



RENT CONTROL IN THE CITY OF BERKELEY, 1978 TO 1994:

A Background Report

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In 1994 the interns collected the building permit data and did the data entry and preliminary analysis for the maintenance study reported in Section VII.

This report benefitted greatly from the many people who had done previous reports and gave helpful explanations of their work, including Ken Baar, Glen Elder, John Gruenstein, Neil Mayer, Myron Moskovitz, David Mundstock, Michael St. John, and Marian Wolfe. None of them have any responsibility for the findings or conclusions of this report.

EXECUTIVE SUMMARY

Purpose and Method of the Study

This report provides information on rental housing and on the Rent Stabilization Program, one of the City of Berkeley's largest housing programs, for use by its citizens as they revise the Housing Element of the General Plan. The rent stabilization ordinance currently regulates 21,000 of the 25,000 rental units in the City, with about 19,000 units currently registered and 2,000 units temporarily exempt. The report evaluates the benefits and costs of Berkeley's rent control system before and after the major rent increases of January 1992, using a combination of historical and comparative data from the Census, the Rent Stabilization Program and other sources. In order to determine the effects of rent controls during the strong rent control period, the report provides detailed comparisons of changes in Berkeley and in neighboring cities, comparing changes in census tracts in North Berkeley with changes in similar tracts in neighboring South-East Albany and comparing changes in census tracts in South Berkeley with changes in similar tracts in neighboring North Oakland.

The Purposes of Rent Control

Rent control in Berkeley has two main purposes. First, it is intended to provide tenants with security and stability in their homes, similar to that enjoyed by homeowners, by protecting them from rapid rent increases and unfair evictions. Second, it is intended to shield tenants as a group from the economic harm resulting from rising urban land values. The system is intended particularly to help low-income people, minorities, students, the disabled and the elderly, all of whom are more likely to be at a disadvantage in the housing market.

Context: Berkeley and the Bay Area, 1960 - 1990

Berkeley has a diverse housing stock of single-family houses and apartment buildings, small and large. This mix has not changed very much since the mid-1970's, when two decades of rapid growth in apartment housing came to an end. As the supply of housing failed to keep up with the need in Berkeley and in the Bay Area, home prices increased dramatically in the 1980's. Rents in the Bay Area also increased dramatically, and more than half of all units affordable to very low-income households were lost to rent increases. Rents in Berkeley, under rent control, increased more slowly until 1992.

History

Berkeley had rent controls during and shortly after World War II and again during President Nixon's 1971-72 wage and price freeze. A 1972 initiative measure to continue rent control was ruled unconstitutional because it had no provision for across-the-board rent increases to cover operating cost increases. In November 1978, a year after passage of the Proposition 13 property-tax roll-back, Berkeley voters passed an initiative that temporarily reduced rents to provide renters a property tax rebate. A June 1980 initiative then established permanent rent controls. Across-the-board rent increases to cover operating cost increases allowed rents to increase by about 62 percent from 1980 to 1991, almost the same as the Bay Area's 60 percent inflation in non-housing items during the same period and substantially below the 107 percent increase in Bay Area rents. The courts upheld the constitutionality of this rent control system, but eventually required the addition of across-the-board inflation adjustments for profits as well as operating costs. A new board majority responded by passing rent increases averaging 33 percent in January 1992. These increases were challenged in court but upheld as within the discretionary powers of the elected Rent Board. In comparison with market rents the average discount provided by rent control has decreased from 35 to 40 percent below market in 1990 to 10 to 20 percent below market in 1993, with a substantial minority of legal rent ceilings now above market rent levels.

Affordability

Survey data from 1988 show that tenants in rent controlled units included 30 percent very low-income non-students, 16 percent low-income non-students, 22 percent student households, virtually all of whom are currently very low-income, and 32 percent non-student households with incomes that were moderate and above. Two-thirds of the Berkeley tenants who benefit from rent control are low-income and nearly half are low-income and not students. Despite paying below-market rent-controlled rents, most very low-income tenants still paid over 30 percent of their incomes for rent and utilities and nearly two-fifths of them paid more than half of their income for rent even during the period of strong rent control. As a result of the recent rent increases, however, the situation of poor tenants has deteriorated. For example, by 1993 there were less than 500 units with legal rent ceilings under \$300, half the income of an elderly or disabled person receiving SSI, compared with 4,500 in 1990.

Profitability

Landlords profit from rental housing to the extent that rents and expenditures provide cash flow, tax deductions, equity appreciation, and mortgage loan principal repayment, which also increases equity. Much of their profit is realized only when they sell or refinance the building. Using Rent Board cost studies to do an internal rate of return analysis on an "average" rental property, we find that under the 1979 to 1991 system it was possible to obtain a nearly 9 percent pre-tax annual rate of return on investment, compared to the 5.5 percent average rate of inflation, but that this rate of return depended on building sales prices that were becoming difficult to sustain. The Board increased rents to provide an inflation adjustment for the Net Operating Income (NOI) as well as increases to cover increased operating expenses. After the retroactive rent increase in November 1991, the average annual rate of return for the same period jumped to 12 percent for the 1980 to 1991 period. Had this inflation adjustment been in place during the entire 1980 to 1991 time period, the owner would have had a return of 15 percent annually due to receiving higher rents as well as a higher sales price. Without rent controls the same owner could have earned a spectacular 19 percent annual return. An alternative inflation adjustment was proposed by the City, providing an inflation increase for the part of NOI that provided cash flow profit to the landlord but not for the part used for debt service on mortgages, whose interest rates had declined substantially since 1979. The rate of return on this alternative would have been a reasonable 10 percent and would have been sustainable indefinitely.

Conversion of Rental Units

About 3,500 units that were rented in 1980 were not rented in 1990. This loss of rental units has been due almost entirely to two factors; first, loss of residential hotel rooms, none of which resulted from rent controls, and second, conversion of rental units for use by owner-occupants. Conversions included 1,200 single-family houses converted to owner-occupancy, 750 units in multi-family property converted to owner-occupancy, 500 more vacant units, mostly in smaller properties that have owner-occupancy potential, absorption of about 650 rentals into enlarged single-family houses and loss of 400 residential hotel rooms. Rent control encourages alternative use of rental space by reducing the opportunity cost of conversion, but conversion can best be restrained by creation of new condominiums to meet the demand for ownership of apartments and by regulatory restrictions on conversion in existing rental properties with multiple units. It is not practical to restrict conversion of single-family houses, and since most of their owners are not real estate professionals they are easily discouraged from renting by fear of bureaucratic entanglements. There is no evidence that rent control has any effect on construction of new housing.

Building Condition

It is likely that rent controls reduce expenditure on cosmetic maintenance, since new tenants can be attracted by the below-market rents rather than the appearance of the building. Building permit data provide an indicator of expenditures for repairs and improvements. The number and value of permits in properties with five units or more remained constant before and during the strong rent control period of 1979 to 1991, while permits increased in Albany and decreased in North Oakland during the same time period. Thus there is no evidence that rent controls reduced expenditures on repairs below pre-rent control levels. Building permits have increased slightly since the major rent increase in 1992, while decreasing in neighboring cities in an apparent response to the recession.

Social and Demographic Change

Higher-income tenants have moved in to replace lower-income tenants as rents increased in both Albany and North Oakland, while the slower rate of increase in Berkeley rents allowed lower-income tenants to continue to rent here. From 1980 to 1990 the number of people in Berkeley who are disabled and unable to work increased, while decreasing in Albany and North Oakland. The number of Berkeley residents who are both elderly and poor also increased. The number of people in Berkeley receiving public assistance declined less than in Albany and North Oakland. Similarly the number of African-Americans in Berkeley declined more slowly than in neighboring Albany and North Oakland. An apparent decline in the number of poor tenants is mostly accounted for by changes in the student population, with more students in group quarters, where their income is not counted, more students in sharing housing, which increases total household income, and more students working, which also increases their income. Berkeley has less overcrowding than neighboring cities but there was no reduction in the number of people per rental unit, and tenants became more stable. There is no evidence that rent control affected commute patterns. Thus the data indicate that rent control had a stabilizing effect on the Berkeley population and helped to maintain ethnic and economic diversity.

Financial Costs and Benefits

The cost of administering the Rent Stabilization Program is about \$2,500,000 annually, a costs which is passed on to tenants through the Annual General Adjustment. Rent controls reduce tax revenues from the property tax, the real property transfer tax and the business license tax on gross receipts. In total, the amount of foregone taxes from 1979 to 1991 totals \$10,500,000, and the annual rate of foregone taxes had reached \$1,600,000 a year in 1991. Overall, the rent control system delivered about \$3 in reduced rents to very low-income non-student tenants for every \$1 that it cost the City and tenants in general in 1991. After the January 1992 rent increases, the cost-benefit ratio solely in terms of tenants who would be eligible for Federal housing assistance has decreased from 3:1 to 1:1, although the total benefit to all tenants is substantially higher.

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I. INTRODUCTION

The City of Berkeley is currently engaged in revising its General Plan, including its Housing Element. This report is intended to assist in the General Plan discussion by providing a description of Berkeley's private rental housing stock, the people who occupy it and a description and evaluation of the rent control system which covers most private rental housing. Rent control was described in the 1990 General Plan Housing Element as "the housing program primarily responsible for maintaining affordable housing in Berkeley".¹ As a result of recent changes, this is no longer the case, and a careful examination of the history and current condition of the rent stabilization program is needed to assist the residents of Berkeley as they consider whether to try to restore the system to its previous level of importance or to emphasize other City housing programs.

Rent control is one of the most controversial of Berkeley's public policies. It has been in effect in one form or another for fifteen years and has been a subject of political controversy for twenty-five years. The costs and benefits of the current Rent Stabilization Program continue to be the subject of much debate in the wake of recent changes that allowed substantial rent increases and changed the system from one of the strongest in the U.S. to a moderate constraint on rents. Some residents want to strengthen the system so that it will once again hold rents substantially below market levels, while others want to eliminate the system entirely. Still others want to find new ways to make housing affordable to low-income tenants, with or without rent control.

The purpose of the Rent Stabilization and Eviction for Good Cause Ordinance, as stated in Section 3, is:

"The purposes of this Ordinance are to regulate residential rent increases in the City of Berkeley and to protect tenants from unwarranted rent increases and arbitrary, discriminatory, or retaliatory evictions in order to help maintain the diversity of the Berkeley community and to ensure compliance with legal obligations relating to the rental of housing. This legislation is designed to address the City of Berkeley's housing crisis, preserve the public peace, health and safety, and advance the housing policies of the City with regard to low and fixed income persons, minorities, students, handicapped, and the aged."

Berkeley's rent control system benefits tenants in two ways. First, like most rent control systems in the United States, it is intended to provide tenants with the personal security and stability that homeowners have. It does this by giving tenants reasonably predictable housing costs so that tenants will not be displaced by rapid rent increases, just as Proposition 13 gave homeowners protection from rapid increases in property taxes. It also gives protection from arbitrary eviction. Such stability, it is widely believed, gives tenants more stable personal lives and a greater stake in their community. This first purpose can be met by rent control systems that require good cause for eviction and control rents for current tenants but then decontrol rents when a tenant moves out and recontrol them when the next tenant moves in. These systems protect current tenants but do not hold rents down overall.

Berkeley's rent control system has a second purpose, which is to shield tenants as a group from the economic effects of rising land values. In urban areas land values inevitably rise as population increases, as more public investment is made in utilities, transportation and services and as job growth continues. Often land values are further increased by limits on additional supply of housing resulting from restrictive land use controls. This increases rents and home prices and redistributes money from renters and first-time

¹ City of Berkeley, "Housing Element", July 24, 1990, p.II-8.

homebuyers to landowners. Rent controls that permanently slow down rent increases are an effort to prevent part of this redistribution from non-owners to owners from taking place and instead, allow tenants to continue occupying space at rents that are less than other, better-off tenants would be willing to pay. Rent controls are typically accompanied by controls on condominium conversion as well, so that tenants cannot be outbid for their units by higher-income homebuyers.

Permanent controls are intended not only to benefit lower-income tenants economically, but to provide social stability to Berkeley as a community. Rent controls preserve the economic diversity and social fabric of the community, helping very low-income tenants to live lives with much less stress than if they were simply faced with the unpalatable choices of paying most of their income for rent, living in overcrowded conditions or moving away to the economically segregated areas to which the poor are frequently consigned in American cities. Permanent controls eliminate much of the economic incentive to displace long-term tenants in order to get higher rents, an incentive that remains in place in vacancy decontrol systems that allow rent increases when the tenant moves. Permanent controls also help middle-income tenants in areas with high rents and home prices to save up the money needed for a downpayment on purchase of a home.

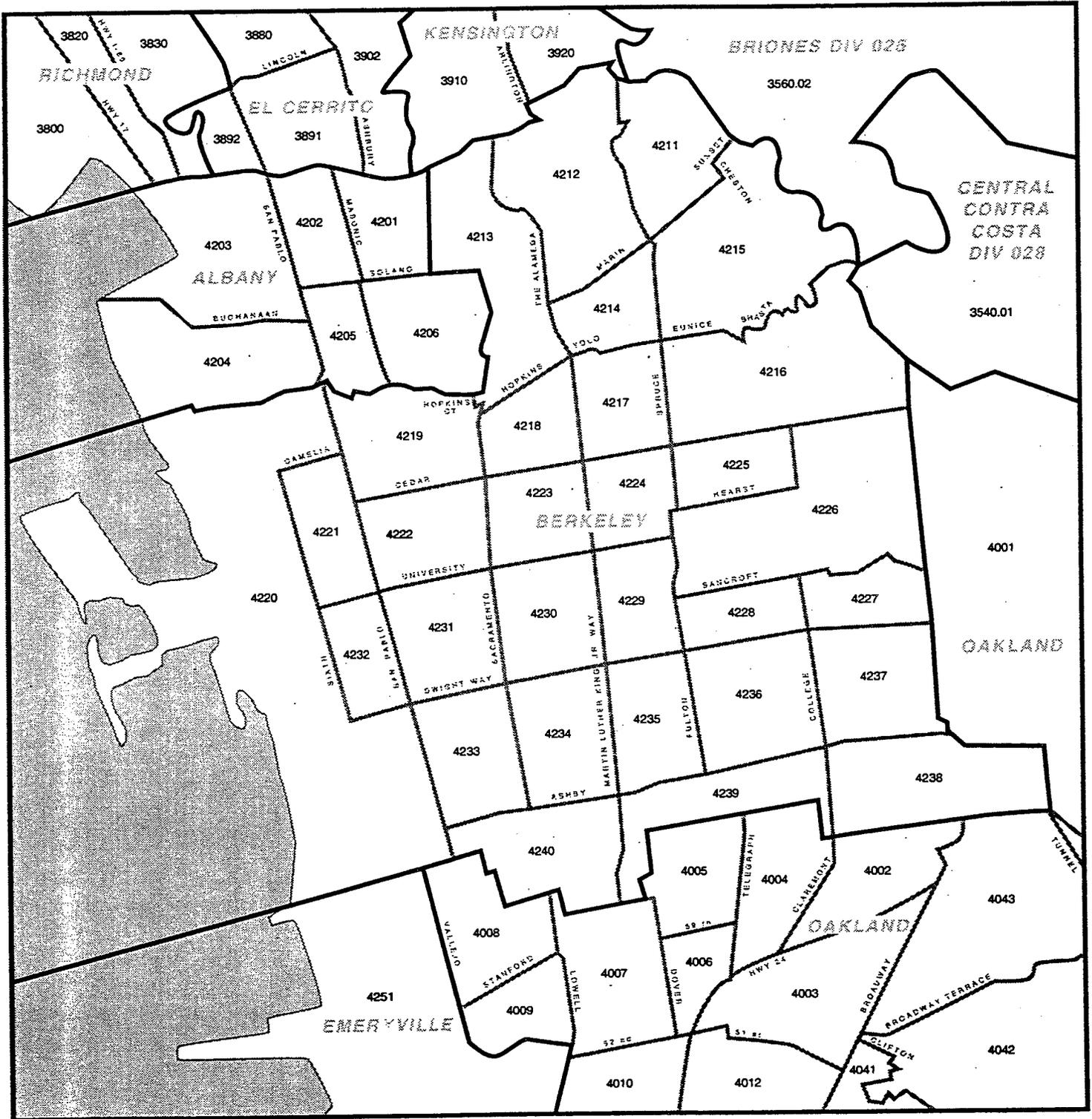
Berkeley's rent stabilization ordinance currently regulates nearly 21,000 of the 24,500 rental units in the City. About 18,700 units are currently required to register, while 1,600 units are temporarily exempt because they are occupied by tenants who have Section 8 rent subsidies, 500 units are temporarily exempt while they are occupied rent-free, usually by relatives or friends of the owner. Vacant units are also exempt. Units permanently exempt from registration include 500 pre-1980 units built with government subsidies; from 500 - 1,000 units in owner-occupied duplexes (although they become controlled if both units are rented); 700 rental units built after 1980; and an unknown number of single-family homes rented for periods of up to nine months. Dormitories, student cooperative housing, fraternities and sororities are also exempt. Rent Stabilization Program staff estimate that between 1,000 and 2,000 units should be but are not registered. Mostly these are single-family houses and units in duplexes that were not owner-occupied in 1980.

By the simplest measure, slowing the growth in rents, Berkeley's strong rent control system was highly effective from 1980 to 1991. From April 1980 to April 1990, while the Bay Area Consumer Price Index measured 65 percent inflation but showed rent increases of 106 percent, Berkeley's rent control system allowed across-the-board increases of only 54 percent. By 1990, the average controlled rent in Berkeley was 35 to 40 percent below what it would have been without controls. Critics of rent control argue, however, that rents were controlled at severe cost and that rent control failed to accomplish its stated purposes. According to its critics, under rent control maintenance declined, units were removed from the market, the tax base of the community eroded and landlords were deprived of a fair return on their investments, while the real benefits were small because most low-income tenants in Berkeley were actually middle-class students and genuinely low-income tenants continued to be replaced by higher-income tenants.

The current system, after rent increases averaging 45 percent since 1991, has been largely a collection of unknowns. Are rents still below market levels and if so, by how much? Do current low-income tenants still benefit from the remaining controls? What benefits and costs to the City of Berkeley and the public result from the current controls?

This report reviews housing affordability problems in Berkeley and the Bay Area, reviews the history of rent control in Berkeley, and then uses data from the Census, the Rent Stabilization Program and other sources to evaluate the benefits and costs of Berkeley's strong rent control system from its inception until 1991 and to examine the benefits and costs of the current, much weaker rent control system. Berkeley's rent control system began November 7, 1978, and was strengthened in 1980 and 1982, dates close enough in time to the April 1980 U.S. Census for us to use the 1980 Census as a base-line in evaluating the effects of the rent control system. The system was substantially weakened in October 1991, so that the changes from the April 1980 to the April 1990 Census cover almost the full extent of Berkeley's years of strong rent control. Map A shows Berkeley census tracts and the comparison tracts in neighboring communities. Map B shows the percentage of rental units in Berkeley census tracts.

MAP A:
 City of Berkeley and Surrounding Cities
 Census Tract Map



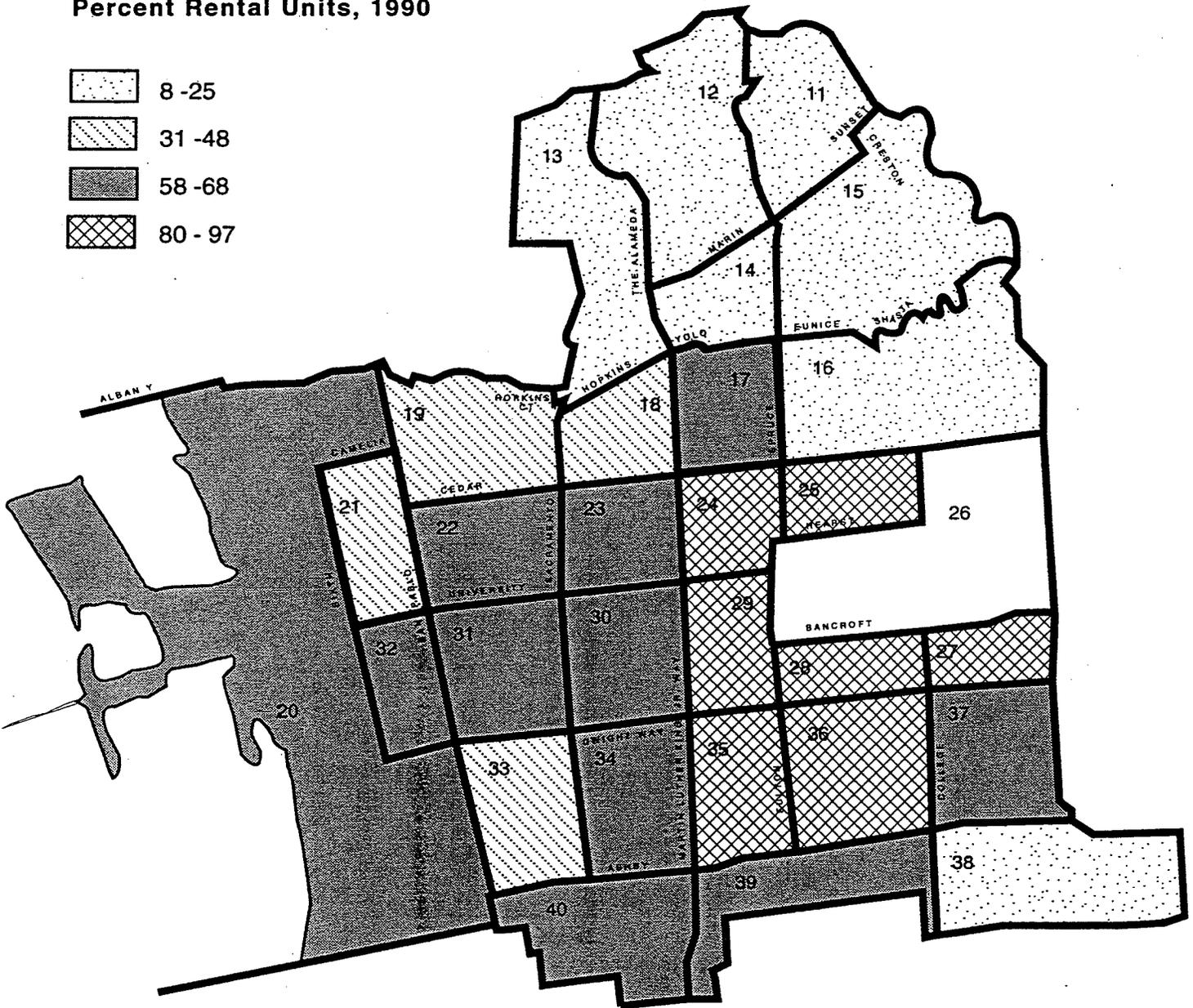
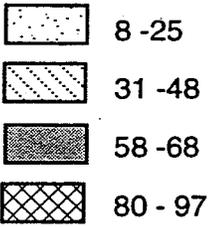
City of Berkeley Planning Department - 1994

- City Boundary
- Census Tract Boundary



MAP B: Percent Rental Units by Census Tract, Berkeley, 1990

Percent Rental Units, 1990



Berkeley Census Tracts

NOTE: All Berkeley census tract numbers are preceded by 42.

Example: 11 = 4211

Source: 1990 Census

II. BERKELEY, 1960 - 1990

SUMMARY

- Berkeley has a diverse housing mix of single-family houses and apartment buildings, small and large. This mix has not changed very much since 1973, when a decade of rapid growth in apartment housing was halted by the Neighborhood Preservation Ordinance.
- With increased demand and restrictions on the supply of housing, home prices increased dramatically from 1980 to 1990 in Berkeley and the Bay Area as a whole.
- Rents in the Bay Area also increased dramatically from 1980 to 1990, and more than half of all units affordable to very low-income households were lost to rent increases by 1990. With rent controls, rents in Berkeley increased more slowly and the City maintained a relative balance between the number of very low-income renters and the number of low-income units until the major rent increases of 1992.

Demographics

Berkeley is a stable and largely built-out city with a 1990 population of about 103,000 people. Often thought of in isolation, as a university town, it is in fact part of the urban core of the 98 cities and 9 counties that make up the San Francisco - Oakland - San Jose Metropolitan Area, with its 6,000,000 people. Indeed, it is largely an accident of history that the area within the Berkeley city limits is not simply several distinct neighborhoods at the northern end of a larger City of Oakland or a part of the East Bay section of what was once proposed to be "Greater San Francisco".¹

The economic and cultural center of the City of Berkeley is the University of California. Nearly one quarter of the population of the City is affiliated with the University as students, faculty or staff and nearly one-third are affiliated with some institution of higher learning. But Berkeley is not just a university town. It has all the diversity that would be expected of part of the center of the fifth largest metropolitan area in the United States. The City has thousands of jobs in services and manufacturing, especially in the West Berkeley industrial and warehouse district, and a substantial Downtown. Even so a majority of its employed residents commute to work in other cities, since the Hills residential areas are prized for their views and the City is well-served by both public transit and freeway connections. Several residential areas have popular neighborhood shopping districts where people can walk among stores and sit at cafes in a pleasant urban atmosphere that can otherwise be found primarily in San Francisco.

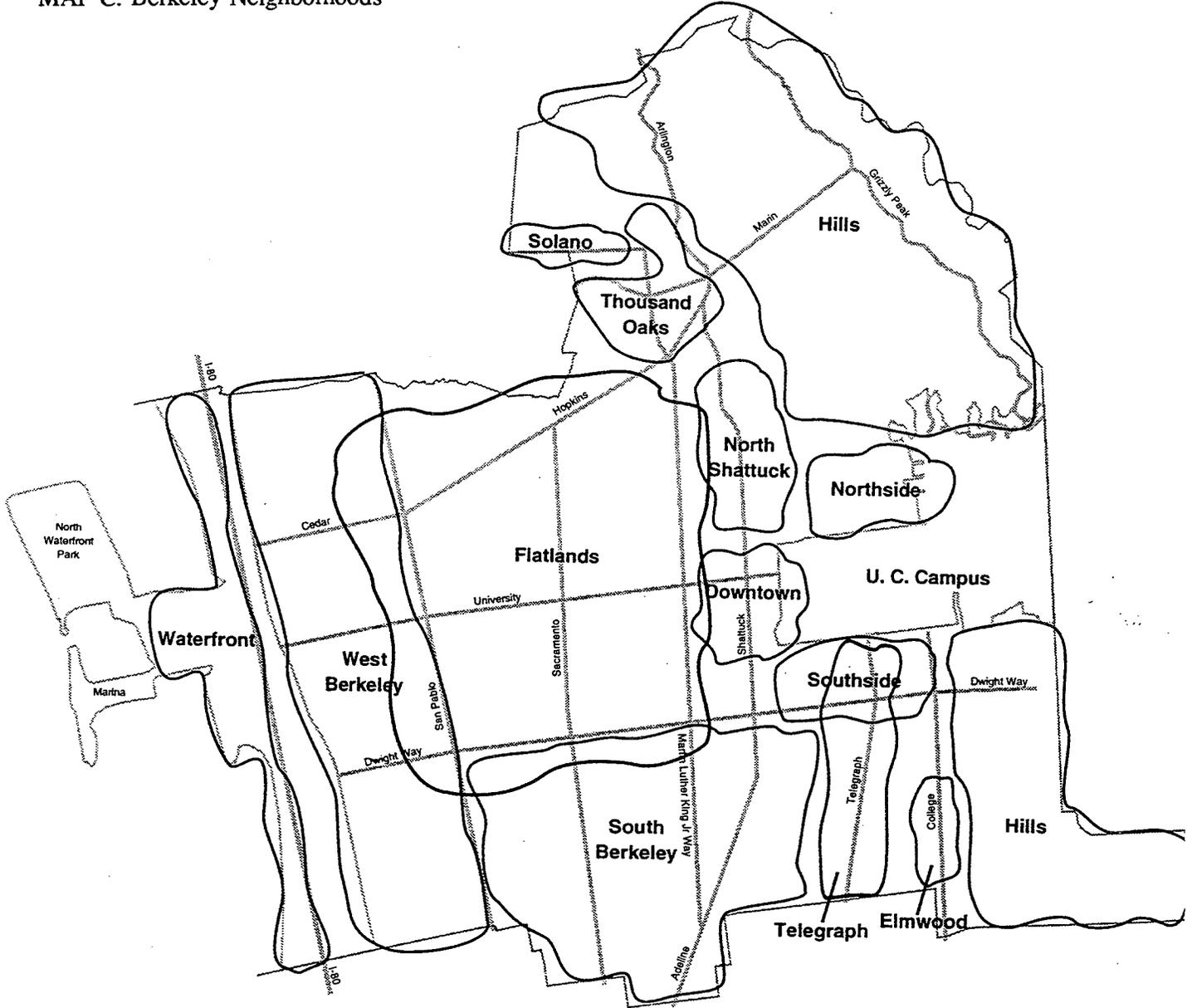
The major economic and geographic division in Berkeley is between the "Hills" and the "Flatlands". This division overlaps with divisions between homeowners and tenants and between members of different races. The Hills are made up almost entirely of single-family homes and had a 1989 median household income of over \$60,000 a year. The Flatlands include the Central, South and West-Berkeley areas, with mixtures of single-family homes and small apartment buildings, and a U-shaped area around the University of California campus and downtown, with both large and small apartment buildings. Median household

¹ Mel Scott, "The Greater San Francisco Movement", in The San Francisco Bay Area: A Metropolis in Perspective, Berkeley, University of California Press, 1959, pp.133-148.

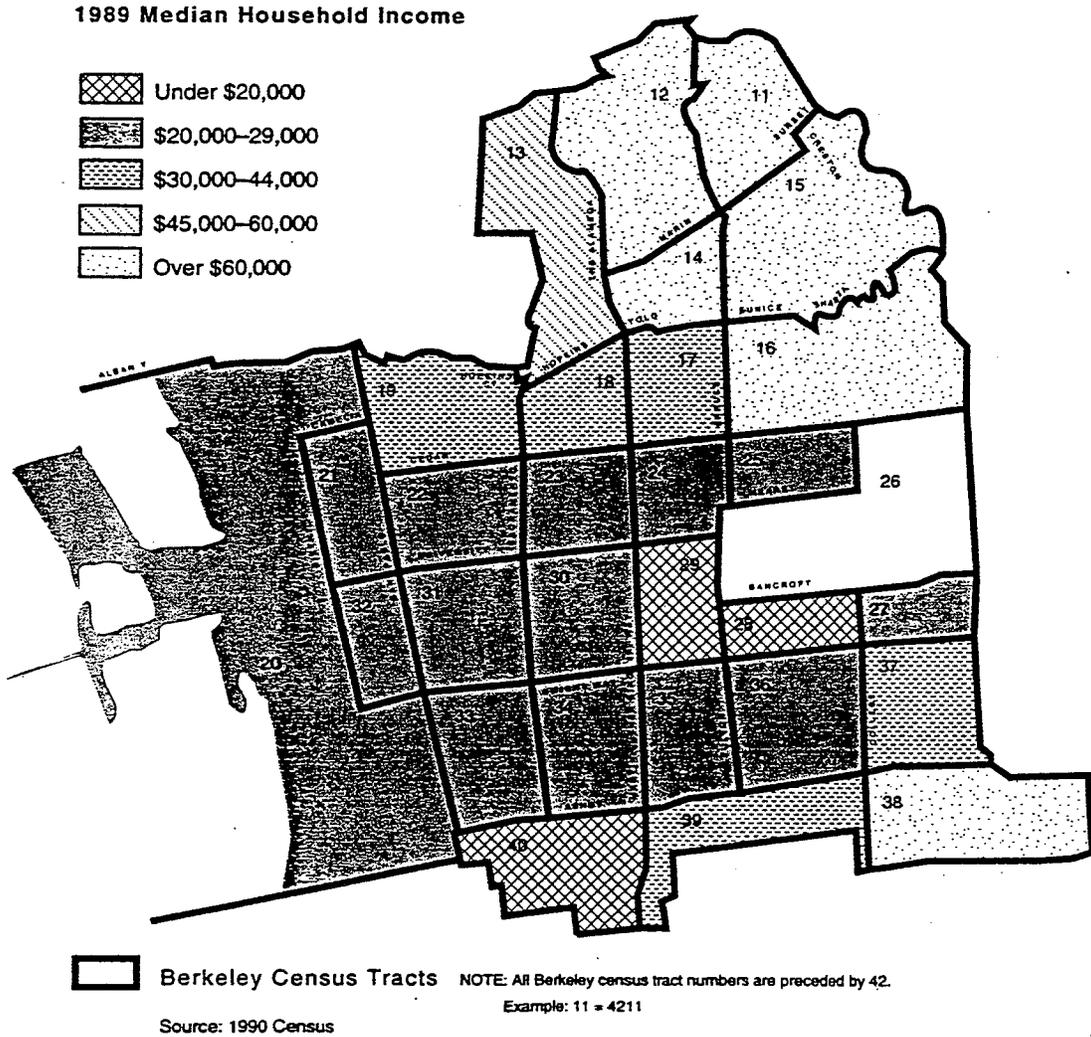
income in the Flatlands neighborhoods in 1989 was generally between \$20,000 and \$30,000. The Hills-Flatlands differences overlap with homeowner-tenant differences. The majority of the City's 43,500 households are tenants (56 percent), whose median yearly household income was \$19,500 in 1989, and 44 percent are homeowners, whose median income was over \$50,000.

There is also a large population living in group quarters rather than separate housing units. Nearly 10,000 students living in dormitories, fraternities, sororities and student cooperatives in the areas just North and South of the University of California campus. About 1,000 homeless people live in parks, cars and shelters mostly around the flatlands, but some in the parks and watershed lands in the hills. Map C shows the different Berkeley neighborhoods and Map D shows the median income for each Census Tract in Berkeley.

MAP C: Berkeley Neighborhoods



MAP D: Median Income by Census Tract



Two fifths of Berkeley's population are members of racial minorities, including a long-standing Black community centered in South Berkeley, and growing numbers of Asian and Hispanic residents. There are severe income disparities between racial groups, with the 1990 Census reporting a mean household income for whites of \$50,323, compared to a mean black household income of \$26,297, a mean Asian income of \$31,013 and a mean Hispanic income of \$31,457.

Berkeley has intellectual and cultural communities of independent artists, writers and musicians. Especially since the 1960's, Berkeley has become a center for all kinds of political and issue activism. Eight percent of its adult population between the ages of 16 and 64 have a disability, and while this is only slightly higher than the average for the Bay Area as a whole, Berkeley is the home for several major organizations serving and advocating for disabled people. Several environmental organizations also have their headquarters in Berkeley, and nine percent of Berkeley households include a member of the Sierra Club, the highest membership rate in any city in the U.S.

Over the last thirty years Berkeley has undergone many demographic changes, most of them gradual. Enrollment at the University of California and other institutions of higher education has increased and then leveled off. The number of people who are members of racial minorities has increased and diversified. Homeownership declined and then rose again. Average incomes rose steadily, but over the last decade the situation of the poor in Berkeley and the Bay Area has gotten worse, with cuts in public assistance and increased homelessness.

Table II-1 shows the changes in basic demographics for Berkeley from 1960 to 1990.²

	1960	1970	1980	1990
Population	111,268	114,091	103,328	102,724
White	82,081	77,262	68,198	63,833
Black	21,850	26,800	20,770	19,281
Asian	not available	not available	9,897	15,178
Hispanic	not available	not available	5,219	8,589
College Students	16,161	25,476	28,853	28,105
Employed Residents	47,568	50,562	51,251	56,025
Housing Units	41,568	46,160	46,334	45,735
Households (HH)	39,686	44,494	44,704	43,453
Homeowners	17,477	15,979	16,883	18,998
Vacant Units	1,882	1,666	1,615	2,282
Persons per HH	2.57	2.32	2.11	2.10
Median HH Income ³	\$19,386	\$24,443	\$25,567	\$31,075

² See Appendix A for a detailed description of corrections made in Berkeley Census data, which had substantial errors in 1970 and minor errors in 1990. See Section VIII "Loss of Rental Units" for additional errors in 1990 unit count. The erroneous 1990 unit count is not corrected in this table.

³ All dollar amounts are in constant 1990 dollars, which means that the figures have been adjusted to represent the same buying power, as measured by the Bay Area Consumer Price Index for All Urban Consumers. To translate 1990 dollars to 1993 dollars, add 10 percent.

Note also that income is reported for the previous year, for example the 1970 Census reports 1969 incomes.

Housing Stock Changes

The City's housing stock is a diverse mixture of 45,800 units plus group quarters, including University of California-affiliated student housing with 9,265 beds. Single-family homes constitute 45 percent of all housing units, while another 21 percent are in small apartment buildings with two to four units and 33 percent are in larger apartment buildings. Small structures with one to four units provide 43 percent of all rental units. Structures are not quite the same as properties, since Berkeley has many properties with two or more cottages on a single lot, but small landlords who own less than 10 units provide half of Berkeley's rental housing. There are over 4,400 separate properties registered with the City's Rent Stabilization Program. While some people own multiple properties, there are certainly more than 3,000 different landlords. The majority own one to four units and the majority live in Berkeley.

Units in Structure ⁴	Number of Units, 1960	Number of Units, 1990	Units Rented, 1990	Number of Structures, 1990 ⁵
One	22,373	20,565	3,617	20,844
Two	4,487	4,722	2,849	2,515
3-4	4,953	4,940	3,950	1,516
5-9	4,017	4,902	4,325	720
10+	5,728	9,998	9,387	442
Other	NA	608	327	360
TOTAL	41,568	45,735	24,455	26,397

Table II-2 shows some of the major changes that took place in Berkeley housing. During the period from 1960 through 1974 there were 7,164 units of new housing built, mostly by tearing down single-family houses and replacing them with apartment buildings. Throughout the flatlands of Berkeley, single-family houses and small apartment buildings were torn down and larger apartment buildings constructed, including a number of very large apartment buildings in neighborhoods near the UC campus. Neighbors complained that many of the new apartments, derisively referred to as "plastics", were poorly built, ugly and detracted from the quality of life in their neighborhoods. Even many of their residents agreed. In 1971 the City and University of California Planning Departments conducted a survey of 750 residents of apartments constructed near Campus from 1964 to 1968. Asked whether more apartment buildings should be built in Berkeley, a plurality of 45 percent said yes, 32 percent said no and 23 percent had no opinion,

⁴ These figures are by building and do not take into account cases where units in separate buildings are on one parcel of land. Figures by property would show fewer in the single unit category, especially among those rented, and would show more units in the 2 to 9 unit properties.

⁵ The figures for number of structures are from the City "Housing Stock Changes Report", October 1992, which are derived from City building records, while the figures for units are from the 1990 Census. As a result there are small discrepancies between the two sets of numbers.

but asked "Should more buildings of the type you live in be constructed in Berkeley?", a majority of 52 percent said no. Extensive comments were made about flimsy building construction, noisy apartments, and high rents.⁶

Many Berkeley residents were outraged at the changes to their neighborhoods, not only because of the increases in density, but because the older existing housing was often more affordable than the new units that replaced it. A diverse group of homeowners, tenants and people from various political associations circulated an initiative to stop the demolition of existing housing and to require public hearings for all new building construction. The ordinance also required that in developments with four or more units, at least 25 percent of the units were to have rents or sale prices affordable to low-income people. The Neighborhood Preservation Ordinance was placed on the ballot and easily won passage with 60 percent of the vote in 1973. Private apartment construction was effectively brought to a halt. In the five year period from 1970 to 1974 1,121 rental units were built in Berkeley. After passage of the NPO it took fifteen years, from 1975 to April 1, 1990 to build another 1,105 new rental units were built in Berkeley, the majority of them federally subsidized for low-income people.⁷

Some sense of the depth of local resentment over the pace and scale of new housing construction was revealed by a 1973 survey of residents and property owners in a small redevelopment area asking their opinions about a proposed six story, 93 unit senior citizen housing project along a major commercial street within the redevelopment district. Out of 124 respondents, 95 said that six stories was too high and 97 said that 93 apartments were too many. While many respondents declined to provide background information, they included at least 39 tenants, 12 homeowners and 18 business and property owners in a low-income neighborhood.⁸

Homeownership Trends

During the 1950's and 1960's new freeways linked central city jobs to less expensive land in the suburbs. Homeownership declined, as middle and upper income residents moved out to more spacious and modern homes. With increasing University enrollment in the 1960's demand increased greatly for off-campus housing, especially group living by students and non-students enjoying the increased freedom of life-styles available to them in the late 1960's. Large homes near campus were divided into small apartments, converted to boarding houses or torn down and replaced with larger apartment buildings.⁹ In 1966 Berkeley became the first City to voluntarily bus children to integrate its schools, and some observers have attributed a substantial part of the decline in homeownership to the combination of increased student

⁶ Berkeley Planning Commission, "Improved Standards for Apartment Development in Berkeley", December 1, 1971.

⁷ Source: 1980 and 1990 Census.

⁸ (Savo Island Project Area Committee, "Survey Questionnaire", March 1973 and "SIPAC Survey - Partial Results", no date). A ninety unit project was built in 1975, perhaps because of the diversity of opinion about actually killing the project, given broad support for housing for the elderly poor. Although only 26 people said they supported the project, another 21 said that it was too important to be stopped and 33 felt that while the project did not belong in their neighborhood, they were reluctant to stop it altogether. Only 36 people simply wanted to stop the project entirely.

⁹ City of Berkeley Housing Conservation Task Force, Comprehensive Report on Housing Conservation, June 1975, p.8.

demand and "white flight".¹⁰

During the 1970's, a reverse trend developed among some middle-class people in favor of city living. In part this trend simply reflected the economic advantage of neglected central city locations compared to the increasingly high costs of the suburbs, either financially or in long commutes to the less expensive areas. In part, it reflected a reevaluation of the benefits of urban life and was connected to such political developments and policy changes as the 1973 Neighborhood Preservation Ordinance, which virtually ended the replacement of single-family houses with apartments.

In the mid-1970's home prices rose rapidly throughout California. This increase was followed by additional waves of rapid price increases in the 1980's. Table II-3 shows the increases in home prices and homeowners' incomes in the Bay Area, Alameda County, Berkeley and neighboring cities during the 1980's. Home prices and homeowner incomes in Berkeley rose more rapidly than in the Bay Area as a whole, moving from below average to slightly above average by 1990. Clearly the Berkeley housing market was under exceptional market pressure during this period. There were similarly high rates of increase for the neighboring city of Albany, which attracted people interested in the Berkeley area with its own separate school system. Increases in neighboring Oakland were slower, a result, in the opinion of many observers, of fears concerning Oakland's multi-racial population, in which African-Americans constituted the largest group.

AREA (Census Tracts)	Mean Homeowner Income			Median Home Price		
	1980	1990	Change	1980	1990	Change
UNITED STATES	\$23,746	\$45,273	+91%	\$47,200	\$79,100	+68%
SAN FRANCISCO BAY AREA	\$30,389	\$64,432	+112%	\$98,100	\$255,476	+160%
ALAMEDA COUNTY	\$27,990	\$58,894	+110%	\$84,900	\$225,300	+165%
ALBANY	\$23,114	\$50,917	+120%	\$85,300	\$239,600	+181%
OAKLAND	\$25,076	\$53,447	+113%	\$66,600	\$172,100	+158%
BERKELEY	\$29,652	\$64,939	+119%	\$96,400	\$256,500	+166%
BAY AREA CONSUMER PRICE INDEX		All Items Increase	+64%		CPI - Rent Increase	+100%

¹⁰ Henry Pancoast, quoted in Paul Rauber, "Town and Gown: Cal, Berkeley, and the Politics of Exhaustion", *Express*, V.15#45, August 20, 1993, p.12.

Table II-4 shows the increase in home prices in Berkeley both in absolute terms and in constant 1990 dollars. It compares home prices with the median income in Berkeley and shows the increasing difficulty of the average Berkeley household in buying a home if they do not already own one. Since median incomes vary with changes in composition of the population, we also show the salary of a first-year Assistant Professor at the University of California, newly arrived in Berkeley and expecting to buy a house. This is a typical junior-level professional salary -- over the past twenty years, Assistant Professor salaries have been roughly comparable to those of an Associate Administrative Analyst or a Librarian II for the City of Berkeley, for example. As a rough rule-of-thumb, a family can afford a home if its price is no more than three times family income. As the table shows, in 1970 the Assistant Professor could easily afford the average home in Berkeley. By 1980 a two-income family was necessary and by 1990 even a two-income family was looking for small homes in less desirable neighborhoods in order to afford to buy.

Census Year	1960	1970	1980	1990
Units Owner-Occupied	17,477	15,979	16,883	18,941
Median Home Price (\$1990) ¹¹	\$76,692	\$92,155	\$158,385	\$256,500
Median Household Income (\$1990) ¹²	\$19,386	\$24,443	\$25,567	\$31,075
Price/Income Ratio	4.0	3.8	6.2	8.3
Median Home Price (\$Year)	\$16,600	\$26,300	\$96,400	\$256,500
Salary of Assistant Professor (\$Year)	\$7,008	\$10,200	\$17,000	\$33,900
Price/Income Ratio	2.4	2.6	5.7	7.6

¹¹ These dollar amounts are in constant 1990 dollars, which means that the figures have been adjusted to represent the same buying power, as measured by the Bay Area Consumer Price Index for All Urban Consumers. To convert 1990 dollars to 1993 dollars, add ten percent.

¹² All dollar amounts are in constant 1990 dollars, which means that the figures have been adjusted to represent the same buying power, as measured by the Bay Area Consumer Price Index for All Urban Consumers. To translate 1990 dollars to 1993 dollars, add 10 percent. Note also that income is reported for the previous year, for example the 1970 Census reports 1969 incomes.

Trends in Rents

Up to the advent of rent controls, trends in Berkeley rents were similar to those in the San Francisco Bay Area as a whole. From 1948 to 1971 Bay Area rents increased faster than inflation, going up 31 percent in constant dollars.¹³ Increasing rents were compensated by increasing incomes, however. Similarly, between 1950 and 1970 Berkeley rents increased by 25 percent in constant dollars, but the Census for those years showed median household income in Berkeley increasing by 47 percent. Income growth slowed substantially in the 1970's, but so did growth in rents. From 1971 to 1981 Bay Area rents decreased by 19 percent in constant dollars. In the 1970's the Census showed an 18 percent decline in Berkeley rent in constant dollars from 1970 to 1980 while the median household income increased by 5 percent. The apparent increase in incomes compared with rents in the 1970's may reflect some degree of gentrification, with higher-income people displacing lower-income people, and of course, tenants are generally in the lower income group where incomes most often failed to keep up with inflation despite increases in the income of the average household.

Table II-5 shows the trends in Berkeley rent levels from 1960 to 1990.

Census Year	1960	1970	1980	1990
Units Rented	22,209	28,566	27,821	24,512
Median Berkeley Contract Rent (\$Year)	\$74	\$128	\$223	\$392
Median Berkeley Contract Rent (\$1990) ¹⁴	\$342	\$449	\$366	\$392

Bay Area rents turned upwards again in the 1980's, increasing 23 percent from 1980 to 1990 in constant dollars, while renter incomes increased only 11 percent. Worse, incomes at the very bottom declined, as public assistance payments, unemployment insurance payments and low-wage jobs failed to keep up with inflation. (Rent increases relative to inflation are understated due to technical problems with the CPI index prior to 1983. See Appendix A.)

The Bay Area's increase in rents in the 1980's reflected a combination of factors, most notably increasing demand and restricted supply. Berkeley was typical of many centrally located parts of the Bay Area. It is close to many job centers and the desirability of Berkeley as a central location close to employment increased with the increase in office development and employment in San Francisco and in nearby suburbs. In addition, enrollment at the University of California at Berkeley and at other colleges in the area continued to increase. And while these factors increased demand for rental housing in Berkeley, downzoning slowed increases in the housing supply.

¹³ Bureau of Labor Statistics, "Consumer Price Index, All Urban Consumers, San Francisco-Oakland-San Jose, Rent, residential".

¹⁴ All dollar amounts are in constant 1990 dollars, which means that the figures have been adjusted to represent the same buying power, as measured by the Bay Area Consumer Price Index for All Urban Consumers. To translate 1990 dollars to 1993 dollars, add 10 percent. Note also that income is reported for the previous year, for example the 1970 Census reports 1969 incomes.

Berkeley was far from unique in restricting the development of additional rental housing, and the combination of increased demand and a limited supply naturally resulted in substantially increased rents throughout the Bay Area in the 1980's -- but not in Berkeley, whose rent control system resulted in a very different history from that of the rest of the Bay Area.

Table II-6 shows the rate at which tenant incomes and rents increased in the Bay Area, Alameda County, Berkeley and in neighboring cities during the 1980's. The more rapid increase in Bay Area rents reported in the Census than in the CPI-Rent index probably represents the results of ten years of new rental housing construction, almost all of it at the high end of the rental market. Tenant incomes increased faster than the rate of inflation, but rents took an increasing proportion of income. Furthermore, incomes did not increase evenly during the 1980's. Incomes for low-income tenants stagnated and for poor tenants living on public assistance payments incomes as measured in real purchasing power declined substantially.

