

The Fight for Fair-Chance Housing Ordinances

By: Jack Bittle, Curbed

Criminal-justice reformers have stressed the intersection of housing justice and mass incarceration for decades. Recently released or paroled individuals are far more likely to experience homelessness, often because their criminal records prevent them from getting approved for an apartment, and those who do experience homelessness are far more likely to be incarcerated again. In this way, a conviction from decades past can cast a shadow over a returning citizen's safety and stability, as well as the safety and stability of their family members.



Research has shown that many formerly incarcerated people experience discrimination when applying for apartments. A report from the Ella Baker Center found that 80 percent of such people said they had experienced difficulty accessing housing. It didn't matter what their conviction was for, or how long ago it had occurred—many of them said they were denied housing outright because of “blanket ban” policies maintained by many private landlords and public housing authorities. And if formerly incarcerated people return to live with their family members in housing where there is such a ban, they put those families at risk of losing their housing.

African Americans with criminal convictions face this discrimination especially acutely, according to a report from the Greater New Orleans Fair Housing Action Center. An audit of several dozen landlords across the city found that landlords applied conviction policies inconsistently across races more than half the time, discriminating more harshly against black renters than non-black renters.

Despite the pervasiveness of this discrimination, local laws to prevent it are a relatively recent phenomenon. Activists found success in the early 2010s with ban-the-box initiatives. Deep-seated stigmas against people with criminal records made it difficult to push for fair-chance housing policies in all but a few liberal cities, including Washington, D.C., and New Orleans. Seattle, too, made waves in 2016 when it passed the strongest, most comprehensive ordinance to date.

But in 2016, when the Obama administration's Department of Housing and Urban Development took a formal stance on the issue, it set off a “sea change” at the local level, says Marie Claire Tran-Leung, a lawyer at the Shriver Center on Poverty Law. HUD declared in a policy memo that it was illegal for property owners to deny housing on the basis of a criminal conviction. The memo argued that the 1968 Fair Housing Act, which prohibits landlords from discriminating in ways that result in a “disparate impact,” applies to criminal records as well as protected classes like race, gender, and sexual orientation.

The guidance isn't itself a law, Tran-Leung says, but rather an interpretation of the Fair Housing Act that could influence federal court decisions about the issue. Nevertheless, it inspired activists around the country to make a push to pass more easily enforceable local laws along the same lines. Five years ago, there were no more than four major cities in the United States that had such laws on the books; by the end of 2019, there could be more than a dozen. San Francisco; Detroit; Newark, New Jersey; and **Kansas City, Missouri** have passed ordinances in the last few years, she says, and other cities, including Portland, Oregon, and Berkeley, California, are pushing to pass them now.

The Fight for Fair-Chance Housing Ordinances (Cont'd)



But the fight doesn't end once an ordinance passes. From there, activists, lawmakers, and city attorneys have to hash out how the ordinance will be implemented and enforced, a process that in Richmond took more than a year and concluded only a few weeks ago. And in Seattle, a conservative legal group called the Pacific Legal Foundation has launched a lawsuit against the city's ordinance, arguing that it impinges on freedom of speech; the suit will go before the state supreme court this month. Jones says he fully expects a similar legal challenge to the East Bay ordinances if they pass.

“One of the biggest barriers to passing these laws is taking on the question of who is and isn't deserving of housing,” says Deborah Thrope, a lawyer with the National Housing Law Program who worked on the ordinances in San Francisco and Richmond. “We really have to get people to think through the stigma and ask why we even categorize people by their conviction.”

If cities in even the bluest states are fighting an uphill battle against real estate lobbyists as well as a wary public, activists in red states face even steeper odds. Madison, Wisconsin, for instance, had one of the first fair-chance housing ordinances, but the state's Republican-dominated legislature effectively overturned it a few years ago by passing a law that prevents local antidiscrimination legislation from going any further than the state's civil rights law. Texas's state senate adopted a similar law in April to prevent Austin from implementing a ban-the-box initiative that would have prohibited hiring discrimination.

