirs:

Our office has been retained by Morris Hozz, owner of the Desert Inn Adult Mobile Home Park, for the purpose of responding to proposed legislation introduced by Assemblyman Glover on January 17, 1979 as Assembly Bill No. 100. The proposed bill purports to justify the imposition of rent controls upon mobile home parks.

RENT CONTROL: Historically, rent control per se has been held to be so drastic a remedy that fundamental Federal Constitutional rights are impaired by its operation. Specifically, rent control constitutes the taking of property without due process of law, the taking of private property for a public use without just compensation, and the impairing of the obligation of contracts. Rent control legislation, such as the Federal Emergency Price Control Act, has only been upheld when enacted in an emergency caused by an insufficient supply of dwellings so grave as to constitute a serious menace to the health, morality and peace of the people. The public interest of the people must be so adversely affected as to justify the exercise of the State's police power. The legislation itself must be limited to a temporary condition, and cannot be permanent in its operation. Further, once the existence of the housing emergency ceases, the rent control act is automatically rendered invalid and void.

These standards are enunciated in the United States Supreme Court decisions of Chastleton Corp. v. Sinclair, 264 U.S. 543, 66 L.Ed. 841, 44 S.Ct. 405; and Edgar A. Levy Leasing Co. v. Segal, 258 U.S. 242, 66 L.Ed. 595, 42 S.Ct. 289.

FINDINGS OF LEGISLATURE: Once these well-defined legal standards are applied to the proposed legislation set forth in Assembly Bill No. 100, it becomes clear that the bill is unconstitutional upon its face. First, it

EXHIBIT C

is clear from the text that the proposed rent control would last indefinitely. The formula derived from the consumer price index obviously contemplates long-term rent control. As previously stated, rent control can only be justified over a period of short duration.

Second, the 3% vacancy factor apparently will be the sole determining factor as to whether the rent control legislation is to be applied to a certain County. This would occur irrespective of emergency conditions existing in counties with a vacancy factor in the excess of 3%, and a lack of emergency conditions existing in counties with a vacancy factor less than 3%. Apparently, "profiteering" and "unjust, unreasonable, and oppressive rent agreements" somehow equates with a vacancy factor of less than 3%.

Third, the legislation only applies to mobile home parks. Based upon the alleged housing shortage that exists in Nevada, along with the expected increase in population in the future, the alleged "emergency" would exist as to all housing. Nothing is recited in the factual findings to justify mobile home parks being singled out for such drastic legislation. Since constitutional rights are involved, such arbitrary and discriminating distinctions would render the bill invalid. Rumors suggest that the bill is nothing but a politically expedient move since mobile home park owners are few and their tenants many. This may explain why the legislation is not aimed at the owners of other residential and commercial rental properties.

Fourth, the alleged factual findings are either in error, or even assuming their truth, the rent control legislation would not cure the problem. For instance, 2(c) recites that the construction of new housing does not meet demand. This certainly does not apply to Clark County. One need only examine the real estate supplement of any Sunday newspaper to realize there exists a large market of new and used homes, and that a large number of apartments are available for rental.

EXHIBIT C

Actually, when the bill's findings regarding emergency housing shortages are examined, one is left with an impression that Assemblyman Glover researched the criteria needed for valid rent control, and is attempting to advocate those criteria irrespective of actual housing conditions. In essence, Assemblyman Glover is trying to pound a square peg into a round hole.

Next, 2(c) recites that the percentage of rental housing has decreased since tenants are unable to purchase homes due to rapidly escalating prices. This problem cannot be solved by regulating the rent at mobile home parks. First of all, mobile home parks do not rent "housing." They rent or sell spaces or lots to individuals who have already purchased a mobile home. Mobile home park owners cannot influence or change the manufacturer's price for a mobile home, or the number of mobile homes available for purchase. If an individual is unable to purchase a mobile home due to "rapidly escalating prices," rent control will not make the purchase possible.

The point being made is that mobile home parks do not offer "rental housing." If the facts alleged in 2(c) do in fact exist, apartment owners should be regulated, not mobile home park owners.

Based upon the foregoing, Mr. Hozz believes that Assembly Bill No. 100 goes beyond the well-defined limits of permissible rent controls, and if enacted, would clearly violate basic and fundamental constitutional rights. Such a bill, if enacted, would be vigorously contested in the courts from its inception.

It is hoped that the defective aspects of the bill will be recognized now so that patently oppressive legislation will never enter our statutes.