AREA (Census Tracts)	1980 Tenant Income	1990 Tenant Income	Percent Increase	1980 Gross Rent	1990 Gross Rent	Percent Increase
UNITED STATES	\$13,794	\$25,220	83%	\$243	\$447	84%
S.F. BAY AREA	\$16,435	\$34,941	113%	\$299	\$690	131%
ALAMEDA COUNTY	\$14,657	\$30,410	107%	\$266	\$626	135%
ALBANY	\$15,220	\$32,355	133%	\$264	\$660	150%
OAKLAND	\$12,551	\$24,951	99%	\$232	\$538	132%
BERKELEY	\$12,534	\$24,557	96%	\$245	\$426	74%
BAY AREA CONSUMER PRICE INDEX		All Items Increase	64%		Rent Increase	100%

From 1980 to 1990 the number of lower rent units decreased drastically throughout the Bay Area Table II-7 shows the number of units with gross rents below \$250 in 1980, and thus affordable to tenants with an annual income of \$10,000 and the number of units with gross rents below \$400 in 1990, affordable to people with annual incomes of \$16,000. These are roughly equivalent rents in constant dollars. \$400 in 1990 dollars is \$244 in 1980 dollars using the Bay Area CPI-All Items index and \$261 in 1980 using the Bay Area CPI-Less Shelter index. (Appendix A explains why the CPI-Less Shelter is probably more accurate).

AREA	1980	1990	Change	% All Rentals, 1980	% All Rentals, 1990	Change
United States	13,772,464	12,430,482	-10%	50.5%	37.8%	-25.1%
Nine-County Bay Area	288,831	140,318	-51%	33.2%	14.5%	-56.5%
Alameda County	87,447	41,916	-52%	44.4%	18.8%	-57.7%
Albany	1,621	1,111	-31%	46.4%	27.8%	-40.1%
Albany, U.C. (Tract 4204)	918	907	-1%	100.0%	99.2%	-0.8%
Albany except 4204	703	204	-71%	27.3%	6.8%	-75.1%
Berkeley	14,717	10,885	-26%	52.9%	44.5	-15.8%
Oakland	47,270	20,378	-57%	58.5%	24.2%	-58.5%

Overall the Bay Area suffered a staggering loss of more than half of its most affordable rental units to rent increases. Berkeley held its loss of low-rent units to half the rate of the Bay Area and was far more successful than any of its neighbors in maintaining its stock of low-rent housing.

¹⁵ Includes units with no cash rent.

Table II-8 shows the number of tenant households with incomes at or below \$10,000 in 1980 or \$16,000 in 1990. Table II-8 shows that the number of low-income tenants who needed these low-rent units decreased slightly, but not as much as the decrease in the number of affordable units. An adequate supply of low-rent units must necessarily be substantially higher than the number of low-income tenant households, since many higher-income tenants will rent low-rent units in order to save money for other uses, such as saving for a downpayment on purchase of a home.

AREA	1979	1989 ¹⁶	Change	% of All Tenants, 1979	% of All Tenants, 1989	Change
United States	12,601,056	12,821,609	+1.8%	44.1%	39.0%	-11.6%
Nine-County Bay Area	299,831	256,237	-14.5%	34.5%	25.3%	-26.6%
Alameda County	82,536	68,026	-17.6%	41.3%	30.4%	-26.4%
Albany	1,281	985	-23.1%	36.7%	25.3%	-31.1%
Albany, U.C. (Tract 4204)	540	391	-27.6%	58.8%	42.8%	-27.2%
Albany except 4204	741	594	-19.8%	28.8%	19.9%	-30.9%
Berkeley	14,191	10,363	-27.0%	51.0%	42.4%	-16.9%
Oakland	41,044	34,157	-16.8%	50.8%	40.6%	-20.0%

The number of very low-income tenants declined in the Bay Area, and with high home prices keeping many middle-income people as tenants, the proportion of tenants who were very low income declined even more. Berkeley had a relatively high decline in the number of very low-income tenants, but did better at maintaining the proportion of very low-income tenants among all tenants better than neighboring cities.

¹⁶ Estimated using .6 of the \$10,000 to \$19,999 tenant income group.

Table II-9 shows that in the Bay Area as a whole there were already fewer low-rent units than low-income tenants in 1980. By 1990 there were almost two low-income tenant households for every low-rent unit. Losses were equally severe in Alameda County and in the neighboring City of Oakland. In Berkeley the slower decline in low-rent units balanced the decline in the number of low income tenants so that affordability remained constant.

Table II-9: Ratio of Units Renting for Under \$250 (1980), \$400 (1990) Per Each Tenant Household With Income Under \$10,000 (1979), \$16,000 (1989)			
AREA	1980	1990	Change
United States	1.093	0.969	-11%
Nine-County Bay Area	0.963	0.548	-43%
Alameda County	1.060	0.616	-42%
Albany	1.265	1.128	-11%
Albany, U.C. (Tract 4204)	1.700	2.320	+36%
Albany except 4204	0.949	0.343	-64%
Berkeley	1.037	1.050	+1%
Oakland	1.152	0.597	-48%

In 1980 the Bay Area had a rough parity between the number of low-rent units and the number of very low-income tenants, but by 1990 there were almost twice as many very low-income tenants as there were low-rent units. In Berkeley, however, that parity was maintained.

In Berkeley there was a substantial decline in low-rent units, even under rent control, but the decline was half the rate of loss in the Bay Area, in Alameda County and in neighboring Oakland, and with the decline in the total number of low-income tenants Berkeley maintained a rough parity in the number of poor tenants and low rent units. The City of Albany, next to Berkeley, is an interesting case because it has an entire census tract (4204) made up of rental housing owned and operated by the University of California for students with families. Rents in the non-profit University Village housing development increased, but remained affordable to low-income student tenants because household incomes increased as well.

In January 1992 the Berkeley Rent Stabilization Board implemented a 28 percent retroactive increase and a 5 percent AGA, for an average total across-the-board rent increase of 33 percent. After major rent increases loosened up the rent control system, the number of units renting for less than \$400 in Berkeley was drastically reduced. In 1994 less than ten percent of controlled units had legal rent ceilings under \$400 a month, compared to three-fifths of the City's rent controlled housing stock in 1990.

In the space of two years, from January 1992 to January 1994, Berkeley joined the housing crisis that had emerged in the rest of the Bay Area over a decade.

III. THE HISTORY OF RENT CONTROL IN BERKELEY

SUMMARY

- Berkeley had rent controls during and shortly after World War II and again during President Nixon's 1971-72 wage and price freeze. A 1972 initiative measure to continue rent control was ruled unconstitutional by the California Supreme Court because it lacked provisions for across-the-board rent increases to cover increases in operating costs.
- After passage of the statewide Proposition 13 property tax roll-back, Berkeley voters passed a November 1978 tax rebate initiative that temporarily froze rents. Under the temporary ordinance there was widespread non-compliance. A June 1980 initiative then made the controls permanent, with provisions requiring registration of rents.
- Under the current ordinance rent increases are provided by an Annual General Adjustment (the AGA) that applies to all controlled units and by Individual Rent Adjustments (IRAs) that the owner applies for based on specific circumstances.
- There was extensive controversy over the protection of tenants from eviction for owner-occupancy, over "historically low rents" and over the meaning of a "fair return".
- The courts upheld the constitutionality of the current rent control system, but political change in the composition of the Rent Stabilization Board and a court-mandate to allow across-the-board increases for profits resulted in a 33 percent across-the-board rent increase in January 1992.

World War II: Emergency Controls

Rent controls were first applied in Berkeley in World War II. The federal government imposed nationwide wage and price controls shortly after U.S. entry into the war in December 1941. Rent controls were initially enforced by local "fair rent committees", but by July 15, 1942 the federal Office of Emergency Management set up five offices around the City and registered all landlords. The reasoning behind the controls was that during the War there could not be a functioning market economy based on supply and demand. Production of housing, like other civilian goods, had to be limited so that as many resources as possible could be put into the war effort. Rationing was instituted for many goods, including the materials necessary to build housing. Meanwhile effective demand would be high, as the war brought full employment. Without price controls, prices would skyrocket and bring hardship to many Americans, yet fail to serve the purpose of bringing increased production.

War-time controls were continued after the end of the war in order to give time for additional housing supply to catch up with the demand generated by post-war prosperity. Owners with four units or less were at least partially exempt and rent increases were allowed for capital improvements agreed on by the tenant, for new or better services, for more tenants in the unit and if the rent level was lower than in other comparable units. The U.S. government phased out the system in 1950, beginning with a 25 percent rent increase and following up by ending federal rent controls that same year. Federal legislation authorized local governments to continue rent controls if the local government declared that a rental housing shortage

still existed. Controls expired in Berkeley on August 17, 1951 following a Resolution of the City Council that rental shortages no longer existed.¹

The 1972 - 1973 Rent Control Ordinance

Contemporary rent control in Berkeley has its beginnings in the social movements of the 1960's and, ironically, in the target of so many protests from 1969 to 1974, President Richard Nixon. On August 15, 1971, President Nixon instituted temporary national wage and price controls for the first time since World War II. These controls included a freeze on rent increases. On December 22, 1971 his Price Commission approved rent increases of 3.5 percent where an increase was necessary to cover increased operating costs. On January 15, 1972 the controls were lifted in owner-occupied properties with four units or less, in single-family homes where the landlord owned no more than four units and in luxury apartments renting for over \$500 a month, and a year later, on January 11, 1973 price controls were ended.

In Berkeley the movements for Civil Rights and against the Vietnam War had broadened into a variety of challenges to current institutions and practices, including the treatment of housing. The Berkeley Tenants' Union (BTU) was formed in the summer of 1969 and organized a number of rent strikes. Then, during the price control period, a group of housing activists sponsored an initiative measure to continue the rent freeze. The Rent Control Charter Amendment, was placed on the June 6, 1972 ballot as Measure I and won with 27,915 votes (52%) to 25,301 (48%).

The Rent Control Charter Amendment provided for a freeze on rent increases until a Rent Control Board was elected. The Board would then preside over a rent rollback to August 15, 1971 rent levels, the date the Nixon administration began its wage and price freeze. It would then administer a system which would freeze landlords' profit levels at the August 1971 level, allowing increases in rents only to cover increases in operating costs. This was a vacancy control system, because rents were to remain controlled permanently rather than being allowed to increase to market levels as units became vacant when tenants moved out. Virtually all rental units, including new units, were subject to controls. The initial freeze was not implemented because the Federal price controls preempted local controls.

The five person Rent Control Board was elected in a special election on January 23, 1973. Ironically, the five candidates supported by the sponsors of Measure I were all defeated by an opposing slate. The new Board then compounded the irony by hiring one of the measure's strongest proponents as the program director. The Board began work on implementing the ordinance, ordering the required rent rollback on March 29th. Berkeley landlords had filed suit to invalidate the initiative, and won a temporary halt to the rent rollback.

On May 14, 1973, Alameda County Superior Court Judge Robert Bostick, ruling in the case of Birkenfeld v. the City of Berkeley, invalidated the Rent Control Charter Amendment as unconstitutional. Judge Bostick found that there was insufficient evidence for a "serious public emergency", consisting of a severe shortage of rental housing and exorbitant rents. Although the city and pro-rent control intervenors appealed, the decision ended rent control unless the City Council would pass a new rent control ordinance. On July 16, 1973, the Council adopted an ordinance freezing rents for 45 days while a long-term replacement law was under consideration, but no further measures were passed and rent controls expired September 30, 1973.

¹ This history of World War II rent control is from the clipping file on rent controls kept in the Berkeley Public Library.

The Birkenfeld Decision

On June 27, 1975, the Court of Appeals issued its decision in the *Birkenfeld* case. Each of the three justices wrote a separate opinion, resulting in a 2-1 split decision with several partial concurrences and dissents. Justices Scott and Divine agreed with Judge Bostick that Berkeley's rent control law was unconstitutional. Justice Scott agreed with Bostick that lack of a "serious public emergency" in rental housing invalidated the entire law. Justice Divine accepted the existence of a housing emergency as declared in the Berkeley law, but found the measure unconstitutional due to "the lack of a method of termination of rent controls, or put in another way, the lack of a gauge by which to adjudge the continuance of emergency conditions." Justice Harold Brown upheld the entire Rent Control Charter Amendment, except for the eviction section. All three Justices felt this section was preempted by state law. In addition, all three rejected a part of Judge Bostick's ruling in which he held that passage of rent control by initiative unconstitutionally denied landlords proper notice and a public hearing.

The California Supreme Court agreed to take the case on October 23, 1975 and handed down its decision June 16, 1976. The unanimous ruling in *Birkenfeld v. City of Berkeley* overturned Berkeley's 1972 rent control measure but supported the legality of local rent control.

The opinion held that:

- * The State of California could preempt the rent control field, but since it had not done so cities were free to enact rent controls within constitutional limits.
- * Enactment of rent control by initiative was permissible.
- * No housing emergency was required as a pre-condition for the adoption of rent control, so no provisions to terminate rent control following the end of the emergency were needed.
- * Requiring specified "just causes" for the eviction of a tenant was a valid method to implement rent control and did not conflict with state law.

However, the opinion held that the Berkeley rent control ordinance was unconstitutional because it required individual rent adjustment hearings by the Rent Control Board before rents were increased on any individual property. With thousands of properties, this was an unworkable provision which ensured that most owners could never receive timely increases. This invalidated the entire legislation, since no other means to increase rents was provided.

The "base rent" system established by the Charter Amendment formed the core of all subsequent rent control proposals and is worth explaining in some detail. The people who drafted the initiative understood that the Constitution required that landlords receive a fair profit. Rather than trying to define a fair profit, the Charter Amendment used the rent level initially set by the landlord before the Amendment was proposed to the voters. The underlying assumption was that the landlord would select a rent which resulted in a profit that the landlord considered either fair or the best that the uncontrolled market would allow. This was called the "base rent".

The base rent provides income to the landlord, income that has three main uses. First, it pays the operating expenses necessary to maintain the apartment and run the business, expenses such as maintenance, water service, taxes and insurance. The remainder of the rent, after operating expenses are paid, is called the Net Operating Income (NOI). The NOI provides a stream of income that can be used to pay mortgages on the property resulting from borrowing against the value of the property in order to buy it or in order to take out equity. The remaining NOI after mortgage payments provides personal or corporate income directly to the landlord as cash flow.

The stated goal of the 1972 initiative was to preserve the landlord's profit, but freeze it and not let it increase. This was done by allowing rent increases only for increases in operating expenses. The Charter

Amendment allowed the Rent Board to allow these increases only if the landlord filed a petition and the Board held a hearing separately for each rental unit. This meant that as operating costs increased on around 20,000 controlled units, the five person board would have to hold 20,000 hearings, an obvious administrative impossibility. The result would have been that landlords' profits would have decreased for several years before a hearing was held and that the landlord's rate of return would start to fall behind again as soon as the hearing was held. This was the feature that led the California Supreme Court to hold the law unconstitutional.

Following the *Birkenfeld* decision, which acknowledged the state's power to preempt local rent control laws, anti-rent control interests promoted a bill in the State Legislature, AB 3788, to declare rent control a matter of exclusive state concern and forbid California's local governments from passing rent control laws of any kind. AB 3788 passed both the Assembly and the State Senate, but was vetoed by Governor Jerry Brown on September 30, 1976. Brown stated that he opposed the preemption of local government powers. Similar legislation was introduced in 1978, 1979, 1983, 1984, 1985, 1987, 1989, 1991 and 1993, but none of these bills have won passage through the Legislature.

Revival of Rent Controls: The 1978 Temporary Ordinance

Rent control supporters drafted a new rent control initiative for the April 1977 ballot. This initiative, like the previous one, was a very strict measure with very limited exemptions. The initiative provided for a rent freeze and roll back of rents to June 16, 1976, the day of the California Supreme Court decision invalidating the previous ordinance. It had an elected rent board that would support itself by charging landlords an annual registration fee, thus freeing the board from dependence on the City Council for funding. The first rent board election was scheduled for November 1978, with a City Council-appointed board to act in the interim. It resembled 1972's Measure I, but incorporated the *Birkenfeld* decision's prescription for legality -- an annual general adjustment for costs that increased for all or most rental units and individual rent adjustments for unusual cases, handled by hearing officers with an appeal to the Rent Board rather than requiring all decisions to be made exclusively by the board itself. The Rent Board was to consider trends in tenant incomes as well as landlord's costs in determining the general adjustment.

Also on the April 1977 ballot was an initiative sponsored by the Berkeley Tenants Union, a Tenant Union Ordinance to facilitate landlord/tenant collective bargaining using the National Labor Relations Act as a model. Both measures failed by wide margins. The Rent Control Charter Amendment (Measure B) got 13,124 yes votes (37%) and 22,014 no votes (63%). The Tenant Union-Landlord Relations Act (Measure F) got 14,190 yes votes (41%) and 20,417 no votes (59%).

On June 6, 1978 the voters of California passed Proposition 13, dramatically changing the political climate regarding rent controls in California. Proposition 13 was an initiative measure that amended the state constitution to reduce property taxes and limit future property tax increases. Its sponsors, Howard Jarvis and Paul Gann, argued during the campaign for Proposition 13 that rents would go down as a result of the lowered cost of operating rental property. This was not an economically rational argument, since apartment rents, like the price for any commodity, are normally set in response to the balance of supply and demand in the market, rather than by the cost of producing the commodity. The unexpected result of the passage of Proposition 13 was that, since most property owners continued to increase rather than decrease rents, several cities passed temporary rent control measures to require that tax savings be shared with tenants. These temporary ordinances were in many cases followed by permanent rent control ordinances.

In Berkeley, rent control supporters gathered signatures for an initiative, Measure I, to be placed on the November 7, 1978 ballot. In response to this initiative the City Council placed Measure J on the ballot.

Measure J gave renters a rebate of lower property taxes in the next year, but did not control rents. The November 7, 1978 election results were that the Renter Property Tax Relief Ordinance (Measure I) passed with 26,018 yes (58%) and 18,804 no (42%). Measure J failed with 9,544 yes votes (22%) and 33,254 no votes (78%).

The Berkeley Renter Property Tax Relief Ordinance of 1978, Measure I, had the following key features:

- * It set base rents at the June 6, 1978 level and froze rents at that level until December 1979, at which time the ordinance would expire.
- * 80 percent of the property tax reduction was to be rebated to tenants on a monthly basis during 1979, with the legal rent in 1979 held to the June 6, 1978 base rent less the amount of the rebate.
- * It allowed rent increases to cover increases in operating costs and increased mortgage payments resulting from sale or refinancing of the property, to the extent that the cost increases exceeded the landlords' 20 percent share of the property tax reduction.
- * It exempted owner-occupied residential properties with four units or less. (Note that commercial properties and their tenants were covered by the ordinance.)
- * The ordinance relied on self-enforcement by tenants, authorizing rent withholding and the use of small claims court or other legal action. No rent control board or other city agency was created to administer the law and there were no rent registration requirements. The City Attorney was authorized to bring legal action to enforce the law.

Lawsuits challenging Measure I were filed by Rue-Ell Enterprises and others. The Rue-Ell suit focused upon Measure I's commercial rent control aspects. Judge Robert Bostick upheld Measure I of 1978 in the *Rue-Ell* case. Plaintiffs appealed but the City was upheld and none of these cases ever reached the California Supreme Court.

With the controls set to expire at the end of 1979, the City Council adopted two ordinances, a broad three month rent freeze and eviction protection measures, on November 13, 1979. The property owners successfully circulated referendum petitions to nullify this action and bring the measure to a vote in the next election. Under the Charter, Council votes on each ordinance at two readings, after which the citizens have a thirty day period before the ordinance's effective date to collect referendum signatures equivalent to 10% of the most recent vote for Mayor. If sufficient referendum signatures were filed, the ordinances would be blocked from taking effect and the Council given a choice of either repealing them or placing the measures on the June 1980 ballot for a vote of the people.

The Council then voted, on November 27, 1979, to repeal the temporary rent freeze ordinance it had just adopted and passed a pair of weaker substitute ordinances. First the Council adopted a revised three month rent freeze measure that contained Measure I's exemption for owner occupied buildings of four units or less. In the event that this measure was blocked by another referendum, the Council enacted a "back-up" ordinance that basically extended Measure I until June 30, 1980, while allowing rent increases of up to 5% if necessary due to operating cost increases but not for increases in mortgage payments due to sale or refinancing. As with Measure I, the back-up law had no just cause for eviction provisions and contained an owner occupied, four unit exemption. The new freeze and back-up ordinances received their second readings on November 30, 1979. Referendum petitions were filed against the temporary rent freeze and just cause for eviction ordinances, but not against the back-up ordinance, and in response the City Council repealed the second temporary rent freeze ordinance and the just cause for eviction measure. The back-up ordinance extending Measure I through June 1980 went into effect, however, creating continuity between the temporary rent control measures.

The City Council also became concerned that landlords would respond to rent control by converting multi-family rental property to condominiums. In 1978 buildings with 26 units received approval to convert,

while in 1979 this increased to 79 units.² With more conversions pending, the City Council passed a temporary 30-day moratorium on conversions on July 26, 1979. After two extensions, on November 27, 1979 the Council adopted a permanent ordinance to prohibit the conversion of existing rental units to condominiums unless the rental housing vacancy rate rose to 5%. This ordinance remained in place with only minor modifications until 1992.

The 1978 and 1979 ordinances that applied from June 6, 1978 to May 31, 1980 were both "self-enforcing". If a landlord violated the ordinance, the tenants had to act to enforce it. There was no registration requirement and June 6, 1978 rents would be verified only as part of an enforcement action. As a result, non-compliance was widespread. The available evidence, discussed in Appendix B "Rent Controlled and Market Rents", suggests that during the first years of rent controls, rents in Berkeley were held down for a majority of tenants, but that they were usually raised as tenants left. The "self-enforcing" provisions of the 1978 ordinance led to an informal vacancy decontrol system in many buildings.

Permanent Controls: The 1980 Ordinance

On March 4, 1980, the City Council voted to place the Rent Stabilization and Eviction for Good Cause Ordinance (Measure D, now Berkeley Municipal Code Chapter 13.76) on the June 3, 1980 ballot and passed temporary eviction controls requiring that tenants be evicted only for specified causes. At the same election, the opponents of rent control filed a statewide initiative (Proposition 10) that would amend the state constitution to set "Fair Rent Control Standards" for all California cities and counties. The major provisions of this initiative were to:

- * Repeal all existing local rent control laws as of November 1980.
- * Prohibit local legislative bodies from adopting new rent control laws. Rent control could only be passed by a vote of the people.
- * Require new rent control laws to allow decontrol on vacancy, so that vacated rental units could be re-rented at market rents.
- * Permanently exempt from rent control all single family homes and newly constructed units.
- * Require that all rent control laws automatically expire after four years unless reauthorized by a new vote of the people.
- * Prohibit statewide rent control.

The results of the June 3, 1980 election were that Proposition 10 lost, with 2,247,395 yes votes (35%) and 4,090,180 no votes (65%). In Berkeley Measure D passed, with 25,124 yes votes (57%), and 19,096 no votes (43%). With the passage of Measure D, Berkeley joined Santa Monica as the only California cities with strong rent control laws that kept rents under permanent control. (They were later joined by Cotati and Palm Springs. East Palo Alto and West Hollywood also passed similar laws, after first incorporating as cities so that residents would have the power to pass such an ordinance.)

Measure D had the following major provisions.

- * Tenants could only be evicted for eleven specified reasons, including non-payment of rent, damage to the unit and for occupancy by the owner of at least a 50 percent interest in the property or by a member of the owners' family.
- * The program would be controlled by a Rent Stabilization Board of nine members, one appointed by each member of the City Council.
- * Units were exempt if they were in owner-occupied properties with two, three or four units, if the tenant shared kitchen or bath facilities with the landlord, if they were occupied rent free or if they

² Marian Wolfe, "The Actual and Perceived Profitability in Rental Housing: A Dissaggregate Analysis", Dissertation, University of California at Berkeley, 1983, p.203.

were subsidized by the federal government, or if they were constructed after June 3, 1980. Subsidized and new units were still subject to the good cause for eviction requirements.

- * A base rent was established as the lawful rent in effect on May 31, 1980.
- * All covered rental units were required to register their rents.
- * The operations of the Rent Stabilization Program would be paid for entirely through registration fees that could be passed on to the tenants in increased rents.
- * The Board would set annual across-the-board rent increases, called the Annual General Adjustment (AGA), to account for increases in operating costs.
- * Individual rent adjustments (IRAs) could raise or lower the rent ceiling on a particular unit and could be granted by hearing examiners, with appeal to the Board, in cases where the AGA was insufficient, for example due to high cost increases, or where a decrease was warranted, for example if the unit had been allowed to deteriorate.
- * Illegal units were covered by the ordinance and the City was forbidden from using Rent Program records to enforce other ordinances.

Measure D set the basic framework of Berkeley rent control. The first Rent Stabilization Board was appointed and set to work determining the amount for the Annual General Adjustment to take effect on January 1, 1981. (Table III-2 at the end of this section shows the AGAs from January 1, 1981 to January 1, 1994. For a detailed description of the process by which AGAs and IRAs are set, see Appendix A.)

The first two years of the Board's existence were taken up struggling simply to gain compliance with the requirement to pay registration fees to support the program and create the records needed to determine which of 25,000 rental units came under the ordinance. Initial operations are described by staff as being in constant chaos resulting from insufficient staff and poor record-keeping compounded by ongoing civil disobedience by hundreds of landlords, including refusal to register and filing hundreds of unnecessary change requests. The Rent Program files have hundreds of registration forms for 1980 typed over with a standard refusal to cooperate on the grounds that the program violates the owners' constitutional rights.

Registration began on September 2, 1980 and by the end of the year registration fees were paid for only forty percent of covered units, while base rent information was filed for only 26 percent.³ As of September 1, 1981 only 7,286 units had paid registration fees for the 1981-82 fiscal year, compared to 27,821 rental units counted in the 1980 Census.⁴ Not all rental units are supposed to register, but less than 20 percent were exempt from the registration requirement.

Strengthened Rent Controls: The 1982 Ordinance

In 1982 two opposing measures were placed on Berkeley's June ballot. Measure H, sponsored by the property owners, was an effort to compromise with rent control. It would have eliminated the Rent Board and the rent registration requirements, kept the good cause for eviction provisions and set a formula for annual rent increases, allowing increases of up to 75 percent of the increase in the Consumer Price Index. Disputes over rents would be settled by arbitration, using the American Arbitration Association. Measure H was defeated, with 13,585 yes votes (36%) and 24,501 no votes (64%).

Measure G, the Tenants Rights Amendments Act of 1982, was the tenant organizations' response to landlord resistance. Its major provisions:

³ California Public Interest Research Group, "Berkeley Tenant Survey", January 1981, pp.30-32.

⁴ City of Berkeley, "The Rent Stabilization Program", December 1983, p.8.

- * extended controls to owner-occupied properties with three and four units, leaving as exempt only duplexes owner-occupied in 1980.
- * required six rather than five out of nine votes on the Board to set an AGA that was more than 45 percent of the increase in the Consumer Price Index.
- * made it more difficult for landlords to permanently evict tenants for owner-occupancy if other units were available.
- * made the landlords' failure to make repairs or failure to register with the Rent Program a defense against rent increases and evictions.
- * Set stiff penalty fees for late registration or failure to register.

Measure G won with 20,858 yes votes (56%) and 16,633 no votes (44%). Placing owner-occupied three and four unit properties under rent controls added approximately 1,000 units to the rent controlled housing stock.⁵

The June 1982 ballot also contained Measure I, the "Elmwood Commercial Rent Stabilization and Eviction Control Ordinance", which established commercial rent controls in the Elmwood neighborhood shopping district. Measure I was a response to neighborhood distress over the threatened loss of several favorite stores as rents rose in this increasingly fashionable neighborhood shopping area. It passed with 22,016 yes votes (60%) to 14,647 no votes (40%). This ordinance was followed in 1985 by a Telegraph Avenue ordinance passed by the City Council, a series of court challenges and state legislation in 1988 that preempted the ordinances and denied local governments the right to establish commercial rent controls in California.⁶

Measure G was followed with Measure N on the November 2, 1982 ballot. Measure N was an initiative Charter amendment that replaced the appointed Rent Board with an elected Rent Board. This was in response to the nine percent rent increase set for 1982 by the Board appointed by the Councilmembers who were elected in April of 1981. The tenants had unsuccessfully sued in court to stop or reduce the increase. Measure N won with 24,077 yes votes (54%) and 20,168 no votes (46%).

After the passage of Measure G, resistance to registration fell to a small number of hold-outs. Less than three months after the election, by September 1, 1982 the Rent Stabilization Program had received annual registration payments for 15,744 units, more than twice as many as the year before.⁷ As described by

⁵ The 1980 Census reported 465 owner-occupants in three and four unit properties. This number allows a maximum of 1,395 exempt rental units if every owner-occupant was in a different four unit property. Since some owners were in three unit properties and in many properties there was more than one owner, we estimate the number of exempt rental units at closer to 1,000.

⁶ For the history of commercial rent controls, see Dennis Keating, "The Elmwood Experiment: The Use of Commercial Rent Stabilization to Preserve a Diverse Neighborhood Shopping District", Washington University Journal of Urban and Contemporary Law, Vol. 28, (1985), pp. 111-124. Margot Rosenberg, "Commercial Rent Regulation: Preserving the Diversity of Neighborhood Commercial Districts", Ecology Law Quarterly, Vol. 15 (1988) pp. 281-317.

⁷ City of Berkeley, "The Rent Stabilization Program", December 1983, p.8. Note that since many owners paid several years' back registration fees, this figure overstates the total number of units registered. Registration compliance is difficult to track on an annual basis because until 1987 the Rent Board recorded only the total amount paid, not the number of units for which registration is paid. No distinction was made between registration fees paid for several units for one year and several years registration fees paid for one unit. The result is that registration fees vary with compliance with the

Michael St. John, a Berkeley property management consultant who was involved in the conflict from the beginning, "Many owners did not take restrictive rent control seriously at first. They were convinced that it would be overturned in the courts or by the California legislature. It was not until 1982, when the law was amended in ways that made it yet more restrictive, or in some cases until 1984, when the Supreme Court found in the Fisher cases that Berkeley's rent control law was constitutional, that many owners accepted that restrictive rent control might remain in effect for a considerable period."⁸

There were still exceptions to this general compliance. As recently as 1990 the tenants of a 26 unit building discovered that the owner had never registered it with the Rent Board. Some owners developed ingenious claims to avoid registration, and in some cases the controversy continues and the buildings are still not registered. One owner claimed that his building is not a rental property, but rather a religious center. Another owner used lease-purchase agreements with downpayments substituting for deposits and claimed that the residents were not tenants but owners. Such cases are rare, however, and almost all multi-family units potentially subject to the ordinance are in the Rent Program records even if they are not currently registered.

Conflict Over Grounds for Eviction and Conversion to Owner-Occupancy

Three more measures to strengthen the rent control system were placed on the ballot, Measure O in November 1986 and the competing Measures K and L in November 1988. All of these were unsuccessful. Measure O would have increased the ownership requirement for owner-occupancy evictions to 51 percent from 50 percent, so that tenants could not be evicted from duplexes or two of three units in triplexes being converted to owner-occupancy by tenant in common owners. It gained 8,954 yes votes (25%) to 27,444 no votes (75%). Measures K and L also would have strengthened protections against eviction. Measure K received 13,186 yes votes (31%) and 30,026 no votes (69%), while Measure L had 18,535 yes votes (40%) and 27,508 no votes (60%).

These measures were an effort to halt a new trend in Berkeley housing -- conversion of small rental properties to owner-occupancy through tenancy in common or TICs. TICs are very similar to community apartment projects, a form of cooperative ownership that is regulated by the City's subdivision ordinance along with condominiums. In a community apartment project the property is owned by several owners holding undivided ownership interests as tenants in common. Each ownership interest also includes an exclusive right to occupy a particular unit, with the exclusive right recorded on the deed to the property. TIC ownership is very similar to community apartment ownership, but in TICs the exclusive right of occupancy is in the form of a written or verbal contract between the owners rather than part of the definition of the property.

Tenants contested evictions for owner-occupancy by tenant-in-common owners on the grounds that the TICs were illegal subdivisions. The result was two California Court of Appeal decisions, *Adler v. Elphick* in 1986 and *Bakanauskas v. Urdan* in 1988 which upheld the owners. The *Adler* ruling held that owner-occupancy of a two-unit property by joint owners who held the property as tenants in common did not create a community apartment project, and thus was not regulated by the City's subdivision ordinance. In the *Bakanauskas* case a written tenants-in-common agreement was recorded with the deed in the County

registration requirement and with periodic crackdowns on unregistered units.

⁸ Michael St. John. 1989. The Effects of Rent Controls on Property Value: A Test of the Capitalization Hypothesis. Ph.D. Dissertation, Economics Department, University of California at Berkeley.

property records, but was not on the deed. Again the Court held that this was not a de facto community apartment project and was not regulated by the City of Berkeley subdivision ordinance. The result was a wave of conversion of rental properties to TIC owner-occupancy (see section VI, "Conversion of Rental Units").

Units were also removed from rent controls by removal of units from the rental market. In 1983 a landlord tried to evict the tenants in his ten unit building on the grounds that he was losing money operating the property and wanted to go out of the rental business. The Berkeley-Albany Municipal Court held that this was not a grounds for eviction under the Rent Stabilization and Good Cause for Eviction Ordinance. The Alameda County Superior Court then overruled this decision in October 1984, but reversed itself (*Vicars v. City of Berkeley*) when the California Supreme Court upheld similar restrictions on eviction in Santa Monica (*Nash v. City of Santa Monica*). In March 1986, the U.S. Supreme Court refused to hear a challenge to that ruling (*Vicars v. Superior Court*).

In response to the California Supreme Court ruling, the State Legislature passed the Ellis Bill (SB 505), which was signed by Governor Deukmejian on October 2, 1985 and took effect on July 1, 1986. The Ellis Bill gave all owners of rental property the right to evict tenants to go out of business. Berkeley, like other cities around California affected by the bill, passed an ordinance requiring six months notice and payment of \$4,500 in relocation payments to displaced tenants (Berkeley Municipal Code Chapter 13.77). In 1993 the California Supreme Court held that the advance notice requirement was excessive and that the relocation payments could only apply to low-income tenants. The City then amended its ordinance to require 60 days notice and relocation payment for low-income tenants.

Conflict Over "Historically Low Rents"

The "historically low rent" issue referred to rents that had been unusually low in 1979, when rent control began, and thus would remain comparatively low due to rent controls unless some provision was made for individual rent adjustments for these units. Some landlords, for example, had taken current tenants circumstances into account in setting the rent and had held down rent increases for tenants who they felt could not afford to pay more. Other landlords were reluctant to increase rents on current tenants, waiting until the tenant moved to set a new rent. Finally, some landlords cooperated with the temporary rent controls from June 1978 to May 1980 and others did not.

Proponents of rent control recognized that this created fairness problems for the system and the Rent Board had passed regulations that allowed individual rent adjustments (IRAs) to increase some of these rents shortly after passage of the 1980 ordinance. Regulation 1268 allowed a 10 percent increase to owners who had not raised rent at all between January 1, 1976 and December 31, 1979 and the balance of 10 percent after subtracting any increase to owners who increased rents by less than 10 percent during that time period. Regulation 1262 (C)(2) allowed increases, usually to the median rent for different sized units in each Census tract, for properties whose rent was unusually low because it had not been set in an arms-length market transaction. In addition, the Board recognized that costs would frequently increase almost as much for a low rent unit as for a high rent unit, so that in many cases the percentage rent increases allowed under the Annual General Adjustment had not been sufficient to offset cost increases in units with very low starting rents. In the late 1980's the Board began to give fixed dollar increases that were the same for all units, and thus gave a higher percentage increase to lower rent units, in order to make rent increases more closely approximate cost increases.

The initial difficulties in establishing the program, and the years of poorly enforced temporary ordinances that came before it, created other inequities that were never fully overcome. Despite widespread non-compliance in the early years, it is also clear that a substantial minority of landlords cooperated with the

system and did hold rents down, some because they wanted to do so and others because they had tenants who stayed in place and fought to obtain their rights under the law. According to CALPIRG, by November of 1980 26 percent of rental units had registered their rents and provided full information as required by law.⁹ This may provide a rough estimate of the proportion of landlords who were likely to have cooperated with the earlier, temporary ordinances. Those landlords that fully complied with Measure I and the subsequent temporary ordinance generally had May 31, 1980 rents that were slightly below their rents on June 6, 1978, while non-complying owners would have rents that were 20 percent higher. (See Appendix B, "Rent Controlled and Market Rents".) Unless the system found a way to equalize its treatment of landlords who had behaved very differently in 1978 to 1980, it would effectively penalize those owners who voluntarily cooperated with the initial efforts to keep rents down.

With the registration requirements of the new ordinance the Rent Board hoped to complete and verify all Rent Board records and give the system a uniform starting point in full compliance with the ordinance. As units were registered and individual rent adjustment petitions were dealt with, the Rent Stabilization Program found 1,995 units whose 1980 rents were higher than the 105 percent of 1979 rents allowed under the 1979 ordinance. These were rolled back to the maximum allowable level.¹⁰ Rent Stabilization

Program staff did not, however, try to roll back rents to the correct 1978 base rent. In part this was because staff believed that most landlords had not complied with the 1978 regulations and that requiring the roll-back retroactively of so many units was simply not possible with the resources available. In addition, in order to increase compliance with the ordinance the Rent Board established regulations under which finding an illegal rent increase invalidated all subsequent rent increases, so that owners would have become liable to reimburse their tenants for every dollar paid over the amount of the 1978 monthly rent. While this may have increased compliance with the current ordinance, landlords had no easy way to go back and regularize rents based on past, illegitimate increases. Many of the staff felt that widespread rent rollbacks would be so harsh a measure that the system would not survive and thus were reluctant to raise issues relating to 1978 rents.

Problems of insufficient staff plagued the system from the beginning. (For annual staffing, registration fees and program expenditures (See Section IX, Table IX-1.) The Rent Board did not hire adequate staff to get program records in order until 1983-84, and even then many employees were temporary, contributing to the chaotic atmosphere. In 1983-84 staff was nearly doubled in order to deal with more than 4,000 units with accounts showing unpaid registration fees, but with registration and payments of fees as the Program's top priority, Program staff were never able to find the time necessary to bring all owners into a roughly equal degree of compliance.

As the years passed, landlords faced increasing uncertainty over the legality of the rents in their buildings. New buyers could not gain assurance that current rents were legal, since at any time a new controversy could erupt. Furthermore, since Annual General Adjustments were only allowed for years in which a property was in compliance with the law, a roll-back due to violations in early years could result in loss of all subsequent allowable rent increases and made the landlord liable for refunding the now illegal amount of rent collected in previous years. This made any application for an Individual Rent Adjustment hazardous for the landlord, since an effort to get an increase to cover the costs of a capital improvement could result in discovery of past illegal rents, triggering a major rent reduction and refunds to the tenants that could amount to thousands of dollars per unit. Similarly, an effort to evict a tenant could result in the tenant's attorney or a tenant advocate finding illegal rents, which then became a defense against eviction.

⁹ CALPIRG, "Berkeley Tenant Survey", January 1981.

¹⁰ "Declaration of Thomas Utiger", November 26, 1991

In 1986, the State legislature passed a bill, effective January 1, 1987, requiring the Rent Board to certify base rents. Over the next year the Rent Program staff made a last effort to obtain correct rents by mailing the 1980 base rents to tenants and informing them of their right to protest the base rent. The Board then certified its rents, meaning that it was no longer possible to change the 1980 base rent. The remaining inequities were frozen in place.

The Black Property Owners Association in particular argued that the Board needed to give more increases to lower rent units. First, they argued that many of their members were not professional landlords but community-oriented people who cooperated with the initial rent control ordinances and who often set rents at very low levels even though they had no personal relationship with their tenants -- perhaps because they were only interested in breaking even until they retired and needed the income. Second, they argued that most of them owned property in the only areas in which sellers and lenders would allow African-Americans to buy real estate, that the rents in these areas had been kept low by limited economic circumstances of the African-American community -- the historic exclusion of African-Americans from jobs and educational opportunities -- and that now that times had changed their rents should be allowed to reach the same levels as the rents in the rest of Berkeley. They argued that rent control perpetuated the "ghettoization" of minority neighborhoods, that unless minority landlords were able to make money they would be forced to sell out to non-minority landlords and that only minority landlords would be sure to continue to rent to minority tenants.

Opponents of an increase for "historically low rents" argued that most very low rents were in fact the market rents of their time, reflecting the condition of the units and the desirability of the neighborhoods in which they were located. In addition, they pointed out that many of these units were occupied by poor tenants who could not afford rent increases and that these tenants were disproportionately members of racial minorities.

Going beyond the "historically low rent" issue, still other landlord representatives argued that most landlords hold rents down at least somewhat for current tenants, so that many units, even some with rents that were above average, were controlled at a time when their rents were lower than the market would have allowed. These units, it was argued, should have their rent raised so that the current rent reflected controls on what would have been the full market rent at the time controls began rather than the actual rent at that time.

The Rent Board commissioned a major study of the historically low rent issue in 1988, held public hearings in 1989 and 1990, but was not able to agree on what changes to make. In response to this impass the Black Property Owners Association and the Berkeley Property Owners Association sponsored Measure E on the November 1990 ballot. Measure E, "the Historically Low Rent and Single Family Home Amendments of 1990", was the first landlord effort at changing the rent control system since 1982. It would have exempted all single family residences and all rental units rented for less than a certain rent ceiling from registration and from further controls. The ceiling was defined as 65 percent of the "Fair Market Rent" -- the figure used by the U.S. Department of Housing and Urban Development as the maximum allowable rent under its Section 8 rent subsidy program. In 1988 this was \$346 for a studio, \$421 for a one-bedroom, \$496 for a two-bedroom and \$620 for a three-bedroom unit. Measure E would have increased rents on the majority of all units, since these levels were above the current median rents, and allowed rent increases of at least 10 percent on about 55 percent of all units. The loss of revenue from the exemption from registration would have required a drastic reorganization of Rent Program. On November 6, 1990 Berkeley voters narrowly defeated Measure E by a vote of 20,520 yes votes (49%) to 21,711 no votes (51%) but elected the slate of candidates supporting it to a majority of seats on the Rent Stabilization Board.

In 1991 the new Board majority passed two regulations intended to respond to these issues. The "Historically Low Rent" regulation (Regulation 1280), passed May 23, 1991, set minimum rents for all units, with the rent varying by number of bedrooms. The minimum rents were set at a level that increased the lowest quarter of all rents. The Board allowed any owner to petition for an individual rent adjustment to bring the rent up to the minimum level and limited tenants' ability to contest the increases. In addition, on April 15, 1991 the Board passed a "Comparable Rent" regulation (1262(C)(3)) that would apparently allow units renting for below the median rent for similar units in the same neighborhood to get an individual rent adjustment that would raise the rent to the median for that area. This increase required an individual rent adjustment and had more complex procedural requirements, so few applications had been processed by the end of two years. (See Table III-3 at the end of this section for details on the number of IRA increases granted.) On December 5, 1994 a new board majority repealed the disputed "Comparable Rent" regulation.

Conflict Over Fair Return

An important set of legal challenges to Berkeley's Rent Stabilization Ordinance had to do with the concept of a "fair return" on investment and the treatment of landlords' Net Operating Income, the part of rent above the amount needed to pay for normal operating expenses. These challenges resulted in substantial changes in the system in 1992, and in litigation that still continues as this is written.

Berkeley landlords quickly filed suit against Measure D, in case of *Fisher v. the City of Berkeley*. The City was upheld in the lower court, but in October 1983 the state Court of Appeals struck down the ordinance. In the view of the Court of Appeals, the *Birkenfeld* criteria implied that there should be an inflation adjustment to landlords' profits so that they maintained the same buying power under rent control rather than simply the same dollar value. Otherwise, the value of landlord's profits would continually be reduced by inflation, and they would not receive a constitutionally required fair rate of return. The Court also held that provisions that allowed tenants to withhold rent if the owner failed to register it or charged an illegal rent were preempted by state law. The City appealed to the California Supreme Court. On December 27, 1984, the Supreme Court upheld the law, allowing the Rent Stabilization Program to continue, but required that the Board make provisions to allow profits to increase with inflation.

The landlords appealed to the United States Supreme Court, claiming that rent control was a form of price fixing and thus a violation of the Sherman Anti-trust Act. The Supreme Court upheld Berkeley's rent control law on February 26, 1986.

The Rent Board passed regulations allowing landlords to petition for rent increases when necessary in order to preserve a fair return from their property. Under Regulation 1262, landlords could request that the base year net operating income be changed due to unusual circumstances in that year. Under Regulation 1264 landlords could petition for increases necessary to keep their net operating income at the same dollar amount as in the base year, and thus cover cost increases higher than those provided for by the AGAs. In 1987, after several years of debate about how to respond to the additional requirements of the Fisher decision, this regulation was amended to provide for NOI to increase at 40% of the increase in the Consumer Price Index since May 31, 1980. The increase of 40 percent of the CPI was based on historic trends in rents in the United States as a whole over the previous 80 years. Its underlying rationale was that only part of the Net Operating Income should be considered profit to the landlord, and that the other part of NOI, mortgage payments was normally a fixed cost. Finally, Regulation 1275 established an open-ended right for a landlord to petition the Board to argue that they needed a rent increase to maintain a fair rate of return for any other reason not covered by existing regulations. (Table III-3 at the end of this section shows the number of AGAs granted annually for various reasons.)

Landlords again filed suit against the ordinance, arguing in *Searle v. City of Berkeley* that regulation 1262 was not an adequate response. The Board was upheld at the lower court level, but on July 18, 1990 the law was struck down by the Court of Appeals. The Court of Appeals held that the Board had failed to justify the 40 percent figure, that the adjustment should be from 1979 rather than 1980, and that the adjustment should be general, for all landlords, since all landlords' profits were diminished by inflation and it was not practical to expect that all landlords' could have individual rent adjustments processed by the Rent Board. The Board appealed and in January 1991 the California Supreme Court depublished the decision, so that it no longer served as law for the rest of California, but allowed it to stand as it applied to the City of Berkeley.

In response to this decision, in September of 1991 the Rent Board passed Regulation 1113, commonly called "the Searle increase", which allowed an across-the-board retroactive rent increase averaging 28 percent for all rent controlled units on November 1, 1992. (Many smaller landlords waited until the regular January 1st date for AGAs to begin the increase.) The Board allowed owners who had received Historically Low Rent increases under Regulation 1280 to add the retroactive "Searle" increase as well and allowed owners who received the "Searle" increase first to receive the Regulation 1280 increase based on their pre-"Searle" rent. The Board accompanied this with a requirement that landlords phase in the increase in three annual installments for low-income tenants who requested the phase-in within twenty days of receiving notice of the increase. When the Board failed to notify tenants about the "phase-in" provision, the City Council authorized a mailing that resulted in about 2,700 tenant requests for phase-in of the rent increase. In addition, the Board passed Regulation 1100, which allowed a full inflation adjustment for the entirety of Net Operating Income in all future Annual General Adjustments in addition to the adjustment for cost increases.

The City Council and tenants organizations filed suit in Alameda County Superior Court against all of these regulations (1100, 1113, 1262(C)(3), 1280). They made several arguments against the new regulations.

First, with regard to the "Searle" increases, they argued that inflation adjustments should not be given for all of Net Operating Income. The Board had given a retroactive 1979 to 1990 increase for 100 percent of average 1979 Net Operating Income, intended to keep NOI at the same dollar value in 1990 as it had in 1979. The City and tenants argued that mortgage or debt service payments should not be counted as part of profit. Instead, they argued, debt service is a cost, one that is either fixed rate or varying with interest rates, which have actually declined substantially since the beginning of rent controls. Since this cost has not increased, it is inappropriate to give landlords an inflation increase for the debt service part of NOI. Inflation adjustments, then, should be granted only for the typical cash flow, which the City found to be 42 percent of Net Operating Income.

Second, they argued that the retroactive increase should be reduced to the extent that past increases had already increased landlords' Net Operating Income (NOI) and that there was evidence that the AGAs, rather than holding NOI to a fixed dollar amount, had allowed NOI to increase for the average landlord. This point was later confirmed by a study commissioned by the Rent Board that was intended to refute it.¹¹

¹¹ Glen Elder, "Analysis of the Memorandum 'Operating Cost Increases and Annual General Adjustments, 1979-1990' September 26, 1991 by Stephen Barton, Senior Planner, City of Berkeley", October 19, 1992, submitted to the Berkeley Rent Stabilization Board.

Third, they argued that landlords who bought their buildings after rent control began should be assumed to have paid a fair price for the property under the existing system, and should only be allowed an inflation adjustment to profits for the years after purchase when they actually owned the property rather than going back to 1979.