Under the Trump administration, it's unlikely HUD's 2016 guidance will be codified into a formal policy; indeed, says Thrope, there's some concern among activists and legal experts that the administration will rescind the guidance the way it has rolled back Obama-era rules on housing desegregation and civil rights enforcement (though at a recent hearing, HUD Secretary Ben Carson said he supported Alexandria Ocasio-Cortez's suggestion to end the department's “one-strike you're out” policy for removing criminal offenders from public housing, which dates from the tough-on-crime 1990s).

In the absence of such federal gains, says Thrope, formerly incarcerated people in red states and rural areas may find themselves denied the right to housing that is on the books in a growing number of liberal enclaves.

“There's been some progress on the federal level,” Thrope says, “but the real progress has been local. We have these extremely harsh policies that have worsened recidivism, torn families apart, and policymakers are just now starting to say, ‘Okay, this isn't working, let's reverse these.’”

Still, the speed with which the fair-chance housing movement has spread from city to city is an encouraging sign for activists who want to push for criminal-justice reform beyond a mere reduction of prison populations. The long-term consequences of a criminal conviction, these activists insist, don't end when a prisoner is released or paroled, and cities can't truly say they've ended mass incarceration until they tackle the stigmas that prevent returning citizens from fully reintegrating into their communities. And the first and perhaps the most fundamental step to reintegrating, Jones says, is finding a safe place to stay.

Control Freak: Rent Control Resuscitated

By: Fred Tayco and Alex Rossello, NAA

“Rent control is a problem for other places, not here.” It’s a familiar refrain. After all, there are only five states (California, Maryland, New York, New Jersey and Oregon) and the District of Columbia that allow for rent control. Moreover, 36 states explicitly preempt localities from implementing it. By the numbers alone, it could reasonably be assumed that this doesn’t affect most of the country. Considering the broad agreement among academics, public policy researchers and industry experts about the disastrous consequences of this policy, this mindset is no surprise. This agreement is backed up by the experience in those areas with historical ties to this kind of regulation.



Unfortunately, as the saying goes, history tends to repeat itself.

As it revolves, old political ideas tend to return in modern times in shiny new packaging hiding tired old fallacies. Rent control is being yanked, again, from the waste bin of history and given new life as a viable option to address the nation’s housing affordability problem. This time rent control has received a round of rhetorical plastic surgery that redefines the policy in more “practical” terms.

Oregon is patient zero in this budding epidemic. Its newly adopted, state-wide rent control law has opened Pandora’s box, prompting several states to follow suit with their own rent regulation proposals. The law, which caps rent increases at 7 percent plus inflation, represents a successful attempt by advocates to characterize rent regulation as “anti-rent gouging,” giving it a thin gilding of reasonability. Advocates in California have used this blueprint to get a similar bill introduced this session by the state Assembly’s Housing Committee Chairman David Chiu.

Advocates have never stopped talking about rent control; they’ve just rebranded it to seem more acceptable under the guise of setting sensible limits on annual rent increases. With “housing as a human right” as a call to action, renters’ rights advocates and their champions in government are looking for a quick fix to an emotionally-charged issue. Rent regulation provides an out-of-the-box solution for policymakers that is easy for voters to understand, simple to implement and affords short-term relief to low-income households who are fortunate enough to reside in the small segment of newly rent-controlled apartments.

Keeping Score

Consensus today is rare; consensus among economists is exceedingly rare. To bolster that point, some cite a poll conducted by the American Economic Review that resulted in 93 percent of economists agreeing that “a ceiling on rents reduces the quantity and quality of housing available.”

Socialist economist Assar Lindbeck frames rent control in stark but clear terms: “Next to bombing, rent control seems in many cases to be the most efficient technique so far known for destroying cities.”