Sincerely yours,

Brent E. Leavitt

BEL:fel

EXHIBIT C

Tropicana Village West Company

Tropicana Village West Mobile Home Park

6300 W. Tropicana Avenue
Las Vegas, Nevada 89103

Phone: (702) 876-4778 or (702) 876-4779

2/22/1979

Ms. Marion Hayes
Commerce Committee
Nevada State Legislature
401 S. Carson
Carson City, Nevada 89107

Dear Ms. Hayes:

To assist you vote wisely on the pending rent control bills before your committee regarding mobile home parks, I am enclosing a copy of our position memorandum on them. If you have any questions about any of the items discussed in our report, I would appreciate your calling me collect at (415) 354-8014.

Sincerely,

Paul F. King, Jr.
Managing General Partner

EXHIBIT C

Tropicana Village West Company

Tropicana Village West Mobile Home Park

6300 W. Tropicana Avenue
Las Vegas, Nevada 89103

Phone: (702) 876-4778 or (702) 876-4779

2/16/1979

POSITION MEMORANDUM ON NEVADA RENT CONTROL BILLS #100,#195 OR ANY OTHERS FOR MOBILE HOME PARKS IN NEVADA

To Whom It May Concern:

On behalf of our Company(owner of one of Nevada's largest mobile home parks and a member of the Southern Nevada Mobile Home Park Association), we urge your support in defeating any Assembly Bill attempting to enforce rent control on mobile home parks in Nevada for the following reasons:

1. A rent control bill of any form or kind(if passed)will discourage,if not eliminate completely,the development of additional mobile home parks and spaces. Thus, the mobile home space shortage problem,rather than solved through a rent control bill,will be compounded!

2. Justifiable rent increases of any kind will always be exhorbitant and oppressive to tenants who are financially indigent. Financial indigency of some tenants, and not rent increases justified by increased operating costs(many caused by government, e.g. property taxes, sewer and water treatment fees, licenses, etc.), is the problem that needs to be addressed, and rent control bills do not(nor are they the proper way to)address such a problem.

3. None of these bills provide financial protection on the downside for landlords who are undertaking great risks and management "headaches" to own and develop mobile home parks. To curtail the profit incentive to own and develop such parks,and not provide security for risks taken on the downside when operating costs exceed income collected,is unfair, unreasonable, and unconstitutional! None of these bills is acceptable for this reason also.

4. Nevada has always been a State that has supported the "free enterprise" system. Its success in attracting investment capital in mobile home parks and all other industries is a result of this historic posture the State has taken heretofore. A rent control bill is in violation of Nevada's historical posture, which has lead to desert and other deprived areas to become bountiful for everyone, and which has kept government controls to an absolute minimum. To change a "winning posture" economically speaking by approving a rent control bill is tantamount to taking arsenic in a small dose. And we all know what "economic arsenic" will do to a economy if taken, which will be the case if rent controls are approved in any form.

5. When operating costs increase faster than the Consumer Price Index (which these rent control bills are geared to), such a bill, if passed, could cause a park to lose money, go into bankruptcy, and thus close. Again, the problem will be compounded through such bills rather than be solved.

EXHIBIT C

Tropicana Village West Company

Tropicana Village West Mobile Home Park

6300 W. Tropicana Avenue
Las Vegas, Nevada 89103

Phone: (702) 876-4778 or (702) 876-4779

2/16/1979

6. To our knowledge,and almost without exception, the rent increases our park and others in the Southern Nevada Mobile Home Park Association have implemented were justified due to the increases we all have been experiencing in operating costs, increased financing costs, increased inflation, and the need to make capital improvements. We contend that the assertion that rents have become oppressive and exhorbitant (excluding tenants who are financially indigent) is basically inaccurate on the whole. According to our Association's statistics average space rentals are equalling about $97.00/pad a month. Thus, we cannot believe the false assertions made in these rent control bills, and we hope you also can come to the same realization since spendable incomes have also been increasing on the average.

In light of the above reasons, it is our Company's sincere hope that everyone concerned will join us in our attempt to defeat any rent control bill of any kind for the betterment of our whole industry, including the tenants, who are being treated most fairly on the whole. Obviously, those tenants who are financially indigent, we grieve for, and they need help in the form of government subsidies, government housing, etc. which rent control bills do not address, nor should they. Rather than possibly deterioriate the mobile home park industry through a rent control bill, we urge everyone involved to concentrate their efforts instead to work on approaches to provide reasonable housing for tenants who are financially indigent and defeat any rent control bill.

Respectfully yours,

Paul F. King, Jr.