Fourth, they argued that the "Comparable Rent" regulation was excessive and unnecessary, since Berkeley already had regulations allowing increases in base rents where the original rent was not set in an "arms length" market transaction. Similarly, the "Historically Low Rent" regulation was also excessive because it set minimum rents too high, including rents that were advertised in the newspapers in 1980 among the rents treated as unusually low. In all of these ways, the plaintiffs argued, the Board had clearly exceeded its discretion under the ordinance passed by the voters.

The Board responded that they had the discretion to set rents at the level that they felt would best satisfy the requirements of the court order, and that they preferred to set the rents higher than what might be the minimum necessary to satisfy the court. In this way, the Board argued, it would avoid future litigation by landlords arguing that the new rent level was still insufficient to provide a constitutional rate of return.

The Board also argued that the "Historically Low Rent" and "Comparable Rent" regulations were necessary in order to meet constitutional standards established in the *Vega* decision, a West Hollywood case involving rents that were held below market for elderly tenants. (On June 21, 1994, however, the Board sent a request to the California Supreme Court asking that it depublish the Court of Appeal decision in *Apartment Association of Greater Los Angeles v. Santa Monica Rent Control Board* so that the decision would not apply to Berkeley. This decision made it clear that under *Vega* such regulations were not constitutionally required and upheld the Santa Monica Rent Control Board in its refusal to pass similar regulations to those passed by the Berkeley Rent Stabilization Board. On December 5, 1994 a new board majority repealed the disputed "Comparable Rent" regulation.)

Tenant organizations gathered signatures to put the increases on the June 9, 1992 ballot. Measure E accepted the "Historically Low Rent" increases, but would have eliminated the regulation granting "Searle" increases on top of the Historically Low Rent increase, requiring owners to take whichever was higher. It proposed reducing the retroactive "Searle" increase to 9 percent and to eliminate the provision for "Comparable Rent" increases. It also proposed to exempt owner-occupied single family homes from rent controls if the home was rented out in the future. This measure failed with 15,495 yes votes (46%) and 17,944 no votes (54%). The tenant groups tried again on the November 3, 1992 with Measure H and failed again, with 25,779 yes votes (48%) and 27,512 no votes (52%).

On September 16, 1992 Judge Sutter rendered a split decision. He held that, whatever the wisdom of their decision, the Rent Board had the discretionary authority to grant all of the increases. He also held that, in the case of property that was purchased after rent control began, the Board did not have authority to grant inflation increases for the years prior to the landlords purchase of the property. This would roll back rent increases on from one-quarter to one-third of all controlled rental units. Both sides appealed and the roll-back was stayed pending a decision by the California Court of Appeal.

Nearly two years later, on August 12, 1994, by a 2-1 vote, the Court of Appeal upheld the Rent Board on all counts, stating that their actions were within their discretionary powers. Ironically, the vote to support the City's position that the Rent Board's actions were so far beyond its mandate as to be illegal

Glen Elder, "Historical Review of Changes in the Operating Expenses for Rent Stabilized Units in the City of Berkeley", Berkeley Rent Stabilization Board, April 27, 1994.

was from Judge King, author of the *Searle* decision. Tenants asked the California Supreme Court to rehear the case but the Court declined, bringing the case to an end on December 1, 1994.

Table III-1 summarizes the results of the analysis of rent controlled and market rents from Appendix A, showing the change in controlled and market rents from 1990 to 1993. Rent levels in Berkeley in 1990 show the system at its strongest, before the rent increases under Regulations 1113 and 1100 in 1992. The table shows that in a little more than two years, the median rent for a one-bedroom apartment, the most common type of unit in Berkeley, increased by 49 percent. The rent discount in rent controlled units was reduced from a typical range of 35 - 40 percent below market to a typical range of no more than 10 - 20 percent below market¹².

Number of Bedrooms in Unit	Median Controlled Rent			Estimated Median Market Rent		Rent Control Discount	
	1980	1990	1993	1990	1993	1990	1993
Studio (0)	\$175	\$285	\$425	\$431	\$465	-34%	-9%
One	\$220	\$348	\$508	\$542	\$585	-36%	-13%
Two	\$296	\$449	\$639	\$729	\$787	-38%	-19%
Three	\$425	\$620	\$877	\$1,046	\$1,130	-41%	-22%
All Units (Census) ¹⁴	\$223	\$392	\$565	\$549	\$593	-29%	-5%

¹² These figures ignore individual rent adjustments, which would bring the average controlled rent even closer to market. The average discounts stated are weighted averages of the different size units shown in Table IV-2.

¹³ Sources: Market rents from previous Table IV-7, IV-8 in the previous chapter; All units: 1980 Census, 1990 Census, 1990 Census adjusted to January 1993 by allowable rent increases for Berkeley; Berkeley studio, 1,2,3BR 1980 controlled rent medians are from a September 25, 1989 memo from Joseph Brooks, Executive Director, Rent Stabilization Board and 1990 medians from January 16, 1991 memo from Stephanie Lee, Information Systems Specialist, Rent Stabilization Board. The 1993 medians are based on adding all allowable across-the-board increases to the 1990 medians.

¹⁴ Census median for all units includes units not subject to rent controls. For this reason, the "rent control discount" in this category is misleading except as a trend indicator.

Table III-2: Annual General Adjustments in Monthly Rent Ceiling

YEAR	INCREASE IN MONTHLY RENT CEILING	UTILITY ALLOWANCE (If owner pays utilities)	MEDIAN RENT (If tenant pays utilities)
1980			\$223
1981	5.0%	+1.2% for space heating	\$234
1982	9.0%	+\$4-0br, \$7-1br, \$9-2br, \$10-3br	\$255
1983	4.75%	+0.25%	\$267
1984	0.0%		\$267
1985	2.0%		\$273
1986	3.0% plus \$2.50		\$283
1987	3.5%		\$293
1988	\$25		\$318
1989	3.0%	+0.5%	\$328
1990	\$16		\$344
1991	greater of 4% or \$17		\$361
Retroactive NOI (1113)	45% of 1980 rent		\$461
1992	\$26		\$487
1993	\$20		\$507
1994	\$18		\$525
1995	1.5%		\$533

YEAR	Maintenance of NOI	Capital Improvements	Historically Low Rent	Other	TOTAL ¹⁵	Average Increase
1981	0	9	NA	2	11	\$65.77
1982	6	38	NA	18	62	\$49.80
1983	0	34	NA	30	64	\$42.39
1984	1	43	NA	37	81	\$63.40
1985	12	89	NA	14	115	\$52.19
1986	19	107	NA	38	164	\$42.46
1987	107	319	NA	133	559	\$32.44
1988	621	661	NA	140	1,422	\$30.97
1989	403	614	NA	200	1,217	\$39.12
1990	563	785	NA	324	1,672	\$34.79
1991	601	1,043	7	529	2,180	\$56.41
1992	91	713	676	388	1,868	\$48.85
1993	142	1,153	225	404	1,924	\$56.73

¹⁵ This is higher than the total number of units receiving individual rent adjustments each year because some units received IRA increases for more than one reason.

IV. AFFORDABILITY UNDER RENT CONTROL

- Survey data from 1988 show that tenants in rent controlled units included 30 percent very low-income non-students, 16 percent low-income non-students, 32 percent with incomes that were moderate and above and 22 percent student households, mostly very low income.
- Despite paying below-market rents, most very low-income tenants paid over 30 percent of their incomes for rent and utilities and nearly two-fifths of them paid more than half of their income for rent in 1988.
- As a result of the recent rent increases, the situation of poor tenants has deteriorated. There are now less than 500 units with legal rent ceilings under \$300 monthly, half the income of an elderly or disabled person receiving SSI, where there were 4,500 such units in 1990.

Tenant Income Profile

The rent stabilization ordinance currently regulates nearly 21,000 of the 24,500 rental units in the City, with about 18,700 units currently registered and the remainder temporarily exempt for one reason or another. Using data from the 1990 Census and the 1988 Bay Area Economics' survey of tenant households in units registered with the Rent Stabilization Program, we can look at the percentage distribution of tenant households by income, ethnicity, family and student status. We can also estimate the effects of recent rent increases on households in different income categories.

Our primary concern is with the effects of rent controls on low-income tenants, so we will begin with the most important income guidelines used by the Federal government to define incomes low enough to entitle a tenant to assistance. In our analysis we will pay particular attention to very low-income households that pay over 50 percent of their income for rent. From discussions with providers of services to the homeless and the staff of HOMEBASE, a program sponsored by the Association of Bay Area Governments to provide a central Bay Area information source on homeless programs, we can say that this is the group most at risk of homelessness. With very low-incomes and spending more than 50 percent of their income for rent, they have little in reserve if income is reduced, for example by loss of a job, cuts in public assistance or if expenses increase, for example due to medical needs or major rent increases.

Income Distribution of Berkeley Tenants

The 1990 Census shows a median income for tenants in Berkeley of \$19,467 annually and a mean household size of 1.8. Table IV-1 shows the number and proportion of tenants at different income levels in Berkeley and neighboring cities and in adjoining Census Tracts in Berkeley and neighboring cities. Berkeley has a somewhat greater proportion of low-income tenants than neighboring Oakland, and substantially more than Albany.

Tenant Household Income (THH)	Under \$10,000		\$10,000-\$19,999		\$20,000-\$34,999		\$35,000+	
AREA (Tract Numbers)	THH	% All THH	THH	% All THH	THH	% All THH	THH	% All THH
ALBANY	498	12.8%	811	20.8%	1,113	28.6%	1,473	37.8%
OAKLAND	22,699	27.0%	19,097	22.7%	22,541	26.8%	19,702	23.4%
BERKELEY	7,146	29.2%	5,362	21.9%	6,228	25.5%	5,707	23.3%
Kensington-Oakland Hills (3910, 3920, 4002)	74	10.0%	145	19.7%	156	21.2%	362	49.1%
Berkeley Hills (4212, 4238)	77	19.2%	43	10.7%	95	23.7%	186	46.4%
S.E. Albany (4201,05,06)	112	10.4%	82	7.6%	335	31.2%	546	50.8%
North Berkeley (4213,19)	177	20.1%	220	25.0%	229	26.0%	255	28.9%
North Oakland (4004,05,07,08)	1,169	30.8%	732	19.3%	1,024	27.0%	868	22.9%
South Berkeley (4239,40)	859	37.2%	377	16.3%	643	27.8%	430	18.6%

We can also examine the rent burden of Berkeley tenants, the proportion of income spent for rent and utilities, and compare this rent burden with the rent burdens of tenants in neighboring communities. Table IV-2 shows this information. Unfortunately, the Census does not report additional details on rent burdens over 35%. The poorest tenants in 1990 paid over 35% of income for rent almost universally, unless they received rent subsidies, and we can not tell from the Census data whether they paid only 50 percent of income in Berkeley and 65% of income in neighboring cities. A further limitation of the data is that respondents are asked their incomes and their rents, but there is no question pertaining to rent subsidies, so that tenants with subsidies are listed as paying over 35% of income for rent as long as they reported the full rent on their unit rather than the part of the rent up to 30% of income that tenants pay when they have a Section 8 certificate. The Census data has another drawback for the purposes of an analysis of rent control because it is impossible to separate out the tenants in rent controlled units from the tenants in exempt units.

Table IV-2: 1990 Rent Burdened Households (HH) in Berkeley and Neighboring Cities

Tenant HH Income	Under \$10,000		\$10,000-\$19,999		\$20,000-\$34,999		\$35,000 and over	
AREA (Tract Numbers)	Median Rent Burden	% HH Paying >35%	Median Rent Burden	% HH Paying >35%	Median Rent Burden	% HH Paying >35%	Median Rent Burden	% HH Paying >35%
ALBANY	>35%	96%	34%	46%	27%	30%	19%	6%
OAKLAND	>35%	82%	>35%	68%	27%	20%	13%	2%
BERKELEY	>35%	90%	35%	50%	20%	10%	12%	1%
Kensington-Oakland Hills (3910, 3920, 4002)	>35%	100%	>35%	87%	27%	24%	19%	2%
Berkeley Hills (4212, 4238)	>35%	100%	>35%	62%	25%	18%	18%	5%
S.E. Albany (4201,05,06)	>35%	93%	>35%	78%	29%	36%	21%	13%
North Berkeley (4213,19)	>35%	91%	>35%	59%	22%	21%	14%	4%
North Oakland (4004,05,07,08)	>35%	91%	>35%	75%	25%	17%	15%	1%
South Berkeley (4239,40)	>35%	88%	>35%	56%	20%	18%	12%	0%

The citywide numbers do not show any lower rent burdens in Berkeley than in neighboring Oakland, but this can be an artifact of the different population and income mix in each city. In Oakland 10.5 percent of all households either receive housing assistance through the Federal Section 8 program or live in subsidized housing, while in Berkeley only 5.7 percent of households receive some form of housing assistance.¹ It is clear from the matched census tracts along the borders that rent burdens are somewhat lower for Berkeley tenants, showing up most clearly in the smaller percentage of tenants in the \$10,000 to \$19,000 range paying over 35% of income for rent. It is clear, nonetheless, that rent control alone was not able to lower rents to the point that housing became truly affordable even to poor tenants. Devine (1986) and others have asserted that this shows that rent control failed to benefit poor tenants. It should be obvious, however, that in the absence of rent subsidies, rents that take 45% of the income of a very low-income tenant are still preferable to rents that take 75% of income.

The controversy that surrounds the effects of rent control in Berkeley on affordability is that some of Berkeley's low-income tenants are University students who are only temporarily poor and thus have a different claim on our concern than do other low-income tenants. This is not to say, though some would, that students do not need affordable apartments. Not all students have the support of well-to-do families that can support them while they go to school. Since the Census does not provide tables which show student and non-student tenant households, and since the Census does not separate out rent controlled and exempt units, in order to separate out students from other tenants in rent controlled apartments we must use data from a 1988 survey of rent controlled tenants.

¹ Source: Bay Area Council, untitled fact sheet, April 11, 1990

In order to give greater precision to the analysis of income groups, we will use official U.S. Department of Housing and Urban Development guidelines for income groups that take household size into account, rather than simply relying on the household income breakdowns reported above. The following paragraphs explain the meaning of these different income classifications before we do the analysis using these terms.

The Poverty Line

The poverty line, shown for 1990 in Table IV-3, is a national figure, published in the Federal Register. There is no adjustment for the cost of living in different areas of the country. Public assistance payments in Alameda County generally fall near or below the poverty line. Technically, a poor single person living on SSI for the elderly or disabled is above the poverty line with 1993 payments of \$604 monthly, an annual income of \$7,248. A single person receiving General Assistance is well below the poverty line, with 1993 payments of \$326 monthly. Recipients of Aid to Families with Dependent Children (AFDC) are also substantially below the poverty line, receiving \$535 monthly for a two-person household, \$663 monthly for three people, and \$788 for four people.

People in Household	1	2	3	4	5	6	7	8
Poverty Line	\$6,280	\$8,420	\$10,560	\$12,700	\$14,840	\$16,980	\$19,120	\$21,260
Affordable Rent ²	\$157	\$211	\$264	\$318	\$371	\$425	\$478	\$532

The U.S. Department of Housing and Urban Development sets as its affordability standard that a low-income household should not have to pay more than 30% of its income on rent and utilities in order to have sufficient funds to cover other necessities. Table IV-3 shows the maximum monthly shelter cost that meets this standard for a household with a monthly income at the poverty line for each household size. Shelter cost combines rent and utilities, or monthly mortgage payments and a monthly share of taxes and insurance plus utilities.

State guidelines for determining the affordability of a unit are that a studio (zero bedroom) unit is considered housing for one person, a one-bedroom unit is considered appropriate for a two person household, a two-bedroom unit for a three person household, three-bedrooms for a four person household, four bedrooms for a six person household and five bedrooms for an eight person household.

HUD Subsidy Standards

Income categories for purposes of determining housing subsidy eligibility are set for each area by the United States Department of Housing and Urban Development (HUD) and adjusted by household size. For these purposes Berkeley is in the Oakland Primary Metropolitan Statistical Area (PMSA), which is made up of Alameda and Contra Costa Counties. As defined by HUD, the Very Low Income category

² Including utilities.

ranges from zero up to 50% of area median family income. This is the group that are eligible for federal housing subsidies under the Section 8 program. Low Income is from 51% to 80% of area median. Moderate Income is from 81% to 120% of area median, so it is equivalent to middle income. Above Moderate Income is above 120% of area median.

Table IV-4, below, shows the annual income range for each HUD category for 1990. Comparing the poverty line in Table IV-3 to the median in Table IV-4, we can see that the poverty line ranges from 20% of median for a single individual to 32% of median for a five person household. Most poor people have incomes below 30% of median.

Table IV-4: Alameda County 1990 Ceilings for Income Categories set by the U.S. Department of Housing & Urban Development

Income Group	Income Range	Household Size				
		1 person	2 people	3 people	4 people	5 people
Very Low (VL)	\$0 up to	\$15,750	\$18,000	\$20,250	\$22,500	\$24,300
Low (L)	\$VL up to	\$24,700	\$28,250	\$31,750	\$35,300	\$37,500
Moderate (M)	\$L up to	\$37,050	\$42,350	\$47,650	\$52,900	\$56,250
Above Moderate	Above \$M					
MEDIAN	equal to	\$30,850	\$35,300	\$39,700	\$44,100	\$46,850

As stated above, the U.S. Department of Housing and Urban Development sets as its affordability standard that a low-income household should not have to pay more than 30% of its income on rent and utilities in order to have sufficient funds to cover other necessities. Table IV-5, below, shows the maximum monthly shelter cost that meets this standard for a household with a monthly income at each income level for each household size.

Table IV-5: Maximum Affordable Monthly Shelter Cost at Income Ceiling for Each Income Group and Family Size, 1990

Income Group	Affordable Cost Range	Household Size				
		1 person	2 people	3 people	4 people	5 people
Very Low (VL)	\$0 up to	\$394	\$450	\$506	\$563	\$608
Low (L)	VL up to	\$617	\$706	\$794	\$883	\$938
Moderate (M)	L up to	\$926	\$1,059	\$1,191	\$1,323	\$1,406
Above Moderate	more than M					

Rent Burdens of Student & Non-Student Households

According to the Census, fully 30% of Berkeley tenant households in 1990 had incomes below 30 percent of median income, roughly the poverty line, nearly half (48%) were very low-income and potentially eligible for housing assistance, and 63 percent are low-income or below.³ Although nearly two-thirds of Berkeley's tenants are low-income, one of the major controversies concerning Berkeley's rent stabilization program involves the proportion of tenants who are students. Critics of the program argue that the number of low-income tenants who benefit from it is exaggerated by the presence of a substantial population of students, the majority of whom are only temporarily low-income.⁴

Data from the 1990 Census and University surveys indicate that 28,105 college and university students live in Berkeley, with 19,000 attending the University of California at Berkeley. Not all of these were in rental housing. The others attend everything from theological seminaries to community colleges, including schools outside of Berkeley. There were 8,600 people living in college dormitories, fraternities, sororities, student cooperatives and other forms of university-related group quarters in Berkeley in 1990 and the University added another 900 beds to its dormitory housing by 1993. In addition, several thousand students rented rooms within homes or still lived with their parents in Berkeley. The University estimated that its students occupied approximately 5,800 rental units in 1988, nearly one-quarter of the total rental housing stock. Clearly, the student population affects the income profile of Berkeley's tenants.

In 1988 a survey of tenants in rent controlled units was conducted by Bay Area Economics (BAE).⁵ The data from the BAE study indicate that over one-fifth of all rent controlled households, about 4,000 units, are occupied solely by students and that student households are predominantly very low-income.⁶ (Their ethnic profile is not substantially different from that of all tenants.) The difference between the University survey, showing students occupying 5,800 units, and the BAE survey of rent controlled units likely reflects a large number of students living in rented rooms and second units, which are exempt from rent control when the owner also lives on the property, as well as a number of students who share housing with non-

³ H.U.D., "Data for CHAS, Table 5 (Part 5)".

⁴ See for example, Richard J. Devine, "Who Benefits From Rent Control?", Center for Community Change, Oakland, October 1986.

⁵ The Bay Area Economics 1988 Tenant Survey is fully described in the two volume report of December 15, 1988, Berkeley Rent Control 1988: Historically Low Rents and Tenant and Housing Profile and Technical Appendices. Briefly stated, a mail survey was sent to 2,000 addresses of rental units on file with the Rent Stabilization Program, one tenth of the 20,100 units in the certified rents database. This resulted in 826 valid responses. A variety of checks were done which suggested that the respondents closely matched the known characteristics of the rent controlled population. There may be a slight undercount of black and very low-income households.

The original survey was actually five separate surveys of 400 units in each of five market areas, each of which had a different number of registered rental units. For this analysis these surveys are combined into one data set by weighting the responses from each area by the areas' response rate and number of registered units. This gives representation equivalent to that which would be found in a city-wide random sample of registered units.

⁶ The BAE survey was done in 1988. See Table VI-11 for the HUD income limits and affordable rents that apply to that year.

students.⁷

Table IV-6 shows the distribution of student and non-student households living in rent controlled units by the HUD income categories that cover each household. Note that the distribution for very low-income tenants is identical to the distribution shown in the Census data, and three percent high for low-income tenants, which strengthens confidence in the accuracy of the survey. The profile of rent controlled units shows that 30% are occupied by about 6,000 very low-income non-student households, with another 16% occupied by about 3,000 low-income non-student households. The belief that tenants able to afford market-rate housing also benefit from rent control is substantiated by the 19% of controlled units occupied by about 4,000 moderate income and 13% occupied by about 2,500 above moderate income non-student households.

Table IV-6: Income Category of Rent Controlled Households (HH) by Student Status in 1988⁸

INCOME CATEGORY	All HH	Student HH	Non-Student HH	Non-Student HH as percent of All HH
Very Low	48%	80%	39%	30%
Low	18%	11%	19%	16%
Moderate	20%	8%	24%	19%
Above Moderate	14%	1%	17%	13%
TOTAL	100%	100%	100%	78%
% of All	100%	22%	78%	NA

In 1988, then, Berkeley's rent controlled housing was one-third occupied by very low-income non-student tenants, the group most people agree need assistance, one-third occupied by higher-income tenants who most people agree do not need assistance, and one-third occupied by students and low-income tenants, whose status creates substantial disagreement. Students, except those from very well-to-do families, are poor, however temporarily, and higher rents will make it more difficult for them to attend and finish school. Similarly, low- but not very low-income tenants are not eligible for Federal Section 8 rent subsidies, although other programs such as HOME assist low-income tenants as well. Lower rents make it easier for them to afford a decent life and perhaps to save money to buy a home or prepare for

⁷ Examination of data on households that include both students and non-students indicates that the income and demographic profile of these partially student households is almost the same as that of households with no adult students, and quite different from that of households made up entirely of students. Partially student households include families with a child who remains at home while attending college, families in which a spouse or parent attends school, and shared households with a mixture of people who do and do not attend school. Since their income profile is similar to households without student members, and since these households include people who are not students, we have included them with non-student households.

⁸ Source: City of Berkeley reanalysis of data from the Bay Area Economics 1988 Tenant Survey.

retirement.

Table IV-7 below presents the percent of 1988 income spent on housing by non-student and student households, with non-student households broken down by income group. They indicate that even under rent control at its strongest, the majority of very low-income non-student households, those with incomes under 50% of median for their household size typically had rent burdens over 30% of income. Among this very low-income group 38%, about 2,000 tenant households, already had rent burdens that were over 50% of income. These tenant households were at risk of homelessness if their income should decrease or their rent increase, were suffering from serious financial hardship and were eligible for additional assistance of some kind if the resources were available.

Table IV-7: Rent Burden of Tenant Households in Rent Controlled Units by Income Group and Student Status, 1988⁹

Rent Burden	Student Households	Non-Student Households by Income Groups			
		Very Low Income	Low Income	Moderate Income	Above Moderate Income
Under 10%	2%	3%	3%	9%	27%
10-19%	9	8	29	68	68
20-24%	9	8	36	16	3
25-30%	11	11	22	7	2
31-39%	13	21	8	0	0
40-49%	9	11	2	0	0
50% +	48	38	0	0	0
TOTAL	100%	100%	100%	100%	100%
As % of all HH in controlled units	22%	30%	16%	19%	13%

⁹ Source: City of Berkeley reanalysis of 1988 Tenant Survey Data

Table IV-8 shows that the 1988 tenants with extreme rent burdens that take up over half of their income included substantially more African-American households and somewhat more single parents than tenants in general.

Table IV-8: Ethnicity and Household Type of All Berkeley Tenants and of Non-Student Tenants With Rent Burdens Over 50 Percent, 1988 ¹⁰		
ETHNICITY	All Tenants	Tenants Spending Over Half of Income on Rent
White	62%	51%
Black	13%	25%
Asian	19%	20%
Hispanic	4%	3%
Other Races	2%	1%
TYPE OF HOUSEHOLD		
Single Person	51%	52%
Couple, No Children	16%	7%
Couple With Children	9%	8%
Single Parent & Children	6%	13%
Shared With Unrelated People	16%	15%

¹⁰ Source: City of Berkeley reanalysis of 1988 Tenant Survey Data

Table IV-9 presents rent burden by household income rather than by HUD income category. Looking only at the non-student households, nine out of ten households with incomes under \$10,000 have unacceptably high rent burdens, as do nearly four out of ten households with incomes between \$10,000 and \$20,000. Virtually all households with incomes over \$20,000 have rent burdens under 30% and most of those with incomes over \$30,000 have rent burdens under 20%.

Income Shelter Burden	Under \$10,000	\$10,000 - \$19,999	\$20,000 - \$29,999	\$30,000 - \$39,999	\$40,000 +
Less than 20%	3%	22%	55%	79%	93%
20% to under 30%	6%	40%	40%	19%	7%
30% to under 50%	21%	34%	5%	2%	0%
50% to under 70%	21%	3%	0%	0%	0%
70% or more	49%	1%	0%	0%	0%
Percent of Total HH	19%	27%	23%	15%	16%

Low-rent units are particularly important in preventing homelessness. The strongest single indicator of homelessness, according to one recent study, is the rent level at the 10th percentile of all rents. In other words, the cost of the ten percent of the units with the lowest rents, those which are the most accessible to the poorest people, is a major determinant of homelessness. Rents at the 20th and 30th percentiles also showed effects on homelessness, though not as strongly. (The other major predictors were level of AFDC payments, with higher payments reducing homelessness, and vacancy rate among the lowest rent units.)¹¹ These findings fit with most expert analysis of the causes and prevention of homelessness, which emphasize the central importance of preserving a stock of units at very low rents that will be affordable to people with incomes below \$10,000 a year.¹²

In order to help prevent homelessness, the lowest-rent units need to be rented to very low-income people who need them. The survey data show that under rent control this was the case. Very low-income non-student households were concentrated in the lowest rent apartments, occupying 70% of the units renting for under \$200 a month, and paying a median of \$335 a month for rent. Either very low- or low-income tenants occupied virtually all of the units renting for under \$200 and nearly three-quarters of those renting for between \$200 and \$400. In contrast, student households rented only one tenth of the units renting for under \$200 and one quarter of those between \$200-400 a month, but 45% of those renting for

¹¹ Marjorie Honig and Randall K. Filer, "Causes of Inter-City Variation in Homelessness", presented to the Association for Public Policy Analysis and Management, Thirteenth Annual Research Conference, October 24, 1991; telephone interview, Dept. of Economics, Hunter College of the City University of New York, November 5, 1991

¹² Langley C. Keyes, "Housing the Homeless", in Building Foundations: Housing and Federal Policy, University of Pennsylvania Press, 1990; Edward B. Lazere, A Place to Call Home: The Crisis in Housing for the Poor, Center on Budget and Policy Priorities, Washington, D.C. 1990.

over \$600 monthly. The most likely reason for this difference is that students are most likely to live in shared households, with several students renting larger and higher rent units because the per bedroom cost is lower. In addition, with high turnover in student areas, landlords may have been able to raise rents more easily in the years prior to the rent control ordinance, and perhaps under the temporary ordinances prior to rent registration.

Affordability Under Rent Control, 1993

From 1980 to 1990 the rent stabilization program held across-the-board annual increases in an average amount of 54 percent of the 1980 rent for rent controlled units, although it also granted several thousand individual rent increases, while the Bay Area Consumer Price Index for non-housing items (CPI-Less Shelter) increased by 53 percent over the same period. The CPI index of rents in the Bay Area as a whole increased by an even 100 percent during the same period. In 1991 the Rent Stabilization Board approved a series of regulations allowing major rent increases. By 1993 legal rent ceilings were 40 percent higher than they had been in 1990. Applying these increases to the rent burden shown in Table 7, we can see that this raised the number of very low-income non-student households paying over half of their income for rent from 38 percent to nearly 60 percent, for a total of more than 3,300 severely rent-burdened households, as well as greatly increasing the hardships of those who were already paying half of their income for rent.

Table IV-10 shows the income needed in order to pay no more than 30 percent of income for rent. The income needed to pay no more than 30 percent for rent and utilities, which is the Federal affordability standard, would be somewhat higher, since most Berkeley tenants pay their own utility costs as well as the rent. As the table shows, the income needed to afford the average one-bedroom apartment increased quite substantially, to over \$20,000 annually. Comparing the incomes needed to afford these median-priced units in 1990 and 1993, we can see that while in 1990 the median priced unit was affordable to people with incomes as low as 40 percent of area median, by 1993 these units required incomes of 50 percent of area median (see Table IV-5 for 1990 and C-6 for 1993). This made them reasonably affordable to low-income tenants, those in the 50-80 percent of median group, but they were no longer affordable to very low-income people.

Table IV-10: Median Controlled Rent and Income Required to Afford by Number of Bedrooms in the Unit, Berkeley, 1993				
Number of Bedrooms in Unit	Median Controlled Rent		Annual Income Needed to Pay 30% of Income for Rent	
	1990	1993	1990	1993
Studio	\$285	\$425	\$11,400	\$17,000
One Bedroom	\$348	\$508	\$13,920	\$20,320
Two Bedrooms	\$449	\$639	\$17,960	\$25,560
Three Bedrooms	\$620	\$877	\$24,800	\$35,080
All Units (Census Median)	\$392	\$565	\$15,780	\$22,600

Median rents are a mid-point, so by definition half of all units rent for less than the median and some lower rent units are affordable to very low-income people. Units with rent ceilings below the median are of course more affordable, but as we will see in Table IV-11, rents in Berkeley do not extend very far below the median. The incomes of poor tenants, however, are typically under 25% of median, far below the 50% threshold that makes a household eligible for housing assistance. Recipients of public assistance (SSI, AFDC, GA) receive less than \$8,000 a year, except for larger families, most of whom still receive less than \$10,000 a year. Under the U.S. Department of Housing and Urban Development affordability standard that rent and utilities should total no more than 30 percent of income, this means that a rent including utilities should be no more than \$250 monthly for those households with incomes of \$10,000 a year.

In Berkeley in 1990 there were about 29,000 people in very low-income households. And while by 1993 standards the very low-income category extends up to \$26,200 a year for a family of four, most very low-income people in Berkeley actually have incomes less than \$10,000 a year. This group includes about 3,000 disabled people who are unable to work, who receive SSI payments of \$604 monthly, 1,000 poor elderly people who receive SSI, 1,700 single-parent families with dependent children who receive AFDC payments ranging from \$535 monthly for two people to \$788 monthly for a family of four, and several thousand people who are unemployed or work at very low-wage jobs.¹³ Of these, only 2,800 households currently receive some form of housing assistance, while an additional 5,700 households are eligible for assistance.¹⁴ Virtually all the unassisted households pay more than 30 percent of their income for rent and utilities, and the majority pay over 50 percent of their income for shelter.¹⁵

Legal Rent Ceiling	Registered Units, 1990	Registered Units, 1993	Annual Income Needed to Afford	Percent of 1990 Median Income (2 people)
Under \$200 monthly	623	104	\$8,000	22%
\$200-299 monthly	3,866	336	\$12,000	33%
\$300-399 monthly	5,790	1,757	\$16,000	44%
Total Under \$400	10,279	2,197	\$16,000	44%

Table IV-11 shows the number of units registered with the Rent Board in 1990 and 1993 with rent ceilings

¹³ Sources: 1990 Census, United States Social Security Administration, Alameda County

¹⁴ Source: Community Development Department, City of Berkeley

¹⁵ Source: Bay Area Economics Tenant Survey, 1988

¹⁶ Source: Rent Stabilization Board, December 8, 1994. Note that this is from a base of 17,491 units for 1990 and 17,898 units for 1993, with another approximately 1,200 registered units with incomplete rent histories. The Rent Board expects to reconstruct the data on the missing properties in 1995. Units that are now temporarily or permanently exempt from registration are not included, so this number can not be easily compared with the Census data from 1990, although the totals are similar.

under \$200, \$300 and \$400. In most of these units the tenant is responsible for gas and electric payments as well, so the total monthly cost is higher. The table indicates the dramatic nature of the change from a median 1990 rent below \$400, meaning that over half of the rent controlled rental units in Berkeley were affordable to very low-income people making as little as \$16,000 a year, to a situation in which only a small fraction of rent controlled units are affordable to very low-income tenants. Put another way, three-fourths of the rental units affordable to very low-income tenants were eliminated by rent increases in the space of three years.

Table IV-11 shows that there are now only 440 units with rent ceilings under \$300 so that, without utility payments added, they would cost less than half of the income of a disabled or elderly tenant with a monthly income of \$600 from SSI, let alone meet HUD affordability standards of 30 percent of income. All of these units are potentially eligible for "Historically Low Rent" increases that would raise them over \$300 monthly. Another 1,757 units have rent ceilings between \$301 and \$400, which is half to two-thirds of the income of a person on SSI and thus are at least possible as a stable living situation, since they would leave some money for food and transportation. This is a total of 2,197 units, or about nine percent of the unsubsidized, privately-owned housing stock. In addition, only about half of the controlled units with lower rents are actually occupied by poor people, since they are rented to whoever the landlord chooses as a tenant. As a result, the private rent controlled housing stock can no longer be considered a major affordable housing resource for very low-income tenants, although many of these units are affordable to those low-income tenants with incomes between 50 percent and 80 percent of median.¹⁷

Clearly rent control has substantial limits in its ability to solve the housing problems of the poor. Even under the strong rent control system in place in 1988 over 70 percent of very low-income tenants were paying over 30 percent of their income for rent. Now these rent burdens have been substantially worsened by the major rent increases of 1991-92. The current situation is impossible to estimate, since many tenants have moved out of their units as a result of the increases. While rent control does not solve existing income problems, increasing rents makes the problems worse.

¹⁷ Since legal rent ceilings are now only 10 to 15 percent below market on the average, many have rent ceilings that are actually above "market" and the landlord does not charge as much as the law allows. We do not presently know how many such units there are, or how many may rent for less than \$400 monthly. In neighboring Albany, only five percent of privately-owned rental units had rents below \$400. In Oakland, about 15 percent of unsubsidized rental units had rents below \$400 in 1990. Since Berkeley generally falls in between Albany and Oakland, this suggests that there are not a great many additional affordable units provided by the private market. The Community Development Department is currently engaged in a study for the Housing Authority of rents in Section 8 units and unsubsidized units. Once this study is completed, it will provide information on the extent to which units are rented at below their legal rent ceiling and whether such units are or are not concentrated among those with the highest rent ceilings.

Note on the "Key Money" Issue

If tenants paid substantial amounts in advance, what is called "key money", to landlords or former tenants in order to move into apartments with below-market rents, this would greatly reduce the value of the discount provided by rent controls. Similarly, side agreements to provide free maintenance work or other benefits to the landlord would effectively add to the actual rent. The 1988 Tenant Survey found only four percent of tenants reporting any finders fee payment at all, and the majority paid less than \$100.¹⁸ Thomas Nesselin conducted a small survey of U.C. Berkeley graduate students in business and economics. Of 34 respondents living in Berkeley one reported payment of a substantial finders fee of \$1,000 and none reported side agreements. Nesselin notes that the actual capitalized value of an apartment with rents from \$100 to \$200 a month below market would be \$12,000 to \$24,000. There is not the slightest hint of payments ever being made in that range. Reporters have usually been able to locate payments in the \$500 to \$1,000 range, and one story reported that a tenant was asking (but not that they received) \$4,000. Such payments are extremely unlikely since the 1992 rent increases.

One reason such payments were rare is that it is illegal for a landlord to make such an additional charge and a tenant who makes such a payment to a landlord can easily recover it by petitioning the Board to recover the rent overcharge.¹⁹ Another is the potential lack of permanence in the discount provided by rent controlled rents. A student searching for an apartment in June 1994 was told that Berkeley had a very strong rent control system so that the unit was a great bargain and was asked to pay the tenant \$1,000 to reimburse the tenant for the amount the current tenant had paid to the previous tenant several years earlier. On being informed that the student knew that rents had increased substantially since then, the current tenant offered to negotiate the amount.

¹⁸ Bay Area Economics, Berkeley Rent Control 1988: Historically Low Rents and Tenant and Housing Profile, Rent Stabilization Board, Berkeley, December 15, 1988, page 89.

¹⁹ Thomas S. Nesselin, "The Effects of Rent Controls: An Analytical Reassessment and the Experiences of Berkeley and Santa Monica, California, 1980 - 1990", Ph.D. dissertation, University of Washington, 1992, pages 200-208. Nesselin has an extensive and excellent discussion of the key money issue. See also his theoretical discussion at pages 9-21.

V. PROFITABILITY UNDER RENT CONTROL

- Landlords profit from rental housing to the extent that rents and expenditures provide cash flow, tax deductions, equity appreciation, and mortgage loan principal repayment, which also increases equity. Much of their profit is realized only when they sell or refinance the building.
- Using Rent Board cost studies to do an internal rate of return analysis on an "average" rental property, we find that under the 1979 to 1991 system it was possible to obtain a 7 percent annual rate of return on investment, just over the 5.5 percent average rate of inflation, but that this rate of return depended on building sales prices that were becoming more difficult to sustain.
- The Board increased rents to provide an inflation adjustment for the Net Operating Income (NOI) as well as increases to cover increased operating expenses. After the retroactive rent increase in November 1991, the average annual rate of return for the same period jumped to 12 percent for the 1980 to 1991 period. Had this inflation adjustment been in place during the entire 1980 to 1991 time period, the owner would have had a return of 15 percent annually due to receiving higher rents as well as a higher sales price.
- Without rent controls the same owner could have earned a spectacular 19 percent annual return. An alternative inflation adjustment was proposed by the City, providing an inflation increase for the half of NOI that provided cash flow profit to the average landlord but not for the half used for debt service on mortgages, whose interest rates had declined substantially since 1979. The rate of return on this alternative would have been a reasonable 10 percent and would have been sustainable indefinitely.

Profit in Rental Housing

Landlords profit from rental housing in several ways. The most obvious is cash flow. After receiving rent from their tenants and paying any mortgage payments due and paying for operating expenses, such as property taxes, insurance, utilities, maintenance, and management, the remainder belongs to the landlord as personal or corporate income. Cash flow can range from a majority of the rent, in a case where the owner has no mortgage and low maintenance expenditures, to negative, where the landlord is paying expenses with additional money while waiting for rents to go up and bring a profit in the future.

The other major source of profit is appreciation. As the income from the building increases, its value as an investment increases and another investor will buy it for more than the landlord originally paid for it. Property values depend primarily on two things: net operating income (NOI) and interest rates. Net operating income is what is left over from the rent, after paying all operating expenses, that can be used to make mortgage payments or provide cash flow. This flow of money has a certain value, which depends on interest rates. If, for example, a building has an annual NOI of \$10,000, then if current interest rates are around 10 percent an investor would have to buy bonds valued at \$100,000 to get payments of \$10,000 a year, so the building is worth about \$100,000 to an investor. If current interest rates are only five percent, then an investor would have to buy \$200,000 in bonds or other investments to get \$10,000 a year and the building will be worth about \$200,000. When the value of a property increases, the

landlord's equity, which is the value over and above any mortgage on the property, also increases. The landlord can benefit from equity by selling the property and also by using the equity as security for borrowing more money.

There are two less apparent sources of profit as well. As owners pay off their mortgages, the amount of principal that must be repaid to the lender on sale of the property decreases and the owners' equity correspondingly increases. This form of profit, like appreciation, is one that owners realize when the building is sold or refinanced.

In addition, there are tax advantages to property ownership because all business expenses are deductible from the landlord's taxable income. The most important deductible expense is depreciation, which is based on the idea that the building is gradually losing value over time like a used car. Every year for up to twenty-five years, the landlord can deduct one-twenty-fifth of the value of the building (but not of the land underneath it) from taxable income. In the Bay Area assessors commonly attribute at least eighty percent of property value to the building, according to local real estate professionals. The amount that the deduction reduces tax payments depends on the landlord's marginal income tax rate. As with the homeowners' deduction, the higher the owner's income, and thus the higher the tax rate on each additional dollar earned, the higher the value of the deduction. If the building does not actually go down in value, then the owner repays the government for this tax deduction when the building is sold, but meanwhile the tax deduction serves as a no interest loan from the government to the landlord.

Landlords decide how much emphasis they want to place on different types of profit. The highest rates of return are usually made by landlords who try to maximize the return from appreciation. This is done by "leveraging", using as little as possible of the landlord's own money and borrowing as much as possible from a mortgage lender. Most mortgage lenders require people buying rental property to make downpayment of 25 or 30 percent of the purchase price. Suppose, for example, that a landlord is able to buy a building using his or her own money to pay for 25 percent of the purchase price and obtains loans backed by mortgages on the property for the remaining 75 percent of the purchase price. If the building goes up in value by five percent, then the landlord's equity increases by 20 percent. If the building increases in value by 25 percent, then the landlords' investment has doubled in value. The result of high leveraging, however, is that for the first few years most of the net operating income goes to make mortgage payments and there may even be a negative cash flow in the early years of such investments.

A landlord who wishes to maximize cash flow, by contrast, would pay all of the purchase price of the building, rather than mortgaging the building to borrow part of the purchase price. This makes the entire net operating income into cash flow for the owner, but greatly increases the owners' investment in the property and reduces the return from appreciation. For such an owner, a five percent increase in building value is only a five percent increase in the value of his or her investment and similarly a 20 percent increase in property value increases the value of the owners investment by 20 percent. Typically such an arrangement yields a much lower rate of return overall. What it gives the owner is a current cash flow and more security, since there is no chance of losing control of the property to a lender that cannot be repaid. This is a pattern most often found among small, long-term property owners, who may take out a mortgage but will try to pay it off over time.

The most accurate measure of overall profit is called the Internal Rate of Return. This measures the amount the landlord invests when buying the property, the value of the cash flow, the value of the tax benefits, the costs of sale and the equity realized from the sale and calculates the annual return on investment. This return can then be compared with current interest rates to determine whether an investment is or is not worthwhile.

Internal rate of return analysis can be done on particular properties or, as we will do here, on models that represent major types of landlords and their properties. We will look primarily at an "average" property - one with the median rent, the median mortgage amount and an upper middle-income owner. We will also look at properties owned by professional real estate investors who aim to maximize appreciation and at properties owned by small landlords who are more concerned with security of return. We can also look at what would have happened to the rate of return if there had been no rent controls and under different types of control. In order to create such models, however, we must establish the general trends in Berkeley rents, operating costs and net operating income. Changes in rents under the ordinance were covered in a previous section. The following discussion examines trends in operating costs and net operating income during the 1980 to 1991 period.

Operating Cost Increases, AGA Increases, and NOI: 1978 - 1991

In 1993 the Rent Stabilization Board commissioned a detailed historical study of operating cost increases from 1979 to 1991, reviewing and correcting past operating cost studies.¹ Using this analysis, and other studies, we can estimate the average annual rent, operating costs and net operating income from 1978 to 1991, the strong rent control period.

Table V-1 shows the AGAs from 1981 to 1991 for a unit with the 1980 median contract rent of \$223, as well as the cumulative difference between AGA increases and estimated operating cost increases reported for a typical unit in the Rent Board's "Historical Review", for the three-quarters of rental units with individual utility meters.² The table shows cost increases the year they occurred, while rent increases are granted the year after, so there is an erratic pattern of increases that are higher or lower than cost increases. Taken over the entire period, no bias results from this procedure as the errors average out.

It is important to note that the "Historical Review" used a number of assumptions that were problematic. In most cases the following analysis accepts these figures but in two cases we have modified them. First, the report assumes that there were no rent increases to cover increased costs from 1979 to 1980. We have extensively discussed this in the review of rent increases in Appendix A where the basis for our assumption of a five percent rent increase is explained. Note that this is only a 1.8 percent increase over the 1978 rent, because we have conservatively assumed a partial rent roll-back in 1979. (Appendix A provide substantial evidence that most rents were not rolled back.) The "Historical Review" begins with 1979. Second, the Rent Board's "Historical Review" used a median rent figure of \$233 rather than \$223. This analysis keeps the same expense increases and applies them to the lower median rent, so that we actually use higher percentage cost increases than in the "Historical Review".

¹ Glen Elder, "Historical Review of Changes in the Operating Expenses for Rent Stabilized Units in the City of Berkeley: Second Draft Report", Rent Stabilization Board, Berkeley, April 27, 1994. This report followed two previous reports that came to conflicting conclusions:

Stephen Barton, "Operating Cost Increases and Annual General Adjustments, 1979 - 1990", Community Development Department, City of Berkeley, October 28, 1991.

Robert Clucas & Michael St. John, "Berkeley's AGA Studies, A Retrospective Evaluation: 1980 -1991", Berkeley Property Owners Association, August 1991.

² According to Rent Board records, of 19,182 rented units subject to rent control in August of 1991, landlords pay for gas, electricity, or heating in 4,672 units - approximately 24%, while tenants pay for utilities in 76% of the units. These percentages were similar at the beginning of rent control, according to a 1980 CalPIRG survey which found that 78 percent of renters paid for their own gas and 82% paid for their electricity. CALPIRG, "Berkeley Tenant Survey", January 1981, p.28.

A third questionable assumption in the "Historical Review" is the use of CPI-All Items to estimate cost increases for maintenance, management and insurance. Together these added up to approximately 42 percent of all operating costs in 1993. The use of the CPI-All Items rather than the CPI-All Items Less Shelter results in overestimating actual inflation for the 1978 - 1982 period before changes were made in the CPI indexing procedure. This issue is discussed further in Appendix B. At the same time, the "Historical Review" notes that the cost of replacement cost insurance has likely increased faster than general price inflation due to stricter building codes that increase the cost of rebuilding.

As we saw in Table III-2 "Annual General Adjustments in Monthly Rent Ceiling", in its early years, the Rent Board usually set percentage rent increases. In 1987, 1989, 1990, 1992, 1993 and 1994 fixed dollar increases were granted and in 1991 landlords could choose whichever resulted in a higher increase. Fixed dollar increases gave units with lower than average rents a higher than average percentage increase and gave units with higher than average rents a lower than average percentage increase. The Board argued that buildings with concentrations of lower rent units generally had percentage increases in operating costs that were above average, while buildings with concentrations of higher rent units generally had operating cost percentage increases that were lower than average. Giving flat dollar increases set at the average operating cost increase for all units, in this view, makes the operating cost increase more closely reflect actual operating cost increases for units above and below the average. Thus lower rent units may not have received adequate cost increases until the shift to flat dollar amount increases in the late 1980's.

In theory the AGA increases were supposed to simply reflect cost increases and hold net operating income to a fixed dollar amount, in fact there was substantial variation. The Rent Board's 1982 increase of nine percent was clearly higher than necessary in order to cover increases in expenses. After a change in the composition of the Board and with a decrease in the Consumer Price Index from 1982 to 1983, the Rent Board provided no AGA increase for 1984.³ Then, beginning in 1987, the Rent Board began a pattern of setting AGA increases that were somewhat higher than the previous year's operating cost increases.

There is a good reason for such a pattern to emerge. An ongoing dilemma in any strong rent control system resulting from conflict between the purpose of the system, which is to keep rents from increasing any more than is necessary, and the administrative difficulties of adapting the system to a wide variety of properties. Keeping across-the-board rent increases close to the average cost increase means that only a minority of units -- although a large minority -- those with below average costs, will receive more of a rent increase than was strictly necessary to cover increased costs. The corresponding problem for this approach, however, is that a large minority of units, those with above average costs, will not receive increases that are high enough to cover their increased costs. Since the system is legally required to provide increases to cover increased costs, the system must be prepared to process a large number of individual rent increase applications, a costly and difficult administrative problem. Higher increases result in less need for attention to individual properties but undercut the purpose of the ordinance by failing to fully protect tenants. Lower increases deliver more benefits to tenants but make the system much more expensive and difficult to administer and thus make the system more vulnerable to legal challenge for failures to provide due process of law or failure to provide a fair return. Administrative difficulties are increased by the structure of the rental market in Berkeley, in which 43 percent of all rental units are in small one, two, three or four unit structures. As a result there are a great many small landlords who manage their own property on a part-time basis and are poorly equipped to deal with a regulatory agency.

