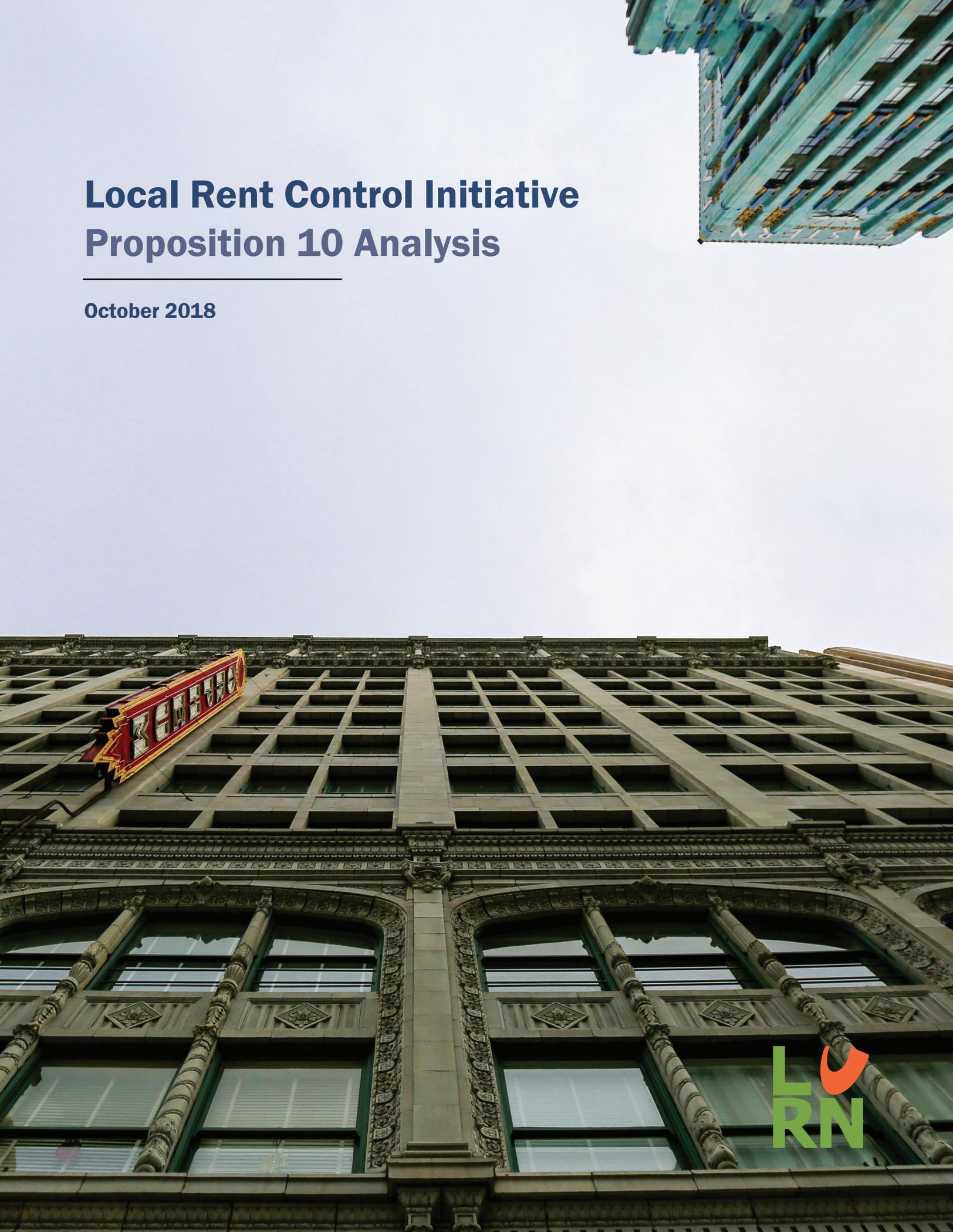


Local Rent Control Initiative Proposition 10 Analysis

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SUMMARY

California Proposition 10 (Prop 10), also known as the “Local Rent Control Initiative,” will be on the November 2018 midterm election ballot. If passed, Prop 10 will repeal the Costa-Hawkins Rental Housing Act of 1995 (Costa-Hawkins),¹ and adopt the “Affordable Housing Act” which will grant local jurisdictions the authority to adopt rent stabilization ordinances within their municipal boundaries. Prop 10 was brought to the ballot by the Coalition for Affordable Housing. Repealing Costa-Hawkins is one key step in a necessary multi-pronged approach to address the affordable housing crisis Californians are faced with today. A repeal of Costa-Hawkins needs to work in conjunction with a more comprehensive rent stabilization policy that would also include measures to encourage affordable pricing of housing for low-income renters and incentivize landlords that will be required to participate in the ordinance.