Paul F. King, Jr.
Managing General Partner

EXHIBIT C

Nevada Legislature
Carson City, Nevada

Dear

I am opposed to any legislation which would enact rent controls in our state.

I realize that such controls are made to protect low and middle income tenants, but history shows that they actually work against them. In other states, such controls have stopped apartment construction and caused a net loss in available rental units.

In order to prevent unnecessary housing shortages in Nevada, I urge you to stand firmly and prominently <u>against</u> any form of rent controls.

Sincerely,

EXHIBIT C

Assemblyman John Jeffrey
Room 382
Nevada State Legislature
Carson City, Nevada

Dear Mr. Jeffrey,

I wish to express my strong opposition to AB 522 (which is being heard March 24 in the Assembly Commerce committee) because it is dangerous Big Brother legislation which takes away both the owner's and the tenant's freedom of choice and prevents the owner from exercising the rights implied in his ownership of private property. (Article I, Section 1 of the Nevada Constitution)

An owner of private property certainly should have the right to include or exclude persons he chooses to reside on his property. You have an Assembly lounge from which I am barred. By personal choice you determine who shall use it and who shall not. This is discrimination, but you have every right to exercise it— just as a landlord has every right to determine by personal choice who shall use his property and who shall not.

This bill is also unfair to the tenant. Why should persons be denied the opportunity to live in an environment free from excessive noise and turmoil if they so wish? The 10-unit clause is meaningless.

I realize that legal conflict can be resolved, but in order to show that a considerable amount of past and present legislative thinking does not support the concept of this bill, I would like to cite two instances:

AB 522 is in conflict with NRS 525 in so far as mobile homes are concerned. Section 22 of that bill states, "The landlord or his authorized agent shall not: 1. Refuse to rent or otherwise make unavailable a mobile home lot to any person, EXCEPT THAT THE LANDLORD OF A PARK WHICH DOES NOT ALLOW CHILDREN MAY REFUSE TO RENT A LOT TO A PERSON WHO WOULD HAVE CHILDREN LIVING WITH HIM."

Age as a discriminatory category has no precedent. In all legal phrases designed to prevent discrimination the litany is usually that something cannot be refused "because of race, religious creed, color, national origin, ancestry or sex." Few, if any, mention age.

In trying to prevent a natural discrimination (such as that practised in your Assembly lounge) this bill creates an artificial discrimination that is more insidious and dangerous than the situation it attempts to prevent.

I urge you to defeat this Big Brother bill.

Since I cannot be present at the hearing, I should like this letter to be considered part of the testimony received on AB 522. Thank you.

Phyllis Otten

Miss Phyllis Otten
1111 East Fifth St. #10
Carson City, Nevada 89701

Miss Jo Gleeson
1111 East Fifth St. #10
Carson City, Nevada 89701

March 21, 1979

Tenant group urges committee to enact rent control legislation

By JACK McFARREN
Gazette—Journal Legislative Bureau

Rents have more than doubled in some mobile home parks and many tenants will be forced out unless rent controls are established, an Assembly committee was told Saturday.

Spokesmen for the United Mobile Home Tenants Association urged the Assembly Commerce Committee to enact legislation allowing cities and counties to pass rent control ordinances.

But opponents to rent control argued that rent control would lead to deterioration of existing mobile home space and a shortage of new space, making it even more difficult for mobile home tenants. Rent control has been disasterous wherever it has been adopted, they said.

The Coalition for Fair Housing presented several options, including the establishment of a state subsidy program to assist tenants in coping with rent increases.

About 350 persons jammed into the auditorium at the Legislative Building. Many wore stickers identifying them as members of UMTA, and most were elderly.

Four bills have been introduced to provide some form of rent control for mobile home tenants. Committee Chairman Jack Jeffrey, D-Henderson, said he would appoint a subcommittee to review the bills and come up with one committee bill.

The committee will hold a hearing on the four bills in Las Vegas next Saturday. When the subcommittee has completed its work, more hearings will be held on the committee bill, Jeffrey said.

Jeffrey said he was philosophically opposed to government controls. But he said the committee might come up with a bill which would expire in 1981, unless that session of the legislature takes action to continue it. This will provide review of the bill to determine its effectiveness and whether it is still needed, he explained.

During the hearing, Assemblyman Paul Prengaman, R—Reno, presented the results of a postcard survey of his southeast Reno district, which indicated rent for mobile home space had soared 44 percent between September 1977 and October 1978.