³ In 1984 surveys of tenants and landlords were conducted for the Rent Board. The landlord survey had 105 respondents who owned 1,100 units. With a one-year rent freeze in place it is not surprising that 73 percent said that the AGA was not adequate to cover cost increases. Kenneth Baar & Richard LeGates, "Rental Housing Under the Berkeley Rent Stabilization Ordinance: A Survey of Tenants and Landlords, October 4, 1984.

As Table V-1 shows, after ten AGAs the median rent unit with average operating costs and cost increases received rent increases that made its 1991 rent 6.6 percent greater than would have been necessary simply to cover cost increases for the average individually metered building. (Elder notes that operating cost increases were higher for master-metered buildings and suggests that there was probably no surplus AGA increase in the master-metered buildings.) The AGAs raised the 1980 median of \$223 to \$361 in 1991, while increases to \$337 were necessary to meet average increases in operating costs, a difference of \$24. In addition, this does not take into account any increase from 1979 to 1980 that went beyond the allowable five percent increase to cover increased operating costs.

Year	AGA set by Rent Board	Average Cost Increases	Difference
1981	5.00%	4.57%	+0.43%
1982	9.00%	3.89%	+5.11%
1983	4.75%	4.12%	+0.63%
1984	0.00%	1.71%	-1.71%
1985	2.00%	4.32%	-2.32%
1986	3.83%	1.36%	+2.47%
1987	3.50%	7.76%	-4.26%
1988	7.86%	3.03%	+4.83%
1989	3.00%	3.47%	-0.47%
1990	4.88%	2.31%	+2.57%
1991	4.94%	3.22%	+1.72%
1980-91	61.83%	51.17%	6.59% of 1991 rent

We can check this estimate of "surplus AGA" against another type of data. In 1982 and again in 1989 the Rent Board consultants did detailed surveys of property owners' operating cost expenditures and developed estimates of the average amounts of rent going to operating costs and to net operating income. In 1991 Hamilton, Alschuler & Rabinovitz reviewed this data and made some corrections in detail to arrive at estimates for 1981 and 1990.⁴ The results are presented in Table V-2.

Table V-2 shows a property with the median contract rent of \$223 in 1980. It shows the percentage of rent that would be going for operating costs and Net Operating Income if all of the AGA increases were actually used to meet operating costs and NOI was held at a constant dollar value as the ordinance

⁴ Hamilton, Rabinovitz & Alschuler, "Inflation Indexing in Berkeley Rent Regulation in the Aftermath of the Searle Decision", Berkeley Rent Stabilization Board, Berkeley, July 30, 1991, pages 24-26.

apparently requires. Then the table shows the actual percentage of rent going for operating costs and Net Operating Income as reported by the economic consultants. If NOI had remained at \$127 a month from 1979 to 1990, then it would have declined to 36.9 percent of the rent and operating costs would amount to 63.1 percent of the rent by 1990, rather than the 54.9 percent reported by HRA. This is a discrepancy of 8.2 percent of 1990 rent. This figure must be corrected to take into account individual rent adjustments for capital improvements, since these increases amortize landlord's costs and pay interest on an additional investment. According to the Rent Board's IRA data, through 1990 there were 2,699 capital improvements IRAs averaging \$36.74. Averaged over the approximately 18,900 units subject to rent regulation, this yields a per unit capital improvements increase of \$5.25. Thus the 1990 NOI apparently increased by a net of \$23 or 6.7 percent of the rent. With the 1991 increase set at 1.7 percent higher than necessary for the average unit, as indicated in Table V-1, this indicates a total surplus of 8.4 percent or \$30. Thus we have substantial evidence that AGAs increased net operating income by from 6.6 percent (\$24) to 8.4 percent (\$30) of the 1991 rent for an average unit. This is the equivalent of an increase of from 19 percent to 28 percent in 1979 net operating income (NOI).

	1979	1981	1990
Operating Costs as a Percentage of Rent if NOI did not increase	40%	45.7%	63.1%
NOI as Percentage of Rent if Dollar NOI Remains Constant	60%	54.3%	36.9%
Actual Operating Costs as a % of Rent	40%	44.1%	54.9%
Actual NOI as a Percentage of Rent	60%	55.9%	45.1%
Median Contract Rent	\$212	\$234	\$344
Operating Expenses	\$85	\$103	\$189
Net Operating Income	\$127	\$130	\$155
Average Capital Improvements Increase	NA	\$0	\$5
Net Increase in Base Year NOI	NA	\$3	\$23
Net Percentage Increase in Base Year NOI	NA	2%	15%

⁵ Sources:

- a) Median Rent based on 1980 Census median for Berkeley of \$223 as reported in the published Bureau of the Census volumes, adjusted by AGAs granted. 1979 median is 1980 median divided by 1.05 to reflect the 5% rent increase allowed from 1979 to 1980.
- b) 1981 and 1990 Operating Cost Percentage come from Hamilton, Rabinovitz and Alschuler (HRA), "Inflation Indexing in Berkeley: Rent Regulation in the Aftermath of the Searle Decision, July 30, 1991, page 24B and are based on their reanalysis of the 1982 and 1990 AGA reports to the Rent Board (Baar et al, 1982; Gruenstein, 1990).
- c) The 1979 Operating Cost Percentage comes from Lowry (1985).

Based on the best available information, then, the operating cost increases granted by the Rent Board through the Annual General Adjustment (AGA) process from 1980 to 1990 exceeded actual operating cost increases and allowed increases in net operating income (NOI) for the average unit of from 19 to 24 percent from 1978 to 1991 for a landlord who followed all requirements of the Ordinance.

This increase in the dollar amount of landlords' profit was still less than the amount by which inflation eroded the buying power of that profit in most cases. Inflation was 92 percent from June 1978 to June 1990. The 19 to 24 percent increase would only maintain the purchasing power of landlords' cash flow after debt service for a landlord who was highly leveraged in 1978 or 1979, with a cash flow of less than 19 to 24 percent of NOI and the rest going into debt service. The best available information on debt service is the 1982 cost study (Baar et al, 1982), which provides estimates on the debt service to rental income ratios for properties purchased at different times. From this information it appears that the average debt service on Berkeley rental property in 1980 was 58 percent of NOI, leaving an average cash flow of 42 percent.

Rate of Return of Berkeley Rental Property

We can use all of this historical information to build a spreadsheet model of a typical investment in rental property in Berkeley in 1978 and use this model to determine the rate of return the owner would realize on this investment. Spreadsheet modeling requires realistic estimates for the initial sales price, the landlord's marginal income tax rate, rents, operating costs, mortgage payments, sales price and selling costs. Most of these are available for rent controlled properties or for all rental properties, most of which are rent controlled. Where there is ambiguity, for example about actual rent levels for the 1978 - 1980 period, we can use the model to examine the range of possibilities and determine the differences that result from differing circumstances or actions of the owner.

Table V-3 is a spreadsheet that shows the situation of a typical property. It has the average number of units for a Berkeley rental property, each unit pays the median rent, and the tenant pays utilities. Expenses are based on the discussion above and Lowry (1985). The loan amount is set at 40 percent of the value of the property, with an interest rate of 9.5 percent and 25 years remaining on the mortgage. Together, the rate and the amount of the loan result in mortgage payments of 57 percent of NOI in 1980 and before tax cash flow of 43 percent, almost identical to the average situation reported for 1980 by Baar et al (1982).

The 1978 purchase price is equivalent to the value of the property at that time, and the downpayment can also be treated as the landlord's investment in the property at the time rent control began, if it was purchased in earlier years. It can reasonably be argued that for purposes of measuring profit, landlords' investment should be their actual initial investment. The contrary view would be that all equity existing at the time the "rules of the game" change with rent control should be counted. For this analysis, landlords' investment is treated as the equity they had in their property at the time rent control began. This treats all landlords as if they had just bought their building, rather than treating long-term owners differently from new buyers.

The property is purchased or owned in October 1978, just prior to passage of the temporary rent control ordinance at a price that is eight and one-half times the annual rent. This method of determining the relation between rent and sales price is called a gross rent multiplier, and this gross rent multiplier was the average for Berkeley rental properties that year.⁶ Another means to measure the value of a property

⁶ Michael St. John, "The Effects of Rent Control on Property Value: A Test of the Capitalization Hypothesis", Dissertation, University of California, 1989, p.144.

is called the "capitalization rate". The capitalization rate is the equivalent to the interest rate that the investor receives when they buy a property that provides them with a specified annual income. In this case the capitalization rate in 1978 is only 6.6 percent. This reflects owners expectation that the income from the property will rise as rents increase in the future, resulting in a higher rate of return on investment. The sale price is shown for October 1991, just prior to the "Searle" retroactive rent increases to increase net operating income.

Rent increases for 1981 through 1991 are the Annual General Adjustments set by the Rent Board. For 1980 the increase is the allowable 5 percent. For 1979 the decrease is one-half of that required by the ordinance, reflecting on a modest basis the findings described earlier on widespread non-compliance and partial compliance with the requirements of the ordinance prior to 1980. Expenses begin with the estimate for 1978 by Lowry.⁷ Expenses increase from June to June according to the findings of the Rent Board's "Historical Review" described above, and are attributed to the year of the second June, while the corresponding rent increase takes place the following year. This replicates the one year lag in cost adjustments under the Berkeley rent control system.

Since the rate of return is determined after all taxes are paid, we need to look at the pre-tax equivalent. This is the rate of return the landlord would have to receive from an alternative investment, such as mortgages or utility bonds, in order to make the same amount of money after taxes. The pretax equivalent depends on the tax bracket of the landlord. In this case we assume a middle-income owner paying a marginal tax rate of 28 percent in combined Federal and State income taxes on on additional income.

Finally, in order to determine the adequacy of the rate of return on equity we need benchmarks. The rate of inflation from 1978 to 1991 averaged 5.5 percent per year. A rate of return below that rate means that the landlord is losing money in real dollar purchasing power. The mortgage interest rate for large rental properties in 1978 was 9.5 percent. This is the rate of return that an investor could receive simply by lending their money to other people, with less risk than is taken by an owner who must pay lenders first before getting a return on investment. Thus owners presumably expected to receive a return on the order of 11 or 12 percent, giving them a premium over the mortgage interest rate.

The spreadsheet shown in Table V-3 shows the "pre-tax" rate of return, when this typical Berkeley rental property is sold in 1991 at eight times the rent, is 8.9 percent. This is above the rate of inflation and close to the apartment mortgage lending rate and constitutes a reasonable rate of return. The rate of return is not affected much by changes in the tax rate for higher or lower income owners, since higher taxes increase tax payments but increase the value of the depreciation allowance, while lower taxes reduce tax payments directly but decrease the value of the depreciation allowance.

The rate of return is strongly affected by the sales price of the property, however. Properties in Berkeley continued to sell at an average gross rent multiplier of eight.⁸ The capitalization rate for properties sold at such a price gradually declined, however, as expenses became a larger part of the total rent over time. If new buyers come to believe that a strong rent control system will be in place for the foreseeable future, and that under rent control they should pay a price that gives them the interest rate they want now rather than counting on future rent increases, then they will insist on a higher capitalization rate. If the spreadsheet in Table V-3 is modified to reflect a sales price based on a capitalization rate of 7.5 percent,

⁷ Lowry, Ira S. "The Financial Performance of Rental Property Under Rent Control: Berkeley, California, 1978-85." California Housing Research Institute, March 1985.

⁸ See St. John, *ibid*, for 1980 - 1988. The City of Berkeley Community Development Department found the same figure for 1990.

the sales price is reduced almost \$100,000, to \$238,204 and the "pre-tax equivalent" rate of return is reduced to 6.1 percent, only slightly higher than the rate of inflation. Furthermore, after taxes and sale costs, the owners will have slightly less money left than they originally put into the building or thought they had in equity in 1978. They do not actually lose money, because they received an income stream during the years they owned the building. It undoubtedly would feel like a loss to most owners, however, and they will be acutely aware that they would have done better putting their money in the bank.

Although the rate of return under the 1980 - 1991 rent control system was potentially reasonable for most owners, this depended on maintaining a gross rent multiplier of eight that clearly would have become unsustainable. The spreadsheet shows a gradual decline in the capitalization rate of net operating income from 6.6 percent to 5.2 percent. New buyers would be more cautious about the actual net operating income that accompanied the legal rent and those that were not careful would find themselves with unprofitable properties, having paid too much for them. Most original owners had difficulty selling their buildings for what they considered an appropriate price that would give them a clear profit on their investment and many felt trapped by the rent control system. Toward the end of the 1980's it seems likely that only speculation on some weakening of the rent control system was holding up rental housing prices. Thus, while the historical record on sales prices indicates a decent, although modest, return on investment for owners who sold their rental property, it also suggests that the rent control system was having greater and greater difficulty providing such a rate of return, since it depended on sales prices that the rent structure would not sustain over the long run.

Table V-3: Estimated Financial Performance of Rental Property Under Rent Control: Part 1

median mortgage, median-rent, median expenses, middle-income owner								
PURCHASE PRICE:	8.5	X Gross Rent			SALE PRICE:	8.0	X Gross Rent after 1983	
LOAN TO VALUE RATIO:	0.4				DEPRECIATION:	25	Years, Straight Line	
LOAN RATE:	9.5%	FIXED			TAX RATE:	28%		
LOAN TERM:	25	YEARS			UNITS IN BUILDING:	10		
UTILITIES PAID BY:	Tenant				REDUCES RENT, 1979:	50%	of required amount	
Rate of Return Over Life of Investment			6.98%	after taxes				
Rate of Return as Pre-Tax Equivalent			8.93%					
Average Rate of Inflation, 1978-91			5.51%					
YEAR	1978	1979	1980	1981	1982	1983	1984	1985
MONTHLY RENT	\$219	\$212	\$223	\$234	\$255	\$267	\$267	\$272
MONTHLY OPERATING COST INCREASE		-\$13.58	\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%
CPI-LS (June-June Increase)	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%
PURCHASE/SALE PRICE	\$223,380	\$216,455	\$227,278	\$238,642	\$260,120	\$256,447	\$256,447	\$261,576
DEBT	(\$89,352)	(\$88,373)	(\$87,300)	(\$86,126)	(\$84,841)	(\$83,433)	(\$81,891)	(\$80,203)
EQUITY	\$134,028	\$128,082	\$139,977	\$152,516	\$175,279	\$173,015	\$174,556	\$181,373
CAPITALIZATION RATE	6.6%	7.2%	6.7%	6.4%	6.4%	6.5%	6.3%	5.9%
RENT	\$26,280	\$25,465	\$26,739	\$28,076	\$30,602	\$32,056	\$32,056	\$32,697
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262
NET OPERATING INCOME	\$14,717	\$15,531	\$15,230	\$15,283	\$16,620	\$16,753	\$16,205	\$15,435
EXPENSE RATIO	0.44	0.39	0.43	0.46	0.46	0.48	0.49	0.53
DEBT SERVICE		(\$9,468)	(\$9,468)	(\$9,468)	(\$9,468)	(\$9,468)	(\$9,468)	(\$9,468)
REMAINING MORTGAGE		\$88,373	\$87,300	\$86,126	\$84,841	\$83,433	\$81,891	\$80,203
INTEREST		(\$8,488)	(\$8,395)	(\$8,294)	(\$8,182)	(\$8,060)	(\$7,926)	(\$7,780)
PRINCIPLE		\$979	\$1,072	\$1,174	\$1,286	\$1,408	\$1,542	\$1,688
BEFORE TAX CASH FLOW		\$6,064	\$5,763	\$5,816	\$7,152	\$7,286	\$6,737	\$5,967
DEPRECIATION		\$7,148	\$7,148	\$7,148	\$7,148	\$7,148	\$7,148	\$7,148
TAX DEFERRAL (PAYMENT)		\$304	\$388	\$373	(\$1)	(\$38)	\$115	\$331
COST OF SALE								
TAXABLE GAIN								
TAX PAYMENT								
AFTER TAX CASH FLOW	(\$134,028)	\$6,367	\$6,151	\$6,189	\$7,151	\$7,247	\$6,852	\$6,298

Table V-3: Estimated Financial Performance of Rental Property Under Rent Control: Part 2							
1986	1987	1988	1989	1990	1991	SALE: 1991	YEAR
\$283	\$293	\$318	\$328	\$344	\$361		MONTHLY RENT
\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64		Monthly Operating Expense Increase
2.7%	15.4%	5.7%	6.3%	4.1%	5.8%		COST INCREASE AS % OF RENT
1.5%	1.7%	5.0%	5.3%	3.8%	4.5%		INCREASE In CPI-Less Shelter
\$271,824	\$281,337	\$305,337	\$314,498	\$329,858	\$346,178	\$346,178	SALE PRICE
(\$78,355)	(\$76,331)	(\$74,115)	(\$71,688)	(\$69,031)	(\$66,121)	(\$66,121)	DEBT
\$193,469	\$205,007	\$231,223	\$242,810	\$260,827	\$280,057	\$280,057	EQUITY
6.0%	5.2%	5.4%	5.2%	5.2%	5.2%	5.2%	CAPITALIZATION RATE
\$33,978	\$35,167	\$38,167	\$39,312	\$41,232	\$43,272		RENT
\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324		EXPENSES
\$16,255	\$14,717	\$16,559	\$16,337	\$17,305	\$17,948		NET OPERATING INCOME
0.52	0.58	0.57	0.58	0.58	0.59		EXPENSE RATIO
(\$9,468)	(\$9,468)	(\$9,468)	(\$9,468)	(\$9,468)	(\$9,468)		DEBT SERVICE
\$78,355	\$76,331	\$74,115	\$71,688	\$69,031	\$66,121		REMAINING MORTGAGE
(\$7,619)	(\$7,444)	(\$7,251)	(\$7,041)	(\$6,810)	(\$6,558)		INTEREST
\$1,848	\$2,024	\$2,216	\$2,427	\$2,657	\$2,910		PRINCIPLE
\$6,787	\$5,249	\$7,091	\$6,869	\$7,837	\$8,481		BEFORE TAX CASH FLOW
\$7,148	\$7,148	\$7,148	\$7,148	\$7,148	\$7,148	(\$92,926)	DEPRECIATION
\$101	\$532	\$16	\$78	(\$193)	(\$373)		TAX DEFERRAL (PAYMENT)
						\$27,694	COST OF SALE
						\$188,029	TAXABLE GAIN
						(\$52,648)	TAX PAYMENT
\$6,888	\$5,781	\$7,107	\$6,947	\$7,644	\$8,108	\$199,714	AFTER TAX CASH FLOW

Table V-4 presents a grid showing the rate of return for three different types of property owners depending on whether they fully complied with the roll-back provisions of the 1978 ordinance (reducing rents by 6.2%), gave a partial roll-back (reducing rents by 3.1%), froze rents but did not roll them back (no change in rents) or ignored the law and increased rents by 6.2% (slightly less than the 7.2% increase in Bay Area rents from 1978 to 1979). The three types of owner are first, a "security-oriented" owner with no mortgage debt, second the average owner with a five year old loan at 9.5 percent interest in the amount of 40 percent of the value of the property, and third, a highly leveraged "speculative" owner who has just bought or refinanced the property at 10 percent interest and has a mortgage covering 80 percent of the value of the property. In each case the property is sold in 1991 at a capitalization rate of 8.0 percent.

Change in Rent, 1979	Rent Increase	Rent Freeze	Half Rollback	Full Rollback
No Mortgage	7.9%	7.1%	6.7%	6.2%
Mortgage at 40% of Value	8.8%	7.6%	7.0%	6.4%
Mortgage at 80% of Value	11.8%	9.3%	8.0%	6.7%

Table V-4 also helps show the effects of "leverage", with a swing of 4 percentage points between the highest and lowest rate of return for the highly leverage property and a swing of only 1 percent for the property with no mortgage at all. Highly leveraged owners had the most incentive to try to avoid the ordinance, while owners with little or no mortgage had the least incentive to ignore the ordinance. In general, landlords who pay off their mortgages are smaller and less professional in their approach to property management. We can make the same calculations for a low-rent property with proportionately higher expenses, equal to those of the median priced unit, and with moderate or low-income owners who have a low tax rate and no mortgage on the property. In this case we find that the fixed dollar increases have succeeded in raising its rents enough to compensate for the high expenses, but the rate of return depends a great deal on the sale price of the property. At a gross rent multiplier only slightly lower than the original, the owners make a modest return on their investment. A capitalization rate of 7.5 percent, however, results in a price that provides a reasonable rate of return for the new buyer, but the previous owners fail to get a rate of return that allows the value of their investment at the beginning of rent control to keep up with inflation.

If Berkeley had not had rent control, and rents had increased by the same amount as they did in the rest of the Bay Area, the average Berkeley landlord would have received an extraordinary rate of return. Table V-5 shows the estimated annual rate of return for our three types of landlord if rents increased by the Residential Rent component of the Consumer Price Index for the Bay Area. In this model, the highly leveraged Berkeley landlord would have received a pre-tax equivalent rate of return of almost 30 percent per year from 1978 and 1991, while the average landlord received a still-remarkable 19 percent per year. Landlords in neighboring communities were undoubtedly receiving a similar rate of return, creating a sharp contrast between Berkeley and other Bay Area cities.

Table V-5: 1978-1991 Pre-Tax Annual Rate of Return Without Rent Controls	
80% Mortgage	28.4%
40% Mortgage	18.9%
No Mortgage	15.6%

Next, we can examine the rates of return that would have resulted from the use of alternative rent control systems, ranging from the 1978 to 1991 system with no increase in net operating income to no controls at all (or a system with vacancy decontrol that tracks market rents while protecting individual tenants until they move) and the many possibilities in between. Table V-6 shows the rates of return for the average landlord under alternative rent control systems that allow inflation increases on a percentage of net operating income. This table is not directly comparable to Table V-3 because it uses different sales price assumptions.⁹ (See Appendix E for the spreadsheets.) The table shows the NOI increase, the resulting 1991 rent, the rate of return and also shows how much this 1991 rent increased in relation to inflation, as measured by the increase in the Bay Area Consumer Price Index - Less Shelter.

Table V-6: Rate of Return Under Alternative Rent Control Systems, 1978 - 1991			
% of NOI Increased by 100% of CPI-LS	100% of Rent Increased by ___% of CPI-LS	1991 Monthly Rent	Rate of Return (Pre-tax equivalent)
147%	150%	\$549 (Market)	18.8%
103%	111%	\$463 (Post-"Searle")	14.7%
100%	108%	\$458	14.4%
75%	91%	\$419	12.0%
67%	86%	\$408	11.3%
50%	76%	\$386	9.6%
40%	70%	\$374	8.6%
28%	64%	\$361 (Pre-"Searle")	7.3%
0%	52%	\$334	4.4%

⁹ Unlike Table V-3, which modeled the actual profitability of an average property from 1978 to 1991 and used the actual 1990-91 gross rent multiplier to determine sales prices, this table uses sales prices that should be sustainable over the long run. The sales price capitalizes NOI at a rate of 6.7 percent, the same as when the property was purchased in 1978, except for properties under rent control systems that allow NOI to increase by less than 67 percent of inflation. For these the capitalization rate is 7.5 percent and for the property with NOI at a fixed dollar amount, the cap rate is 8 percent. As a result, Table V-6 shows a lower rate of return than Table V-3 for a similar 64% increase in rents.

The top row shows the amount of increase that is equivalent to market rents. Next is the amount of increase equivalent to the rent set by the Rent Stabilization Board in 1991 under the "Searle" increase.¹⁰ At the bottom is the way the system worked in theory, with no increase in dollar value of NOI. This results in a rate of return lower than the rate of inflation, a loss to the landlord in real dollars. (Highly leveraged landlords, with mortgages of 70 to 80 percent and higher interest rates would have absolute dollar losses.) Above that is the increase that results in a rent equivalent to that actually allowed under the rent control system until the retroactive "Searle" increase. Also included is the alternative proposal, incorporated into the unsuccessful ballot measures in 1992, to allow rents to increase by an amount that would increase half of NOI by inflation.

The rate of return for 1978 owners who sell their property immediately after receiving the retroactive "Searle" increase would average 11.6% rather than the 14.7% listed in Table V-6, because owners were not able to receive the higher rents from 1979 to 1991. The fact that they receive such a substantial increase in rate of return despite 13 years of controlled rents reflects the large proportion of profit that comes from appreciation in property values rather than increased cash flow.

Finally, we can extend spreadsheet models of property under rent controls into the future to look at what will happen to profitability under different conditions. Table V-7 shows the results of six variations on the spreadsheet "Hypothetical Financial Performance of a Property Under Rent Control" (see Appendix E). This example uses a property that is purchased and resold twice in a fifty year period, with adjustments for NOI of 0%, 50% and 100% and with inflation at either 4% or 8%. The sale and purchase prices are based on the capitalized value of the net operating income, with the capitalization rate set at 7 percent, and a fixed rate mortgage loan at 10 percent interest for 60 percent of value.

Increase in NOI	Rate of Inflation, 4%	Rate of Inflation, 8%
Zero	4.9%	4.9%
50% of Inflation	9.6%	13.6%
100% of Inflation	13.6%	20.5%

As long as the purchase price is based on the capitalized value of the Net Operating Income, profitability is identical for the two buyers operating 25 years apart, even though the proportion of rent going for expenses increases substantially for the two scenarios in which NOI increases by less than the rate of inflation. In the case of the frozen NOI, with no inflation increase, the owner makes a small profit in the low-inflation scenario by adding the value of paying off the mortgage and the value of tax benefits to an unchanging cash flow, but loses ground relative to inflation in the high-inflation scenario. With NOI increasing at 50 percent of the rate of inflation the owners receive a perfectly respectable rate of return that is 5.6 percent above the rate of inflation in each scenario. Finally, the owners whose NOI increases at the rate of inflation receive either a high or a very high rate of profit.

¹⁰ This is higher than the increase for 100 percent of Net Operating Income because the Rent Board assumed that all past AGAs were exactly equal to the average cost increase and because they applied the 1979 - 1990 inflation to the 1980 rather than 1979 rent.

VI. CONVERSION OF RENTAL UNITS

- The loss of rental units in Berkeley from 1980 to 1990 was due almost entirely to two factors, loss of residential hotel rooms, which were not affected by rent controls, and conversion of rental units for use by owner-occupants.
- About 3,500 units that were rented in 1980 were not rented in 1990, including 1,200 single-family houses converted to owner-occupancy, 750 units in multi-family property converted to owner-occupancy, 500 more vacant units, mostly in smaller properties that have owner-occupancy potential and absorption of about 650 rentals into enlarged single-family houses.
- Rent control encourages alternative use of rental space by reducing the opportunity cost of conversion, but conversion can also be restrained by creation of new condominiums to meet the demand for ownership of apartments and by regulatory restrictions on conversion in properties with multiple units.
- It is not practical to restrict conversion of single-family houses, and since most of their owners are not real estate professionals they are easily discouraged from renting by fear of bureaucratic entanglements.
- There is no evidence that rent control has any effect on construction of new housing.

An unintended effect of rent controls is often said to be the loss of rental units. The U.S. Census reported that the number of units rented in Berkeley declined from 27,821 in 1980 to 24,512 in 1990, a loss of 3,309 rental units. Such a loss could take place in four main ways -- by the removal of units from the housing stock, either through deterioration, demolition or conversion to non-residential uses; by an increase in vacant units as owners wait, either to convert the unit to other uses or for more favorable regulatory conditions; by conversion of rental units to owner-occupancy; and by a reduction in the number of new units built. In this section we analyze the reasons for the decline in the number of rental units and the extent to which rent controls contributed to this decline.

Removal of Units

Units can only be removed from the Census count in two ways: the physical removal of the unit (by demolition, conversion of the space to other uses, or boarding up the building as uninhabitable) or the redefinition of the unit (as group quarters or shared space that is part of a larger unit). In addition, there is often some variation in how the Census counts the type of building in which units are located. The same structure could be counted as a series of attached single-family houses or as a building with eight units, for example, depending on how it is treated by the people conducting the Census at any given time.

Most demolition of housing in Berkeley was halted by passage of the Neighborhood Preservation Ordinance in 1973. Table VI-1 shows the count of units removed, either with permits or due to natural disaster. The number was reduced to one-tenth of its previous level after 1972. Legal removal of units is now only possible if the unit is a safety hazard or if it will be replaced with another unit of comparable

affordability. The units removed in 1990, for example, are mostly the result of the redevelopment of the 3000 block of Sacramento Street that resulted in construction of Byron Rumford Plaza, with 43 units. The number for 1991, for example, reflects the fire in the Hills of Oakland and Berkeley and a fire in a fraternity building.¹

Year	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980		
Units Removed	163	178	19	21	13	13	6	6	13	21		
Year	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Units Removed	0	6	2	12	2	5	5	4	0	27	95	

Despite the reduction in legal demolition of units, the available data indicate that the City lost approximately 1,068 units from its existing housing stock between April 1980 and April 1990. The 1990 Census reported a 599 unit decline in the total number of housing units in Berkeley, from 46,334 to 45,735. This is the net change in units, taking into account new units that were added during the 1980's, and is somewhat inaccurate due to miscounting residential hotel rooms. In order to look at changes in the housing stock as it existed in 1980 we need to look at the gross loss of units since 1980, making corrections for units added and miscounted.

City records show the net addition of 765 units in the 1980's, taking into account all units added with building permits and all units removed with permits or due to natural disasters.² Thus the apparent

¹ The table shows no loss of units for 1989, despite the loss of 74 rooms in the UC Hotel due to the Loma Prieta earthquake, because the City of Berkeley's internal counts do not recognize residential hotel rooms as units, even though such rooms are counted as units by the U.S. Census.

² The number of units legally added in the 1980's is determined as follows. The Census dates are April 1, 1980 to April 1, 1990. The City of Berkeley, "Housing Stock Changes Report as of December 31, 1983", dated December 4, 1984, shows for each census tract and city-wide the number of units legally added and removed each year from 1976 to 1983 and gives a total number of units at the end of 1983. Since very little construction takes place in the Bay Area from January to March, which is in the rainy season, we assume that changes in 1980 took place after the Census date of April 1, 1980. The changes are applied to the 1983 total to give an April 1, 1980 total. The City of Berkeley, "Housing Stock Changes Report through December 31, 1991", dated October 1992, gives totals for each census tract and city-wide for April 1, 1990. Subtracting the 1980 numbers from the 1990 numbers then provides the net number of units that were legally added to the housing stock between the 1980 and the 1990 Census. The Housing Stock Changes reports include legal removal of units as well as the addition of units, but in almost all cases the legal removal of a unit requires its replacement with a new unit, so that most removals take place only as part of creation of new housing. When units are removed in order to replace them with new units, this is not treated as a form of removal of units because the new units include replacement housing at a similar level of affordability to those removed. They are not simply removed and replaced with, for example, expensive condominiums.

decline in units from 1980 to 1990 was even greater than it first appeared, since new units masked the loss of some existing units. At the same time, the apparent decline is somewhat overstated because the 1990 Census mistakenly shifted most of the City's remaining residential hotel rooms from the unit category into the group quarters category.³ As a result, 88 rooms at the YMCA, 45 at the Nash, 50 at the University and 113 at the Carleton were not counted in the 1990 Census, although they had been counted in the 1980 Census -- a total of 296 rooms. Taking both the added units and the miscounted units into account, the actual loss of units is 1,068.⁴

The geographical distribution of loss of units is presented in Table VI-2.

AREA	Units Removed	Census Tracts in Area
Hills	320	4211-4217, 4238
North-Central	200	4218-19, 4222-23, 4230-31
Downtown & South Campus	432 ⁵	4224-29, 4236-37
West Berkeley	45	4220-21, 4232
South Berkeley	71	4233-35, 4239-40
Berkeley	1,068	4211-40

The largest single part of the loss of units results from the removal of 401 residential hotel rooms during the 1980's, mostly in the Downtown area. This was a continuation of a long-term decline in residential hotel rooms that has continued in Berkeley, despite passage of the Residential Hotel Preservation Ordinance in 1986. The Census category of "units lacking some or all plumbing" is roughly equivalent to residential hotel rooms. The number of such units declined from 1,466 in 1970 to 908 in 1980 and to 210 (properly 511, correcting for reductions where hotels were mistakenly reclassified) in 1990.

Losses of residential hotel rooms in the downtown area between 1980 and passage of the Residential Hotel Non-Conversion Ordinance in 1986 included the conversion of the 174 room Shattuck Hotel from a retirement community to tourist use, conversion of the 22 room Pasand Hotel to offices, and conversion

³ Although the formal definition of a unit remained the same from 1980 to 1990, the descriptive materials used by Census workers appear to have stated that all hotels counted as group quarters and failed to explain the residential hotel exception.

⁴ 599 units less in the 1990 Census than in the 1980 Census + 765 units built between the 1980 and 1990 Censuses - 296 residential hotel rooms not counted as units in the 1990 Census = 1,068 units removed between the 1980 and 1990 Censuses.

⁵ This takes out the 296 units of residential hotel rooms apparently not counted by the 1990 Census.

Stabilization Program records to enforce other ordinances such as the City's zoning ordinance. With the existing data it is difficult to determine how widespread this practice may be. Known cases add up to less than 50 units, but there are likely to be many more that have never come to the attention of the City. Between these consolidations and some conversion of secondary units back into space within single-family homes in the flatlands areas, it is quite possible that these account for the remaining 350 units of the total decline.

Further evidence that most of the loss of units resulted from loss of residential hotel rooms and reconversion of illegal units comes from comparison of City records with Census data. The City has done periodic Housing Stock Changes Reports, starting with 1972 in response to errors in the 1970 Census. The Housing Stock Changes Reports do not include residential hotel rooms or illegal units. They resulted in counts which showed substantially fewer units in the City in 1970 and 1980 than were reported in the Census. The 1990 Housing Stock Changes Report closely agrees with the Census for 1990. (See Table VI-3, below). This convergence is further evidence that the loss of units was primarily in the removal of residential hotel rooms, whether in reality or as a result of improper counting, and of illegal second units.

Census 1970	Housing Stock Changes Report, 1972	Census 1980	Housing Stock Changes Rpt. 1980	Census 1990	Housing Stock Changes Rpt. 1990
46,160	44,532	46,334	45,047	45,735	45,812

In summary, the loss of 1,068 units from 1980 to 1990 is accounted for by the loss of 400 residential hotel rooms, the absorption of over 300 secondary units in the Hills into larger single-family homes, and a combination of absorption of secondary units, reconversion of buildings from rental units back to owner-occupied single-family homes and a small number of apartments closed down in protest over rent controls.

The decline in units appears to be almost entirely in the rental housing stock. Most of the decline in units has three sources, removal of residential hotel rooms, removal of second units in single-family neighborhoods and consolidation of small rental properties into (often back into) single-family homes. Rent control should have little effect on either of the first two forms of housing. Rental units in two-unit owner-occupied properties were exempt in 1980 and where second units have been added since then, the second units are exempt because they are new. Thus almost all second units in single-family neighborhoods are exempt from rent control. It is possible, however, that concerns about rent control on the part of homeowners unaware of the exemption may have contributed to the removal of some second units. The conversion of larger multi-family dwellings to single-family use is the result of a combination of increasing home prices and the effects of rent controls on the value of rental property and thus is partially attributable to rent controls. Residential hotel rooms are supposedly covered by rent controls, but in fact, due to the ambiguous nature of these units and rapid tenant turnover, the Rent Stabilization Program has never developed complete records for these units. To the extent that they are covered, the Rent Board practice of allowing flat rate increases has resulted in raising the rent ceilings on these units to market levels. The difficulties faced by residential hotels are the result of the difficulty of making a profit while serving the very poor, not the result of rent controls.

Comparison of Census Tracts in Berkeley and in Neighboring Cities Without Rent Controls

To determine the role of rent controls in contributing to the loss of rental units we need to be able to compare what happened to similar rental units with and without rent controls. Comparisons can be made over time, comparing trends in Berkeley under rent control with the trends that existed before rent control or between places, comparing trends in Berkeley with trends in other areas without rent control. Each type of comparison has its advantages and disadvantages. Before and after comparison within Berkeley means that the neighborhoods and units being compared are almost identical, unless major development has taken place. If, however, a change that affects a broader area than Berkeley takes place at the same time as the start of rent controls, we may mistakenly attribute its effects to rent control. For example, changes in interest rates and major increases in home prices occurred during the 1980's and affected in both Berkeley and surrounding communities. We can guard against this error by comparing Berkeley with other cities in the Bay Area that do not have rent controls. But other cities have different circumstances as well, such as more vacant land available for new construction, or different initial population characteristics. In order to avoid such problems, we will examine adjoining census tracts in Berkeley and in neighboring cities. These tracts have similar populations, similar zoning, similar positions in the housing market and thus minimize all differences except the presence or absence of rent control. (Map A shows the location of each Census tract in Berkeley and those studied in neighboring communities.)

Table VI-4 compares adjoining Census tracts in Berkeley, Oakland, Albany and Kensington. The results of this comparison are quite striking and very different from what would result from a simple comparison of Berkeley with other cities as a whole. Most of the census tracts in Berkeley lost housing units between the 1980 and 1990 Censuses, but so did the two tracts that make up the neighboring unincorporated community of Kensington, an area similar to the Berkeley Hills, so did the three Albany tracts that border on North Berkeley, and so did several tracts in North Oakland that are similar to the neighboring tracts in South Berkeley. The loss of units turns out to be a general trend in stable census tracts in Northern Alameda County, not something that is unique to Berkeley.

Table VI-4: Loss of Units in Berkeley and Neighboring Cities							
City (Tract)	1980 Units	Loss or Gain, 1990	Percent Loss or Gain	Neighboring Berkeley Tract	1980 Units	Loss or Gain, 1990	Percent Loss or Gain
OAKLAND	150,212	154,737	+3.01%	BERKELEY	46,334	45,735	-1.29%
ALBANY	7,035	7,468	+6.15				
Kensington (3910 & 3920)	2,287	-36	-1.57%	4212	1,487	-26	-1.75%
Oakland (4002)	921	-3	-0.33%	4238	1,391	-29	-2.08%
HILLS (3910, 3920, 4002)	3,208	-39	-1.22%	Berkeley Hills (4212, 4238)	2,878	-55	-1.91%
Albany (4201)	939	-13	-1.70%	4213	1,729	-21	-1.27%
Albany (4206)	1,316	-8	-0.61%				
Albany (4205)	963	-4	-0.42%	4219	1,790	-39	-2.18%
S.E. Albany (4201,05,06)	3,218	-25	-0.78%	North Berkeley (4213,19)	3,519	-60	-1.71%
Oakland (4004)	1,862	-11	-0.59%	4239	1,754	-66	-3.76%
Oakland (4005)	1,564	-15	-0.96%				
Oakland (4007)	1,832	+34	+1.86%	4240	2,332	+11	+0.47%
Oakland (4008)	1,321	-41	-3.10%				
North Oakland (4004,5,7,8)	6,579	-33	-0.50%	South Berkeley (4239,40)	4,086	-55	-1.35%

The idea that higher rents will result in more housing proves to be false at the tract level. In theory, property owners will respond to the increased demand shown by extraordinary increases in rents by adding secondary units and subdividing existing homes. In practice, the new higher-income owners moved into the Berkeley-Albany-Kensington-Oakland area in the late 1970's and 1980's are doing exactly the opposite -- removing units. The Albany School District, for example, hired consultants to locate unrecorded second units after passing a school tax in 1988 that required an annual payment for every unit. The City of Albany then required owners to legalize or remove those units that did not have permits. Owners of 29 out of 103 reported second units told the City that the space was no longer used as a separate unit. In a number of cases owners removed kitchens and capped gas lines to ensure the unit could no longer be used.⁸

⁸ Claudia Cappio, Planning Director and Robert Zweben, City Attorney, "Status Report On Secondary Unit Legalization and Abatement Program", June 21, 1990, City of Albany.

As suggested by the Albany example, the loss of units in these neighborhoods most likely results from the merger of rental units into larger owner-occupied spaces. This involved a combination of removal of secondary units from within homes and reversing the previous division of some large single-family houses into a number of small separate units. As home prices increase, which they did at a spectacular rate from 1975 to 1990, the homeowners who buy these houses have higher incomes, so it is not surprising that space that once provided a home for a tenant and additional income for the homeowners would now be more valuable on the market as an additional bedroom or as office space within a larger owner-occupied home. In none of these areas are we faced with any substantial number of properties that are abandoned or demolished and not replaced with other housing such as has happened with residential hotels in both Berkeley and Oakland.

The Berkeley tracts did lose proportionately more units than neighboring tracts, which suggests that rent control may have intensified the loss. We are dealing with differences of only a few units, an average of 0.83% percent of the total housing stock, so that it is also quite possible that all or part of the difference is the result of other differences between the cities involved. For example, since Berkeley tracts are nearer the University there may have been more second units built or homes divided up to rent to students and then subject to removal by later owner-occupants. It seems likely that rent control somewhat intensified this phenomenon and may have created some concern among homeowners about renting second units in Berkeley, even though they were actually exempt, simply due to lack of knowledge about how the system worked or heightened concern over potential difficulties in dealing with tenants who believe that they have more rights than tenants have elsewhere. If we attribute all of the 0.83 percent greater loss of housing in the Berkeley tracts to rent control, and project this amount over the entire City, this amounts to 380 units or 1.3 percent of the rental housing stock in 1980. This is just over one-third of the total decline in units, providing additional evidence that the effects of rent control are only one part of the picture.

New Construction

In addition to the actual loss of rental units, we need to consider whether construction of new rental units may have been foregone due rent controls. New units are exempt from rent controls in order to avoid such an effect, but it is often argued that rent control will discourage construction of new rental units anyway. Prospective developers may fear that rent control will eventually be extended to new units at some future date, as it was in New York City after thirty years of continuous controls. On the other hand, rent control has the effect of increasing rents among the small number of units that are not controlled. This is because rent control increases the ability of lower income tenants to afford places to rent and thus decreases the ability of higher income tenants to get the places they want by paying more than lower income tenants. This means that higher income tenants can only exercise their greater buying power in neighboring cities or in the small number of units that are not subject to controls. This increased competition for units will bid up rents among the small number of uncontrolled rental units and should thus encourage prospective developers to build more of them.

In order to put housing construction into a historical context, Table VI-5 shows the approximate number of units built in Berkeley since the Second World War. From the 1940s to the 1970s an increasing proportion of new housing was constructed as rental housing. New construction decreased substantially after the 1960s. Intervening events include passage of the Neighborhood Preservation Ordinance (NPO) by initiative in April 1973, rent control initiatives in November 1978 and June 1980, and the Inclusionary Ordinance in 1986. New construction declined substantially in the 1970's even prior to passage of the Neighborhood Preservation Ordinance (NPO), one of whose explicit purposes was to reduce "over-construction". After passage of the NPO there was a further reduction in new housing, although this is less than it appears initially since the NPO prevented demolitions of existing housing.

YEARS	1940s	1950s	1960s	1970-74	1975-79	1980-84	1985-89
UNITS	6,124	5,188	5,751	1,227	443	518	583
UNITS/YEAR	612	512	575	245	89	103	111
RENTAL UNITS	3,255	3,224	4,715	1,121	246	394	441
UNITS/YEAR	326	322	472	224	49	79	84
% RENTAL	53%	62%	82%	91%	56%	76%	76%

The NPO required use permits for construction of one or more units, established a strong inclusionary zoning requirement for new construction and made it difficult to remove small single-family houses and replace them with apartment buildings. As the measure's proponents intended, a substantial number of existing units were preserved that otherwise would have been demolished (see Table VI-1). As a result, City records indicate a net average gain of only 57 units annually from 1971 to 1974 after demolitions are deducted from new construction.¹⁰ No subsequent period shows major changes in construction rates.

The City's "Housing Stock Changes" reports give slightly different numbers from those reported by the U.S. Census, but the pattern is the same. During the years after passage of the NPO and before rent controls, the five year period from 1974 through 1978, Berkeley building records showed the net addition of 295 units, an average of 59 annually. In the five year period from 1979 through 1984, with both the NPO and rent controls in effect, the City added 374 units, an average of 75 annually. In the six year period from 1986 through 1991, the reports show the addition of 433 units, an average of 72 units annually.¹¹ Using data on permits, rather than completions, Baar found that from 1973 to 1978 the City issued permits for 198 units of multi-family housing compared with permits for 390 units of multi-family housing from 1979 through 1985.¹² Just as rent control can not be blamed for everything that changed for the worse after 1979, it also can not be credited with every improvement. During the five years prior to rent controls, only 90 units of subsidized housing were built in Berkeley, while in the five years afterwards 193 units were built.

⁹ Source: 1990 Census. Division of units produced in the 1970s uses the ratio reported in the 1980 Census and applies it to the number of units reported in the 1990 Census. The number of units reported as built in any decade varies somewhat from Census to Census depending on the knowledge of the respondents and the replacement of units over time.

¹⁰ City of Berkeley, "Housing Stock Changes Report: As of December 31, 1983", December 4, 1984.

¹¹ City of Berkeley, "Housing Stock Changes Report", 1977, 1985, 1988, 1992. A year by year breakdown is not available for the 1985-1988 period.

¹² Ken Baar, "Facts and Fallacies in the Rental Housing Market", Western City, September 1986.

Private-sector interest in building in Berkeley changes with economic conditions. During 1989 the City issued building permits for more units of multi-family housing than it had since 1971: a 199 unit residential hotel and two apartment buildings with 47 and 36 units and 18 apartment condominiums, all to be privately developed, as well as a 43 unit subsidized project. With the onset of the Savings and Loan crisis and California's severe recession, financing became more difficult to obtain and the residential hotel and the 47 unit apartment building were never built. There is no evidence that rent control has been a factor in these developments.

We have already seen, in Table VI-4 above, that while Oakland and Albany added more units than Berkeley, virtually no building took place in the matched census tracts. Albany had an area separated from the rest of the City by Albany Hill with several major buildable parcels. New housing development will be much more difficult there in the future, as only one of these parcels remains to be built on. Oakland is a much larger city, with a number of areas suitable for development and a political climate that is much more hospitable to new construction.

The best available evidence shows that rent control had little or no effect on the construction of new housing, either to encourage or discourage it.

Vacant Units

The classic image of loss of rental housing due to rent control is of a building that has deteriorated until it is uninhabitable and is boarded up because the landlord could not afford to maintain it. There are vacant and boarded up buildings in Berkeley, but these are not the result of impossible economic conditions resulting from rent control. There are approximately 40 long-term vacant buildings in Berkeley, mostly single-family, with a total of about 100 units, not counting two vacant residential hotels -- the Stark hotel with 17 rooms and the Campanile with 30 rooms. This figure has remained fairly constant throughout the 1980's. The Census reported an increase in the number of units boarded up from 24 in 1980 to 111 in 1990. Much of this increase is the result of stronger efforts by the City to ensure that vacant buildings are made secure, since they attract drug users and dealers and are a substantial danger to the surrounding neighborhoods, rather than an actual increase in the number of vacant properties.

The vacant buildings are scattered around the City and are caused by various individual problems of their owners, including probate conflicts, mental disabilities and personal economic set-backs to part-time renovators who tear a house apart and then are unable to complete the work. They come back on to the market as these problems are resolved. There are a few cases in which owners have closed down buildings in protest of the City's rent control ordinance. In one case the owner of a building with 4 units took it off the market at the time Berkeley passed its first rent control ordinance back in 1972 and kept it vacant for the next twenty years before finally selling the property. Another owner of a five unit property emptied the building and kept it vacant after rent control passed in 1979, finally selling it to a non-profit housing corporation in 1994.

Most of the increase in vacant units has not been in owners holding entire multi-family buildings vacant, but rather in owners holding units within a building vacant for longer periods of time after tenants leave. Census data shows that the number of vacant housing units increased by 652 during the 1980's. The 1980 Census reported 1,630 vacant units, while the 1990 Census reported 2,282. The overall vacancy rate reached 4.98%, up from 3.5% in 1980. This is slightly below the Bay Area vacancy rate of 5.03% in 1990, up from 3.4% in 1980. The reasons for the increase in vacancy rate in Berkeley and the Bay Area

are clearly different, however, so that comparison between cities has little value here. The Bay Area vacancy rate increased most among units in large apartment buildings, where most of the new rental units are concentrated. The Bay Area increase clearly reflects a preference on the part of large landlords to maintain higher rents, even at the cost of higher vacancies. The regional increase in vacancy rate, then, is a result of the increasing rents and decreasing affordability of the Bay Area. This cannot explain increasing vacancies in Berkeley, with its below market rents.

There are several reasons why a Berkeley property owner may leave units vacant. Holding units vacant to sell them for owner occupancy is the most important reason, and most likely with smaller properties. Units are more attractive to owner-occupants in smaller buildings that more closely resemble single-family ownership and, with condominium conversion banned, the complexities of owner-occupancy through tenancy in common were more easily dealt with in smaller properties. We will discuss owner-occupancy at some length in the next section. In addition, owners may hold units vacant trying to get a tenant who receives rental assistance from the Berkeley Housing Authority under the Federal Section 8 program. These tenants pay an approximation of market rent, rather than the rent controlled rent. This bonus has made it much easier for Section 8 tenants to find good quality apartments and for some property owners it may be worth holding a unit vacant for some months waiting to get such a tenant. Prior to the 1991 rent increases, the Housing Authority reported a steady stream of calls from landlords seeking Section 8 tenants. This may help explain the increase in vacancy rate in South Berkeley, where conversion of multi-family housing to owner-occupancy is relatively rare.