BACKGROUND

According to HUD, people are considered rent burdened if they spend more than 30% of their gross income on housing costs, and severely rent-burdened if they spend more than 50%.² As detailed in the Prop 10 language, more than half of the renters in California are considered rent-burdened while more than one-third of households are severely rent-burdened.³ Similarly, it would take someone making minimum wage in California 93 hours of work per week to afford the average one-bedroom apartment.⁴ Prop 10 aims to appease the crisis by “restoring authority”⁵ over rent stabilization to municipalities through a repeal of Costa-Hawkins.

California is currently in an affordable housing and homelessness crisis.⁶ Rent prices are far too high for many people who live in the state,⁷ pushing out some of the most vulnerable populations while rents continue to grow.⁸ Across the state, over 54% of the units are owner occupied.⁹ In Los

Angeles County and San Francisco County, this number plummets to 45.7% and 36.8% respectively.¹⁰ This means that renters make up the majority of these two counties, and are at risk of being displaced as rents continue to rise. Prop 10 looks to appease some of these pressures by repealing the Costa-Hawkins Act in order to allow for cities and counties to develop, maintain, or update their own Rent Stabilization Ordinances. More discussion of the affordable housing crisis in Los Angeles can be found in the “Analysis” section on page 4.

THE MANY SIDES OF PROP 10

Prop 10 has three main intentions according to the filed initiative: to give governance authority over rent control back to the cities and counties; improve “quality of life” for the renters in California; and most concretely, to repeal Costa-Hawkins. Prior to Prop 10, there had been an attempt by Assembly Members Bloom (D: 50th District), Chiu (D: 17th District) and Bonta (D: 18th District) - co-authored by Assemblymember Allen (R: 72nd District) - to repeal Costa-Hawkins through AB 1506, which was voted against by the Assembly Committee on Housing and Community Development in February of 2017.¹¹

At the state level, Costa-Hawkins stipulates that rent stabilization cannot be established for any houses or dwellings built after February 1995. Local municipalities have their own policies (most of which were established before Costa-Hawkins) on rent stabilization. For example, this extends further to a couple of the largest housing markets in the state: Los Angeles had a Rent Stabilization Ordinance in place permitting units built before 1978 to be rent controlled, and San Francisco had a similar policy governing pre-1979 units. Neither ordinance had been updated by the time Costa-Hawkins was adopted, freezing the threshold dates and effectively solidifying the lack of rent control in these two markets for units built after 1978 and 1979.

BACKGROUND OF COSTA-HAWKINS

Rent control, or placing a temporal dollar value cap on rental units, is a tactic used to stabilize housing prices in markets that exhibit housing prices too high for a large percentage of their populations. California cities began to adopt them in the 1970’s and in response, an Assembly Bill (AB 3788) was proposed in

1976 to preempt city regulated rent control ordinances, but ultimately it was vetoed.^{12,13,14} A second legislative attempt to prevent local rent controls, AB 1164 was introduced to the Senate by Senator Jim Costa (D: Fresno) and Assemblymember Phil Hawkins (R: Bellflower) in the early 1990s. After multiple rounds of edits, it was voted into law in 1995 as the Costa-Hawkins Act.¹⁵ It had four main goals:

- To establish vacancy decontrol (allowing for rental units to change at whatever price the landlord sees fit once a tenant moves out).¹⁶
- To not allow rent control for single family units and condominiums, decreasing the supply of housing eligible for rent control.
- To establish a moratorium on rent controlled units for anything built after February of 1995.
- Limit the rent control programs that already existed throughout the state in 15 different cities.¹⁷

OPPOSITION TO PROPOSITION 10

Both supporters and opposers of Prop 10 agree that rent prices are too high and that there is a need to prevent and mitigate residential displacement happening across California. However, those against Prop 10, fear that establishing unique rent control requirements in different municipalities will deter the development of new housing and cause a slowdown in construction when it is imperative that production be ramped-up. Further, they argue there is a possibility that the units that are not rent controlled (i.e., market rate units) will become scarce, creating a greater need for middle and upper income housing options and ultimately furthering

income inequality. Finally, opposers fear landlords will turn rental units into short-term rentals such as AirBnB units, reducing the number of available rental units.

Opponents are concerned there will be possibly harmful consequences of it passing, including the public cost of defending the constitutionality of the Proposition (should it pass and be challenged), and will potentially lead to the loss of 38,000 jobs according to No on Prop 10 Campaign.¹⁸ There is also worry around it requiring a 2/3 legislature vote to amend it once in place. Chambers of commerce across California including the Crenshaw Chamber of Commerce and Los Angeles Area Chamber of Commerce, business coalitions like the California Downtown Association, for-profit developers, and the construction trades including State Building and Construction Trades Council of California and the Los Angeles/Orange Counties Building & Construction Trades Council oppose Prop 10.