He produced a postcard from a resident of the Fairview Mobile Maner park on Kletzke Lane, which said that rent there was increased from 90 to $155 a month last September. On April 1, he rent will go up another $25, to $180, douling the rent in less the year, the letter from 'illiam Barrett said.

Tenants of other mobile home parks in the eno area testified to similar rent increases ring the last year or so. Some said they uld have to sell their homes and move into artments if they did not get some relief.

MTA spokesmen said they favor AB 525, which allows cities and counties to create a board to to review increases in rents for mobile home lots whenever vacancies in moblie home parks in the county is 5 percent or less.

"There's a very strong feeling among tenants that they prefer to keep legislation as close to home as possible," said Barbara Bennett, UMTA president.

Mark Handelsman, a Reno attorney representing the tenants association, said local officials are closest to the public and know the problems better.

In its present form, the bill would provide for the board to solve problems through "means of an advisory opinion, mediation or negotiation."

Handelsman proposed an amendment to give the board power to make its decisions stick.

Mediation and advisory opinions are "fine if an agreement can be reached without without the necessity of a decision by an administrative body, a quasi-judicial body or a judicial body ... but this bill does not speak to what happens if people can't get together and decide what they want to do — if they remain at polorized positions. Someone has to make a decision."

Norman Flynn, a representative of a the Coalition for Fair Housing, said rent controls shut off the supply of housing. "Lenders will not put their capital into places were rent controls are in effect. And this means the sortage of vacant space will continue. There is also a deterioration of property," he said.

When Flynn, a Madison, Wis. investment specialist, suggested rents aren't too high" he was greated with laughter and boos from the audience. But he continued, "People generally can't afford them.

"I would suggest that the Legislature look for ways for people to get help — particularly subsidy programs like the Section 8 program in Washington where you only have to spend 25 percent of your income to have good adequate housing."

Another suggestion by rent control opponents was that the Legislature put pressure on Reno and Sparks to zone more land for mobile home parks, thus increasing the supply and holding down the rent.

Ralph Heller, executive vice president of the Reno Board of Realtors and also a speaker for the Coalition for Fair Housing, warned rent control legislation would dry up investment money "just as we are reaching a solution to the housing supply problem."

Heller said the real problem in Reno has been not enough housing of all kinds.

But he said the housing supply is catching up and the price of houses is leveling off. Rents will also level off, he predicted.

"I'm very fearful of putting a monkey wrench in the works," he said of the proposed legislation.

Committee member Bob Weise, R—Washoe, said, "I have some real philosophical differences with rent control. But the state is going to have to do something or allow local governments to do something."

Weise, who said he spent evenings the last week touring Reno area mobile homes, said he found other activities by some mobile home park owners "more offensive than high rents."

He specifically complaints he received from tenants of the Glen Meadows Mobile Home Park at Verdi. Twenty percent of the homes there are for sale, he said, and the rent is $20 for a single-wide trailer and $230 for a double he said.

But when people want to move out, they are told they can't sell their home on its lot without making expensive modifications such as extending awnings or changng the style of skirting because "it is more in vogue," he said.

"I think it's basically wrong for someone to be able to come into a park and have some one look at their home and say, 'That's great, come on in'... than after a certain period of time — six months or three years — when they want to sell their home, have somebody say, 'You can't sell that home here, you're going to have to take it out because we want a different kind of awning.'"

Weise also said that many mobile home parks require the permission of the owner before a home can be sold on the lot. "That permission usually has a price tag," he said.

"I seriously want to attack that kind of gouging," he said.

Assemblyman Bob Rusk, R—Washoe, former chairman of the Washoe County Commission, also zeroed in on the Glen Meadows Mobile Home Park, which is owned by a Los Angeles physician, Dr. Clyde Emery.

Rusk called Emery probably "the leading boogy man of black hat speculators.

"I say that with special enthusiasm because I spent hours listening to that man (during Washoe County Commission hearings), trying to pretty well do in the people who reside in his park. If there is ever an example of anyone who could think of every conceivable thing to make the tenants mad, he tops it."

Rusk said Emery "is probably 85 percent of the reason we are sitting here today," and "gives a black eye to other mobile home park owners."

Rusk said he would do whatever he could to prohibit owners from abusing their tenants.

Jeffrey said that while he also is opposed to government controls, "but regardless of philosophy, we're going to have to do something."

It may be only a small percentage of the mobile park owners who are mistreating tenants, Jeffrey said, "but to the people who are being mistreated, it's a very large part of their life."

EXHIBIT "D"