Table VI-6 breaks down the 1980 to 1990 increase in total vacancies of 667 into several parts as reported by the Census.

Type of Vacancy	1980	1990	Change
For Rent	695	751	+56
For Sale	165	309	+144
Rented or Sold, Awaiting Occupant	282	252	-30
Occasional Use	79	84	+5
Other	394	886	+492
ALL	1,615	2,282	+667

The table shows indicates that about one-fifth of the increase in vacancies is among units that are for sale and, as we will see in Table VI-7, this increase in vacant for-sale property is about equal to the increase in vacancies in single-family properties. Three quarters of the increase in vacant units is among "other vacant" units. These are units that are not on the market at all and are most likely to be former rentals. Table VI-6 shows that the increase in "other vacant" is nearly equal to the increase in vacant units in properties with two or more units. The reduction in rented or sold awaiting occupancy likely reflects greater speed in moving in on the part of tenants obtaining rent controlled units.

The increase in vacancies thus indicates that approximately 500 more rental units were vacant in 1990 than in 1980. Since, with below-market rents, even more of the Berkeley rental housing stock was affordable and desirable to tenants, it seem fair to say that the vacancy rate should have gone down, rather than up. Clearly, then, Berkeley in 1990 had 700 or 800 more vacant rental units than it should have, given controlled rents and substantial demand for rental units. We now turn to the reasons for this increase in vacant units.

The vacancy rate increased from 1980 to 1990 in all types of property, but is substantially higher in smaller properties (See Table VI-7). There are several possible reasons for these units being vacant. Owners may be renovating a building or a unit and plan to rent it again when repairs are completed. Owners may hold units off the market in order to have a vacant building to sell to owner-occupants. Owners may hold units vacant while trying to get a tenant with Section 8 rental assistance because these tenants pay market rents. Owners may simply hold units off the market waiting for rent controls to end, something that is less costly with smaller properties.

Table VI-7: Berkeley's Vacant Housing Stock by Units in Building, 1980 - 1990¹²

Units in Structure	Units Vacant					
	1980	Percent	1990	Percent	Change	Percent Increase
One	449	2.2%	624	3.0%	+175	0.8%
Two	304	6.8%	454	9.6%	+150	2.8%
3 or 4	285	5.1%	389	7.9%	+104	2.8%
5 +	570	3.6%	815	5.3%	+245	1.7%
5 - 9	NA		416	8.5%		
10+	NA		399	3.8%		
ALL	1,630	3.5%	2,282	5.0%	+652	1.5%

¹² Slight discrepancies between subtotals and totals are because mobile homes and trailers have been excluded from this table but are included in the totals.

Rent Program records show that the number of newly exempt units grew steadily during the 1980's, starting with 54 in 1981 and rising to a peak of 624 new exemptions in 1989 (See Table VI-8). The number of exemptions then declined in 1990, as home prices stabilized. The increase in not available for rent and vacancy exemptions parallels the shift to owner-occupancy, providing further evidence that the two phenomena are related.

Year	Owner-Occupied	Vacant or Not Available	Total Exempt
1981	46	8	54
1982	65	15	80
1983	102	26	128
1984	140	30	170
1985	217	42	259
1986	240	131	371
1987	249	73	322
1988	236	123	359
1989	378	246	624
1990	64	41	105
1981-90	1,737	735	2,472

¹³. The year a unit was reported exempt is not available in all cases. Where units have become exempt more than once only the last exemption is recorded. Units can also be exempt because they are occupied by tenants with Section 8 housing assistance or because they are occupied rent free. These exemptions are not considered in this table because those units are still considered to be tenant occupied.

Table VI-9 shows the vacancy rates of Berkeley, Albany, Kensington and Oakland. In this case the trends in each city are not very different from the trends in neighboring census tracts (See Table VI-8). The vacancy rate data is made particularly complex, since it includes vacant for rent, for sale and for other reasons. The Hills areas, for example, are primarily owner-occupied residences, but when people are unable to sell for a price they are willing to accept, they may also be less willing to rent the home temporarily in Berkeley than similar owners are elsewhere. Vacancy rates increased in neighboring cities from 1980 to 1990, but not by as much as they did in Berkeley. Thus it seems likely that without rent controls vacancy rates would still have increased in Berkeley, but by from 0.5 to 1.0 percent less, so that there would be 240 to 480 fewer vacant units.

Area (Tracts)	1980 % Vacant	1990 % Vacant	Change	Berkeley Area (Tract)	1980 % Vacant	1990 % Vacant	Change
ALBANY	2.56%	3.70%	+1.14%	BERKELEY	3.49%	4.99%	+1.50%
KENSINGTON	1.79%	2.40%	+0.61%				
OAKLAND	5.70%	6.60%	+0.90%				
HILLS (3910, 3920, 4002)	1.56%	2.27%	+0.71%	Berkeley Hills (4212, 4238)	1.98%	3.83%	+1.85%
S.E. Albany (4201,05,06)	2.64%	3.17%	+0.53%	North Berkeley (4213,19)	2.70%	3.61%	+0.89%
North Oakland (4004,5,7,8)	4.44%	4.86%	+0.42%	South Berkeley (4239,40)	5.46%	7.91%	+2.45%

The increase in vacancy rate is not the result of rent control as such. Nessler found that vacancy rates declined in the rent controlled census tracts he studied in Santa Monica during the same period.¹⁴ It does indicate something about rent control in Berkeley, however. The most likely reason for this different result is that Berkeley owners hold units vacant in preparation for sale to owner-occupants through tenancy-in-common. TICs were rare in Santa Monica due to the prevalence of larger apartment buildings and the existence of an ordinance allowing condominium conversions under certain conditions. In the next section we will more closely examine conversion of rental units to owner-occupancy.

¹⁴ Thomas Nessler, "The Effects of Rent Controls: An Analytical Reassessment and the Experiences of Berkeley and Santa Monica, California, 1980 - 1990", Department of Economics Dissertation, University of Washington, 1992.

Conversion of Units from Rental to Owner-Occupancy

Units that shift from rental to owner-occupancy remain housing and owner-occupancy is widely considered to be a more desirable form of housing. However, the conversion of rental units to owner-occupancy typically results in a major loss of affordability as units are sold and resold at prices whose monthly costs for mortgage, taxes and insurance are much higher than monthly rents. When there is a shortage of housing affordable to lower income people, conversion of existing rental housing to owner-occupancy is likely to worsen the shortage.

Berkeley's rental housing stock is notable for the large number of units in small properties. Such properties can easily switch between rental and owner-occupancy. Larger multi-family properties are more likely to remain occupied by renters unless they are subdivided for condominium or cooperative ownership. Since 1980 the City of Berkeley has not permitted subdivision of rental property into condominiums, stock cooperatives or community apartments, each of which allow individual ownership of units or of exclusive rights to the use of units.

During the 1950's and 1960's, as many middle-income people moved out of central city areas into more modern homes in the suburbs, an increasing proportion of single family houses were rented in the more central urban areas such as Berkeley. Owner-occupied units in Berkeley declined from 17,477 in 1960 to 15,923 in 1970. By the 1970 Census Berkeley had 5,893 single family structures that were rented. (See Table VI-10). This number then began a steady decline.

Census Year	Number Owner-Occupied	% Owner-Occupied	Number Rented	Percent Rented
1970	14,374	71%	5,893	29%
1980	14,878	75%	4,900	25%
1990	16,324	82%	3,613	18%

During the 1970's a trend developed among some middle-class people in favor of city living. In part this trend simply reflected the economic advantage of neglected central city locations compared to the high costs of the suburbs, either financially or in long commutes to the less expensive areas. In part, it reflected a reevaluation of the benefits of urban life. By the 1980 Census there were 4,900 rented single-family dwellings in Berkeley and by 1990 there were 3,613, a 39 percent reduction from 1970.¹⁵ Conversion of single-family homes to owner-occupancy accounts for one-third of the total reduction in rental units. In addition, despite the condominium conversion ban, conversion to owner-occupancy continued through "tenancies in common" (TICs), which allow people to use joint ownership of multi-unit buildings to become owner-occupants, without actually subdividing the property.

¹⁵ Proportionally, this shift is probably understated because Berkeley has a large but unknown number of multi-family properties in which several single-family dwellings are located on one lot and are counted as single-family structures by the Census. If these properties were excluded from the analysis the percentage conversion would be substantially higher.

Table VI-11 shows the change in number of owner-occupied and renter-occupied units in Berkeley from 1980 to 1990. This gives an idea of the conversion of single-family and multi-family properties from rental to owner occupancy, but it has certain limitations. First, new single-family houses and new multi-family cooperatives and condominiums were built during the 1980's, so that some of the increase reflects new units rather than conversion of existing units. The 1990 Census reports that 215 owner-occupied units were built since the 1980 Census, close to the City estimate of 250. Subtracted from the total of 2,110 additional owner-occupied units, this indicates that the total number of units converted from rental to owner-occupancy is 1,895. Second, the table somewhat overstates conversion to homeownership in single-family properties and understates it in multi-family properties. This is because Census data is available only by number of units in a structure, while many Berkeley multi-unit properties have multiple cottages or duplexes on one lot and these are particularly desirable for owner-occupancy.

Units in Structure	United Owner-Occupied			Units Rented		
	1980	1990	Change	1980	1990	Change
One	14,878	16,324	+1,446	4,900	3,617	-1,287
Two	1,022	1,419	+397	3,166	2,849	-317
3 or 4	465	601	+136	4,796	3,950	-846
5 +	502	633	+131	14,959	14,039	-920
All Units	16,883	18,998	+2,110	27,821	24,455	-3,366

Conversion to owner-occupancy clearly accounts for over half of the reduction in rental units, with the larger part, about one-third, resulting from conversion of single-family homes and about one-fifth resulting from the conversion of multi-family properties.

¹⁶ Note that the totals in this table are slightly different from the figures for the decline in rental units used earlier. That is because the Census reports owner- and renter-occupied units by building size from the sample, rather than the 100 percent count and did not correct the sample results to make them identical to the 100 percent count. The 100 percent count is used where available because it is the most accurate.

Note also that the table shows more one and two-unit ownership housing added than is lost from the rental housing stock, even taking new units into account, and more three and four unit rentals are removed than show up as owner-occupied. This downward "drift" most likely results from consolidation of two-unit properties into one unit, three-unit properties into one or two and so on. While conversion to owner-occupancy clearly accounts for most of the decline in units rented in smaller structures, it is the loss and miscount of residential hotel rooms discussed earlier that accounts for most of the decline in units rented in buildings with five units or more.

Conversion of rental units to owner-occupancy reduces the supply of rental units, but it may also reduce the demand for rental units by changing the proportion of tenants and homeowners. There is continual change in the status of particular individuals as young adults, who almost invariably start as tenants, buy homes and as some older adults sell their homes and return to renting. If the proportions of tenants and homeowners remain the same, then the need for rental units remains the same even if particular renters become homeowners. Indeed, as the Bay Area's rising home prices made homeownership less and less affordable to first-time buyers, the need for rental units likely increased. To the extent, however, that conversion of rental units to owner-occupancy allows people to buy homes who otherwise would have remained tenants, then the conversion reduces the demand for rental units.

We know something about the characteristics of the new owner-occupants who bought units that were previously rentals because in November 1989 Bay Area Economics carried out a mail survey of Berkeley households for the Planning and Community Development Department of the City of Berkeley (Planning & Community Development Department, "1989 BAE Household Survey: Tabulations, Cross Tabulations", 1990). The survey had 1,860 valid responses, a 40 percent response rate, among which 201 responses were from homeowners who had bought a property that was previously rented to themselves or other tenants.

Of the owners reporting that the unit was formerly a rental, 25 percent report that they bought the unit they once rented and 75 percent that other renters had lived there. Nearly 60 percent of the owners of units converted from rental to owner-occupancy previously lived in Berkeley. Of those owners who replaced other renters, 45% previously lived in Berkeley, 20% in Oakland, 30% in other parts of the Bay Area and 5% outside the Bay Area. The 1988 median income of the tenant buyers was \$42,000 a year, while the median income of the buyers who replaced other tenants is \$49,000. Table VI-12 shows purchase prices and the income needed to afford the purchase. Prices were slightly lower for tenant buyers than for buyers who replace tenants.

	Median Unit Price	Price Range (25th to 75th percentile)	Median Monthly Mortgage Payment	Monthly Payment Range (25th - 75th percentile)
Owners Are the Previous Tenants	\$115,000	\$75,000 - \$150,000	\$740	\$570 - \$1,100
Owners Replaced Previous Tenants	\$138,000	\$110,000 - \$190,000	\$1,000	\$700 - \$1,300

This information is suggestive, but does not allow us to determine how many of these buyers would simply have remained tenants if they were not able to buy. Since the people who bought the unit they previously rented had lower incomes and paid lower prices than owners who replaced previous tenants, it seems likely that some proportion of this group would have remained tenants in Berkeley if they were unable to buy. In most cases, however, particularly among those buying single-family detached houses, the buyers clearly have incomes high enough to buy homes in nearby communities, if not in Berkeley itself.

Conversion of Multi-Family Rental Property to Owner-Occupancy

Units in multi-family properties can be converted to owner-occupancy in several ways: as cooperatives, condominiums, TICs and by an increase in the number of investor-owners who choose to live in their building and manage it themselves. This latter is a small number and will not be investigated further.

Cooperatives come in two forms, community apartments, in which the property is jointly owned by the residents, and stock cooperatives, in which the property is owned by a corporation in which each resident holds a share. In either case, each ownership interest includes the right to exclusive use and occupancy of a particular unit. Cooperatives are considered a form of subdivision.

Multi-family property can also be subdivided into condominiums, in which the property is subdivided so that each unit is separately owned, and each unit owner also jointly owns common property, such as the land and the building in which the units are located, with the other unit owners. In theory, multi-family property can also be subdivided as a "Planned Development Subdivision", in which people own their own unit and common property is owned by the incorporated Homeowners Association, rather than by the owners as tenants in common. In the U.S. this form is only been used in new construction and not for conversions. California law recognizes condominiums, planned development subdivisions, stock cooperatives and community apartments as related forms of subdivision called "common interest developments" (see Table VI-13) and has extensive requirements for their creation and ongoing management. These include the "public report" which must be prepared to ensure that buyers in newly subdivided properties receive objective information about the property they are buying and the Davis-Sterling Act, which protects homeowners by setting minimum standards for the management of the common interest development by its board of directors.

Ownership Status of Each Unit	How Common Property Is Owned	
	Tenants in common	Corporation
Separately owned	Condominiums	Planned development subdivision
Part of common property, but with exclusive right of occupancy	Community apartment	Stock cooperative

In Berkeley the first subdivision of existing multi-family properties was in 1962, with the conversion of an eleven unit Oxford Street building to a stock cooperative. A seven-unit Oxford Street building was converted to condominiums in 1963 and another four-unit building was converted to condominiums in 1965, after which no more conversions took place until 1971.¹⁷

¹⁷ City of Berkeley, Planning Department [Prepared by Barbara Lashley], "A Report on Condominium Subdivision Conversions in Berkeley", June 1974, p.7.

Table VI-14 shows the number of units converted annually from 1971 to 1980 when such conversions were banned.¹⁸ Since then a small number of condominiums have been created through new construction, including two-unit condominiums that are allowed when a unit is added to a single-family property. Limited-equity cooperatives are exempt from the limitations on conversion, and four properties with 78 units had been converted or were in the process of conversion to limited-equity cooperatives by 1993.

1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	Total
4	26	22	21	10	94	27	26	79	6	315

Overall, condominiums are much more common than cooperatives and the Census gathers data on condominiums but not on cooperatives, although Census data on this subject is very approximate, since many residents do not correctly identify their unit as part of a condominium. The 1980 Census reported 250 condominium units, of which 92 were rented and 15 vacant. City records indicate that there were at least 324 condominium units at that time. The 1990 Census reported 620 condominiums, of which 282 were rented and 32 were vacant. Some of these are properties that received permission to convert prior to 1980 but completed the conversion afterwards. Some of the increase may also represent better knowledge about building status in 1990 than in 1980. A substantial part of the apparent increase in condominiums reported by the Census may be the result of incorrect reporting of an entirely different phenomenon, the tenancy in common.

In Berkeley the most widespread ownership form used in conversion of multi-family property from rental to owner-occupancy has been the "tenancy in common" or TIC. This is a form of homeownership that is particularly complex, and it is important to take the time to make a complete explanation of TICs and how they are related to other similar forms of ownership.

There is a long history of people jointly owning and occupying duplexes and sometimes triplexes with family or friends. Purchase of a duplex or apartment building is often much less expensive on a per unit basis than purchase of a single-family detached house, so as property values skyrocketed in Berkeley in the 1980's and single-family homes were converted to owner-occupancy it is not surprising, that conversion of small multi-unit properties to owner-occupancy also increased. Typically, such properties are owned by the different parties as "tenants in common". This does not mean that the owners are tenants but rather that they hold ownership of the property jointly, with each being a part-owner in the entire

¹⁸ This table draws on the above-mentioned City of Berkeley report for 1971 to 1974 and for 1975 to 1980 on Marian F. Wolfe, "The Actual and Perceived Profitability in Rental Housing: A Disaggregate Analysis", Ph.D. Dissertation, City and Regional Planning, University of California at Berkeley, 1983, p.203. Due to a drafting flaw, the City failed to ban conversion of rental properties with four units or less to stock cooperatives. The City's conversion ban prevented approval of subdivision maps, but the California Subdivision Map Act did not require maps for small stock cooperatives. No-one seems to have noticed this flaw, with the possible exception of the owner of one four-unit property that converted in 1982 and whose owners came to the attention of the City in 1993 when they filed to convert from a stock cooperative to condominiums in order to make refinancing easier.

property rather than being sole owner of a specific unit as in a condominium. With the ban on condominium and cooperative conversions, the tenancy in common ownership vehicle began to be used with increasing frequency.

The Berkeley TIC is not to be confused with the entire category of ownership called "tenancy in common". Tenancy in common as a general type of ownership exists whenever two or more persons own "undivided interests" in a single property, except when the ownership documents specify that ownership is held through one of three alternative forms of shared ownership. The alternative forms of joint ownership are joint tenancy, community property, and tenancy in partnership. Community property exists only between husband and wife and interests cannot be sold separately, but can be inherited by multiple heirs. When inherited by anyone other than the surviving spouse the interest changes form and becomes a tenancy in common. Joint tenancy is rarely used outside of family relationships because when one owner dies, their interest reverts automatically to the surviving joint tenant(s). When sold, an interest held in joint tenancy changes to tenancy in common.

Tenancy in partnership is designed to maintain a business as a going concern and typically involves property, such as office space and equipment, that is incidental to the operations of a business such as a law partnership. In tenancy in partnership all property transactions are subject to the agreement of all partners and each partner is liable for all partnership debts. This form of ownership is not usually desirable to people who are not part of a business. Nonetheless, the owner of two buildings with 18 and 32 apartments in Berkeley has used the form of a real estate partnership to sell units for owner-occupancy. The Rent Stabilization Board states that in these cases the purchase of partnerships is actually a disguised form of rental, used to evade rent controls and registration of the units with the Rent Stabilization Program.

Tenancy in common is the most flexible form of joint ownership of real property. It is the normal form by which people share ownership of real estate because it allows the part-owners to freely sell and bequeath their interests. Every kind of privately owned real estate is sometimes owned by tenants in common - commercial and industrial buildings, vacant land, single family houses, large apartment buildings and everything in between. Tenancy in common is a typical means for unmarried couples to share ownership of a single family house and for investors to share ownership of rental property of all kinds, as well as for people to share in ownership of the multi-family building they live in.

Tenancy in common became a Berkeley catchphrase because it can be a vehicle for the conversion of rental units to owner-occupancy. When it is used for owner-occupancy, as an alternative to condominium conversion, the percentage ownership interest that is sold to a buyer as tenant in common is accompanied by a side agreement giving the new owner of that percentage interest in the property the exclusive right of occupancy to a particular unit within the property. This agreement is not part of the definition of the property and not included in the deed, but rather is a contract between the owners. Properties in Berkeley which use tenancy in common as a vehicle for owner-occupancy are commonly called "TICs" and are understood by the general public to be an alternative form of condominium.

This fine distinction between tenancy in common and a condominium or cooperative was challenged in the courts. People who buy duplexes occupied by tenants are able to evict them for purposes of owner-occupancy. Berkeley's "Rent Stabilization and Good Cause for Eviction Ordinance", which allows eviction for purposes of owner-occupancy by an owner with at least 50 percent ownership. As owner-occupancy evictions increased during the 1980's, some tenants tried to resist. One approach taken by tenant attorneys was to challenge the conversion of a duplex rental to an owner-occupied tenancy-in-common as an illegal subdivision. The tenant's attorney argued that the agreement providing for exclusive occupancy of a

particular unit made these properties into de facto community apartment projects since, as discussed above, community apartments are a form of cooperative in which the property is owned jointly by the owners as tenants in common, with a right of exclusive occupancy to each unit attached to ownership of each share of the building and incorporated into the deed to the property.

In two lawsuits over duplexes, *Adler v. Elphick* (1986, 184 Cal. App. 3d. 642) and *Bakanauskas v. Urdan* (1988, 206 Cal.App.3d.62), the California Court of Appeal held that there was no community apartment if the right of exclusive occupancy was a side agreement that was not part of the deed to the property, even if, as in the *Bakanauskas* case, a written TIC agreement was recorded in the County records for the property. In effect, the agreement is a contract among the part-owners rather than a part of the property itself and is subject to the traditions of contract law rather than real property law. These cases provided a legal green light to use of tenancy in common as a legal form of ownership of multi-family property that was not banned by the City's ordinance against condominium and cooperative conversion.

After the *Elphick* case, a network of real estate investors, agents, lawyers and lending institutions rapidly developed to support creation of TICs. They developed sources of financing, detailed standard agreements for use among buyers, and actively publicized the TIC option to owners, encouraging them to sell their units when tenants move out and even to persuade tenants to leave in order to clear buildings for TIC sales. With the necessary institutional framework in place, the size of the buildings for sale increased, with many more four unit and even up to twelve unit buildings being sold as TICs. At its peak, in 1989, the rate of conversion reached as many as 150 units a year. While in its early stages, the effects of conversion from rental to owner-occupancy were moderated because the conversions were concentrated among the higher rent single family and duplex units, the late 1980's saw increasing conversion of units in larger buildings, where more affordable units are concentrated.

This alternative means of shifting rental units to owner-occupancy evaded all State and local subdivision regulations and resulted in major problems for some buyers, who believed they were buying an equivalent to a condominium. For example, TICs had a single mortgage rather than separate mortgages for each unit as in a condominium or planned development. As a result, owners who wanted to refinance to take advantage of lower interest rates could not do so without the agreement of all other owners. In addition, should one owner fail to make payments, the other owners were forced to make the payments or risk loss of their own property. Further, sale of the property was substantially more complicated, since it frequently required refinancing the entire property. Responsibility for management of the property, particularly its common elements, was also dependent on the good will and good sense of all co-owners. In November 1990 the City Council passed an ordinance requiring that TIC sellers give prospective buyers a "Tenants in Common General Information Statement" written by the City. This ensures that buyers receive basic information on the complexities and potential problems of owning property jointly with others.

In response to the perceived threat to the rental housing supply, on April 9, 1991 the City Council passed a Resolution stating the City's intent to pass legislation forbidding conversion of rental property to TICs after that date. On January 28, 1992, after much discussion, the Council passed Ordinance No. 6111-N.S. "Adopting an Interim Moratorium on the Conversion of Rental Units to Tenancy in Common Projects" applying to properties with four units or more. (The term TIC Project indicated the use of tenancy in common for purposes of creating an almost condominium by adding a right to exclusive occupancy of a particular unit.) Although the ordinance asserted that it was retroactive to the April 9, 1991 Resolution, a later court decision held that the ordinance could not be retroactive and applied beginning on its effective date of March 19, 1992. The temporary moratorium on TIC conversions in properties with four

units or more was extended by Ordinance 6117 and 6125 and then made permanent in the new Condominium Ordinance 6144-N.S. passed November 10, 1992.

The new Condominium Ordinance went beyond the ban on conversion of rental properties with four units or more to TIC projects to allow limited condominium conversion. All existing TICs were allowed to convert to condominiums and those units in TIC buildings that were not owner-occupied at the time the ordinance took effect are required to pay a mitigation fee to the City's Housing Trust Fund for the loss of rental housing. In addition, 100 units of rental property may convert to condominiums annually. Since nearly one-third of Berkeley's tenants are moderate income or above, conversion of units at prices affordable to these tenants may not have harmful consequences to other tenants if adequate mitigations are kept in place. In rental conversions, at least half of the units must be sold to current tenants, all low and moderate income tenants who do not buy are protected from eviction, and substantial housing mitigation payments are required in order to provide affordable replacement housing. These payments are set at 30 percent of the increase in value resulting from the change from rental to condominium and are made into the City's Housing Trust Fund as each unit is sold.

During the period after the moratorium was declared and before the Ordinance was passed, most TIC converters stopped, but one partnership proceeded to convert three buildings and, after passage of the Ordinance, sued to prevent retroactive enforcement of the moratorium. The suit was successful and the City agreed that the effective date of the moratorium would be March 19, 1992 and that the three properties could be converted from TICs to condominiums without rental conversion fees.

It is not at all clear how many TICs there are in Berkeley. The 1990 Census indicates that there are 2,440 owner-occupied units in multi-family structures, but most of the 588 condominiums are in multi-family structures, as are most of the approximately 200 cooperative units. Furthermore, 1,419 of these units are in duplexes and another 601 in three- and four-plexes where there are many properties that have one owner-occupant and renters. If we estimate the number of owner-occupant landlords at 650, there are 1,000 units in TICs, but the actual number could easily be off by a hundred units or more.

An alternative way to estimate the number of TICs is to look at the increase in owner-occupancy in multi-family structures from 1980 to 1990 of 664 units. This likely understates the increase in owner-occupants in multi-family properties because some TIC Projects are composed of single-family cottages or attached homes on a single lot, but some of the increase (no more than 100 units) is due to creation of cooperatives and condominiums. It appears, then that the increase in TIC units in the 1980's was in the range of 700. With another perhaps 200 or 300 units in small TICs, mostly duplexes, that existed prior to 1980 there would be from 900 to 1,000 units in about 300 TIC Projects in 1990.

In December 1989 the Planning and Community Development Department conducted a study of rents and purchase prices of TIC units.¹⁹ Data were located on the controlled rents and sale price for 62 TICs sold between 1986 and 1989. The average rent was \$447, while the average TIC sales price was \$111,699, which then required a monthly payment for mortgage, taxes and insurance of \$931. As a rental the unit was affordable at the 30 percent of income level to a household making \$17,863 a year, while as a TIC it was affordable to a household with an income of \$33,510 a year. Taking a generous assumption that

¹⁹ Planning & Community Development Department, City of Berkeley, "Conversion of Rental Units to Owner-Occupancy Through Shared Ownership: Data, Issues and Policy Alternatives on Tenancy-In-Common", June 14, 1990.

the rental unit was worth 9 times gross annual rent, the rental value of the unit was \$48,276, so that the value of the unit as a TIC was more than double its value as a rental unit. (A review of all property transactions in 1990 indicated that the average gross rent multiplier in Berkeley was 8.)

Although most conversions took place before the recent rent increases, taking them into account, the average rent on these units would have been \$645 monthly by 1992, affordable to a household making \$25,800 a year. At 9 times the gross annual rent the value of the average rental unit would be \$69,660, still \$42,000 less than its value as a TIC. This suggests that there would have been significant conversion of rental housing to TICs during the late 1980's even without rent controls.

TICs are located throughout the City, but with concentrations on the South and North sides of Campus. Advertised TIC units are generally small, about 55% have one bedroom, 40% have two bedrooms and 5% have three bedrooms. Advertisements for TIC owner-occupancies mostly list prices in a range between \$75,000 and \$175,000. This is affordable to households with incomes ranging from \$25,000 to \$60,000. For one to three person households these prices are affordable to moderate income buyers with incomes ranging from 81% to 125% of median.

Not all conversions are banned, and about one-tenth of the conversion of units to owner-occupancy has followed an explicit City policy. The City encourages conversion of rentals to limited-equity cooperatives, which preserve affordability by limiting price increases. Between conversions and new construction there are about 200 units of limited-equity cooperative housing in Berkeley, in addition to the University Students Cooperative Association (USCA) which owns 18 properties housing 1,400 students.

Conversion to Owner-Occupancy in Berkeley and Neighboring Cities

Comparison of Berkeley and Berkeley neighborhoods with neighboring Cities and neighborhoods indicates that rent controls did affect the conversion of units from rental to owner-occupancy. Table VI-15 shows the changes in owner-occupancy from 1980 to 1990. The citywide numbers are not reliable, since the decrease in owner-occupancy in Albany, for example, results primarily from extensive apartment construction, but the neighborhood by neighborhood comparisons suggest that if Berkeley had followed the same trend as its neighbors it would have about the same number of owner-occupied units rather than 6% more.

Area (Tracts)	1980 % Owner-occupied	1990 % Owner-occupied	Change	Berkeley Area (Tract)	1980 % Owner-occupied	1990 % Owner-occupied	Change
ALBANY	49.7%	45.8%	-3.9%	BERKELEY	37.8%	43.6%	+5.8%
KENSINGTON	85.5%	85.2%	-0.3%				
OAKLAND	43.4%	41.7%	-1.7%				
HILLS (3910, 3920, 4002)	75.3%	75.8%	+0.5%	Berkeley Hills (4212, 4238)	76.6%	85.2%	+8.6%
S.E. Albany (4201,05,06)	66.1%	65.2%	-0.9%	North Berkeley (4213,19)	66.0%	73.6%	+7.6%
North Oakland (4004,5,7,8)	40.2%	38.9%	-1.3%	South Berkeley (4239,40)	33.2%	37.8%	+4.6%

The most likely explanation for this pattern is that in the Cities without rent control investors have been willing to buy single-family homes and rent them out while waiting for values to increase. The shift to owner-occupancy in Berkeley results initially from the increased demand for and price of single-family housing in the Bay Area, which in turn increases the return to owners of rental property if they sell to owner-occupants. Rent control strengthens this effect by reducing the return from rents, and makes it less likely that investors will buy potential ownership units and rent them out while waiting for values to rise.

This does not mean that low-income tenants would benefit from the relaxation of rent controls on these units to allow substantially higher rents. This would also make them less affordable, and affordability, rather than rental or ownership status as such, is the key policy problem for the City in such conversions. Indeed, since it is a widely held view that homeownership is better than renting and that homeowners are more stable and more likely to help improve their neighborhood, one could argue that the encouragement of owner-occupancy is a beneficial side-effect of rent controls, although it does reduce the availability of homes for renters. We will return to issues of neighborhood stability later in Section VIII, "Social and Demographic Effects of Rent Controls".

Summary

Table VI-16 shows the trend in total number of occupied rental units in Berkeley and its neighboring cities. The combined effects of conversion of rental units to owner-occupancy and the increase in vacant units, primarily in preparation for conversion to owner-occupancy, are substantial.

Table VI-16: Tenant-Occupied Units in Berkeley and Neighboring Cities							
Area (Tracts)	1980	1990	Change	Area (Tract)	1980	1990	Change
ALBANY	3,460	3,895	+12.6%	BERKELEY	27,821	24,455	-12.1%
KENSINGTON	370	319	-13.8%				
OAKLAND	80,546	84,302	+4.7%				
HILLS (3910, 3920, 4002)	780	744	-4.6%	Berkeley Hills (4212, 4238)	659	401	-39.2%
S.E. Albany (4201,05,06)	1,063	1,075	+1.1%	North Berkeley (4213,19)	1,165	881	-24.4%
North Oakland (4004,5,7,8)	3,758	3,803	+1.2%	South Berkeley (4239,40)	2,574	2,309	-10.3%

Table VI-17 summarizes the loss of rental units in Berkeley and the causes of this loss. Except in the loss of residential hotel rooms, the increasing demand for affordable homeownership contributes to the loss of rental units in every category.

	Number of Units	Did Increased Home Prices Contribute to Loss?	Did Rent Control Contribute to Loss?
Rental Units, 1980 Census	27,821		
Rental Units, 1990 Census	24,512		
Residential Hotel Rooms not counted in 1990	296		
Gross Decline in 1980 Rental Units	-3,013		
Rental Units Added, 1980 - 1990	500 (est.)		
Net Decline in 1980 Rental Units	-3,500		
Loss of SRO units	400	NO	NO
Removal of second units	450 (est.)	YES	YES
Multi-family property converted to single-family	200 (est.)	YES	YES
Single-family rentals converted to owner-occupancy	1,200	YES	YES
Multi-family rental units converted to owner-occupancy	750	YES	YES
Increase in vacant rental units	500	YES	YES

Overall, 12.6 percent of the 1980 rental units were lost to owner-occupancy, vacancy or removal as units. As much as 10 percent, or 80 percent of the decline in rental units, appears to result from the interaction of Berkeley's rent control system with increased home prices in Berkeley and the Bay Area. Thus the problem of "loss" of rental units is more precisely an issue of conversion of rental property to use by owner-occupants. Except for owners holding units vacant waiting for a tenant with a Section 8 certificate or as a protest against the system, what we see is not the "loss" of rental units but the conversion of rental housing to use by owner-occupants or holding units vacant while trying to convert them to use by owner-occupants. The housing was not removed from residential use and it is not clear that conversion of a limited number of rental units to owner-occupancy is harmful. The problems resulting from this conversion may be more in the lack of an efficient means of regulating conversion, so that units do not remain vacant for long periods of time, rather than in the fact of conversion.

Preservation Alternatives

To the extent that the City of Berkeley desires to reduce the rate of conversion of rental property to owner-occupancy it can act in several different ways, and loosening of rent controls is only one potential action among many. The rate of conversion of multi-family rental property to owner-occupancy in Berkeley is the result of several interacting factors, only one of which is substantially affected by rent controls:

- 1) high unmet demand for ownership housing resulted from enormous price increases throughout California, exacerbated locally by Berkeley's reluctance to encourage new condominium construction to meet the demand, since new construction could change existing neighborhood character;
- 2) high willingness on the part of owners to convert their property from rental to owner-occupancy results from the profitability of conversion over continued rental, which is increased by rent control;
- 3) limited ability to convert resulted from a ban on condominium conversion accompanied by the ability to convert units to owner-occupancy through tenancy in common until 1992 and the continued ability to convert properties with one, two or three units.

Berkeley could have reduced conversion of rentals to owner-occupancy between 1980 and 1990 by changing any of these three factors. These are conscious political and policy choices.²⁰ Among the available alternatives:

- 1) Berkeley could have increased supply, for example by loosened zoning protections that discourage the construction of new condominium apartments and townhouses.
- 2) Berkeley could have provided financial incentives to keep property as rental, including through an expanded low-interest rehabilitation loan program or through bonus payments to landlords who rented the most affordable units to low-income tenants as alternatives to removal or weakening of rent controls.
- 3) Berkeley could have made it much more difficult to convert multi-family properties if the voters had passed the requirement that owners have more than 50% ownership in order to evict for owner-occupancy, which would have slowed conversion of duplexes, or if the City Council had passed restrictions on creation of tenancies-in-common sooner than it did.

Regulatory barriers to conversion have proved highly effective. Multi-family units were still converted, but this too reflected public policy decisions rather than the impossibility of regulation. TIC conversion could have been regulated earlier, for example, but it took time for the process of debate over this new phenomenon to reach a conclusion. Some other types of local regulation are precluded by the State of California, which can set limits on local government authority. The "Ellis Act", for example, gives owners

²⁰ The new Rent Board majority that was elected in 1990, for example, directed their legislative representative to oppose State legislation that would have restricted conversion of rental housing to owner-occupancy through tenancy in common.

the absolute right to go out of the rental business and to hold their units vacant. In other states, local governments have taken steps to require that vacant buildings be fixed up and put back on the market on the grounds that vacant properties create substantial nuisances and harm to surrounding properties and residents.

Financial incentives are another means to prevent removal of rental units, and removal of rent controls is only one way to provide such incentives. Targeted programs, such as low-interest rehabilitation loans, can persuade some owners to keep units on the market without raising rents on every unit in the City. Since even with market rents, property will typically bring a higher price when subdivided for sale to owner-occupants than when sold to investors purchasing it as rental property, incentives of any kind will at best reduce rather than prevent conversion to owner-occupancy.

An expanded supply of new housing built for owner-occupancy can also reduce both the incentives and the ability of owners to convert existing rentals to owner-occupancy. All other things being equal, buyers are likely to prefer new units built to modern condominium code, including substantial noise-proofing between units, so that the construction of new condominiums will reduce demand for units in converted properties. Albany has apparently prevented conversion of existing rental housing in this way. There were no requests for conversion of rental property during the late 1980's after Albany allowed extensive new construction of condominiums, with the result that fully 10 percent of the Albany housing stock is under condominium ownership. This can be compared to 3 percent condominium units in Oakland, which also bans conversions, and 1.5 percent in Berkeley. Adding in tenants-in-common units and treating them as condominiums, Berkeley's percentage would be about the same as Oakland's.

In sum, the amount of conversion of multi-family property that took place in Berkeley was as much the result of decisions about other ordinances protecting rental housing and of decisions affecting additional supply as it was a result of rent control.

In the area of single-family housing Berkeley did not have the same range of alternatives. There was probably no alternative way to increase rentals besides financial incentives, particularly loosening rent controls. Berkeley does not have the space in which to construct new single-family detached houses and there is no way to require that such units be rented. In this case the City must balance the benefits gained by about 800 single-family units that are rented under controlled rents with the benefits to be gained by expanding the supply of single-family rentals but at much higher rents. One way to do this would be to exempt all single-family units not currently rented, and allow gradual decontrol of the remainder in order to protect current tenants.

To the extent that changes in rent controls could have prevented some degree of conversion, a full evaluation of this means of prevention requires analysis of the costs and benefits to tenants and to Berkeley of both lower rents and the conversion of about 10 percent of rental units to use by owner-occupants. The alternative was not simply to have more rental units, but to make trade-offs between the number of units available to all renters and the number of units affordable to low-income renters. An available unit that rents for more than the monthly income of a very low-income tenant does allow that tenant to join with others and overcrowd the unit, but only if the owner is willing to rent under circumstances that are likely to lead to damage to the unit. In general, owners will only rent to poor tenants who will overcrowd the unit if they have no alternative or if they do not know that the tenants will overcrowd the unit. This is less likely to happen in Berkeley with its mixed-income neighborhoods than in parts of other cities that are almost entirely occupied by low-income people. The only kind of housing where conversion of rental housing to use by owner-occupants may have resulted in loss of units that

otherwise would have remained affordable to low-income tenants is in the reduction of secondary units, a kind of housing that is normally exempt from rent control.

Looking at the implications of the "loss of rental units" issue for rent control as it exists in 1993, most of the reasons for loss of rentals in multi-family property are now almost eliminated by the following policy changes.

- 1) The incentive structure is substantially changed, with two-thirds of the gap between controlled and market rents removed by major rent increases that have brought Berkeley rents well above the national average. As a result, the economic effects of rent control on conversion must inherently be greatly reduced.
- 2) Regulatory controls on conversion are now much stronger. Since the 1992 Condominium Ordinance has eliminated the tenancy in common conversions in properties with four units or more, there is no longer any easy method to convert these units to owner-occupancy.
- 3) The supply of condominiums is increasing. In 1994 Berkeley was in the midst of a small building boom, despite the recession, with over 100 condominium units completed, under construction or approved for construction.
- 4) The 1992 Condominium Ordinance provides for limited conversion of rental units accompanied by mitigation payments for the loss of affordability that results from conversion. The ordinance is intended to regularize the process and reduce holding units vacant.
- 5) Home prices have stopped increasing and in some cases have declined, reducing the financial incentive to buy before prices become even less affordable. At the same time the recession has created financial uncertainty for many potential first-time homebuyers.

Rental of single-family homes in Berkeley is likely to remain lower than it might without rent controls, however. Both homeowners who are moving and do not wish to sell their old home yet and people who desire to purchase houses and then rent them while speculating on future price increases are likely to be discouraged as much by the need for involvement in the rent control regulatory system as by the actual economic effects of restrictions on rents.

VII. MAINTENANCE UNDER RENT CONTROL

- Rent controls probably reduce expenditure on cosmetics, since new tenants can be attracted by the below-market rents rather than the appearance of the building.
- Building permit data indicate that repair and improvement expenditures were not reduced or were reduced only slightly during the strong rent control period. Berkeley's permits held constant while Albany's increased and North Oakland's decreased during this period.
- The permit data suggest that repair and improvement expenditures have increased following the major rent increases in January 1992, while they declined in neighboring cities, probably due to the recession.

It is widely asserted that building maintenance is reduced under rent controls and that the reductions are so severe that rental units are destroyed by the resulting undermaintenance. A widely quoted statement is that "next to bombing, rent control seems in many cases to be the most efficient technique so far known for destroying cities..."¹ As we have seen, the evidence on removal of rental units from the rental market in Berkeley fails to support claims of any such dramatic impact. Visitors to Berkeley will not see the areas of abandonment and severe deterioration that characterize Chicago, Detroit, Louisville, New Orleans and so many other American cities without any form of rent controls.²

Rent controls may have more subtle effects on maintenance, however. It is plausible that during the years of strong rent control, landlords, having rents low enough to attract tenants without difficulty, would reduce expenditures for exterior appearances such as painting and landscaping that are normally intended to increase the appeal of renting a unit on their property. Critics of rent control frequently assert that Berkeley "looks like a slum" due to decreased maintenance in the 1980's. Other long-time Berkeley residents, however, say that rental property in Berkeley always looked bad and that before rent control this

¹ Assar Lindbeck, The Political Economy of the New Left, 1971, cited by California Apartment Association - Pacific Legal Foundation Rent Control Project, 1991; cited by David Kiefer, "Housing Deterioration, Housing Codes and Rent Control", Urban Studies, V.17, 1980, pp. 53-62.

² Housing abandonment is primarily the result of tenant incomes that are so low the tenants cannot pay rents that cover the operating costs of the buildings. Secondary causes are institutional racism, which results in waves of disinvestment as minorities move into new areas (a major cause of the devastation of the South Bronx), and "milking", the process by which landlords try to recoup their investment and profit quickly by ceasing maintenance and even operating costs other than rent collection, leaving their mortgage lender with an uninhabitable building. See for example:

David Bartelt and Ronald Lawson, "Rent Control and Abandonment: A Second Look at the Evidence", Journal of Urban Affairs, V4#4, 1982, pp.49-64.

Richard Devine, Institutional Mortgages in an Area of Racial Transition: Bronx County, 1969-1970, dissertation, New York University, 1973

Peter Marcuse, Housing Abandonment: Does Rent Control Make a Difference?, Conference on Alternative State and Local Public Policies, Washington, D.C., June 1981.

U.S. Department of Housing and Urban Development, Abandoned Housing Research, Government Printing Office, Washington D.C., 1973.

was blamed on the large, transient, student population who, it was said, didn't care about the appearance or conditions of the buildings they lived in since they stayed for only a short period of time.

Maintenance has long been a concern in the City of Berkeley. In January 1958 the Planning Department issued "The Problem of Blight in Berkeley: A Neighborhood Analysis for Urban Renewal". This report reviewed 1950 Census data on substandard housing in Berkeley and reported on a visual survey of exterior appearances conducted in 1957. These both found high concentrations of substandard housing in South and West Berkeley, Downtown, and in certain blocks near Campus. In response, the City Council created a redevelopment area in West Berkeley and considered creation of such an area in South Campus. Instead, the University began redevelopment of that area. According to some observers, the City's consideration of South Campus redevelopment and the University's active efforts to change the area during the 1950's and 1960's resulted in the further deterioration typical when landlords expect that their property is likely to be purchased for a public use in the near future.³ Concern with maintenance continued in the 1970's. In October 1974 the Planning Department issued a report on "Housing Needs: Part 2. Structures", which estimated that 25% of properties with ten or more residential units, and 36 percent of properties with 4-9 units, needed repairs for three or more structural conditions (pages 70-71). (The conditions were 1. foundation 2. exterior walls, windows, doors 3. plumbing and venting 4. roof 5. porches, balconies, stairs, railings, chimneys 6. electrical service).

Given this past history of problems and the lack of ongoing data on maintenance expenditures, it is not immediately obvious how maintenance in Berkeley was affected by rent control. In order to study this question we first examine economic models of landlord's maintenance decisions and then look at building permit data from Berkeley and the neighboring cities of Albany and Oakland.

Economic Models of the Maintenance Decision

The usual economic model of landlord behavior is a simple one -- if rents are held below market, then the landlord will reduce maintenance until the value of the unit being rented has been reduced to the level of the controlled rent. Thus if controlled rents are 70 percent of uncontrolled rents, maintenance will be reduced until the housing services provided by rental units are reduced in value by 30 percent.⁴ As we have seen, rents in the Bay Area are substantially above a "free market" level due to restrictive land use regulations, which limit the supply of housing. Given economists' complaints against such restrictions for the damage they do to the economy and to low-income people in driving rents beyond "free market" levels, it seems odd indeed to argue that rent controls which prevent landlords from obtaining rents inflated by supply restrictions would lead to reduced maintenance but that an increased supply which held down rents to the same level would not lead to reduced maintenance. This apparent paradox results from the inadequacies of the models typically used to analyze maintenance under rent control.

The typical model described above is based on an inaccurate description of rental property and the role of the landlord. Any economic model of rental housing must include the dual nature of rental property, in which the landlord provides both housing and land. Housing is a product, requiring ongoing operating expenditures and maintenance, but land is simply a place that exists and its usefulness depends on what

³ Paul Rauber, "Town and Gown: Cal, Berkeley, and the Politics of Exhaustion", Express, V.15#45, August 20, 1993, p.12.

⁴ See for example, Michael P. Murray, C. Peter Rydell, C. Lance Barnett, Carol E. Hillestad and Kevin Neels, "Analyzing Rent Control: The Case of Los Angeles", Economic Inquiry, V.29, October 1991, pp. 601-625 or David Kiefer, "Housing Deterioration, Housing Codes and Rent Control", Urban Studies, V.17, 1980, pp. 53-62.

the public and private sectors do outside the boundaries of individual parcels of land. Land in Berkeley is desirable as a place to live or work because it has a central location within the San Francisco-Oakland metropolitan area and because the State of California and the Federal government poured billions of dollars into creation and maintenance of the University of California at Berkeley and the highway system and Bay Area Rapid Transit system which make the city accessible.

Rental housing services efficiently provided in the market will normally be rewarded by profit, just as in the case of an automobile rental company. Land rent, however, is simply income from ownership of a particular location which it costs the landlord nothing to produce or maintain -- profit without product. This is what economists sometimes call "pure economic rent", to distinguish land rent and similar forms of rent from normal profits based on production of goods or services.

There is broad agreement in the economic literature that land rent can, in theory, be taxed or otherwise redistributed without impact on the production of goods and services. Rent reductions beyond the amount of land rent will necessarily cut into operating costs and a normal profit for providing housing services and result in a reduction in housing services. This will not necessarily happen as long as rent controls simply hold rents below the extraordinary levels reached in certain areas due to high land values.

The widely varying rents that can sustain similar housing are illustrated in a report by the U.S. General Accounting Office. The GAO complained of overpayments in the HUD Section 8 program in the Houston area, finding that basic two-bedroom apartments were available for \$260 monthly plus utility costs, while two-bedroom apartments were available in complexes with swimming pools, tennis courts and other recreational facilities for \$325 a month plus utility costs. At the same time, the GAO found that payments under the Section 8 program were inadequate in suburban Westchester County in the New York area, because Section 8 rent and utility payments there were limited to only \$642 monthly.⁵ (The median rent for a two-bedroom unit at that time under Berkeley's stringent rent control system was \$424 a month, with utilities paid by the tenant in most cases.) The difference in rent levels does not reflect differences in the quality of the housing or the cost of maintaining it and thus reflects different levels of land rent rather than different costs of providing actual housing services.

The increase in land rents in California over the years is reflected in the trends in operating cost ratios reported by the Institute of Real Estate Management. IREM reports that in 1975 operating costs were 49 percent of the rent for the average low-rise apartment building with 12 to 24 units in the Western region, made up of California, Arizona and Nevada. By 1985 operating costs were down to 37 percent of the rent for the same type of building in that area. In other parts of the U.S. it is not uncommon for operating costs to average 60 percent of the rent. At its strongest, in 1990, the average operating cost of a rent controlled apartment in Berkeley was 55 percent of the rent.⁶ Since rents in Berkeley remained within the normal range of rents and the operating cost ratio remained within the normal range of operating cost ratios, it seems unlikely that rent control in Berkeley reduced rents by more than the land rent component of residential rent.