Control Freak: Rent Control Resuscitated (Cont'd)

Why do these arguments no longer resonate? Because factual arguments are giving way to emotional politics. Political forces have shifted to create an environment-friendly to this new wave of rent control.

Consider the following: As the economy has continued to improve since the financial crash, there has been a concerted effort to legislate in favor of the populations perceived as being “left behind.” At the same time, the apartment industry, compared to other real estate sectors, has done well during the economic downturn and subsequent recovery. The number of people choosing to rent, whether by choice or because of financial constraints, has quickly risen and continues to rise.

Despite this growth, the industry continues to suffer from a supply and demand imbalance, largely because of government-imposed barriers to construction at the local level and not-in-my-backyard (NIMBY) community opposition. Meanwhile, states and localities are plagued by housing affordability challenges. Elected officials are feeling the pressure to provide relief to cost-burdened renters or populations in their communities who are facing homelessness or displacement, stifling the growth of housing supply and increasing the cost of developing and operating rental housing. Given the perceived solvency of the apartment industry, apartment owners and operators are an easy target for shouldering the resulting impacts of regulation.

The Numbers Are Scary

For decades, the industry has warned of the consequences of supply failing to keep pace with demand. In 2017, NAA and NMHC committed the problem to paper by producing a report, “U.S. Apartment Demand— A Forward Look,” which identifies the need for 4.6 million new units by 2030.

At that time, it would have required the construction of 328,000 units per year just to keep pace with demand. We have only begun to meet those goals within the past two years. But even so, decades of under-construction have left a massive shortage in the overall apartment housing supply, which were not accounted for in the Demand Report. Add to that the existing older stock of apartments, which could number up to 11.7 million units, that need to be rehabilitated.

Policymakers understand this and are concerned; however, they are pressed to do something in the short-term, even if that “something” hobbles the sustainable solution: Construction of more units. Unfortunately, that “something” is often to force affordability. Enter Rent Control.

Placing A Face with the Name

This year, the Illinois legislature refused to advance a bill that would have overturned its statewide preemption on rent control. Like California, the SHAPE Illinois Coalition assembled a diverse group to articulate what the adoption of rent control would do to their communities. With the help of these groups the industry was able to communicate the impact to the broader community in a very personal way. At the end of the day, successful campaigns communicate their effect on people and their well-being, not an economic or policy argument. By communicating that impact, these campaigns were successful in exceedingly challenging environments. They were successful because they put a large community behind their effort—a concept this industry knows a thing or two about.

City of Wichita Names New Housing Director

From the City of Wichita: City Manager Robert Layton today announced that Sally Stang has been chosen to run the City's Housing & Community Services Department. Stang, who was most recently the Housing & Community Development Director for the City of Tucson, begins work in Wichita on July 1.



"The City of Wichita has a strong history of successfully administering federal programs for housing as well as community planning and development," said Layton. "I am excited about Ms. Stang's addition to the City's management team and her ability to build on our successes." In Tucson, Stang was responsible for over 1,500 units of public housing, 5,698 housing choice vouchers and 320 units of affordable housing.

At City Hall, Stang will lead efforts to stabilize neighborhoods by administering various affordable housing programs and provide well-being services to help residents break the cycle of poverty. She will manage a budget of roughly \$26 million and be responsible for 578 units of public housing.

"I feel like I am coming back home – back to the Midwest where people work hard and truly care for each other," said Stang. "I am also excited to work with people and agencies to develop creative programs that have a deep and lasting impact on families and in the community."

Prior to serving as Tucson's Housing Director, Stang served as the department's Deputy Director. Before working in Arizona, Stang served as the Associate Director of the Housing Authority of the County of Lake, Illinois.

Stang believes in using collaborative leadership to resolve complex issues related to affordable housing, poverty, health and homelessness.

Stang holds a BS in Business Administration from the University of Phoenix. She is also certified by the National Association of Housing & Redevelopment Officials ((NAHRO) as a manager of voucher operations and a project based voucher specialist.

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