SUPPORT FOR PROPOSITION 10

Because of escalating rents that are faced by residents, supporters of Prop 10 view this as a way to limit rent increases in neighborhoods and give cities more local control. By shifting land use power from the state to local government, Prop 10 allows for locally-tailored rent control policies; for instance, the needs for rent control in Los Angeles are very different than those in areas such as Fresno, meaning regulation can be drafted to meet the needs of the specific market. Similarly, supporters see rent control as a mechanism for creating better affordable options for housing than using area median income (AMI) because AMI is too broadly defined geographically.¹⁹ Tenants' rights organizations such as the LA Tenants Union and Tenants Together, civil

rights organizations such as ACLU California and the Coalition for Humane Immigrant Rights Los Angeles (CHIRLA), local Los Angeles affordable housing developers such as Esperanza Community Housing Corporation and ELACC, progressive-leaning policy and advocacy organizations such as LAANE and PolicyLink, and the City of Los Angeles are supporting Prop 10.

ANALYSIS

Due to the growing gap between the state's quickly rising rents and its nearly stagnant wages,²⁰ housing affordability will continue to be a challenge, and lower-income and renting residents will be at high-risk of displacement or homelessness. Allowing for caps on rent increases through rent control will provide a means for lower-income individuals to stay put, instead of being displaced by unbridled rents. However, multiple studies have found that in the long run, rent control can harm the housing stock by creating scarcity of affordable units, causing renters who do not live in stabilized units to pay more money over long periods of time. This is a widely accepted position among many economists.²¹ But according to one economist, "housing construction in New Jersey fell by 52 percent in cities that enacted rent control regulations in the early 1970s—but fell 88 percent in those that didn't. The policy also did not affect the landlords' desire to keep their properties in good condition," which directly refutes the main arguments against the repeal of Costa-Hawkins. However, other studies have found that, at the time of adoption of a new rent control ordinance, renters will save anywhere from 5% to 10% on housing over a 15 year period.²² From this it can be concluded that rent control can be an effective short-term tool for affordability.

Establishing rent control is one way of protecting the right to housing, especially for those who have invested many years and dollars in their neighborhood. Rent control can prevent rents from arbitrarily rising. It also provides relief for individuals and families of all incomes, existing entirely outside of the traditional “affordability” structures (i.e. inclusionary housing which targets only households with certain incomes).²³ Nonetheless, where there is a lack of public or subsidized affordable housing, rent control offers an alternative that can provide some stability for lower-income renters. This approach of expanding rent stabilization and rent control does not require the use of public financing in order to create more affordable rental options. Repealing Costa Hawkins will also allow for rent-control to be established on single-family rental housing and condos that are rented out instead of being limited to traditional multi-family rental apartments, creating another tool for the expansion of tenant protection.

Just as passing an ordinance takes time, so will the roll out of the repeal of Costa Hawkins. It is important to note that the repeal of Costa Hawkins and the proposed Affordable Housing Act would not mandate local governments to adopt rent control ordinances, only grant them the authority to do so if they choose. Municipalities who want to adopt rent control and stabilization policies will need to set their own standards and go through the proper channels before adopting or updating their own ordinances. Fifteen cities in California currently have rent stabilization ordinances and would be allowed to update and expand on their ordinances if Prop 10 passes.

Case studies on rent control and similar policies in other cities provide valuable learnings for the discussion on Prop 10. Santa Monica, a city where 70% of rental housing

is protected under their Rent Stabilization Ordinance, is one example of a successful program. Research from USC’s Program for Environmental and Regional Equity (PERE) Center, led by Dr. Manuel Pastor, found that people were more likely to stay in their homes when broader rent stabilization protections had been made - such as in the case of Santa Monica. Similarly, the housing market in Santa Monica is exploding, illustrating a counter to the concern that new construction does not happen under an expanded program. Although this program protects nearly 76% of renters, it does not explicitly prioritize low-income renters, missing an opportunity to further protect those residents. This speaks to the Rent Stabilization Ordinance being only one avenue for maintaining and creating affordable rents.

Berlin is a city of renters and an international example where rent control began to immediately work. Their system involves a comprehensive rent stabilization program that had rent control in it. Named the *mietpreisbremse*, or “rental price break,” it caps how much a landlord can increase a unit based on two major factors: the median price per square meter of a rental, and the city district a unit is located in. Within the first month of this new rule in 2015, “the average cost of new Berlin rental contracts has dropped 3.1 percent within a month,” according to ImmobilienScout24, the number one real estate site in Germany.²⁴ Nearly three years later, it has shown progress and stifled rent price increases in some of the hottest markets in Germany, including Berlin.²⁵

By providing local municipalities with the power to create their own program, residents and other individuals have more voice in influencing how these policies are written and enacted. Through this, residents gain agency within their cities and are provided better

opportunities to build the city for themselves, instead of being left out as they have been in the past. However, this can become detrimental to growth of housing stock through extreme limitations if not coupled with a robust set of policies aimed at building inclusivity. For example, with the repeal, cities can put into place rent controls that tailor to the calls of constituents who may not want any new housing development in their community (i.e. NIMBYs) by allowing only for a fraction of a percent cost increase each year - ultimately deterring the ability for landlords to be profitable, and in-turn the construction of new units.