If rent controls can be designed so that they only reduce land rent and do not affect the profit from provision of housing services, they will have no effect whatever on maintenance. Such design requires that property under rent controls maintain the same rent differential between payments for different quality of

⁵ General Accounting Office, Rental Housing: Housing Vouchers Cost More Than Certificates but Offer Added Benefits, February 1989.

⁶ Hamilton, Rabinovitz & Alschuler, "Inflation Indexing in Berkeley Rent Regulation in the Aftermath of the Searle Decision", July 30, 1991, page 24B.

units that exists without controls.⁷ As long as the economic impact on the landlord from diminished quality remains the same, then the economic incentive for maintenance remains the same whether or not there is rent control. To rental property owners the primary economic impact from higher and lower quality maintenance is a short-term or long-term differential in rents, so that a certain reduction in maintenance results in a reduction in the amount of rent that tenants are willing to pay. As long as this reduction is the same under rent control as without rent control, the fact that the premium for high quality maintenance is added to a lower "base rent" under rent control should have no more effect than if the landlord owned property in a region with generally lower land values and lower rents.

There are reasons to expect rent controls to assist in sustaining such a differential. Rent controls, accompanied as they typically are by protections against eviction for anything other than specified good causes, enable tenants to exercise their rights to a warrantee of habitability and to removal of code violations. Tenants may also be more willing to overlook code violations, however, if they feel they are receiving a bargain on their rent, although this can be compensated to some extent when tenants do repairs themselves. In addition, rent increases are allowed when the landlord makes substantial expenditures to improve the property, including an allowance for interest on the sum borrowed or expended by the landlord. With below-market rents to start with, the landlord can be assured of getting the increase, something that is not so certain on the unregulated market. It is not obvious, then, whether the net effect of rent controls on rent differential and the tenants role in housing maintenance is positive or negative.

In addition to considering the short-term rent differential, landlords must also make long-term judgements about the viability of their property. Even if there is little differential between rents paid for well and poorly maintained units in the short-term, a rational landlord will not knowingly allow maintenance problems to grow to the point where it destroys the habitability of the building unless the landlord believes that the cost of maintenance will be greater than the foregone profits from rents over the long term. Landlords in areas in which tenants are increasingly impoverished, such as the South Bronx in New York City, have economic incentives to make such a decision, however socially destructive it may be. In the case of rent controls landlords must weigh the short-term gain from allowing structural deterioration against whether the system allows them a positive return on their investment over the long term. In addition, they must consider whether there is any chance that rent controls will be weakened or removed at some point in the future. The constant and eventually successful efforts to weaken rent controls suggest that many landlords believed that rental housing would become profitable in the long run, if only because they did not believe rent controls would be permanent. It might be profitable for a landlord under a strong rent control system to reduce cosmetic maintenance, but it would not be economically rational to discontinue the major maintenance necessary to avoid structural damage to the building.

⁷ Lee S. Friedman makes a particularly sophisticated analysis of typical economic models and the requirements for realistic modeling of landlord behavior in "The Control of Prices and Profits to Achieve Equity in Specific Markets", Chapter 12, Microeconomic Policy Analysis, McGraw-Hill Book Co., N.Y., 1984, pp.436-467. Friedman deals both with the relation between unit quality and rent and the distinction between the dual roles of landlords as providers of both land and housing services.

Neil S. Mayer emphasizes the issue of unit quality, and the differential in rent obtainable for units of different quality as the primary determinant of maintenance in both rent controlled and non-rent controlled housing markets. He also notes that cosmetic repair is more likely when basic systems are in good condition. See "Rehabilitation Decisions in Rental Housing: An Empirical Analysis", Journal of Urban Economics, V.10, 1981, pp. 76-94; and "Conserving Rental Housing", Journal of the American Planning Association, V.50#3, Summer 1984, pp. 311-325.

Finally, we must remember that landlords' maintenance behavior is not always determined by knowledgeable and rational calculations of profitability. In extreme cases, landlords may act in a manner that is entirely irrational from a strictly economic perspective, as with the owner of the building that was left vacant starting in 1972 with the City's second, brief, experience with rent control and is still vacant to the present day. In other cases landlords may not take both short and long-term considerations into account or may respond in terms of lost expectations rather than in terms of what gives the best return under new, more regulated circumstances. In the end, no model of human behavior can be based entirely on rational considerations, but rather must take into account people's feelings, beliefs and sense of justice.

While Berkeley rent control operated within limits that could allow normal operations to continue, we do not have information on rent differentials due to maintenance quality or on landlord's views on long-term profitability. We can, however, look at what actually happened.

Building Permits in Berkeley and Neighboring Cities

The only historical records of building maintenance are found in building permit files. Any major maintenance work on a property, as opposed to cosmetics such as paint, carpets and gardening, normally requires a building permit. Permits are most frequently taken out for roofing, carpentry to repair insect or water damage, and on the electrical, plumbing and gas systems as well as foundation repairs and additions. Building permits are kept on file permanently, so that we can examine trends over time, looking at permits issued before rent control, during the strong rent control period and subsequent to the major rent increases in January 1992. We can also compare trends in Berkeley with trends in neighboring cities. Not all work is done with permits, even when permits are required, but we can expect that permits will be taken out for a relatively constant proportion of improvement work, so that increases and decreases in the number and value of permits will represent increases and decreases in overall major maintenance work.

The following tables show the number of properties for which permits were taken out each year and the valuation of permits taken out first for North Berkeley and Albany and then for part of South Berkeley and North Oakland for properties with five or more residential units. (We excluded properties with four units or less because of the high proportion of owner-occupancy among such properties. We also exclude permits for adding meters, which do not relate to maintenance and repair, and permits for additions, which constitute new construction rather than maintenance and repair.) North Berkeley in this case is census tracts 4211 - 4219, all of Berkeley north of Cedar Street and east of San Pablo Avenue. This is the area bordering on Albany and Kensington, and has 122 properties with five units or more. Albany has 93 such properties, excluding those owned by the University of California. The South Berkeley area is composed of census tract 4240 and Block Group 2 of tract 4239, the area between Ashby Avenue on the north, the Oakland border to the south, San Pablo Avenue on the west and Deakin Street on the east. This area of South Berkeley has 125 properties with five units or more. The North Oakland comparison area is composed of census tracts 4005, 4007 and 4008, which run from the border of Berkeley tracts 4239 and 4240 on the north to the Telegraph Avenue on the east, the Emeryville border on the west and variously 59th Street, 52nd Street and Stanford Avenue to the south. The North Oakland area has 95 properties with five or more residential units.

Tables VII-1 & 2 show the average number of buildings for which permits were taken out in different time periods and the average annual and per permit valuation.

Years	Permits		Valuation (1993 dollars)	
	No. Berkeley	Albany	North Berkeley	Albany
Average, 1970-93	14.29	7.21	\$90,923	\$51,204
Average, 1970-78	17.00	6.67	\$94,418	\$50,778
Average, 1979-91	12.38	7.92	\$89,959	\$54,367
Average, 1992-93	14.50	5.00	\$81,464	\$32,560
	Permits with Valuation		Average Valuation per Permit	
Average, 1970-93	9.88	6.46	\$9,168	\$7,003
Average, 1970-78	12.00	5.56	\$7,332	\$6,045
Average, 1979-91	8.23	7.31	\$10,704	\$7,768
Average, 1992-93	11.00	5.00	\$7,445	\$6,343

Years	Permits		Valuation (1993 dollars)	
	S. Berkeley	N. Oakland	South Berkeley	North Oakland
Average, 1970-93	10.71	4.21	\$64,372	\$36,008
Average, 1970-78	10.78	5.56	\$68,337	\$37,822
Average, 1979-91	10.08	3.54	\$58,185	\$21,286
Average, 1992-93	14.50	2.50	\$86,746	NA
	Permits with Valuation		Average Valuation Per Permit	
Average, 1970-93	5.75	4.00	\$11,195	\$9,002
Average, 1970-78	5.44	4.22	\$12,552	\$8,958
Average, 1979-91	5.62	3.50	\$10,362	\$6,082
Average, 1992-93	8.00	NA	\$10,843	NA

Note: Table excludes South Berkeley Rental Rehab projects.

Since not all permits give valuations, the per permit averages apply only to the buildings for which permits were taken out that showed valuation. Oakland switched to a computerized permit recording system in 1983 and ceased recording permit valuations on that system, except for 1986. For Oakland, then, permit valuation averages apply only to the years in which valuations are recorded on the computerized system. (Tables VII-3 & 4 at the end of this section show the annual number of permits and total annual valuations of those permits.) In South Berkeley we have excluded four properties that received federally subsidized rehabilitation loans through the City of Berkeley, so that we are looking at privately financed work only.

Each comparison area shows a slightly different pattern. Albany showed a slight increase in both the number and valuation of permits in 1979-91, years in which rents increased substantially. This was followed by a substantial decline in both the number of permits and their valuation in 1992-93, presumably as a result of the recession. North Berkeley, in contrast, shows a decline in the number of building permits taken out during the strong rent control period from 1979-1991, but since the valuation per permit increased during that time the annual permit valuation did not significantly change. The annual number of permits increased slightly in 1992-93, but since the average valuation per permit declined substantially, there was a further decline in annual permit valuation.

North Oakland showed a decline in the number of permits issued from 1979 - 1991 and a decline in their valuation in 1979-83 and 1986, the years for which valuations are available. The number of permits continued to decline in 1992-93. This is a pattern which suggests disinvestment despite rising rents. South Berkeley showed virtually no change in the number of permits taken out before and after the institution of rent controls, and only a slight decline in the average valuation per permit and in the average annual permit valuation. (It should be noted that if three properties that received City rehabilitation loans during this period were included, there be no decline in permit valuations, suggesting that any modest effects of rent control could be compensated for by other programs to promote property maintenance and rehabilitation.) Both the number of permits and annual permit valuation increased in South Berkeley in 1992-93 and would increase further if a City loan was included.

Overall then, we find that rising rents were no guarantee of increased building repair work, with an increase in Albany but a decrease in North Oakland. In Berkeley the permit data show little if any effect of rent controls on building repair expenditures, but do show an increase in such expenditures in 1992-93 after the 1992 rent increases. This suggests that major maintenance remained relatively constant under rent control, when the tenant population also remained relatively similar, but may be increasing in response to opportunities to bring in a new, higher-income tenant population.

Table VII-3: North Berkeley and Albany Building Permits, 1970 - 1993

Year	Permits		Valuation (1993 dollars)		CPI Index
	North Berkeley	Albany	North Berkeley	Albany	
1970	17	2	\$154,954	\$1,863	37.7
1971	17	3	\$82,613	\$449	39.1
1972	16	4	\$52,672	\$29,644	40.4
1973	18	3	\$84,803	\$4,878	42.8
1974	19	6	\$136,121	\$32,323	47
1975	17	9	\$43,023	\$32,728	51.8
1976	18	10	\$58,858	\$62,427	54.6
1977	9	7	\$21,930	\$16,215	58.8
1978	22	16	\$214,786	\$276,475	64.3
1979	16	5	\$195,388	\$9,006	69.8
1980	9	5	\$77,592	\$121,717	80.4
1981	11	6	\$25,296	\$87,409	90.8
1982	14	7	\$29,380	\$14,062	97.6
1983	12	8	\$31,966	\$67,912	98.4
1984	12	8	\$36,205	\$32,840	104
1985	12	15	\$236,266	\$77,133	108.4
1986	13	8	\$72,282	\$92,995	111.6
1987	13	8	\$67,085	\$50,673	115.4
1988	17	10	\$184,905	\$41,158	120.5
1989	10	3	\$36,349	\$15,394	126.4
1990	13	14	\$47,844	\$76,821	132.1
1991	9	6	\$128,908	\$19,653	137.9
1992	17	6	\$102,216	\$43,120	142.5
1993	12	4	\$60,712	\$22,000	146.3
Total	343	173	\$2,182,154	\$1,228,895	

Table VII-4: South Berkeley & North Oakland Building Permits, 1970 - 1993

Year	Permits		Valuation		CPI Index
	S. Berkeley	N. Oakland	South Berkeley	North Oakland	
1970	6	6	\$67,110	\$23,121	37.7
1971	11	3	\$109,459	\$29,693	39.1
1972	13	7	\$12,659	\$55,119	40.4
1973	6	3	\$6,065	\$26,678	42.8
1974	11	3	\$22,274	\$11,533	47
1975	9	7	\$30,544	\$28,847	51.8
1976	10	7	\$25,181	\$33,808	54.6
1977	10	11	\$225,971	\$99,817	58.8
1978	21	3	\$115,767	\$31,779	64.3
1979	8	8	\$58,959	\$44,590	69.8
1980	15	7	\$105,411	\$18,130	80.4
1981	5	5	\$18,845	\$0	90.8
1982	6	2	\$21,675	\$0	97.6
1983	9	2	\$33,789	\$17,866	98.4
1984	6	1	\$63,249	NA	104
1985	13	3	\$50,680	NA	108.4
1986	8	6	\$44,866	\$47,127	111.6
1987	4	2	\$7,216	NA	115.4
1988	12	3	\$61,080	NA	120.5
1989	16	3	\$188,641	NA	126.4
1990	16	1	\$58,060	NA	132.1
1991	13	3	\$43,937	NA	137.9
1992	10	2	\$49,615	NA	142.5
1993	19	3	\$123,877	NA	146.3
Total	257	101	\$1,544,931	\$468,109	
Permits excluding South Berkeley Rental Rehab projects.					

VIII. SOCIAL AND DEMOGRAPHIC EFFECTS OF RENT CONTROLS

- Higher-income tenants have moved in to replace lower-income tenants as rents increased in both Albany and North Oakland, while the slower rate of increase in Berkeley rents allowed lower-income tenants to continue to rent here.
- From 1980 to 1990 the number of people in Berkeley who are disabled and unable to work increased, while decreasing in Albany and North Oakland.
- The number of Berkeley residents who are both elderly and poor increased faster than in neighboring census tracts in Albany and North Oakland.
- The number of people in Berkeley receiving public assistance declined more slowly than in Albany and North Oakland.
- The number of African-Americans in Berkeley declined more slowly than in neighboring Albany and North Oakland.
- An apparent decline in the number of poor tenants in Berkeley is mostly accounted for by changes in the student population, with more students in group quarters, where their income is not counted, more students in sharing housing, which increases total household income, and more students working, which also increases their income.
- There was a smaller increase in overcrowding in Berkeley than in neighboring cities but no reduction in the average number of people living in each rental unit.
- Berkeley tenants became more stable and less transient. This did not affect commute patterns.

Rent control has potential social as well as economic effects, and there are continuing debates over what these effects are. One side of the debate describes a city in which reasonable rents allow lower-income people to remain in Berkeley, particularly members of discriminated-against racial minorities, people who are disabled and unable to work, the elderly and students, most of whom are at least temporarily poor. In addition, rent control stabilizes tenants lives and gives them the security normally only available to homeowners. The other side of the debate portrays a city in which landlords rent to better-off tenants when units become available, tenants with no need to live in Berkeley stay for the low rents and people who want to live a low-income lifestyle of political activism or artistic pretension are indulged with inexpensive housing near cafes while students must live far from campus.

In this section we explore the demographic trends in Berkeley and in neighboring cities during the 1980's and look at what this implies about the effects of rent control on the social fabric of the City of Berkeley. In this process we must examine both the direct and indirect potential impacts of rent controls on the tenant population. Direct effects result when rent control changes the proportion of tenants with certain characteristics that landlords choose to rent to. These direct effects are measured by examining changes in the proportion of tenants with any particular set of characteristics compared to changes for the same groups in control Census tracts in neighboring cities. Indirect impacts of rent control result even when

landlords continue to make the same decisions as in the past, so that the proportional representation of different groups of tenants remains the same, but the number of such tenants declines due to a decline in the number of rental units resulting from rent controls. (In order to make the strongest possible case for potential harmful side-effects from rent controls, the reduction in rental units, while only partly attributable to rent controls, will be considered as if it was entirely an effect of rent controls in this section.)

In the following analysis we look at both the actual numbers of tenants and their proportions and consider the circumstances to determine whether there are direct or indirect effects of rent control. Direct effects may suggest problems with the rent control system as such, while as discussed earlier, indirect effects may be reduced by dealing directly with the problems resulting from conversion to owner-occupancy.

Tenant Incomes

Table VIII-1 shows the change in average (mean) income and gross rent for tenant households in Berkeley and in neighboring cities, as well as the increase in the consumer price index. Average tenant incomes increased faster than the consumer price index, although incomes for poor tenants receiving public assistance have gone down. Rents increased faster than tenant incomes, except in Berkeley, where rent controls held rent increases down to slightly above the rate of inflation.¹ In 1980 Northern Alameda County was the location of a large pool of housing with below-average rents, mostly occupied by tenants with below-average incomes. We have already seen in Table II-6 that the number of units affordable to low-income tenants declined drastically in Alameda County during the 1980's.

While incomes for both homeowners and tenants in the rest of Alameda County generally lagged behind increases in rents and home prices, the average income of Berkeley tenants increased faster than rents from 1980 to 1990. In the Nine-County Bay Area mean tenant incomes increased by 113% from 1980 to 1990, from \$16,435 to \$34,941, while in Alameda County tenant incomes increased by 107%. Census tracts with tenant incomes that increase by more than 107%-113% likely are reflecting changes in the type of tenant living there, rather than increases in tenant incomes generally. Increases in tenant incomes at or below 107%-113% suggest stability in the type of tenant living there or even an increase in the proportion of lower-income tenants. Albany clearly shows the signs of gentrification, the replacement of lower-income people by higher-income people. Berkeley and Oakland show signs of stability in their tenant population citywide, but the rapid increase in tenant income in the North Oakland tracts suggests gentrification in that area and redistribution of tenants within the City of Oakland as a whole. In Berkeley, the tenant profile remains relatively stable and the rent burden appears to have declined.

The results of this comparison are particularly dramatic when we look at adjoining census tracts. The change in tenant income is remarkably similar to the change in rent levels. In both North and South Berkeley rent increases were substantially lower than in the neighboring tracts in Albany and North Oakland and tenant incomes also increased to a much lesser extent than they did in Albany and North Oakland. In the Hills, where most rentals are little affected by rent controls, rents went up as much in Berkeley as in the neighboring cities and so did tenant incomes.

Clearly, higher-income tenants have moved in to replace lower-income tenants as rents increased in both Albany and North Oakland, while the slower rate of increase in Berkeley rents allowed lower-income tenants to continue to rent here.

¹ This does not mean that rent controls allowed increases at or above the rate of inflation. Rather the system allowed rent increases at slightly below the rate of inflation and the higher increases among exempt units brought the overall average above the rate of inflation.

Table VIII-1: Change in Mean Income and Median Gross Rent of Tenant Households in Berkeley and Neighboring Cities, 1980 - 1990

AREA (Census Tracts)	1980 Tenant Income	1990 Tenant Income	Percent Increase	1980 Gross Rent	1990 Gross Rent	Percent Increase
ALAMEDA COUNTY	\$14,657	\$30,410	107%	\$266	\$626	135%
ALBANY	\$15,220	\$32,355	133%	\$264	\$660	150%
OAKLAND	\$12,551	\$24,951	99%	\$232	\$538	132%
BERKELEY	\$12,534	\$24,557	96%	\$245	\$426	74%
Kensington-Oakland Hills (3910, 3920, 4002)	\$16,151	\$40,781	153%	\$368	\$819	122%
Berkeley Hills (4212, 4238)	\$16,685	\$40,299	142%	\$301	\$663	120%
S.E. Albany (4201,05,06)	\$15,867	\$38,218	141%	\$316	\$809	156%
North Berkeley (4213,19)	\$16,128	\$28,539	77%	\$258	\$460	78%
North Oakland (4004,05,07,08)	\$10,708	\$23,879	123%	\$217	\$542	150%
South Berkeley (4239,40)	\$11,794	\$22,488	91%	\$228	\$435	91%
BAY AREA CONSUMER PRICE INDEX		All Items Increase	64%		Rent Increase	100%

By way of comparison, Table VIII-2 shows the change in Mean Income and Median Home Price of Owner-Occupied houses in Berkeley and neighboring cities. Among homeowners, incomes increased faster in the Census tracts in Berkeley than in the tracts in neighboring cities, while home prices increased at the same rate in South Berkeley-North Oakland and in the Hills, although more slowly in North Berkeley than in South-East Albany. The higher rate of increase in homeowners' incomes in Berkeley than in Alameda County and Oakland suggest the greater desirability of Berkeley (and increasingly Albany as well) as a place to live and the greater pressures on the Berkeley housing market. Mean homeowner income actually increased more slowly than mean renter income in the comparison Census tracts, reflecting the lower mobility and fixed mortgage rates and taxes that enable homeowners to remain in place even though they could no longer afford to buy their homes at current value.²

² The Oakland citywide figures are an exception to this, but do not reflect what is happening in comparable neighborhoods. Oakland's housing market is large and contains areas of exclusive homes, gentrifying mixed single-family and apartment neighborhoods and large areas of concentrated poverty that are primarily occupied by tenants.

Table VIII-2: Mean Homeowner Income and Median Home Price in Berkeley and Neighboring Cities, 1980 - 1990

AREA (Census Tracts)	Mean Homeowner Income			Median Home Price		
	1980	1990	Change	1980	1990	Change
ALAMEDA COUNTY	\$27,990	\$58,894	+110%	\$84,900	\$225,300	+165%
ALBANY	\$23,114	\$50,917	+120%	\$85,300	\$239,600	+181%
OAKLAND	\$25,076	\$53,447	+113%	\$66,600	\$172,100	+158%
BERKELEY	\$29,652	\$64,939	+119%	\$96,400	\$256,500	+166%
Kensington-Oakland Hills (3910, 3920, 4002)	\$37,642	\$75,411	+100%	\$127,931	\$328,623	+157%
Berkeley Hills (4212, 4238)	\$43,533	\$103,237	+137%	\$164,568	\$431,259	+162%
S.E. Albany (4201,05,06)	\$22,793	\$50,991	+124%	\$88,331	\$248,217	+181%
North Berkeley (4213,19)	\$24,534	\$58,103	+137%	\$95,227	\$254,371	+167%
North Oakland (4004,05,07,08)	\$18,970	\$38,204	+101%	\$56,687	\$154,686	+173%
South Berkeley (4239,40)	\$18,115	\$46,064	+154%	\$59,929	\$164,316	+174%
BAY AREA CONSUMER PRICE INDEX		All Items Increase	64%		Rent Increase	100%

The effects of rent control on poor tenants are hard to study with Census data because in Berkeley this group includes a substantial number of college students, most of whom are not from poor families and will not be poor after they leave the University. The Census does not publish its data in a way that allows us to distinguish between student and non-student poor households. In Chapter V we were able to use survey data to separate students out and determine that about 30 percent of rent controlled units were occupied by very low-income non-student households. Unfortunately, this data is not available for neighboring cities. We can, however, look at specific population groups that are entirely or largely very low-income, particularly the disabled who are unable to work, the elderly, households receiving public assistance and students.

Disabled People

Table VIII-3 shows the changes in number of residents who are disabled and of working age. There are major differences between the cities, and these differences become even clearer when we look at the disabled as a proportion of population. In Berkeley, the number and proportion of people who are disabled increased substantially. Oakland shows a slight increase in number, but this proves to be the result of a 9.7% increase in Oakland's population and as a proportion of the general population the disabled population declined. Similarly, the increase in number in Alameda County still lagged the County's 15.7% increase in general population. Looking at the adjoining census tracts, it is interesting to note that the only part of Berkeley in which the number of disabled people declined was in the Hills, where there are very few rentals. This reflects the decreased affordability of homes in the Hills and also the phenomenon discussed in Chapter VIII, the decreased interest on the part of Hills residents in renting out rooms or second units, since they have increasingly high incomes and prefer the privacy and space to the income from renting.

AREA	1980 No. Disabled	1990 No. Disabled	Percent Change	1980 % Disabled	1990 % Disabled	Percent Change
ALAMEDA COUNTY	62,882	66,479	+5.7%	5.7%	5.2%	-8.8%
ALBANY	698	577	-17.3%	4.6%	3.5%	-23.4%
OAKLAND	24,956	25,063	+0.3%	7.4%	6.7%	-8.6%
BERKELEY	5,743	6,081	+5.9%	5.6%	5.9%	+6.5%
Kensington-Oakland Hills (3910, 3920, 4002)	278	259	-6.8%	3.8%	3.7%	-2.1%
Berkeley Hills (4212, 4238)	205	143	-30.2%	2.8%	2.1%	-24.5%
S.E. Albany (4201,05,06)	304	322	+5.9%	4.2%	4.5%	+6.5%
North Berkeley (4213,19)	251	399	+59.0%	3.2%	5.3%	+64.9%
North Oakland (4004,05,07,08)	1,511	1,127	-25.4%	10.6%	7.7%	-27.3%
South Berkeley (4239,40)	825	999	+21.1%	9.7%	11.9%	+22.7%

The value of these figures is limited, because they do not distinguish between renters and owners. We can, however, look at disabled people of working age who are unable to work. About half of the working age disabled population work, and this group includes homeowners as well as renters. The 1990 Census reported that 3,011 people who are prevented from working lived in Berkeley, very close to the approximately 3,300 recipients of SSI for the disabled or blind who live in Berkeley. We can safely presume that virtually all the members of this group rent, whether a unit or a room, although some are students and live in dormitories or other group quarters. People can not receive SSI if they own valuable property such as a home. SSI recipients received payments of \$620 monthly in 1990. This income of

\$7,440 a year placed them \$1,160 over the Federal poverty line for 1990, but there is no doubt that they are poor in any normal sense of the word.

Table VIII-4 shows the number of people who are prevented from working by their disability who live in Berkeley and in neighboring cities. The changes from 1980 to 1990 are even more dramatic than those for the disabled population as a whole. Albany, for example, actually had an increase in the number of employed disabled residents, but the decline in disabled who are not able to work was even higher. Albany is considered an attractive city to live in for those disabled people who can afford it. It is the home to a State school for the blind, has elected a Mayor who was blind and has disabled people serving on civic boards and commissions and of course is close to the services and businesses that support disabled people in the Berkeley area. The ability of poor disabled people to remain there has declined, however. Berkeley, on the other hand, remained both attractive and affordable to poor disabled people, at least through 1991.

Table VIII-4: Number of People that are Disabled, Prevented From Working, Not Institutionalized and Age 16-64 in Berkeley and Neighboring Cities, 1980 - 1990			
AREA	1980	1990	Change
ALAMEDA COUNTY	32,689	33,020	+1.0%
ALBANY	329	206	-37.4%
OAKLAND	15,123	14,450	-4.5%
BERKELEY	2,595	2,739	+5.5%
Kensington-Oakland Hills (3910, 3920, 4002)	125	79	-36.8%
Berkeley Hills (4212, 4238)	49	35	-28.6%
S.E. Albany (4201,05,06)	149	65	-64.4%
North Berkeley (4213,19)	122	159	+30.3%
North Oakland (4004,05,07,08)	874	623	-28.7%
South Berkeley (4239,40)	388	619	+59.5%

The main source of income for disabled people who are unable to work is SSI for the blind and disabled. The Social Security Administration has records showing the number of SSI-Disability recipients by zip code for December of each year going back to 1986. Table VIII-5 shows a steady increase in the number of disabled SSI recipients in Berkeley and neighboring Zip Codes covered by the same office of the Social Security Administration. The number of recipients of SSI for the disabled was greater and increased at a faster rate in Berkeley than in these neighboring areas. Overall, Berkeley showed truly remarkable gains in its disabled population.

These gains have now leveled off and perhaps even gone into reverse. During 1992 and 1993 low-income tenants were partially protected from the 28% "Searle" increase, since they could request that it be spread out into three parts, which would be completed in January 1994. For these tenants the January 1992 increase in the legal rent ceiling was 10% in addition to the AGA, in 1993 there was another 10% increase in addition to the AGA and in January 1994 the final 8% was added to the AGA. As of December 1993, the number of disabled SSI recipients declined two percent from December 1992.

AREA ⁴	1986	1987	1988	1989	1990	1991	1992	1993
Berkeley	2,443	2,469	2,483	2,755	2,824	2,919	2,950	2,907
Albany	149	143	142	165	167	164	154	170
Emeryville-North Oakland	1,253	1,233	1,234	1,311	1,320	1,421	1,452	1,454

We can not conclude from the increases in disabled population in Berkeley that rent control alone is responsible. Berkeley, after all, is an internationally known center of organizations that advocate for and assist the disabled, including the headquarters of the Center for Independent Living and the World Disability Foundation. Rather, it is clear that low-income disabled people were able to find places to live in Berkeley in close proximity to the services they desired. Without the presence of these services they would not have tried so hard to live here or have had as much assistance in finding places to live in Berkeley. Without affordable rents, however, they would not have been able to live in Berkeley at all. The matched Census tracts are on the borders of Berkeley, so that nearby parts of Albany and Oakland should be nearly as desirable to disabled people. The only major difference is the higher rents outside of Berkeley.

³ Office of Research and Statistics, Social Security Administration, U.S. Dept. of Health and Human Services, "SSI: Number of persons eligible for federally administered payments and monthly SSI benefit amount by State, district office and ZIP Code", 1986-1992.

⁴ Areas are defined by Zip Codes as follows:
 Albany 94706.
 Berkeley 94701-05, 94707-10, 94720.
 Emeryville-N. Oak. 94608, 94662.

Elderly Renters

The elderly are another substantial part of the very low-income tenant population. Census data is not available on the number of elderly poor who are renters or owners, and there are elderly homeowners whose reported incomes are below the poverty line. According to the Social Security Administration, in 1990 Berkeley had 1,007 poor elderly and 800 recipients of SSI for the elderly, none of whom may legally be homeowners, although some of them may live in group quarters such as nursing homes rather than renting a separate unit. (See Table VIII-6 and VIII-7). In theory, any elderly person with an income below the payment level for SSI and no significant assets is eligible to receive SSI payments that bring their income to the SSI level. In 1990 SSI paid \$620 monthly (it is now \$608) and while this 1990 income of \$7,440 a year placed them \$1,160 over the Federal poverty line for 1990, in any normal sense of the word these people are poor. Since the SSI amount is above the poverty line, in theory, there should be very few elderly people with incomes below the poverty line in California. (See Table VI-1 for the 1990 U.S. poverty line.) In reality, there are many poor people who do not know about help they are entitled to and there is also some under-reporting of incomes, so that we can not be sure how much overlap there is between these two sets of numbers.

AREA ⁶	1986	1987	1988	1989	1990	1991	1992	1993
Berkeley	725	782	759	800	795	795	724	697
Albany	95	83	94	89	86	84	78	76
Emeryville-North Oakland	428	395	393	389	370	362	340	318

Table VIII-6 shows the change in number of people receiving SSI for the Elderly in Berkeley and in the adjoining Census tracts. The numbers declined in adjoining areas. Berkeley increased until 1989, then began to decline in 1992, suggesting that increased rents have reduced the number of poor elderly residents of Berkeley. As discussed above, the increase was phased in for low-income tenants so that many received only part of the "Searle" increase in January 1992. As of December 1993, poor tenants had received 20 percent of the 28 percent supplementary increase.

VIII-7 shows the number of elderly people with incomes below the poverty line in Berkeley and in neighboring cities. Berkeley and its neighbors have all had increases in the number of residents who are both elderly and poor, although Berkeley's increase appears to be the smallest if we do not take changes in overall population or number of rental units into account. As a proportion of the general population, the elderly poor in Berkeley and Albany increase while in Alameda County and Oakland they decrease.

⁵ Office of Research and Statistics, Social Security Administration, U.S. Dept. of Health and Human Services, "SSI: Number of persons eligible for federally administered payments and monthly SSI benefit amount by State, district office and ZIP Code", 1986-1992.

⁶ Areas are defined by Zip Codes as follows:

Albany 94706.
 Berkeley 94701-05, 94707-10, 94720.
 Emeryville-N. Oak. 94608, 94662.

Looking at the matched Census tracts, we see that the Berkeley tracts show a substantially larger increase in the number of poor, elderly residents than the neighboring cities. Indeed, while Albany showed an increase citywide, the tracts next to Berkeley actually show a substantial reduction. In the Hills, both in Berkeley and in Kensington and Oakland, the number also goes down. Part of the poor elderly population in Berkeley live in subsidized housing that is reserved for the elderly, and there can be no doubt that this housing helps stabilize the proportion of the population that is poor and elderly, but none of this housing is in the comparison Census tracts.

Table VIII-7: People Age 65 or More and Below the Poverty Line in Berkeley and Neighboring Cities, 1980 - 1990

AREA	1980	1990	% Change
ALAMEDA COUNTY	9,036	10,403	+15.1%
ALBANY	146	186	+27.4%
OAKLAND	4,541	4,760	+4.8%
BERKELEY	985	1,007	+2.2%
Kensington-Oakland Hills (3910, 3920, 4002)	85	16	-81.2%
Berkeley Hills (4212, 4238)	38	25	-34.2%
S.E. Albany (4201,05,06)	73	52	-28.8%
North Berkeley (4213,19)	57	105	+84.2%
North Oakland (4004,05,07,08)	225	270	+20.0%
South Berkeley (4239,40)	72	124	+72.2%

Public Assistance Recipients

In 1990 the Census reported 3,404 households and 8,710 people receiving most of their income from some form of public assistance, including 2,058 children under age 15, 1,356 people over age 64, and 5,296 people between 15 and 64.⁷ Unfortunately, figures on the number of individuals receiving public assistance are not available in the published Census data for 1980, which means that we can only compare the number of households and not the total number of recipients for 1980 and 1990.

In 1980 the Census reported 3,898 households receiving the largest part of their income from public

⁷ A substantial but undetermined number of people receiving public assistance live in group quarters or are homeless rather than in a household. For this reason, the number of people receiving public assistance should not be divided by the number of households receiving assistance in order to get an average number of persons per assisted household.

assistance, compared to 3,404 in 1990. Part of this decline may result from a Census error -- because nearly 200 rooms in residential hotels were miscounted as group quarters any recipients of SSI and GA living in these residential hotels would not be counted as households. Another part of the decline may result from the very real loss of 400 residential hotel rooms between 1980 and 1990, as a result of which many aid recipients were displaced and some became homeless. According to the Alameda County Department of Health and Human Services, in early 1980 Berkeley had 1,913 families receiving AFDC compared to 1,862 in 1990, a slight decline, and 206 people receiving GA in 1980 compared to 529 in early 1990, a major increase. Data on SSI payments, the other main form of public assistance, is not available for the years before 1986, but showed continual increases from 1986, reaching 3,619 people in December 1990. Taken together the statistics on SSI, GA and AFDC payments show that there were a total of 4,148 individuals and 1,862 families receiving public assistance in 1990.

Table VIII-8 examines the trends suggested by the Census data, for all its limitations, in Berkeley and neighboring cities. Berkeley appears to have lost people receiving public assistance, but compared to Albany the loss is far less. Furthermore, as a proportion of all renters, Berkeley, like Oakland, has remained stable, while the proportion in Albany has declined. Looking at the matched census tracts, we see that there was actually an increase in the number of public assistance recipients in the Census tracts neighboring Albany and that the decrease in South Berkeley was much less than the decrease in North Oakland. Berkeley had a greater decline in public assistance recipients only in the Hills, an area in which most rental units are either single-family homes or second units within single-family homes. Once again the data suggest that high market pressures in Northern Alameda County had their effects slowed by rent control in Berkeley. The stable number of public assistance recipients in Oakland citywide is the result of increases in certain areas that match the decreases in areas like North Oakland.

AREA	1980 HH	1990 HH	Percent Change	1980 % Tenant HH	1990 % Tenant HH	Percent Change
ALBANY	418	284	-32.1%	12.1%	7.3%	-40%
OAKLAND	24,534	25,781	+5.1%	30.5%	30.6%	0%
BERKELEY	3,898	3,404	-12.7%	14.0%	13.9%	-1%
Hills (3910, 3920, 4002)	116	49	-67.8%	14.9%	6.6%	-56%
Berkeley Hills (4212, 4238)	66	11	-83.3%	10.0%	2.7%	-73%
S.E. Albany (4201.05,06)	179	136	-24.0%	16.8%	12.7%	-24%
North Berkeley (4213,19)	203	219	+7.9%	17.4%	24.9%	+43%
North Oakland (4004.05,07,08)	1,437	950	-33.9%	38.2%	25.0%	-35%
South Berkeley (4239,40)	733	673	-8.2%	28.5%	30.1%	+6%

In September 1993 Berkeley had 1,527 AFDC recipients and 615 GA recipients. We can not conclude that the decline in AFDC recipients is the result of the 1992 rent increases, however, since County records indicate that most of the decline took place in 1991. The decline may be related to changes in the HUD rules for use of Section 8 housing assistance, allowing people to take certificates or vouchers from one Housing Authority, such as Berkeley's, and use them in an area served by another Housing Authority. About 400 households with Section 8 assistance, mostly larger families, have moved out of Berkeley to Oakland and other areas in which it is easier to find large rental units. Many of these families are likely to have been AFDC recipients. The number of GA recipients fluctuates substantially over the course of any year, and has declined from a high of 750 in the first quarter of 1992.

It is worth noting the relationship between public assistance and the Federal poverty line. As noted above, SSI recipients are normally above the poverty line. GA payments were \$340 monthly in 1990, about two-thirds of the poverty line for an individual. AFDC payments varied by family size, but were generally about three-quarters of the poverty line.

People Below the Poverty Line

The picture for the total number of residents below the poverty line is rather different than the picture for the other specific categories of very low-income people in Berkeley, with a decline in both the number and proportion of households below the poverty line citywide. Oakland has a small increase in the proportion of its population that are poor, reflecting a relative increase in the size of poor households compared to the size of other households. Berkeley and Albany both experience decreases in the proportion of people in poverty that are greater than for the County as a whole.

There are two different ways for the proportion of people in poverty to decline. First, a constant group of poor people may move into another area. This can result from difficulty in finding affordable places to live or the loss of affordable units such as resulted from the loss of residential hotel rooms and small second units. Second, the size of the group of people in poverty may decline as their incomes rise. Before we conclude that poor people chose to leave Berkeley for other communities in the 1980's, despite the benefit of below-market rents or because they were unable to remain in these units, we must look at the possibility that poor tenants in Berkeley had increasing incomes during the 1980's. There are two types of tenant with incomes below the poverty line in Berkeley, college or university students and non-students. There have been important changes in the student population which would increase student household income. Throughout the Bay Area and in Alameda County the proportion of people in poverty has dropped. For poor non-students, Berkeley has extensive job training programs and social services, helping people get SSI payments, which move people above the poverty line, and a number of job training programs. Both of these might be expected to have helped reduce the number of people in poverty in Berkeley to a greater degree than in other areas.

Table VIII-9: People with Incomes Below the U.S. Poverty Line in Berkeley and Neighboring Cities, 1980 - 1990

AREA (Census Tracts)	People Below Poverty Line			Below Poverty Line as % Population ⁸		
	1980	1990	Change	1980	1990	Change
ALAMEDA COUNTY	121,651	132,011	+8.5%	11.3%	10.6%	-5.8%
ALBANY	1,795	1,558	-13.2%	11.9%	9.6%	-19.6%
OAKLAND	61,609	68,781	+11.6%	18.5%	18.8%	+1.8%
BERKELEY	20,028	16,370	-18.3%	21.0%	17.5%	-16.5%
Kensington-Oakland Hills (3910, 3920, 4002)	541	387	-28.5%	7.4%	5.5%	-24.9%
Berkeley Hills (4212, 4238)	490	263	-46.3%	6.6%	3.8%	-41.9%
S.E. Albany (4201,05,06)	565	456	-19.3%	7.9%	6.4%	-18.9%
North Berkeley (4213,19)	524	626	+19.5%	6.7%	8.4%	+24.0%
North Oakland (4004,05,07,08)	2,673	3,234	+21.0%	18.8%	22.2%	+17.9%
South Berkeley (4239,40)	2,097	1,772	-15.5%	24.6%	21.1%	-14.4%

Anything that affects student incomes or residence is likely to have a substantial effect on the number of people below the poverty line in Berkeley. Unfortunately, 1980 and 1990 data are not directly available on student incomes.⁹ We can see the effects that are possible by looking at Census Tract 4204 in Albany, which is entirely made up of university-owned apartments for students with families. Between 1980 and 1990 mean household income increased from \$10,525 to \$20,680. The number of people below the poverty line fell 47%, from 766 to 409 and the number of households in poverty declined 43%, from 248 to 141. Meanwhile the population and housing in this tract was stable, going from 2,547 to 2,556 people and from 923 to 929 units. This suggests that more students and their spouses are working and that student incomes are up, perhaps in response to increases in fees and the cost of attending college generally.

Among single students there are several additional ways that the number of people reported to be below the poverty line can decline. First, if students become more likely to share housing, then the additional students will raise the total income of the household and reduce the number of people in households below the poverty line. University of California surveys indicate an increase in average student household size

⁸ Population here means population for whom poverty status is determined, not total population.

⁹ The Public Use Microdata Survey for 1980 and 1990 can be helpful, but while in 1990 the Berkeley area data included Albany and Emeryville, which would not make it unusable, in 1980 Berkeley, Albany, Emeryville, Piedmont and the City of Alameda were all lumped together.

from 1.9 per unit to 2.2 per unit between 1979 and 1990.¹⁰ Second, from 1980 to 1990 the Census reports an increase of 1,707 people living in college or university-affiliated dormitories, which are considered group quarters rather than housing units. For residents of group quarters there is no household and thus no household income can be determined. For this reason, poverty status is not determined for most residents of group quarters. To the extent that single students have increasingly moved into dormitories and other student group quarters, this could also reduce the reported number of people below the poverty line. Third, there are a substantial but unknown number of students who rent rooms with families. Their income is then counted with the family's as household income. If this group increased, that would also reduce the apparent number of people in poverty.

Table VIII-10: South Campus Tracts 4227 & 4228, 1980 - 1990

	1980	1990	Change	Change as %
Population	10,476	10,873	+397	+3.8%
As % of Berkeley Population	10.1%	10.6%	+0.5%	+4.5%
Students	8,407	8,378	-29	-0.3%
Students as % Population	80.3%	77.1%	-3.2%	-4.0%
As % of All Berkeley Students	29.1%	29.8%	+0.7%	+2.4%
People Below Poverty Line	3,050	2,130	-920	-30.2%
As % of All Berkeley Residents Below the Poverty Line	15.2%	13.0%	-2.2%	-14.5%

We do not have a Census tract made up of single students in households, the group who make up the bulk of the students living in Berkeley, but there are two tracts near the U.C. Campus that are largely occupied by students.¹¹ Tracts 4227 and 4228 are located on the South edge of the University of California campus and have nearly 30% of the Berkeley residents attending a college or university. They also have 25% of the total decline in people with incomes below the poverty line.

We can use these tracts to estimate the number of people in poverty who were students in 1980 and 1990 and the proportion of the decline in poverty that results from changes in student household incomes. In

¹⁰ Office of Property Development, University of California at Berkeley, "Student Housing and Transportation Survey", Winter Quarter 1979 and Fall Semester 1992. See table 32 "Private Housing Size by Number of Roommates - Single Students" and table 33 "Number of U.C. Roommates by Number of Roommates - Single Students in Private Housing".

¹¹ The University of California at Berkeley surveys its students every two years, and in Fall of 1990 the survey showed about 4,000 single students with incomes under the poverty line of \$6,280 for a one-person household. Unfortunately, income data is not available for earlier years (Office of Property Development, University of California at Berkeley, "Student Housing and Transportation Survey, Fall Semester 1990"). In addition, this data is for all UCB students and is not broken down by place of residence.

order to do this we need to make two assumptions; first, that student incomes are distributed similarly to the incomes of the remaining residents of these Census tracts, and second, that student incomes in these Census tracts are representative of student incomes Citywide. The first assumption seems reasonable, particularly since students make up so much of the population in these tracts that small differences will have little affect on the projection. The second also seems reasonable, since we know that students living in families had an even greater decline in people in poverty. Using these assumptions, then, we can attribute 80% of the people in poverty in these tracts in 1980 to the students in these tracts and 77% in 1990 and then project the results to students citywide.

The results of this projection a presented in Table VIII-11. There we see that fully 79% of the decline in people below the poverty line is accounted for by changes within the student population -- a combination of more students living in dormitories for whom poverty status is not computed, and higher household incomes for students living in standard housing, either due to more students living in a household, higher student income or more students sharing housing with working non-students with higher incomes.

	1980	1990	Change	Change as %
Students	28,853	28,105	-748	-2.6%
Students in Dormitories	6,881	8,588	+1,707	+24.8%
Students Not in Dormitories	21,972	19,517	-2,455	-11.2%
People Below the Poverty Line	20,028	16,370	-3,658	-18.3%
Students Below the Poverty Line (Estimate)	8,416	5,511	-2,905	-34.5%
Students as % People Below Poverty Line	42.0%	33.7%	-8.3%	-19.8%
Non-Students Below Poverty Line	11,612	10,859	-753	-6.5%

The decline in non-students below the poverty line appears to be small. Indeed, it is more than fully accounted for by the reduction in the number of rental units. The loss of 400 residential hotel rooms, virtually all of whose occupants are poor or near poor, clearly was a substantial part of this reduction. Conversion of rental units to owner-occupancy and incorporation of secondary units into larger single-family homes likely also had an effect, although primarily on the student market, since conversions were most frequent in the more desirable properties relatively near Campus. The effects of rent controls on the poverty rate in Berkeley turn out to be almost entirely due to its effects on the student population. We will explore these in more detail later in the "University Area" part of this section. The small decline in the proportion of non-students below the poverty line is roughly equal to the decline in the proportion of poor tenants in Alameda County as a whole, and substantially less than that in neighboring Albany.

The University Area

Some have suggested that under rent control Berkeley tenants simply work less and, with higher rents, would increase their incomes. Students, for example, can work more hours or take paying jobs rather than unpaid internships if necessary in order to get through school. In addition, Berkeley has a substantial number of artists, writers and researchers, many connected in some way to the University of California,

who may spend much of their work time on unpaid projects or projects that pay small amounts, or working "day jobs" to the extent necessary to support their "real work".

As with many aspects of the rent control debate, this is largely a matter of perspective. It is arguably of great social importance that areas near major Universities have the inexpensive housing and work spaces necessary to support people who chose to focus their lives in learning and creating rather than on maximizing their incomes and personal wealth. Areas with high concentrations of artists, writers, researchers and experimenters have contributed greatly to both American culture and to the development of new industries, even though only a few become "stars" and themselves profit substantially from their efforts. Such areas provide major economic benefits to the surrounding communities, both in spin-offs from the research and experimentation that create jobs and in cultural benefits to the quality of life, but the effects are hard to measure. These areas also have a tendency to self-destruct, as higher-income people who value culture move in and drive out the people who actually create the desired cultural atmosphere. In response to this problem, a number of cities have begun to use zoning to try to create and protect areas with the "live-work" spaces used by artists and other self-employed artisans and inventors. The role of rent control in protecting such areas in Berkeley is entirely unexplored.

Students and part-time University employees are a highly mobile group with much to lose from greater tenant stability in Berkeley. The 1988 Tenant Survey showed that the majority of student households had moved into their units within the past 18 months and only one-tenth had been there for more than five years. Slightly less than one quarter of non-student households had moved in during the last 18 months, while two-fifths had been there for more than five years. The number of years in residence did not vary substantially by income category once student and non-student households were separated.¹² In 1990 the Census reported 748 fewer university students than in 1980, a decline of 2.6 percent.

Within walking distance of the U.C. Campus, in Census tracts bordering the Campus (4225, 4224, 4227, 4228, 4229) and the traditionally student-oriented Southside (4236, 4237) there was a decline of less than one percent in the number of resident students, from 17,331 in 1980 to 17,214 in 1990, but masks a substantial increase in students living in dormitories and a decrease in the number living in standard housing. As we have seen, an additional 1,707 students lived in dormitories in 1990. All together then, there were 2,455 fewer students living in private housing in Berkeley in 1990 than in 1980. With an average number of student roommates of 1.8 in 1979, this would represent a shift of 1,364 units from student use to apparent non-student use.¹³ The University of California was able to provide almost as much housing dedicated to students as shifted to other occupants, and all of it was within easy walking distance of Campus, keeping the student proportions of the Campus area constant.¹⁴

¹² City of Berkeley analysis of the 1988 Tenant Survey data.

¹³ The University of California has estimated that 3,900 fewer private rental units were available to students of the University of California. It is possible that there has been an increase in the number of students at other institutions living in Berkeley, but increased competition for housing from other students can scarcely be blamed on rent control or considered a loss of units by the City of Berkeley. It is also possible that the University's results are simply in error, as we have been unable to reproduce them using the University's reported survey data.

¹⁴ The size of the student body is likely larger than the University statistics indicate. As registration fees increase, graduate students avoid registering while they work on dissertations or theses. A decline in the number of registered students is not entirely the result of people staying on after they graduate or that more non-students are moving into these areas. It could simply reflect this type of change in the formal status of University of California and other students in the area.

Minority Renter Households in Berkeley

Berkeley had substantial racial change from 1980 to 1990. We have already seen, in Table II-1, the decline in White and Black population and increase in Asian and Hispanic population. Table VIII-12, however, sheds additional light on this change by showing that the decline in white population took place almost entirely among college students, while the decline in African-American population took place entirely among non-students.

Race ¹⁵	1980	1990	Change
White Non-students	44,885	44,047	-2.9%
White College Students	21,038	15,818	-24.8%
White, All	65,923	59,865	-9.2%
Black Non-students	18,591	16,461	-11.5%
Black College Students	1,877	2,239	+19.3%
Black, All	20,468	18,700	-9.6%
Asian Non-students	5,420	7,662	+41.4%
Asian College Students	4,447	7,093	+59.5%
Asian, All	9,867	14,755	+49.5%
Hispanic Non-students	3,801	5,751	+51.3%
Hispanic Students ¹⁶	1,418	2,838	+100.1%
Hispanic, All	5,219	8,589	+64.6%
Total Non-students	74,475	74,619	+0.2%
Total College Students	28,853	28,105	-2.6%
Total Population	103,328	102,724	-0.6%

Table VIII-12 shows that the decline in white population is almost entirely explained by the dramatic change in racial composition at the University of California at Berkeley, in which, by 1990, whites were no longer in the majority. The increases in Asian and Hispanic population are equally the result of

¹⁵ White, Black and Asian figures are for Non-Hispanic only. Mixed and Native American categories are not included separately in the table but are included in the total population.

¹⁶ The Census' cross-tabulation of students by Hispanic status and race does not use non-Hispanic Whites, etc. In order to remove overlap we have assumed that Hispanic students have the same degree of overlap with other racial categories as do Hispanic people in general, primarily with White and Other.

increases in the college student population and increases in the general population. The decline in African-American population, however, is entirely the result of changes within the City of Berkeley, with the number of African-American students increasing.

As we have seen in Table II-1, in Chapter 2, Berkeley's Black population reached its peak around 1970 and then declined precipitously, by 22.5% from 1970 to 1980. From 1980 to 1990 the Black population continued to decline by another 7.2%.¹⁷ Table VIII-13 shows that the owner and renter composition of this decline changed from the 1970's to the 1980's. First of all, the 1970's decline was much smaller in households than in population, showing that the decline was partly the result of a reduction in average African-American household size, with the decline in tenant households partly compensated by an increase in African-American homeowners. In the 1980's, the decline among tenant households slows, while the number of African-American homeowners now declines faster than among tenants.

Table VIII-13: Black Households by Own or Rent, 1970-1980-1990

Type of Household	1970	1980	1990	Change, 70-80	Change, 80-90
Homeowner HH	3,066	3,655	3,176	+19.2%	-13.1%
Tenant HH	6,329	5,161	4,755	-18.5%	-7.9%
All Households	9,395	8,816	7,931	-6.2%	-10.0%

From 1980 to 1990 the African-American population declined in all age groups except those age 65 or over, which suggests that Black homeowners are an aging group that is not being replaced. Sociology Professor Troy Duster, of the University of California at Berkeley, suggests that as older Black homeowners die off their children sell the house and take the money to buy in other, more affordable communities with better schools or lower crime rates and the homes are bought by people without children.¹⁸ Some Berkeley landlords have claimed that the decline in Black homeownership is the result of Black landlords losing their homes due to impossibly low rents under rent control. Most homeowners who depend on income from rental units to pay their mortgage are people living in a duplex and renting out one unit. These people are exempt under the Berkeley ordinance.

The proportion of Black tenants in Berkeley is affected not only by rent controls directly but indirectly through the relationship between rent controls and the Section 8 rental assistance program. Rent control had an important effect on the efforts of the Berkeley Housing Authority to expand its Section 8 rental assistance program during the 1980's. In 1980 the Berkeley Housing Authority was having trouble using all of its certificates, as recipients had great difficulty finding landlords who would rent to them, whether because of their race, since most of them were Black, their family status, since many were single parents, or because the Section 8 certificates stigmatized them as poor. Initially, the U.S. Department of Housing and Urban Development required that Section 8 certificates pay the rent controlled rent. In 1986 the City negotiated an agreement with HUD that allowed Section 8 certificates in Berkeley to pay an approximation

¹⁷ The slight difference with Table X- is because Table II-1 used Black including Black Hispanic, while Table X- uses Black Non-Hispanic only.

¹⁸ Will Harper, "Study Says African Americans Leaving City", Berkeley Voice, August 12, 1993, p.18.

of the market rent that would have been paid without rent controls in place. This created a substantial economic incentive for landlords to rent to Section 8 tenants, and after that Section 8 tenants had no trouble finding units to rent in Berkeley, although they are still concentrated in South and West Berkeley. As a result, there was a substantial increase in the number of poor households receiving rental assistance in Berkeley under the Section 8 program from about 1,100 recipients in 1980 to about 1,600 in 1990. Currently 80% of recipients of Section 8 assistance in Berkeley are African-American.

The historical data suggests that rent control may be responsible for substantially reducing the ongoing decline in Black tenant population in Berkeley. To confirm this, we need to examine the trends in racial composition in neighboring cities and in the neighboring census tracts in Berkeley, Albany and Oakland (See Table VIII-14¹⁹).

AREA	1980 Black Tenant HH	1990 Black Tenant HH	Percent Change	1980 % Black Tenant HH	1990 % Black Tenant HH	Percent Change
ALAMEDA COUNTY	48,605	55,689	+14.6%	24.3%	24.9%	+2.3%
ALBANY	217	277	+27.7%	6.3%	7.1%	+12.7%
OAKLAND	38,832	40,331	+3.9%	48.2%	47.8%	-0.8%
BERKELEY	5,198	4,703	-9.5%	18.7%	19.2%	+2.7%
Kensington-Oakland Hills (3910, 3920, 4002)	28	24	-14.3%	3.6%	3.2%	-10.1%
Berkeley Hills (4212, 4238)	0	0	0%	0%	0%	0%
S.E. Albany (4201,05,06)	57	28	-50.9%	5.4%	2.6%	-51.4%
North Berkeley (4213,19)	136	117	-14.0%	11.7%	13.3%	+13.8%
North Oakland (4004,05,07,08)	2,184	1,920	-12.1%	58.1%	50.5%	-13.1%
South Berkeley (4239,40)	1,383	1,216	-12.1%	53.7%	52.7%	-2.0%

A simple comparison of trends in each city shows increases in the number of African-American tenant households in Albany and Oakland and a decrease in Berkeley. These figures mask two changes occurring simultaneously, however, since the number of tenant households in each racial group is a function of both the number of rental available and the proportion of these rental units that are rented to members of each group. Berkeley actually has an increasing proportion of rental units rented to African-Americans, while

¹⁹ The 1990 figures used are from STF3, so there will be slight discrepancies with figures reported elsewhere for Berkeley using STF1. Differences are minor. For example, the number of black renters reported in Berkeley in STF1 was 4,755 while in STF3 it was 4,703.

in Oakland the proportion has declined slightly. Since Berkeley has had a decrease in the number of rental units, however, the total number of Black renters has declined, while Oakland, with its increase in rental units, has had an increase in the total number of Black renters. In Albany both the number of rental units and the proportion rented to African-Americans has increased. Without its greater amount of new construction, for example, Oakland too would have shown a decline in Black population, although not as large as the decline in Berkeley.

A closer look at the neighboring Census tracts shows that the number of Black tenant households is declining in the areas along Berkeley's borders as well as in Berkeley. In North Berkeley the proportion of Black renters increased, even though the absolute number declined, while South-East Albany's small Black renter population declined by half. Most striking, since the Albany and Hills tracts have relatively small numbers of Black tenants, is the parallel decline in Black population in South Berkeley and North-West Oakland. North-West Oakland has had an increase in the number of Asians, Hispanics and Whites, while South Berkeley has had an increase in the number of Asians, Hispanics and in white homeowners, although the total white population declined slightly. Clearly the same process of racial change is affecting both of these contiguous areas.

Since the proportion of Black renters has increased, after a precipitous decline in the 1970's, it seems that rent control did help keep the remaining rental units available to Black tenants. To the extent that rent control may have accelerated the conversion of rental units in Berkeley to owner-occupancy, this has resulted in a decline in the number of tenant households generally, including Black tenants. Berkeley's decline in rental units could, as discussed in Chapter VII, have been reduced in several ways without weakening rent controls.

Efficient Occupancy and Overcrowding

One object of rent control is to enable low-income households to afford enough housing that they do not have to subject themselves to overcrowded conditions. Often poor people must "double up" so as to be able to afford to pay high rents. Doubling up seriously degrades their standard of living, as members of different families sharing one unit are likely to develop conflicts and suffer from the severe lack of privacy. At the same time, a corresponding concern raised about rent control is that low rents will encourage people to simply spread out, moving into or remaining in larger units than they actually need.

The one indicator of crowding available from the 1980 and 1990 published Census data is the number of units with more than one person per room and complete plumbing facilities. Table VIII-15 shows the trends in Berkeley and neighboring cities. A somewhat better indicator of overcrowding available only for the 1990 Census is the number of people per room. Units with more than 1.5 people per room are overcrowded. By this definition there is overcrowding with two or more people in a studio apartment, four or more people in a small, two-room, one-bedroom apartment, five people in a three-room apartment, and so on. This is also shown in Table VIII-15. While the number of crowded households has increased in each city, it has increased less in Berkeley and in each comparison set of Census tracts, Berkeley has less overcrowding. The decline in crowding in the Albany tracts next to Berkeley should remind us that a decline in crowding is not necessarily a good thing, because it may simply represent the displacement of lower-income people, as has clearly occurred in that section of Albany. Nearly half of the overcrowding in Albany occurs in the student-occupied University Village.

Under rent controls there was a smaller increase in overcrowding in Berkeley than in neighboring cities but no reduction in the average number of people living in each rental unit.

Table VIII-15: Overcrowding in Berkeley and in Neighboring Cities

AREA (Census Tracts)	Percent of Occupied Units With More Than One Person Per Room			Percent Rental Units With More Than 1.5 Persons Per Room, 1990
	1980	1990	Change	
ALBANY	3.7%	6.0%	+62%	4.9%
OAKLAND	6.2%	11.8%	+90%	9.2%
BERKELEY	2.8%	4.1%	+46%	3.2%
Oakland Hills (4002)	0%	0%	0%	0%
Berkeley Hills (4212, 4238)	0.6%	0%	-100%	0%
S.E. Albany (4201,05,06)	2.7%	2.2%	-19%	1.9%
North Berkeley (4213,19)	1.5%	2.3%	+53%	1.0%
North Oakland (4004,05,07,08)	4.8%	6.6%	+38%	5.4%
South Berkeley (4239,40)	4.7%	5.4%	+15%	2.3%

Table VIII-16: Occupancy in Berkeley and in Neighboring Cities

AREA (Census Tracts)	Mean People Per Rental Unit			Mean People Per Owner-Occupied Unit		
	1980	1990	Change	1980	1990	Change
ALBANY	2.07	2.23	+8%	2.28	2.30	-1%
OAKLAND	2.08	2.40	+15%	2.67	2.69	+1%
BERKELEY	1.85	1.86	+1%	2.54	2.42	-5%
Kensington-Oakland Hills (3910, 3920, 4002)	1.79	1.95	+9%	2.47	2.33	-6%
Berkeley Hills (4212, 4238)	1.85	1.98	+7%	2.90	2.61	-10%
S.E. Albany (4201,05,06)	2.03	2.18	+8%	2.42	2.36	-2%
North Berkeley (4213,19)	1.90	1.93	+2%	2.46	2.36	-4%
North Oakland (4004,05,07,08)	2.00	2.20	+10%	2.59	2.52	-3%
South Berkeley (4239,40)	1.99	2.06	+4%	2.52	2.51	-1%

Mobility and Stability

Stability and mobility are two sides to the same phenomenon. On the one hand it is preferable for tenants to be able to move when they want to, for example for find a place that is larger or smaller when changes occur in the family. On the other hand, it is also preferable for tenants to have stability in their lives so that they do fear that they will have to move even if they don't want to. Most people's idea of a good community to live in is not one of high mobility, but rather one of people who are stable and develop a commitment to the quality of life in the neighborhood they live in. People working in real estate often say that homeowners are preferable to tenants because they are "less transient". At the same time, economists often criticize rent control for "reducing tenant mobility". "Transiency" and "mobility", like "immobility" and "stability", are simply two words for the same thing, the one with positive and the other with pejorative connotations. The economic perspective focuses on tenant's ability to move to new housing and the rental market as a whole, while the sociological perspective focuses on tenant's current quality of life and the social fabric of the neighborhood.

Table VIII-17: Tenant Stability in Berkeley and in Neighboring Cities

AREA (Census Tracts)	Percent of Tenants in Place Less Than 16 Months			Percent of Tenants in Place Six Years or More		
	1980	1990	Change	1980	1990	Change
ALBANY	46%	36%	-21%	17%	21%	+18%
OAKLAND	37%	36%	-1%	26%	28%	+5%
BERKELEY	44%	31%	-30%	20%	33%	+68%
Kensington-Oakland Hills (3910, 3920, 4002)	42%	41%	-4%	27%	21%	-22%
Berkeley Hills (4212, 4238)	48%	45%	-6%	25%	29%	+16%
S.E. Albany (4201,05,06)	26%	21%	-19%	18%	21%	+15%
North Berkeley (4213,19)	34%	31%	-8%	26%	35%	+33%
North Oakland (4004,05,07,08)	15%	14%	-7%	18%	18%	0%
South Berkeley (4239,40)	39%	33%	-16%	24%	43%	+82%

Homeownership promotes stability in two ways. First, with fixed-rate mortgages and the restriction on property tax increases to 2% annually, homeowners' costs are relatively stable over time so that they can only lose their home to foreclosure due to a major loss of income. Second, there are major costs to moving. The owner of a small \$200,000 home in Berkeley who wants to move to a larger house faces costs of 6% for realtors fees and 1.5% for property transfer tax on sale of their old home, and another 1.5% to 3% in points and escrow fees for the purchase of their new home, so that total costs can easily reach \$20,000 just to move next door. (No wonder so many people add on to their existing house rather

than move, despite all the problems of living with remodeling.) Rent control gives tenants a similar level of stability in the cost of their home and provides, in a much weaker version, some incentives to remain rather than move to a new apartment that is likely to have a higher rent.

During the 1980s there was a general tendency to greater tenant stability, but Berkeley tenants clearly had more substantial increases than neighboring communities. Table VIII-17 shows the decrease in short-term tenancy and increase in long-term tenancy. While tenant stability clearly increased in Berkeley, it is remarkable, nonetheless, to see that nearly one third of all rental units are occupied by people who moved in recently. There remains very substantial turnover in Berkeley apartments.

Despite this substantial turnover, the comparison with neighboring cities for one group after another has clearly shown that rent control was successful in increasing the demographic stability of Berkeley's tenant population. Rent control has this effect partly by holding down rents so that people can afford to remain in place and partly by changing the way tenants find units to move in to. Most units are found by knowing the former tenant, the landlord or another form of word of mouth, which means that they are generally rented within the same social circle as the people who originally occupied them.²⁰ The cost of advertising a unit a rents substantially below market levels is high. Dozens, even hundreds of applicants may show up, so that the cost to the owner in time spent screening them and making a decision will be high. If the owner is happy with the current tenants, these costs can be avoided if the owner simply relies on the current tenants and their friends to bring in a new tenant. For example, there are student apartments that pass rapidly from one student to another. As a result, rental units in Berkeley in 1990 were distributed much the way they were when rent stabilization was passed by the voters in 1980.

Commute Patterns

It is difficult to use Census data to determine tenant commute patterns, since the Census does not cross-tabulate commute mode by housing tenure. Looking at the data for all employed residents, there is no evidence to support the claims that there were a substantial number of people who had obtained jobs in far-away cities but stayed in Berkeley in their rent controlled apartments. In fact, the number of people who both lived and worked in Berkeley increased by 22 percent from 1980 to 1990 and the proportion of employed residents who both lived and worked in Berkeley increased from 45.2% in 1980 to 48.8% in 1990. Table VIII-18 shows the data for Berkeley and for neighboring cities. The comparison is an awkward one, since the cities are of very different sizes and have very different amounts of employment. The majority of the increase in people who both live and work in Albany, for example, results from the increase in people working at home, because Albany has no major employment centers.

Determining potential effects of rent control is made particularly difficult, because increasing home prices also have major potential effects on commuting, as more and more homes are purchased by two-income families. In Table VIII-19 we can see that this effect is particularly strong in Albany, which is gentrifying steadily as homes are sold by the older generation of owners and in which several hundred new condominiums near the freeway are oriented to commuters. The comparable census tracts show a somewhat greater increase in auto commuters in Berkeley than in the neighboring tracts. The fact that this pattern is the same even for the Census tracts in the Hills, which are more than three-quarters owner-occupied, suggests that the reason for this is found in the higher and more rapid increases in the incomes of Berkeley homeowners that we saw in Table VIII-2. Higher-income people and homeowners are more likely to own cars and to commute to work alone by car. It is possible that rent control had an indirect effect on commuting, by encouraging sale of small rental properties to owner-occupants and thus increasing the proportion of homeowners.

²⁰ Bay Area Economics, Berkeley Rent Control 1988, Dec. 15, 1988, page 87.

Table VIII-18: People Who Live and Work in Berkeley and in Neighboring Cities

AREA (Census Tracts)	Live and Work in Same City			% Employed Res. Working in Same City		
	1980	1990	Change	1980	1990	Change
ALBANY	676	1,073	+59%	9.7%	12.8%	+31.5%
OAKLAND	55,374	74,991	+35%	39.8%	46.8%	+17.6%
BERKELEY	22,192	27,188	+22%	45.2%	48.8%	+8.1%
Kensington-Oakland Hills (3910, 3920, 4002)	707	713	+1%	19.1%	18.38%	-3.6%
Berkeley Hills (4212, 4238)	1,546	1,637	+6%	42.3%	41.9%	-0.9%
S.E. Albany (4201,05,06)	389	575	+48%	11.4%	14.6%	+28.1%
North Berkeley (4213,19)	1,448	1,788	+23%	37.0%	42.8%	+15.8%
North Oakland (4004,05,07,08)	2,398	2,485	+4%	41.1%	37.6%	-8.5%
South Berkeley (4239,40)	1,258	1,403	+12%	37.8%	36.3%	-4.1%

Table VIII-19: Employed Residents (ER) Who Drive Alone to Work, Berkeley and Neighboring Cities, 1980 - 1990

AREA	1980	1990	Percent Change	% ER 1980	% ER 1990	Percent Change
ALBANY	3,520	5,705	+62%	50.5%	67.8%	+34.3%
OAKLAND	76,968	91,214	+19%	55.3%	57.0%	+2.9%
BERKELEY	21,019	24,742	+18%	42.8%	44.5%	+4.1%
Kensington-Oakland Hills (3910, 3920, 4002)	2,087	2,268	+9%	56.3%	58.5%	+3.9%
Berkeley Hills (4212, 4238)	2,013	2,286	+14%	55.1%	58.5%	+6.3%
S.E. Albany (4201,05,06)	1,883	2,175	+16%	55.5%	55.7%	+0.4%
North Berkeley (4213,19)	1,966	2,247	+14%	50.2%	53.8%	+7.2%
North Oakland (4004,05,07,08)	2,802	3,322	+19%	48.04%	50.3%	+4.7%
South Berkeley (4239,40)	1,476	2,020	+37%	44.4%	52.2%	+17.7%

IX. COSTS AND BENEFITS OF RENT CONTROL TO THE CITY OF BERKELEY

- The Rent Stabilization Program currently costs about \$2,500,000 annually to administer.
- In total, the amount of foregone taxes from 1979 to 1991 totals \$10,500,000, and the annual rate of foregone taxes had reached \$1,600,000 a year in 1991.
- Overall, the rent control system delivered about \$3 in reduced rents to very low-income non-student tenants for every \$1 that it cost the City and tenants in general in 1991.
- After the 1992 rent increases, the cost-benefit ratio solely in terms of tenants who would otherwise be eligible for Federal housing assistance has decreased from 3:1 to 1:1. The ratio is substantially higher in terms of benefits to all tenants.

Administrative Costs

The rent control system has clear financial costs and benefits to landlords and tenants and to the City of Berkeley. The most immediate cost of the system is its administrative costs. These are paid by landlords through annual registration fees. Since these fees are a cost of operation, the Rent Board takes them into account in the annual operating cost study and sets the Annual General Adjustment higher to take increases in registration fees into account, so that ultimately they are passed on to tenants. The tenant benefit from rent controls is thus reduced by the administrative cost of the rent control system.

Table X-1 shows the basic administrative data for the rent control system from the 1980-81 fiscal year to the 1993-94 fiscal year; registration fees, annual expenditures and staff. The Rent Control system began with an annual registration fee of \$12 per unit, or one dollar per month, as set by the initiative passed by the voters. This rapidly proved to be inadequate. Registration fees went to \$30 in 1982, to \$60 in 1985, to \$80 in 1987, to \$100 in 1989 and reached \$136 in 1991, after which they were reduced to \$125 in 1992 and \$115 in 1994.

The size of the staff hired with these funds was initially quite inadequate, especially given the level of resistance to the program. The Rent Stabilization Program began with a staff of eleven; a director, three lawyers, two other professional staff, and five clerical staff. By way of comparison, Santa Monica, whose rent control system began one year earlier, already had a staff of 36 to oversee half again as many units. Particularly for the first two years, the program struggled along with inadequate staff and income far below projections due to slow registration. By 1984-85 staffing was doubled, if we take into account the legal staff in the City Attorney's Office working on rent control issues. Registration was computerized and records brought up to date, although as individual rent adjustment petitions increased there continued to be substantial time lags in dealing with them. Staffing reached a peak of 28 in 1988 as staff was hired to handle the backlog of IRA petitions and by 1990 the delays had been substantially reduced. Staff was reduced in 1991 by the new Rent Board, which changed petition rules to reduce staff verification of the information provided in landlord petitions.

Year	Registration Fee per Unit	Annual Expenditures	Staff (full-time equivalent)
1980-81	\$12	\$321,836	11.0
1981-82	\$12	\$353,577	11.0
1982-83	\$30	\$553,285	11.5
1983-84	\$30	\$647,254	17.0
1984-85	\$30	\$840,622 ¹	18.0 ²
1985-86	\$60	\$1,042,751	20.75
1986-87	\$60	\$1,403,784	20.75
1987-88	\$80	\$1,311,370	20.75
1988-89	\$80	\$1,642,014	28.0
1989-90	\$100	\$1,872,919	28.5
1990-91	\$100	\$2,676,378	23.2
1991-92	\$136	\$2,147,112	26.9
1992-93	\$125	\$2,399,755	28.9
1993-94	\$125	\$2,684,478	26.2

The cost of the Rent Stabilization Program fluctuated, with substantial court costs increasing the totals in 1990, at which time the basic program operation costs had reached \$2,000,000 annually.

Foregone Tax Revenue

The major cost of the system to the City of Berkeley is not the cost of operating the program; these costs are passed on to the tenants in higher rent ceilings. The real cost to the City is the foregone tax revenue that results from lower property values and rents. This loss is shared with the many government entities that share in property tax revenues, with Berkeley getting 40 percent, Alameda County 29 percent and the Berkeley Unified School District 18 percent of property tax revenues. The major benefit to the City that is measurable in dollar terms is the delivery of greater affordability to low-income tenants, a major policy objective of the City's General Plan. One of the questions that should be answered then, is whether the rent control system delivers more dollars of affordability to low-income tenants than it costs the City and other local governments in dollars of foregone revenue. In the following section we will examine the costs to the City and other local governments from foregone tax revenues and compare them with the amount of benefits to various categories of tenants, which we reviewed earlier in Section V. Then we will review

¹ Planned rather than actual expenditure.

² Proposed rather than actual.

the total costs and benefits of the system to landlords, tenants and the City, including both those that are measurable and quantitative and those that are subjective and qualitative.

Lower property values reduce the revenue from property taxes and the real property transfer tax, while lower rents reduce revenue from the business license tax on gross receipts. Along with promoting passage of rent control ordinances, one of the effects of Proposition 13, the property tax limitation amendment to the California constitution, was to reduce the effects of rent control on property tax receipts. Under Proposition 13 property taxes were lowered by nearly half, to one percent of assessed value, and increases in assessed value were limited to two percent per year until the property was sold, at which time the property was assessed at its sale price. Under the previous system, with higher property tax rates and annual reassessment to market value, rent control might have had a much more severe impact on local finances. In this section we will examine the loss of tax revenues from 1979 to 1991, the period of strong rent control, and then look at changes since rents increased at the end of 1991 and the beginning of 1992.

The effects of rent control on market values vary depending on the type of property involved. Single-family homes and duplexes, for example, have a value to potential owner-occupants that is not affected by limits on rents that can be charged. As noted earlier, under Berkeley's rent control ordinance people with a half-interest in a property have the right to evict a sitting tenant in order to move into the unit themselves. Properties with five units or more have value for owner-occupancy that is very limited, unless the property is one of those suitable for conversion to condominiums or group ownership through tenancy in common. Properties with three or four units fall in between. Owners do not have the right to evict tenants with less than half-interest, but the desirability of a property for even one or two owner-occupants could substantially increase the value of the property, especially in older single-family houses in Victorian and similar styles that had been converted to multi-family housing years ago. As discussed in Section VII, owner-occupancy through tenancy-in-common could often be created over time in smaller properties by waiting for tenants to move out and in some cases paying tenants to move.

A recent study by Michael St. John of the effects of rent control on property values found that rent control had no effect on the value of single-family homes, which increased more rapidly in Berkeley than in neighboring communities, had severe effects on the value of properties with five units or more and had mixed effects on four-unit properties, with about one-third selling at prices that seemed to reflect owner-occupancy values.³

For purposes of this analysis we will generally follow the findings of St. John's study, which used a regression analysis of 3,120 apartment building sales from 1970 to 1988 to draw conclusions about the effects of rent controls on property values. The St. John findings are presented on a per unit basis, but we can apply them to all rental property in Berkeley by using data from the Alameda County property records.⁴ To start with, we will assume that rent control reduces the property value of all properties with five or more units and of two-thirds of the properties with three or four units and has no effect on properties with one or two units. County property records report 1,321 properties in Berkeley with a land use designation of five units or more, and another 1,571 properties with three or four units.

St. John's study compared the price per unit sold in Berkeley to the price per unit sold in the rest of Alameda County from 1970 to 1988. His results show that the price per unit of property in Berkeley in

³ Michael St. John, The Effect of Rent Controls on Property Value: A Test of the Capitalization Hypothesis, Dissertation, Department of Economics, University of California at Berkeley, 1989.

⁴ County property records are available on the City of Berkeley computer network through MetroScan, a product of TransAmerica Services.

1988 was 42 percent lower than it would have been if the same ratio of Berkeley prices to Alameda County prices had been maintained in 1988 as during the 1970's.⁵ On average, during the 1980 to 1988 period he found property values would have been 30 percent higher if they had maintained the same ratio to Alameda County as in the 1970's. St. John expected that property values would continue their relative decline compared to market values, but with the release of the Searle decision in 1990, and widespread anticipation of some weakening of the system in the late 1980's and the 1990-91 period prior to implementation of the Searle decision, his findings likely reflect the low point for property values in Berkeley.

We will call the price necessary to maintain the 1970's ratio between prices in Berkeley and prices in Alameda County the "expected value". This "expected value" is an estimate of the property values that Berkeley would have had without rent control. In 1988 St. John reports that the average price per unit sold that year in Berkeley was \$35,044.⁶ Since this was 58 percent of the expected value, this indicates that without rent controls the average price would have been \$60,421. This analysis indicates that, with 17,000 controlled units in properties with three units or more, property values in Berkeley could have increased by \$425,000,000 if rent control had been eliminated in 1988. With hundreds of millions of dollars at stake, it is not hard to understand the vehemence of the controversies over this program.

We need to apply this analysis to properties, rather than units, in order to estimate lost property tax revenues. Recent property transfer data for Alameda County shows that over the past five years, 14.1 percent of all properties with five units or more were transferred annually with a full or partial price recorded, an average of 2.8 percent per year. In Berkeley, 15.4 percent of such properties have transferred, an annual rate of 3.1 percent. Some multi-family properties are transferred through property exchanges or through changes in the composition of an investment partnership, in which no purchase price is recorded. Such transfers do result in reassessment of the property though an appraisal by the County Assessor's Office. In order to account for these transfers we will use an estimate of 5 percent per year for the rate of transfer of multi-family rental properties. The number of transfers will vary substantially from year to year. During the period from 1980 to 1982, for example, high interest rates followed by a severe recession reduced property transfers to a trickle.

The assessed value of properties that have had the same owner since 1979 would be unaffected by rent control, since properties that do not turn over are limited to a two percent annual increase in their assessed value. With a transfer rate of five percent annually from 1979 to 1991, the thirteen years of strong rent control, 65 percent of rental properties might be expected to have been transferred and 35 percent to have remained under the same ownership. The 65 percent of rental properties that were transferred during that period had their assessed values raised by an average of 30 percent without rent control.

The County property records show 1,321 properties in Berkeley with a land use designation of five or more units and these properties have a mean assessed value of \$302,600 as of April 1994. In order to estimate the value in 1991, we can reduce the assessed value by the three annual increases of two percent, which gives an assessed value of \$284,400.⁷ At the current property tax rate of 1.1252 percent this means an average property tax payment of \$3,561 and if the payment was 30 percent higher an additional \$1,068 in property taxes would have been paid. Applied to 65 percent of the 1,321 properties, this results in an

⁵ St. John, op cit, page 172.

⁶ St. John, op.cit., page 146.

⁷ This ignores increases in average assessed value that resulted from sales during that three year period, and thus may slightly overestimate the average assessed value for 1991.

estimate of lost property tax revenue of \$917,000 in 1991 from properties with five units or more.

To the loss on properties with five units or more we need to add the loss on rental properties with three and four units, of which there are 1,571 reported in the County property records database. Based on the analysis by St. John we have estimated that two-thirds of these units have lowered values as a result of rent control, and with a five percent annual rate of property transfer, 44 percent of the total or 691 properties would have transferred. The average assessed value of three and four unit properties in 1994 is \$146,400, which would have been about \$137,600 in 1991. The average property tax in 1991 would thus have been \$1,723 and an additional 30 percent would have added \$517 per property, or a total of \$357,000 in property tax revenue in 1991.

The total loss from reduced property taxes on all rental property would thus have reached \$1,274,000 by 1991. The average annual loss during the thirteen year period from 1979 to 1991 period, as the annual loss rose from zero to the 1991 level would be half of the 1991 rate and the total foregone tax property revenue from all rental property for the thirteen year period would then be approximately \$8,280,000. This loss was shared between the City, the School District, the County, and other local government entities in the proportions mentioned above.

In addition to property tax revenue, the City forgoes revenue from the real property transfer tax, which was set at 1 percent of the sale price until it was raised to 1.5 percent in 1991. In order to estimate foregone property transfer tax revenue, we need to combine the estimated number of property transfers above with an average property transfer price. The average transfer price reported in the County property records for properties with five or more units sold between January 1979 and December 1991 was \$313,800, only ten percent higher than the estimated average assessed value for 1991 of \$284,400. This suggests that under rent control, during the strong period, prices of rental property did not increase much more than the two percent per year allowed under Proposition 13. The average price reported for three and four unit properties was \$207,857, substantially higher than the average assessed value of \$137,600 for 1991. Since this higher rate of increase presumably represents the increase in value from units used for owner-occupancy, we have used 110 percent of the assessed value, or \$151,400 to estimate the prices of three and four unit rental properties that were sold during this period. With an estimated 859 transfers of five unit properties at an average price of \$313,800 and 691 transfers of three and four unit properties at an average price of \$151,400, we have a total transfer value for rental property of \$371,171,600 and estimated property transfer tax receipts from rental property of \$3,711,716. If values had been an average of 25 percent higher, then the City would have received an additional \$928,000 over the thirteen year period and the annual loss in 1991 would be approximately \$143,000. Virtually all of the property transfer tax goes to the City of Berkeley.

The final category of lost tax revenue is the business license tax on gross receipts, which is 1.081 percent. With a mean controlled rent of approximately \$380 in 1991, and about 18,700 units registered that year, the annual rent roll for controlled units was about \$85,000,000. Controlled rents were about 35 percent lower than the estimated market rent (See Section 4 and Appendix D), so without rent controls rents would have reached \$130,000,000. The additional business license tax would then be about \$486,000 annually. Over the thirteen years from 1979 to 1991 the average foregone tax would be half of that, for a total of \$3,159,000. All of the business license tax goes to the City of Berkeley.

There are also categories of increased tax revenue. In order to simplify our calculations, and in order to make an expansive estimate of the financial impacts of rent control on tax revenues, we have ignored some effects of rent control that increase property values. In general, owner-occupants pay a higher price for property than investors who intend to rent it out, so to the extent that rent control encourages a shift from rental to owner-occupancy it would actually increase property values. As we have shown earlier, in

Section VII, conversion has been limited and is not solely due to the effects of rent controls. We also excluded from consideration the potential increases in property value that result when properties include some units that are exempt from rent control on a temporary basis, most importantly those occupied by tenants with Section 8 certificates. These tenants can move if they wish, so that there is no long-term guarantee that the market rent paid by the certificate will continue. At the same time, most Section 8 tenants do not move, and local property owners and buyers commonly count this income in determining the appropriate price for a rental property. Overall, the estimated loss of property tax revenue is most likely a high estimate.

In addition, tenants all live in Berkeley, while the owners of just over half of all rental units do not. Furthermore, tenants are generally a lower-income group and will save a much lower percentage of their income. This will particularly be the case with students and poor tenants. As a result, more of the money tenants would otherwise spend in rent will be spent in Berkeley and generate sales tax revenue. Data from the Consumer Expenditures Survey of the U.S. Department of Labor indicate that renters spend about 36 percent of their income on taxable items.⁸ If a decrease in rents of \$43,000,000 generated that amount in taxable sales and half, or 18 percent, were in Berkeley, then the City of Berkeley would receive an additional \$77,000 a year. Over the past thirteen years the City would have received an additional \$500,000 in sales tax revenue. This does not take into account any multiplier effects from creating a more robust local retail sector.

In sum, the amount of foregone taxes from 1979 to 1991 totals \$11,900,000, and the annual rate of foregone taxes had reached \$1,825,000 a year in 1991.

Financial Cost and Benefits, 1991

We can now compare the cost of rent control to local government and tenants, who pay the cost of administration through the expense pass-through procedure in the annual across-the-board increase. Adding the \$2,400,000 cost of program administration to the foregone taxes, it cost local government and tenants approximately \$4,200,000 to deliver a total rent reduction of \$45,000,000 annually by 1991. We can also compare these costs with the rent reductions delivered specifically to those tenants eligible for housing assistance under current Federal guidelines. As we have seen in Section V, about 30 percent of tenants in controlled units qualified for housing assistance were very low-income non-student tenants. Since these tenants were generally in lower-rent units, whose rents were not held down as strongly as higher-rent units, we should be conservative and have estimated their benefit from rent control as about 27 percent of the total rent reduction, or around \$12,000,000 annually. Overall, the rent control system delivered about \$3 in reduced rents to very low-income non-student tenants for every \$1 that it cost the City and tenants in general.

Financial Cost and Benefits Since 1992

Since 1992 the cost of the system in foregone tax revenue has declined, while the financial benefits to tenants have also declined. It takes much longer for the effects of rent control on property values to be felt than for rent increases and increases in the business license tax to take effect. Once rent increases go into effect, business license taxes reflect this increase the following year. Since the end of 1991 rents have increased to the point where, in Appendix A, we have estimated the controlled rent ceiling to be only 10 - 20 percent below market. From 1991 to 1993 rents increased by 45 percent, which should increase business license tax receipts by \$410,000 and if rents were allowed to increase another 10 percent the

⁸ U.S. Department of Labor, Bureau of Labor Statistics, "Consumer Expenditures in 1988", February 26, 1990, Table 7.

gross receipts tax would bring in only about another \$130,000.

Property tax assessments only change as the units are sold, so that if units sell at a rate of five percent annually it will take twenty years before assessments fully reflect the new, higher values that result from rent increases. Since the Searle decision was released in 1990, rental property sales prices have increased but not very substantially. Average prices per unit for properties with sales prices in the County property records were \$34,300 in 1988, \$29,600 in 1989, \$32,900 in 1990, \$37,400 in 1991, \$40,300 in 1992 and \$32,900 in 1993. There are several possible reasons for this. Buyers may be looking for bargains from original owners who are willing to sell and get out with a modest profit. There may be residual uncertainty over the future of rent control. Undoubtedly the deep recession, which has stabilized rents around the Bay Area has reduced people's expectations about rising rents in the future and thus the prices they would be willing to pay.

It is not clear at this point whether the increased rents will in fact result in increased sales prices. As we discussed earlier in Section V, rental property in Berkeley under rent control sold at gross rent multipliers that were increasingly unrealistic. It may be that increased rents have done little more than allow owners to sustain previous prices or to sell at only somewhat higher prices. If property in Berkeley still sells at a 10 percent discount, reflecting modestly controlled rents and the higher administrative costs and uncertainty resulting from continuation of rent controls, then the ongoing cost to the City will gradually be reduced from the 1991 estimated rate of \$1,059,000 to around \$400,000 annually. If property is not discounted, due perhaps to the many units that are at market rent, the ability to maintain a low vacancy rate in those that are slightly discounted and expectations of the eventual demise of the system, then the ongoing cost would be reduced to nothing. In the meantime, however, the cost continues and is reduced by about five percent per year as additional properties are sold. The annual cost in foregone real property transfer tax would be under \$100,000 even at the higher 1.5 percent rate that went into effect in 1991.

Overall, then the annual foregone tax revenue from the current "post-Searle" rent control system would at most be around \$600,000 a year. With the cost of administration at about \$2,400,000 this means the system costs local government and tenants about \$3,000,000 annually. In return, rents are lowered by about \$12,000,000 for all tenants, and rents for very low-income non-student tenants are lowered by about \$3,000,000. At present the cost-benefit ratio solely in terms of tenants who would otherwise be eligible for Federal housing assistance has decreased from 3:1 to 1:1.

Among the additional benefits of strong rent control to poor tenants was to make the Section 8 housing assistance program work more easily by providing an environment in which landlords receive a substantially higher rent for renting apartments to poor tenants with Federal housing assistance. Section 8 certificates increased from about 1,200 in 1982 to 1,700 in 1991. This is one part of the overall objective of helping maintain a demographic mix of residents that includes many low-income people. The value of economic diversity is not subject to financial cost-benefit measures, however.

Appendix A: Rent Controlled and Market Rents in Berkeley, 1978 - 1993

SUMMARY

- AGAs allowed rents to increase by about 62 percent from 1980 to 1991, almost the same as the rate of inflation for non-housing items.
- Until registration was required under the 1980 ordinance, there was widespread non-compliance with legal requirements. As a result, for thousands of units the Rent Board was never able to determine the legal rents so that subsequent enforcement created unequal treatment of landlords who initially followed the ordinance and those who did not.
- IRAs were few in the initial years, but over 1,000 units annually received IRAs after 1987, indicating that the program had developed the ability to respond to individual circumstances necessary to administer a strong rent control system.
- Using Census and other data from Berkeley and neighboring cities, we estimate that the median contract rent in Berkeley in 1990 would have been 35 to 40 percent higher.
- With the retroactive "Searle" increase, from November 1991 to January 1993 the average rent ceiling increased by 40 percent. As a result, the discount provided by rent control decreased from 35-40 percent in 1991 to 10-20 percent in 1993.
- Normative use of comparison between controlled and market rents should use "free market" rents rather than the "constrained market" rents that actually exist in the Bay Area as a result of land use controls that constrain increases in the supply of rental housing. Although there are no good studies of this issue, we estimate that "free market" rents could be 20 percent less than the "constrained market" rents that currently exist in the Bay Area.

A. The Temporary Ordinances: June 1978 - May 1980

In theory, most controlled rental units in Berkeley were allowed rent increases only for operating cost increases and both Net Operating Income and profits remained the same from June 6, 1978 until January 1, 1992. In order to understand the effects of the rent control system, however, it is essential to determine whether this is what actually happened, rather than simply what is stated in the letter of the law.

The early years are particularly important, because the permanent rent control system that was established in 1980 made all subsequent rent increases from the May 31, 1980 base rent. This meant that owners who did not comply with the temporary ordinances in effect from June 6, 1978 to May 31, 1980 had a major advantage over those that did and that the subsequent effects of controls depended on the ability of the rent control administration to provide an equitable solution to problems of early non-compliance. The problem of "historically low rents" has much of its origins in the problems of rent control enforcement in the early years.

On the surface, from June 6, 1978 to May 31, 1980 Berkeley was under a strong rent control ordinance, but with no regulatory agency registering legal rents, there was substantial non-compliance with the ordinance. The average landlord, complying fully with the ordinances, would have lower rents on May

31, 1980 than on June 6, 1978 and would be charging rents fully 20 percent below market. Yet, as we show in part D "Estimated Market Rents" later in this section, the \$223 median contract rent in Berkeley on April 1980 was only 8 percent below the estimated market rent level. In this section we examine the reasons for this difference in some detail.

The 1978 Ordinance set base rents for at the June 6, 1978 level and required an immediate roll-back to the base rent. In 1979 this base rent was to be reduced by 80 percent of the property tax reduction granted by Proposition 13, rebated to tenants on a monthly basis. The ordinance allowed rent increases to cover increases in operating costs and increased mortgage payments resulting from sale or refinancing of the property, to the extent that the cost increases exceeded the landlords' 20 percent share of the property tax reduction. Property taxes in Berkeley typically constituted about 15 percent of rent at that time, and were reduced by nearly 60 percent, or 9 percent of the rent.¹ Of this 9 percent, then, four-fifths or 7.2 percent of the June 1978 rent was supposed to be rebated to the tenants in rent reductions, and one-fifth or 1.8 percent went to the landlord.

The landlords' one-fifth of the property tax savings, 1.8 percent of the June 1978 rent, could increase profit but would normally be taken up in other cost increases. If operating costs other than property taxes increased with the rate of inflation from June 1978 to June 1979, then a landlord with an average operating cost of 40 percent of the rent would require a rent increase of 2.3 percent to compensate for increased operating costs. During 1979, then the actual rent would be lower than in 1978 by between 6 and 7 percent as a result of the rebate due to tenants from the property tax reduction. The actual property tax reductions, and thus the required rent reductions, varied substantially from one property to another.

In 1979 the City Council passed a temporary ordinance that extended Measure I for six months to July 1, 1980 while allowing rent increases of up to 5 percent if necessary due to operating cost increases but not for increases in mortgage payments due to sale or refinancing. Using the previous assumptions for operating cost increases, (cost increases at the rate of inflation and operating costs at 40 percent of the rent) the average owner in Berkeley needed to increase rents by 5.1 percent to cover cost increases from June 1979 to May 1980. This rent would be about 98 percent of the June 6, 1978 base rent and the landlord's profit and Net Operating Income should both have remained the same in dollar amount, but have declined in actual purchasing power.² In the Bay Area as a whole, rents increased by 18 percent from June 1978 to May 1980, while in Berkeley they would have gone down by an average of 2 percent if all landlords followed the ordinance. This means that rents in Berkeley would presumably have been

¹ Ira S. Lowry, "The Financial Performance of Rental Property Under Rent Control: Berkeley, California, 1978-85", California Housing Research Institute Report 85-03, April 1985.

² Lowry (1985) provides a more detailed analysis of changes in operating costs, using a combination of local and California data. His chronology (See Table 1) of changes in rents arrives at a June 1980 rent that is still at 95 percent of the June 1978 rent. This is an error resulting from a failure to allow cost increases between January 1979 and January 1980. This small 3 percent error does not affect the rest of his analysis, which is concerned with net operating income and which uses a model that includes cost increases for each year. Applying the operating cost data from Table 8 and the operating cost ratio from Table 11, we find a decline in operating costs from June 1978 to June 1980 of 4.1 percent and June 1980 operating costs at 42 percent of the rent, so that with Net Operating Income constant, the June 1980 rent would be 1.7 percent below the June 1978 rent.

about 20 percent higher for those units whose landlords complied with the ordinance if the ordinance has not existed.³

The 1978 and 1979 ordinances that applied from June 6, 1978 to May 31, 1980 were both "self-enforcing". If a landlord violated the ordinance, the tenants had to act to enforce it. There was no registration requirement and June 6, 1978 rents would be verified only as part of an enforcement action. As a result, non-compliance was widespread.

The available evidence suggests that during the first years of rent controls, rents in Berkeley were held down for a majority of tenants, but that they were usually raised as tenants left. The "self-enforcing" provisions of the 1978 ordinance led to an informal vacancy decontrol system in many buildings. The 1980 Census indicates that on April 1, 1980 new tenants had moved into 44 percent of all rental units during 1979 or early 1980. Substantial additional turnover would take place in the summer of 1980, prior to the beginning of rent registration, and over the next two years, while the Rent Board worked to gain compliance with registration requirements.

Several sources of data exist that bear on this point. The California Public Interest Research Group (CALPIRG) sponsored two studies of Berkeley rents, one in 1979 and another in 1980 and the Rent Stabilization Program has computerized registration records that include the rents reported for 1979 and 1980. In June 1979 CALPIRG surveyed properties in Berkeley with five units or more and their tenants.⁴ In a sample of tenants in 90 buildings, 39 percent reported substantial rent decreases from June 6, 1978 rents that were approximately sufficient to constitute full compliance with Measure I. Another 20 percent reported some rent decrease, 30 percent reported no change in rents since June 6, 1978 and 10 percent reported rent increases.

Tenants were resurveyed in October 1979 to examine the effects of turnover on rents. There had been 22 percent turnover during the summer of 1979, and 75 percent of the new tenants reported higher rents. According to the CALPIRG report, when units turned over "the average monthly rent increase at this time was \$47, as compared with the average monthly reduction of \$18 in June" (p.10). 1980 Census data suggest over 50 percent turnover between June 1978 and April 1980. Seeing the initial ordinance as temporary, some owners and tenants made informal agreements, in which maintenance might be improved rather than rents reduced. Other owners simply took advantage of tenant turnover or tenants' lack of knowledge of their rights.

³ In part D of this section, "Estimated Market Rents", we estimate market rents for Berkeley in 1980, 1990, and 1993. There we estimate that the median contract rent in Berkeley reported in the Census for April 1980 was only about 8 percent below the estimated market rent rather than 20 percent, a discrepancy of 12 percent. Some of the difference can be accounted for by exempt properties, since all rental units in owner-occupied property with two, three or four units were exempt. This may have exempted as many as 2,000 units. Also exempt were tax-exempt properties owned by non-profit organizations, with about 400 units. Many of these had project-based Section 8 certificates paying market rents for new construction. Another 1,000 units were temporarily exempt because the residents received rental assistance in the form of Section 8 certificates, but most of these units were in areas with lower than average rents to start with. A total of about 3,400 out of 27,821 rental counted by the Census were exempt, about 12 percent of the rental housing stock. In addition, owners were able to refinance and pass the increased costs on to their tenants and a small number of owners took advantage of this part of the ordinance. These factors could account for as much as one-third of the discrepancy.

⁴ CALPIRG, "The Impact of and Rate of Compliance with Measure I: The Berkeley Renter Property Tax Relief Ordinance", November 1979.

CALPIRG sponsored a second study that tracked changes in rents from November 1979 to November 1980.⁵ This study was substantially larger and did not exclude tenants in properties with less than five units. It found that median rents increased by 9.1 percent from November 1979 to November 1980. During that year there had been 45 percent turnover in the units where tenants were interviewed. Among those 55 percent of the tenants who had remained in place, the median rent increase was only 3.4 percent, while the temporary ordinance allowed an increase of up to 5 percent. The high average increase indicates that again, most landlords raised rents in units that were vacated.⁶ The University of California at Berkeley Housing Service reported that the average rent for units listed with them had increased substantially from 1978 to 1980, with studios and one-bedrooms increasing by 23 and 25 percent respectively.⁷

In 1991 the Rent Board files showed that of 18,963 units required to register 5,132 units reported no increase between 1979 and 1980, while 3,010 units reported increases up to the legally allowed five percent, and 272 units reported rent decreases. Fully 54 percent of the owners of rent controlled units failed to report their rents for 1979 and for May 31, 1980 in accordance with the requirements of the ordinance.⁸ Rents for 1979, where reported, were not verified by the Rent Program staff, so the 46 percent figure for apparent compliance is undoubtedly too high, even taking into account that in many cases the record on past rents was filled in during a later controversy over rent levels. Over the years, rents for 1,995 units had been shown to include illegal increases of more than five percent from 1979 to 1980, and these were reduced to five percent. The fact that 1979 data was never obtained for 8,554 units indicates the almost impossible magnitude of the task that faced Program staff when they tried to retroactively implement the pre-registration rent control requirements. Unfortunately the Rent Program did not put reported 1978 rents into its computerized data base so we have no data from property owners on compliance from June 1978.