There is immediate need to alleviate the pressures of the housing crisis and no single law or regulation will be able to fix the

growing issue. However, Prop 10 is one tool that can give cities, including Los Angeles, the ability to expand affordable housing options, while also providing protection for renters throughout California. A repeal of Costa Hawkins needs to work in conjunction with a more comprehensive rent stabilization policy that would also include income requirements and thresholds to allow for occupying a rent controlled unit, and incentives for landlords to manage rent controlled units. Should rent control be expanded to large housing markets such as here in Los Angeles, there is a better chance for renters to remain in their homes instead of being priced-out. Ultimately, Prop 10 empowers municipalities to use a rent stabilization ordinance to support low-income housing.

CONCLUSION

Los Angeles specifically is at an advantage with the repeal because there is an existing Rent Stabilization Ordinance in place; expanding this system of rent control and stabilization will make sure that there is opportunity for housing that is available to all income levels. Prop 10 provides cities the ability to further protect lower-income individuals and their right to housing. Land use policies have historically perpetuated inequity, environmental degradation and a housing market that disadvantages poor

families. Repealing Prop 10 aids in the work of advocating for communities of color and lower-incomes to have influential power over how their neighborhoods grow and develop, while promoting that housing should be made available to all and public investments need to take place equitably. Rent control and stabilization can serve as a means for housing as a right instead of a commodity, and can expand on transforming the current market system.

END NOTES

- 1** Cal. Civ. Code §1954.50 et seq.
- 2** https://www.huduser.gov/portal/pdredge/pdr_edge_featd_article_092214.html
- 3** https://www.oag.ca.gov/system/files/initiatives/pdfs/17-0041%20%28Affordable%20Housing%29_0.pdf
- 4** http://nlihc.org/sites/default/files/oor/OOR_2018.pdf
- 5** Ibid 4.
- 6** <https://www.npr.org/2018/04/16/601970552/californias-housing-crisis-working-but-on-the-brink-of-homelessness>
- 7** Ibid 5.
- 8** <https://lao.ca.gov/LAOEconTax/Article/Detail/265?platform=hootsuite>
- 9** U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates
- 10** Ibid 9.
- 11** <https://therealdeal.com/la/2018/01/11/its-a-landlord-victory-costa-hawkins-act-repeal-fails/>
- 12** In the 1970s, housing prices and inflation were soaring and the lack of affordability for single-family homes urged cities to create rent control or rent stabilization ordinances.
- 13** <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1160&context=pubs>
- 14** This created a backlash in the real estate industry. In 1980, the California Housing Council attempted to counter this veto by creating an initiative and garnering support for Proposition 10 - which proposed preemption of the rent control across the state and did not require "just cause" for eviction. It did not pass in the election.
- 15** http://articles.latimes.com/1995-07-25/news/mn-27574_1_rent-control-feature
- 16** Vacancy control is the cap on how much a unit can rent for once a tenant has moved out - many cities across the state had adopted policies like this.
- 17** These cities include: Alameda, Berkeley, Beverly Hills, East Palo Alto, Hayward, Los Angeles, Los Gatos, Mountain View, Oakland, Palm Springs, Richmond, San Francisco, San Jose, Santa Monica, and West Hollywood.
- 18** <https://noprop10.org/the-facts/homeless/>
- 19** AMI is defined by HUD and determined with regional numbers. For example, many cities in the Los Angeles Metropolitan area will have the same numbers for 80%, 100%, and 120% but the median incomes of each city may vary greatly. Rent Control and the expansion of rent stabilization can tailor the level of affordability that is needed further than what is already done through inclusionary housing efforts.
- 20** <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/07/27/as-rent-skyrockets-more-cities-look-to-cap-it>

- 21 Jenkins, Blair. "Rent control: Do economists agree?." Econ journal watch 6.1 (2009).
- 22 <https://www.gsb.stanford.edu/insights/rent-controls-winners-losers>
- 23 <https://psmag.com/economics/in-defense-of-rent-control>
- 24 <https://www.citylab.com/equity/2015/07/berlins-brand-new-rent-control-laws-are-already-working/398087/>
- 25 <https://www.thelocal.de/20180214/controversial-rent-control-law-does-work-after-all>