Despite widespread non-compliance, it is also clear that a substantial minority of landlords cooperated with the system and did hold rents down, some because they wanted to do so and others because they had tenants who stayed in place and fought to obtain their rights under the law. According to CALPIRG, by November of 1980 only 26 percent of rental units had registered their rents as required by law.⁹ This may give an indication of the number of cooperating landlords in 1980. Those landlords that fully complied with Measure I and the subsequent temporary ordinance generally had May 31, 1980 rents that were slightly below their rents on June 6, 1978, while non-complying owners would have rents that were 20 percent higher. As discussed in Section III "The History of Rent Control in Berkeley", the Board was never able to determine the legal rents and establish a uniform beginning point for the majority of rental units.

⁵ CALPIRG, "Berkeley Tenant Survey", January 1981.

⁶ The extent of the increase may be somewhat overstated. If there was higher turnover in the higher-rent units this would result in rents appearing higher in November 1980 simply because the pool of units and rents was different from the comparison group for November 1979.

⁷ R. Kroll, "Rents have climbed faster under rent control", Independent Gazette, April 14, 1981, p.1

⁸ Declaration of Thomas Utiger, November 26, 1991

⁹ CALPIRG, "Berkeley Tenant Survey", January 1981.

B. Annual General Adjustments: 1980 - 1993

The Rent Stabilization and Eviction for Good Cause Ordinance set the base rent for determining future increases as the legal rent on May 31, 1980. Exceptions provided for in the ordinances included units in owner-occupied three and four unit properties that were brought into the system in 1982. These units started with the market rent for July 1, 1982, when they were brought under rent controls. From a base rent set at May 31, 1980 across-the-board rent increases (Annual General Adjustments or AGAs) were granted based on average increases in operating costs every January from 1981 through 1991. AGA increases in subsequent years include an inflation adjustment for Net Operating Income, as discussed in the next Section.

Table III-2 shows all of the Annual General Adjustments granted by the Rent Board. The increases were effective on January 1st of the year shown and were generally set in October of the previous year. The table also shows the effects of the AGAs on a unit with the initial rent equal to the median contract rent for 1980, assuming that it receives no additional Individual Rent Adjustments.

By the end of 1982 registration was largely completed. While 1978 and 1979 rents often remained unknown, the Rent Program staff focused their efforts on getting the May 31, 1980 base rent. While there have no doubt been violations, there seems to be general agreement that, starting with the 1980 base rent, rents in controlled units have stayed fairly close to the required levels.

In theory, there was no provision in the AGAs for an increase in profit. (In 1987 Regulation 1264 was passed allowing Individual Rent Adjustments for Net Operating Income.) Since landlord costs vary, taking the average cost increase would mean that only half of all landlords would get increases that were at least enough to cover their costs. Somewhat less than half of all landlords, those whose cost increases were below average, would also get an increase in profit, while a roughly equal number of landlords, those whose cost increases were above average, would suffer a decrease in profit. Since those with above average costs would then require individual rent adjustments (IRAs), the Board has a strong incentive to grant relatively generous AGAs in order to reduce the administrative burden posed by IRAs. If the Rent Board does grant cost increases that are somewhat above average, then most landlords would get increases sufficient to cover their costs and more than half of all landlords will also get some increase in profit.

As discussed in Section VI: Profitability Under Rent Control, the Rent Board did set AGAs slightly high, but with substantial variations from year to year. For example, in the early 1980's the Consumer Price Index (CPI) substantially exaggerated the rate of inflation, as is explained in Appendix B. In 1982 the Board responded to a dramatic apparent increase in inflation as recorded by the CPI by setting a nine percent general rent increase. Then, when the U.S. Department of Labor changed its method for calculating the CPI in 1983, the CPI went down and the Board set a zero rent increase in 1984. These two incidents basically canceled each other out.

The process for determining AGAs has become increasingly systematic over the years. In its first two years, a committee of the Rent Board tried to estimate cost increases using a variety of sources. For the 1983 AGA, the Rent Board hired a consultant, Ken Baar, who developed a standardized procedure for determining the rent increases needed to cover operating cost increases. His 1982 study, replicated in 1989 under another consultant, determined the average proportion of rent going to operating costs, with operating costs broken down into eighteen different categories. In addition, in 1982 and each year thereafter, the consultants gathered data to determine the rate of increase in each of the different cost categories in the previous year. They used a variety of sources, including surveys of owners, contacts with government and utility companies, and use of the Consumer Price Index to estimate maintenance costs. The increase in cost in each category is multiplied by the proportion of rent used to meet the previous year's costs in that category for the average unit. This gives the percentage of rent increase needed for the

next year for the average unit in order to cover that increase in costs. The increases for each cost category can then be added up to determine the total percentage rent increase needed for that year.

Utility costs often increase at a faster rate than other costs. In 1981, 1982, 1983, 1986 and 1989, the Rent Board set higher increases for buildings in which the owner pays gas or electricity. These owners had utility costs that were a higher proportion of total rent than for owners whose tenants paid all or most utilities. Most of the reports over the ten-year period summarize cost increases in two categories: individually metered buildings and master metered buildings. The Rent Board makes the reasonable assumption that master metered buildings are those in which the owner pays utilities and that individually metered buildings are those in which the tenant pays. According to Rent Board records, of 19,182 rented units subject to rent control in August of 1991, landlords pay for gas, electricity, or heating in 4,672 units - approximately 24%, while tenants pay for utilities in 76% of the units. These percentages were similar at the beginning of rent control, according to a 1980 CalPIRG survey which found that 78 percent of renters paid for their own gas and 82% paid for their electricity (CALPIRG, "Berkeley Tenant Survey", January 1981, p.28).

In October of 1991 the Rent Board passed Regulation 1113, commonly called "the Searle increase", which allowed an across-the-board retroactive rent increase of 45 percent of the 1980 base rent. This was intended to increase rents to provide landlords 100 percent of the increase in the Consumer Price Index since 1979 for 100 percent of their average 1979 Net Operating Income.¹⁰ This resulted in increases in

¹⁰ The Board applied the increase in the Consumer Price Index Less Shelter to measure inflation. The CPI-Less Shelter increased by 74.6 percent from 1979 to 1990. The Rent Board consultants estimated that Net Operating Income in 1979 was 60 percent of the average 1979 rent. A 74.6 percent increase in 60 percent of the rent equals a 45 percent increase in the 1979 rent. The Board then applied the 45 percent increase to the 1980 base rent, on the grounds that their records were better for 1980 than for 1979, without making necessary arithmetic corrections for the changing percentage of rent that would make up Net Operating Income in the two different years. Use of the CPI-Less Shelter resulted in a rent increase that was 4 percent less than would have resulted from use of the CPI-All Items, while use of the 1980 base rent resulted in an increase that was 2 percent higher than would have resulted from use of an estimated 1979 base rent.

The CPI-Less Shelter variation on the normal CPI-All Items can be higher or lower than the normal CPI. In the 1980's this measure increased by less than the CPI-All items because housing costs were increasing faster than most other items. Historically, the more typical pattern has been for housing costs to increase more slowly than most other items, in which case the CPI-Less Shelter increases more rapidly than the CPI-All Items.

Use of this measure was suggested by the Rent Board's economic consultants because it avoids any multiplier effect, in which raising rents in Berkeley would then increase the CPI-All Items and result in further rent increases. Such effects would be very small, since Berkeley is such a small part of the regional housing market. Nonetheless, the use of this measure was appropriate for two other reasons. First, the CPI had serious technical problems during the late 1970's until it was changed in January 1983. Until then, rapidly increasing home prices lead to the index overstating inflation for most people, since only a small percentage of people buy new homes for the first time. (For a more extensive discussion of this issue see Appendix B.) Since the CPI-Less Shelter measures only the rate of increase in non-housing cost of living items, it avoided this inaccuracy. Second, landlords normally own their own homes or live in their rental property, so that increases in Bay Area home prices and rents are not relevant to maintaining the value of their purchasing power.

the legal rent ceiling averaging 28 percent for all rent controlled units by January 1, 1992. In addition, the Board passed Regulation 1100, which allowed a full inflation adjustment for the entirety of NOI in all future Annual General Adjustments in addition to cost increases.

C. Individual Rent Adjustments

The Rent Stabilization Program provides for individual rent adjustments (IRAs) for eight different reasons. Two were part of the transition to rent control, allowing increases to property owners who had not raised rents in prior years or who had recently refinanced at higher interest rates or at interest rates that went up over time. Regulation 1268 allowed rent increases of up to 10% for properties that increased rents by less than 10% during the four year period from 1976 through 1979. Regulation 1276 allowed increases to cover increased debt service costs incurred between June 1978 and June 1980 or if a financing agreement required higher costs after June 1980.

Increases and decreases were allowed for changes in service. Under Regulation 1269, rent increases were allowed if the landlord incurred costs in order to increase the amount of living space or housing services, including furniture, that were provided to the tenant. Correspondingly, if the space or services were reduced, then the tenant could request a proportionate rent reduction. Under Regulation 1270 an increase in the number of tenants could result in a 10% rent increase. After such an increase, if the number of tenants went back down, then the rent should be reduced again.

Temporary increases were provided to amortize the cost of capital improvements. Under Regulation 1267 increases were allowed for "any improvement to a unit or property which has a useful life of more than one year and a direct cost of \$100 or more per unit affected" and is necessary to keep the property in compliance with health or safety codes or is for the benefit of the tenants. Landlords could petition for the rent increase in advance, to go into effect as soon as the work was completed and its cost verified.

Individual increases were allowed when necessary in order to ensure that landlords could receive the constitutionally necessary rate of return on their investment. Under Regulation 1264 landlords could petition for increases necessary to keep their net operating income at the same dollar amount as in the base year, and thus cover cost increases higher than those provided for by the AGAs. In 1987 this regulation was amended to provide for NOI to increase at 40% of the increase in the consumer price index. Under Regulation 1262, landlords could request that the base year net operating income be changed due to unusual circumstances in that year. Finally, under Regulation 1275, a landlord could petition the Board to argue that they needed a rent increase to maintain a fair rate of return for any other reason not covered by existing regulations.

Since the Rent Stabilization Board policy on the across-the-board AGA increase was relatively restrictive from 1982 and 1990, we should expect to see a substantial number of individual rent adjustments (IRAs). There were not very many in the early years however, and the process did not really cover a substantial number of units until 1987 (See Tables III-3 and A-1).

There were a number of reasons for landlords initial reluctance to use the IRA process. Surveying 105 landlords, Baar and LeGates found that 73 percent reported that they needed an IRA, but only 8 percent reported that they had applied.¹¹ The reasons given focused on the politics of rent increases and the costs

¹¹ Kenneth Baar & Richard LeGates, "Rental Housing Under the Berkeley Rent Stabilization Ordinance: A Survey of Tenants and Landlords", Berkeley Rent Stabilization Board, October 4, 1984.

of the regulatory process. Over half (54%) said that the Rent Board was so biased against landlords that it was futile to apply, 43% said the process was too difficult, 32% that the application fee of \$80 per unit was too high, and 29% that the process took too much time. (Since then, the Rent Board substantially simplified its process, so that a typical NOI application, for example, requires the same documentation that landlords have already used to fill out their tax reports.)

YEAR	1980	1981	1982	1983	1984	1985	1986
Units with IRAs	0	9	61	63	81	93	145
YEAR	1987	1988	1989	1990	1991	1992	1993
Units with IRAs	440	921	876	1,323	1,871	1,986	1,772

Perhaps the most serious barrier to use of the IRA in the early years was not the difficulty of the bureaucratic process, however, but the legacy of the Rent Board's inability to set all landlords on the same starting point back in 1980. As discussed above, discovery of any prior violation of the rent ordinance or its predecessors could result in disallowing all subsequent AGA increases, with an accompanying roll-back in rents and required refunds to tenants of all illegal rent collected. This problem was finally dealt with in 1987, when the Board certified 1987 rents as no longer subject to challenge.

From 1980 through 1990 the Rent Board granted IRA increases for 5,367 units in amounts averaging \$35.87 monthly.¹³ Increases were most frequently granted for capital improvements. (See Table IV-5). These were temporary increases, expiring after five or ten years, with the amount calculated to repay a major expense for repairs on a property plus interest over the amortization period. The definition of a capital improvement was a broad one -- "any improvement to a unit or property which has a useful life of more than one year and a direct cost of \$100 or more per unit affected" (Regulation 1267 as of Sept. 1987). The second most frequent type of increase was for maintenance of net operating income (NOI), mostly filed after 1987 when the Board allowed an increase of 40% of the consumer price index on base year (1980) NOI. Increases could be granted in base year NOI, thus allowing a higher increase in later years, if the Board found that there were unusual expenses in the base year. In addition, there were a smaller number of increases filed to cover the property tax increases that occur when a property is sold and automatically reassessed at its sale price, for increases in services, increases in the number of people living in the unit, increases for units whose rents had not increased by more than 10% in the three years prior to passage of the rent control ordinance, and increases for debt service arrangements made prior to passage of the rent control ordinance.

¹² Berkeley Rent Stabilization Board, "Selected Statistics on IRAs", November 17, 1993. Units are not counted more than once in a single year, even if more than one increase was approved during the year. Units that received increases in different years are counted in each year.

¹³ This is the total number of unit-increases. One unit may receive multiple increases and thus result in multiple unit-increases.

By 1988, when the number of units granted IRAs reached 1,422, the Board had clearly developed the administrative capacity to provide the many adjustments needed to meet constitutional requirements for equitable treatment of owners in a strong rent control system.

After 1990 IRAs continued to increase as the process for receiving an increase was made substantially easier by the new Board. Unless a tenant challenged the increase, new regulations passed by the Rent Board in 1991 require that Hearing Examiners accept the landlords' claims rather than requiring verification that work had been done or expenses incurred. In the case of capital improvements, for example, in 1993 the Board censured an examiner for asking that building permits be shown as proof that work was legally and properly done. In another case, improvements that benefitted both commercial and residential sections of a building were entirely charged to the residential units, since no tenant protested the increase. In addition, the Board allowed retroactive filing for capital improvements increases by landlords who had not filed for increases to pay for improvements done in the past, including improvements done by previous owners. The Rent Board elected in November 1994 has begun to reconsider and revise the IRA process to require improved documentation.

The "Historically Low Rent" regulation (Regulation 1280), passed May 23, 1991, set minimum rents for all units, with the rent varying by number of bedrooms. Regulation 1280 set minimum rents for 1991, with all subsequent Annual General Adjustments to be added to the minimum. The minimum rent levels were set at a level that increased the lowest quarter of all rents. Initially proposed as a general rent adjustment, the regulation was passed as an individual rent adjustment, but with virtually automatic approval once the application is submitted. Owners had to petition for an individual rent adjustment to bring the rent up to the minimum level, but the Board created an expedited processing procedure, with few grounds for tenants to object, so that the regulation came as close as legally possible to being a general adjustment. Within two years after passage of the regulation the majority of low-rent units had received increases. Not all low-rent units have received these increases. Some tenants have raised code violations or violations of the rent stabilization ordinance that the landlord must correct first and many landlords who would receive only a small increase of only a few dollars, simply do not wish to apply for the increase.

Table A-2 shows the approximate minimum rent levels for 1993 after an eligible property has been processed under Regulation 1280 "Historically Low Rents". Since the amount of the 1113 increase depends on the 1980 rent, this amount will vary somewhat. For purposes of the analysis we assume that 1980 rent for a studio was \$100, a one-bedroom was \$150, a 2-bedroom was \$200, a 3-bedroom was \$250 and a 4-bedroom was \$300. These amounts are roughly typical of the types of units that have received increases under Regulation 1280, sufficiently below the threshold for an increase that they result in a substantial benefit, but not so low as to be unrealistic.

With passage of the "Searle" increase in 1992 the regulation was amended so that landlords receive both Reg. 1280 "Historically Low Rent" and Reg. 1113 "Searle" increases.¹⁴ *With the addition of the "Searle" increases, the minimum rents for 1993 are higher than the median rents of 1990.*

¹⁴ The Reg. 1113 increase is determined using the original 1980 base rent, while the Reg. 1280 increase is determined using the 1991 rent, prior to the Reg. 1113 increases. As a result, they are added separately, so that the amount of the retroactive Reg. 1113 increase is determined by the rent before receiving the increase under Reg. 1280, while the increase under Reg. 1280 is not reduced in any way by the amount of the "Searle" increase.

Type of Unit	1980 Threshold	1991	1993
Studio (0 Bedrooms)	up to \$171	\$281	\$326
One Bedroom	up to \$208	\$329	\$397
Two Bedrooms	up to \$245	\$375	\$465
Three Bedrooms	up to \$339	\$499	\$612
Four Bedrooms	up to \$371	\$541	\$676

By the end of 1993 908 units had received HLR increases, when about 4,000 were eligible for at least a \$1 increase. The \$63.55 a month average HLR increase, higher than the typical IRA, which suggests that these increases were taken mostly by owners of the lowest rent units with the most to gain from the process and that the others have generally settled for the automatic "Searle" increases. Still, there are 1,434 units remaining with rent ceilings under \$400 monthly and they are probably all eligible for HLR increases.¹⁵

By 1993 60 percent of the 6,326 units that had received an IRA were in properties with ten units or more. (See Table A-3). Owners with ten units or more are likely to hire professional managers or to manage as a full-time occupation and thus are better able to deal with a regulatory agency. Properties with less than five units are particularly underserved with IRA increases.¹⁶

Units on Property	1	2	3-4	5-9	10+	ALL
Unit-IRAs	68	184	787	1,508	3,779	6,326
Percent of All Unit-IRAs	1.1%	2.9%	12.4%	23.8%	59.8%	100%
Rental Units (1990 Census)	3,617	2,849	3,950	4,325	9,714	24,455
Percent of Rental Units	14.8%	11.6%	16.2%	17.7%	39.7%	100%

¹⁵ Rent Stabilization Program, "Breakdown of Units Below the 1993 Median Rent by Increments of \$100", February 24, 1993.

¹⁶ The differences are somewhat exaggerated by the use of Census data for total rental units, since the Census reports on single-family structures, some of which are part of multi-family property with more than one unit. The differences are somewhat reduced, on the other hand, because some IRAs in smaller properties, however, were done on owner-occupied properties in order to increase the willingness of banks to provide mortgage lending by showing higher rents should the owner move out.

Baar and LeGates 1984 study for the Rent Board suggested that the Board needed to take into account the differences between large and small landlords.¹⁷ In their view, "owners of small properties concentrate on finding long term tenants and minimizing management expenses" (p.26). As a result they are often ill-equipped to deal with the requirements of a regulatory agency and may be intimidated by the idea of dealing with such an agency, even if the requirements are not particularly difficult to meet.

Baar and LeGates passed along the suggestion that "the Board should hire an owner counselor" (p.30). This was never done, however. Instead, two consulting firms and several lawyers emerged that specialized in providing landlords with assistance in dealing with the rent board. In 1993 the consultants were successful in getting state legislation passed (AB264) requiring rent control systems with permanent rent ceilings (vacancy controls) to allow an individual rent adjustment to cover the cost of consulting and legal expenses incurred in petitioning for a rent increase. This cost could be amortized over a period of years, similar to a capital improvements increase. This legislation will likely have the effect of discouraging tenants from objecting to rent increases, since if the increase is approved, even in part, the tenant will have the landlord's costs for professional services added to the rent increase.

D. Estimated Market Rents

In order to estimate the magnitude of the effects of the rent control system on rents in Berkeley, we need estimates of what rents would have been without rent controls. Rent control in Berkeley is sufficiently comprehensive in its coverage that it is difficult to locate comparable exempt units within the City. Berkeley's rent stabilization system covers most rental units with the major exceptions of those built since 1980 and those in owner-occupied duplexes that were owner-occupied in 1980.

The best way to estimate market rents is by using comparisons with market rents in neighboring cities. The approach that we take here to estimate market rents in Berkeley has four steps. First we use data from the Census and the Consumer Price Index to determine the relationship between median contract rents in Berkeley and median contract rents in neighboring cities, neighboring census tracts and the Bay Area before and after rent controls were instituted. These comparisons can then be used to project what median market rents in Berkeley would be without controls. Second, since the Census does not provide data on rents by number of bedrooms in a unit, we use surveys of advertised rents in Oakland in April 1990 and October 1992, and data from units registered with Berkeley's Rent Stabilization Program on rents in 1980 to develop ratios between median contract rents and rents by number of bedrooms. While advertised rents are higher than average, the ratio of unit rents by number of bedrooms in the unit should be similar to the ratio in all units. Third, using these ratios, we can convert median rents for all units into estimates of the median rents for units by number of bedrooms. Finally, we use data on the ratio between contract rent and gross rent to estimate the median market gross rent for Berkeley.

There are drawbacks to this method as there are to all the other possible methods. Since Berkeley has controlled rent increases for most rental units while neighboring cities have not, it is possible that higher-income tenants who are unable to use their greater resources to outbid lower-income Berkeley tenants have brought additional demand into Albany and Oakland and raised rents in these cities somewhat above what they would have been if rents were not controlled in Berkeley. Extrapolation from this "above-market" rent will result in an estimate of market rents in Berkeley that is somewhat higher than it should be. In addition, if maintenance declined in Berkeley compared to other cities due to landlord efforts to keep profits up despite controls then, again, the market rent estimate for Berkeley will be too high. Accuracy is further reduced because the best available source of data on rents in Berkeley and neighboring cities

¹⁷ Kenneth Baar & Richard LeGates, "Rental Housing Under the Berkeley Rent Stabilization Ordinance: A Survey of Tenants and Landlords", Berkeley Rent Stabilization Board, October 4, 1984.

is the decennial Census, while rent controls in Berkeley began in 1978. Thus we must use a combination of 1980 Census data that may be somewhat affected by controls and older 1970 data that is more affected by changes in the housing stock.

First, we must establish that the rents in neighboring cities are market rents. The neighboring City of Albany and the Kensington unincorporated area have no controls at all on rents. Oakland has a "rent control" ordinance that allows tenants whose rent increases by more than 125% of the Consumer Price Index to complain and require that the landlord demonstrate an equivalent increase in operating costs or debt service costs. Less than one-sixth of Oakland's private-market tenants know that their units are covered by "rent control".¹⁸ Units are decontrolled on vacancy and landlords can "bank" percentage increases below the maximum for use in future years. At best, the system works only to prevent major increases on tenants who are aware of their rights and willing to fight for them. As a result, Oakland's rent controls "do not appear to have any significant economic effect".¹⁹

Our first step is to compare rents in Berkeley in 1970, 1980 and 1990 with the rents in neighboring areas in order to project what rents in Berkeley would have been in 1990 in the absence of rent control. On its northern border, Berkeley neighbors the City of Albany and the unincorporated area of Kensington. In 1990 56 percent of Berkeley's households rented compared to 54 percent of Albany households, 58% of Oakland households, and 47 percent of all households in Alameda County. Kensington has only 15 percent of its units rented, and almost all of the rentals are single-family houses, so Kensington is not useful for a comparison of rental units.

AREA	1970 Rent	1980 Rent	1970-80 Increase	1990 Rent	1980-90 Increase	1970-90 Increase
Berkeley	\$128	\$223	74%	\$392	74%	206%
Bay Area (9 County)	\$131	\$272	108%	\$635	133%	385%
Alameda County	\$121	\$240	98%	\$570	138%	371%
Oakland	\$104	\$202	94%	\$486	141%	367%
Albany	\$129	\$242	88%	\$608	151%	371%
CPI-RENT	#42.0	#75.5	80%	#151.0	100%	260%
CPI-All Items	#37.7	#80.4	113%	#132.1	64%	250%

¹⁸ Bureau of the Census, "American Housing Survey for the San Francisco-Oakland Metropolitan Area in 1989", January 1992, Table 4-12, page 86.

¹⁹ Michael St. John, The Effect of Rent Controls on Property Value, Dissertation, University of California, 1989, page 41.

Table A-4 shows median contract rents in Berkeley, Albany and Oakland, all of Alameda County and the Nine-County Bay Area, and the increase in contract rents for the Bay Area as a whole, as measured by the Bureau of Labor Statistics in the Consumer Price Index survey of Residential Rent. (The CPI uses an index number, with 1982-84 equal to 100, rather than a dollar amount.) Rents in Berkeley in 1980 are affected by the first two years of rent control, and in 1990 Berkeley rents measure almost the full extent of Berkeley's years of strong rent controls.

We can not simply use increases in Census medians or in the Bay Area Consumer Price Index for Residential Rent to project increases in rents for existing units in Berkeley. Not only are the figures different, but each has its own particular sources of bias built in that we must analyze carefully. The major drawback of the Census rent data is that if the composition of the housing stock changes in one area and not in another, then the historical relationship between the two areas changes and the previous ratio may no longer be valid. The major cause of such a difference is addition of new rental units in one area and not in the other, since rents for new units are generally higher than for existing units, and construction of some new units even involves demolition of older, lower-rent units. This is the reason why Bay Area rents as reported by the Census increased faster than the increase in the Residential Rent component of the Consumer Price Index. The CPI tracks changes in rents among a constant pool of housing, while the Census reports on all rents, including new units.

The different rates at which new rental units were added during the 1970's and 1980's are shown in Table A-5. These differences suggest that increases in Census median rents for Albany, Oakland and Alameda County as a whole reflect, to a greater extent than in Berkeley, increases resulting from new construction in addition to rent increases in existing units. New construction adds units and thus holds down increases in rents, but since most new construction is of high-rent units, it holds down rents at the high end of the market and does little to moderate rent increases at the bottom and middle of the rent range.

AREA	1980	1990
Berkeley	6%	3%
Bay Area (9 County)	20%	16%
Alameda County	17%	15%
Oakland	12%	9%
Albany	12%	9%

The Consumer Price Index of increases in Residential Rent is based on repeated surveys of the same units to find their rents. This should more closely track actual increases in contract rents, since it excludes the effects of changes in the housing stock. It is Bay Area-wide, however, so it may underestimate increases in rent in particular areas and overestimate them in others. In Northern Alameda County in the 1970's, there is no indication that rents increased at a rate different from the rest of the Bay Area. The Census' median contract rent increased more rapidly for the Bay Area than for Alameda County, and more rapidly for Alameda County than for Oakland and Albany, but the areas with more rapid rent increases also had greater percentages of new rental housing added.

Rent increases in Northern Alameda County in the 1980s were clearly faster than the increase in the Bay Area CPI rent measure. The Census median contract rent increased by five percent more in Alameda County than in the Nine-County Bay Area between 1980 and 1990. At the same time, the Bay Area as a whole added a higher proportion of new rental housing than did Alameda County. This clearly indicates that from 1980 to 1990 rents in Alameda County increased faster than in the Bay Area as a whole. Similarly, from 1980 to 1990 rents in Oakland and Albany increased more rapidly than rents in either the Bay Area or Alameda County as a whole, while Oakland and Albany each added proportionately fewer rental units than the larger areas. From 1980 to 1990, then, not only did rents in Alameda County increase faster than in the Bay Area as a whole, but rents in Northern Alameda County increased faster than in Alameda County as a whole.

In order to determine how to treat Berkeley rents in this situation, we can look at trends in census tracts bordering the City of Berkeley, shown in Table A-6. On its northern border, Berkeley has the unincorporated area of Kensington and the City of Albany. The two Kensington tracts and two of the Albany tracts are primarily occupied by single-family houses and are not appropriate for a comparison dealing with rental units. Another neighboring Albany tract is also not comparable because it is entirely occupied by University-owned student housing. This leaves Albany Tract 4205, a mixture of single-family houses and apartment buildings that is next to Berkeley Tract 4219, which has a similar composition. On its southern border, Berkeley has the City of Emeryville and the City of Oakland. Along the Bay to the West, Emeryville and the neighboring tract in Berkeley are mixed residential-industrial-commercial tracts not suitable for rental comparisons. In the Hills, to the East, Berkeley Tract 4238 on the Oakland border is mainly owner-occupied residences. In between are two South Berkeley tracts with substantial numbers of rental units, each of which adjoin two Oakland tracts. Berkeley Tract 4239 adjoins Oakland tracts 4004 and 4005, and Berkeley tracts 4240 adjoins Oakland tracts 4007 and 4008. These tracts have a mixture of single-family houses and small apartment buildings and the residents are predominantly renters.

CITY	Tract	1970 Rent	1980 Rent	1970-80 Increase	1990 Rent	1980-90 Increase	1970-90 Increase
Berkeley	4239	\$121	\$224	85%	\$398	78%	229%
Oakland	4004	\$118	\$220	86%	\$565	157%	379%
Oakland	4005	\$101	\$189	87%	\$485	157%	380%
Berkeley	4240	\$93	\$178	91%	\$370	108%	298%
Oakland	4007	\$87	\$159	83%	\$428	169%	392%
Oakland	4008	\$87	\$166	91%	\$438	164%	403%
Berkeley	4219	\$118	\$220	86%	\$413	88%	250%
Albany	4205	\$133	\$259	95%	\$633	144%	376%

Table A-6 compares median contract rents for these neighboring Census tracts. During the 1970 to 1980 period contract rents in these tracts increased by from 83 percent to 95 percent, slightly higher than the Bay Area CPI-Rent increase of 80 percent. Most of this difference would be the result of new units added,

as shown in Table A-7. Part may result from localized changes in the desirability of housing or the resources available. It was during this period that housing assistance certificates came into widespread use, particularly in the South Berkeley-North Oakland area and this may have helped increase rents in that area. During this period Albany tract 4205 and Oakland tract 4007 each added 12 percent of their rental units, but many of the Oakland units were federally subsidized, and would have had less influence on median rents.

CITY	Tract	1980	1990
Berkeley	4239	2%	2%
Oakland	4204	5%	2%
Oakland	4205	1%	4%
Berkeley	4240	5%	3%
Oakland	4207	12%	4%
Oakland	4208	5%	5%
Berkeley	4219	6%	0%
Albany	4205	12%	0%

In the tract by tract comparisons, there is very little difference in the ratio of rents in North Oakland and South Berkeley in 1970 and in 1980 after one year of rent controls. Albany rents increased by 9 percent more than North Berkeley rents, possibly due to the addition of a substantial percentage of new rental units in Albany and perhaps also to the rapid change in the character of Albany during the 1970's, when its image changed from a conservative lower-middle class community to a fashionable suburb of Berkeley.

During the 1980 to 1990 period contract rents in these Census tracts increased by from 144 percent to 169 percent, much higher than the 100 percent increase in the CPI-Rent for 1980 to 1990. None of these Census tracts had more than 5 percent of their rental units added during the 1980's, so changes in the housing stock could have only a small part in these more rapid rent increases. For various reasons, market rents in the Berkeley area increased substantially faster than the Residential Rent component of the Bay Area Consumer Price Index in the 1980's.

It seems reasonable to assume that market rent in Berkeley in the 1970 to 1980 period would have increased at the same rate as rents throughout the Bay Area. In order to determine what the median contract rent would have been in 1980 in the absence of controls, we can use the increase in the Residential Rent component of the CPI, but we must make an adjustment to take into account the 6 percent of Berkeley rental units that were added during the 1970's. New units almost invariably have rents that are above the median for all units and thus new construction will result in increases in the median rent that are greater than the increase in the CPI rent component. We do not want to exclude units added

in the 1970's because units built up until May 31, 1980 are covered by rent control, while units built in Berkeley after that date are exempt. Looking at the change in Census median rent and CPI-Rent increases for the Bay Area for 1970 to 1980 (Table A-4), we find that for each 1 percent of new rental housing (shown in Table A-5), the Census median contract rent was 1.4 percent higher than the CPI-Rent index. This suggests that the 6 percent of new Berkeley units would have increased the median market rent by another 8 percent ($1.4 \times 6\% = 8.4\%$) over the 80 percent increase in the Residential Rent component of the CPI, for a total 1970 to 1980 increase of 88 percent. Applied to the 1970 median rent of \$128, this projects a 1980 median market rent of \$241, which is 8 percent higher than the actual \$223.

The data on adjoining census tracts show 1980 to 1990 increases averaging 157 percent in North Oakland, next to two South Berkeley tracts, and an increase of 144 percent in Albany, next to a North-Central Berkeley tract. Rents in the Oakland tracts next to Berkeley had a higher rate of increase than rents in the City of Oakland as a whole, while rents in the Albany tract next to Berkeley had a lower rate of increase than in Albany as a whole. From this we conclude that market rents in Berkeley would have increased at a rate in between that of Albany and Oakland during the 1980 to 1990 period.

To estimate 1980 to 1990 market rent increases in Berkeley, we look again at both the city-wide and tract data, and arrive at an estimated 1980 to 1990 increase in market rents of 128 percent. This is the average of the increases in Albany and Oakland after a correction for the construction of new rental units in these cities during the 1980s. With an Oakland increase of 141 percent and an Albany increase of 151 percent, the average increase between the two cities would be 146 percent. Albany and Oakland each added nine percent to their rental housing stock during the 1980s, and virtually all of this housing would have been in the upper half of rent levels, except for some subsidized housing in Oakland. The equivalent "median" to Berkeley's would require using the 46th percentile, rather than taking the 50th percentile. (We do not consider additions to Berkeley's housing stock in this comparison because these units would be exempt from rent control and the purpose of this exercise is to estimate rents on controlled units if controls did not exist.)

Following the same logic as applied to the 1970's, we look at the ratio of new housing added in the Bay Area and increases in the Census median contract rent compared to increases in the CPI-Rent. During the 1980s the CPI-Rent for the Bay Area increased by 100 percent, while the Census median contract rent increased by 133 percent. At the same time, 16 percent of rental units were added during the 1980's. Thus each percentage of Bay Area rental housing added during the 1980's apparently increased median rents by 2 percent. This ratio, applied to the nine percent increase in housing stock in neighboring cities, indicates that 18 percent of the Berkeley area increase resulted from new construction and reduces the projected 1980 to 1990 increase from 146 to 128 percent. We concluded that while the Bay Area CPI-Rent index measured rent increases of 100 percent on existing units monitored during the 1980's, rents on existing units in the Berkeley area increased by 128 percent.

Applied to the Berkeley 1970 median contract rent of \$128, this sequence of an 88 percent increase from 1970 to 1980 and a 128 percent increase from 1980 to 1990 results in an estimated 1990 median market contract rent of \$549. This would be an increase of 146% over the 1980 contract rent of \$223 and would be 13 percent higher than the median Oakland rent for 1990 of \$486.

This analysis makes a number of assumptions that may result in overestimation of the "market" rent. First, it assumes that the amount by which Berkeley rent increases are lower than "market" is the amount by which rent controls held down rents, rather than reflecting a market-based cause such as poorer maintenance or lower-quality construction. Second, there is no correction made for the possibility that rent controls in Berkeley lead to increased rents in Albany and Oakland, due to higher income tenants moving into neighboring communities where there is less competition for units.

The next step is to break down the median rents by bedroom size. The Rent Stabilization Board has data on both 1980 base rents and number of bedrooms for about 14,000 rental units. Table A-8, below, shows these rents for each number of bedrooms and as a ratio of the median contract rent reported in the 1980 Census.

Number of Bedrooms	Contract Rent	Ratio of Rent to Median of All Rents
Studio (0 Bedrooms)	\$175	0.785
One Bedroom	\$220	0.987
Two Bedrooms	\$296	1.327
Three Bedrooms	\$425	1.906
Berkeley Census Median	\$223	1.000

Applying the Berkeley 1980 ratio of median rents by number of bedrooms from Table A-8 gives us Table A-9, which estimates median market rents by number of bedrooms per unit for Berkeley in 1990.

Number of Bedrooms in Unit	Rent
Studio (0 Bedrooms)	\$431
One Bedroom	\$542
Two Bedrooms	\$729
Three Bedrooms	\$1,046
All Units	\$549

We then need to estimate the change in rents since 1990. The increase in the Residential Rent component of the Bay Area CPI from April 1990 to December 1992 was 8 percent. Analysis of advertised rents for the City of Oakland showed an increase in median advertised rent of 7 percent between April 1990 and October 1992, which suggests that rent increases in the Oakland area are again taking place at a rate similar to the rate of increases for the Bay Area as a whole. Table A-10 applies the CPI-Rent increase of 8 percent between April 1990 and January 1993.

Number of Bedrooms in Unit	Rent
Studio (0 Bedrooms)	\$465
One Bedroom	\$585
Two Bedrooms	\$787
Three Bedrooms	\$1,130
All Units	\$593

Gross rent is rent plus utilities, while contract rent lumps together monthly rents that include utilities and those that do not. In Berkeley roughly three-quarters of all tenants pay their own utilities. Gross rent in Berkeley is normally about 10% higher than contract rent. With a median gross rent in 1980 of \$245 and a median contract rent of \$223, Berkeley 1980 gross rent averaged 9.9% higher than contract rent, while the Berkeley gross rent under rent control in 1990 was 8.7% higher, and in neighboring Oakland gross rent in 1990 was 10.7% higher than contract rent. Applying this 10% difference to gross rent (see Table A-11 below) gives an estimated January 1993 market median gross rent of \$680 without rent controls. Since utility costs are usually higher with larger units, we will not be greatly in error if we apply the same percentage across the board to each bedroom size.

Bedrooms in Unit	Rent
Studio (0 Bedrooms)	\$512
One Bedroom	\$644
Two Bedrooms	\$866
Three Bedrooms	\$1,243
All Units	\$652

Table III-3 summarized the results of this analysis of rent controlled and market rents, showing the change in controlled and market rents from 1990 to 1993. Rent levels in Berkeley in 1990 show the system at its strongest, before the rent increases under Regulations 1113 and 1100 in 1992. The table shows that in a little more than two years, the median rent for a one-bedroom apartment, the most common type of unit in Berkeley, increased by 49 percent. The rent discount in rent controlled units was reduced from a typical range of 30 - 40 percent below market to a typical range of no more than 10 - 20 percent below market²⁰.

Table III-3 further indicates that the discount for controlled units was less in studio and one-bedroom apartments than in larger units. This is not because of unit size as such, but because the Rent Board has granted several flat, dollar amount increases, which are larger on a percentage basis for the units with lower rents than for the units with higher rents. Since studio and one-bedroom units generally have lower rents than larger units, they now receive less of a discount from rent controls. In general, then, units that were at the low end of the rental market at the beginning of rent control are most likely to have permanent rent ceilings that are near current market rents, while units that were at the high end of the rental market are most likely to still have substantial discounts.

E. Market Rents and Free Market Rents

The free market ideal provides one of several possible "yardsticks" for measuring the effects of rent control, one that is widely supported by the systems critics. Thus it seems important to take the free market ideal seriously as a means to examine the fairness of rent control. In using any value-based measure, care must be taken to use it consistently. Otherwise it functions largely as a rhetorical device rather than a real measure. This means that it is not appropriate to use rents that are not set in a genuinely free market as the comparison group to determine the divergence from the free market ideal that results from the use of rent controls. Instead, we must determine whether current market rents would reflect a free market, and if not, attempt to determine what they would in fact be in a genuinely free market.

What are commonly referred to as "market rents" in the Bay Area clearly do not reflect a "free market" in the housing sector of the economy. Rather, the supply of housing in the Bay Area is severely constrained by local land use regulations, so that market rents are much higher than they would otherwise be and reflect a situation of politically chosen scarcity.²¹

There are often good reasons for development restrictions, such as protection of environmentally sensitive land or maintaining neighborhood character. These benefit the people who live in the areas in which housing development is restricted, but have some accompanying costs and the benefits and costs are not equally distributed. Residents who do not own housing suffer economic harm from the higher rents and home prices that result when constraints on housing supply prevent market competition from holding down prices. Those who do own housing, either as homeowners or landlords, gain economic as well as environmental benefit from development restrictions.

²⁰ These figures ignore individual rent adjustments, which would bring the average controlled rent even closer to market. The average discounts stated are weighted averages of the different size units.

²¹ David Dowell, The Suburban Squeeze: Land Conversion and Regulation in the San Francisco Bay Area, University of California Press, Berkeley, 1984.
William Fischel, "Comment on Anthony Downs", Housing Policy Debate, V.2#4, 1991, pp.1139-1160.

Most low-income people are tenants and are harmed by the economic consequences of supply restriction. Because of this, some proponents of restrictive land use regulations also support rent controls as a means of protecting tenants from the harmful economic side-effects of environmental and neighborhood protections that they believe are necessary. This argument suggests that rent control may be an appropriate policy if it holds rents to the level that they would have reached in the absence of restrictions on housing supply. Evaluation of this argument requires some idea of what rents would have been in the absence of both rent control and supply restrictions.

Because the supply of market-rate rental housing in the Bay Area is so constrained, it is even harder to determine what rents would be like in the Bay Area without restrictions on housing development than it is to determine what rents would be in Berkeley without rent controls. Virtually all major urban areas in California have extensive land use controls, and while there are areas in which development of single-family housing is virtually unrestrained, resistance to construction of rental apartments is almost universal. Comparisons of the Bay Area with metropolitan areas outside of California run into substantial additional problems. There are natural resource constraints in the Bay Area that are not the same as in other areas, and the strong local economy and growing population would normally result in higher rents than in many other areas due to the higher proportion of new and more expensive housing that is built in growing areas. Thus, even without restrictive land use controls, it is likely that Bay Area rents would be somewhat higher than in many other metropolitan areas in the United States.

There is some information available that suggests the magnitude of the effects of restrictions on housing development, although it is far from definitive. From 1970 to 1980 the rent component of the Consumer Price Index rose only three percent more in the Nine-County Bay Area than it did in all U.S. cities. From 1980 to 1990, however, it rose 18 percent more than the U.S. City average.²² We can also look at expenditures for rent according to the Consumer Expenditure Survey data from the Bureau of Labor Statistics. This survey shows residents of the San Francisco Bay Area paying at least 26 percent more for rent in proportion to income than residents of Portland and Seattle or residents of the U.S. as a whole.²³ "The State of the Nation's Housing" provides tables that compare the percentage of income spent on rent

²² U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers, (CPI-U), Rent, residential, U.S. City average and San Francisco-Oakland-San Jose, CA. The CPI is a better measure than the Census, because the CPI reflects changes in rent for the same units, surveyed regularly, while the Census provides averages for all units and rent increases can reflect construction of new, more expensive units as well as general rent increases in all units.

²³ U.S. Bureau of Labor Statistics, "Consumer Expenditures, 1990-1991 -- San Francisco Bay Area", April 23, 1993.

The Survey of Consumer Expenditures provides average annual income, an average expenditure for rent and the proportion of households that rent for each population surveyed. Since different metropolitan areas have varying proportions of the population that rent (U.S. 37%, S.F. 42%, Portland 41%, Seattle 42%) it is necessary to correct for this difference. This can be done by dividing the average amount spent on rent by the fraction of the population that rent. This yields the amount that would be equivalent to the area's rental expenditure amount if renters were the whole population. This "rental equivalent" amount can then be divided by income to give a consistent rent burden percentage for each area. This "rent burden" is useful for comparative purposes, but does not represent tenants' actual rent burden. Since tenants generally have below-average incomes, the use of the average income for the area understates the proportion of income actually spent by tenants. This approach also assumes that tenant incomes vary from place to place in the same proportion as homeowners incomes.

in different regions of the U.S.²⁴ This comparison shows that in 1990 tenants in the Western states (California, Oregon and Washington, Alaska and Hawaii) spent 38 percent more of their income for rent than do tenants in the South, 30 percent more of their income on rent than tenants in the Midwest, and 22 percent more of their income on rent than Western States tenants did in 1970. This primarily reflects the restrictive housing climate of California, which has 76 percent of the five-state Western regional population.

Overall, then, the 18 percent more rapid increase in Bay Area CPI-Rent and the 22 percent increase in proportion of tenant income going for rent suggest that rents in the Bay Area are about twenty percent higher than they would be if the Bay Area had followed national trends or even trends from the Pacific Northwest. We saw in Table II-6 that Bay Area rents in 1980 were 23 percent above the national average, while in 1990 they were 54 percent above the national average. If the median Bay Area gross rent was twenty percent lower in 1990, then Bay Area rents would have remained 23 percent above the national average.

There may be multiple reasons for this increasing difference between Bay Area rents and rents in other parts of the U.S. The Bay Area economy may have been stronger, its population growth faster, its terrain more difficult, its environment more fragile. Only a detailed study of the reasons for this difference can determine the part played by restrictions on supply. Nonetheless, it is clear that *restrictions on supply have played an important part in driving up rents and what are commonly referred to as "market rents" in the Bay Area are actually "constrained market rents" reflecting not simply supply and demand but also twenty years of regulatory restrictions on additions to the supply of housing.*

²⁴ "The State of the Nation's Housing: 1991", Joint Center for Housing Studies of Harvard University.

Appendix B: Census and Consumer Price Index Data: Corrections and Caveats

Census Corrections

The 1990 Census figures were not corrected for minority undercount, while the 1980 figure was corrected after an undercount protest from the City. The 1990 Census' national undercount study determined that there had been a minority undercount of about six percent. With a 6% correction, 1990 population would rise to 105,100. For purposes of this report no correction to 1990 has been made.

1980 Census tables do not have corrections for missing data. For example, the number of units given for each type of vacancy do not add up to the total number of vacant units. 1990 Census tables made such a correction so that totals will match. For this reason, where necessary, 1980 Census breakdowns have been corrected to equal the appropriate total by adding the missing units in the same proportionate distribution as the units that were reported.

The 1970 Census had major problems resulting from double-counting and placing apartments from neighboring Albany in Berkeley. The figures for total population and total housing units were corrected, but for all other categories the uncorrected figures remained in the published data. The figures for race have been reduced proportionally to the amount of the overcount. In correcting the number of rental and owner-occupied units, since the error was almost entirely in double-counting apartments, the overcount of 1,210 units, less the 3.6% vacancy rate, is subtracted from the total number of rental units reported in Census publications. (See "Comparison With the U.S. Census", pp. 23-31, in Housing Inventory, Residential Structure Inventory, Berkeley Planning Department, November 1972)

For 1980 and 1990 comparisons we have used Census data provided by the Association of Bay Area Governments. There are discrepancies between the figures given for the Census figures in the same census, depending on whether the numbers come from Summary Tape File (STF) 1, which gives the results of the 100 percent count, or STF3, which gives the results of the sample of every sixth household. Where these figures differ, we have used the numbers from the STF1 100 percent count where possible. For 1980 median rent we have used the \$223 that is reported in the Bureau of the Census published volumes, rather than the \$226 reported in the ABAG printouts.

Consumer Price Index Corrections

For the period prior to 1983 the CPI is on a different basis than in 1983 and after. In January 1983 the Bureau of Labor Statistics changed the way it estimated increases in housing costs in order to take out the effects of increasing home purchase prices and variations in mortgage interest rates. Economists felt that since only a small percentage of homeowners bought new homes in any given year the previous method overstated inflation. The new method estimated the rental value of owner-occupied housing along with tracking rents in rental housing ("Questions and Answers on Homeownership Costs" U.S. Department of Labor, Bureau of Labor Statistics (BLS), January 1983). Comparison of the Bay Area CPI with rent increases prior to 1983 thus tends to overstate inflation and underestimate constant dollar rent increases due to the effect of even faster-rising Bay Area home prices on CPI.

Perhaps the best method for avoiding the problems of the CPI-U-All Items during this period is to use the CPI-U-Less Shelter. This index is not entirely comparable to the post-1982 CPI, because it removes increases in rents as well as home prices from consideration. Depending on the relationship between increases in rents and increases in all other items, this will result in divergence between the CPI-Less Shelter and other CPI measures.

Table B-1 gives the San Francisco Bay Area CPI-U-All Items (uncorrected) and the CPI-U-Less Shelter from 1977 to 1993, using changes from June of each year.

Table B-1: San Francisco Bay Area CPI-U, (1982-84 = 100)				
YEAR	All Items		Less Shelter	
June	Index Number	Increase From Previous June	Index Number	Increase From Previous June
1977	58.8	8.3%	61.8	8.2%
1978	64.8	10.2%	66.4	7.4%
1979	69.1	6.6%	73.2	10.2%
1980	80.7	16.8%	83.3	13.8%
1981	89.1	10.4%	89.7	7.7%
1982	99.1	11.2%	97.3	8.5%
1983	98.6	-0.5%	99.7	2.5%
1984	103.7	5.2%	104.1	4.4%
1985	108.4	4.5%	107.6	3.4%
1986	111.9	3.2%	109.2	1.5%
1987	115.0	2.8%	111.1	1.7%
1988	120.1	4.4%	116.6	5.0%
1989	126.2	5.1%	122.8	5.3%
1990	131.6	4.3%	127.5	3.8%
1991	137.6	4.6%	133.3	4.5%
1992	141.9	3.1%	138.2	3.7%
1993	146.1	3.0%	142.1	2.8%

An alternative method for avoiding the problems of the CPI-U-All Items during 1978 to 1982 is to re-estimate the CPI using the experimental data created on a national level by the Bureau of Labor Statistics for use in deciding how to change the CPI. On a national level the Bureau of Labor Statistics kept both regular CPI data and data on increases under the experimental index that served as the basis for the revised CPI until the change was made in January 1983 ("Experimental Measures: CPI-U X1: All Items", BLS, February 26, 1988). We estimated a Bay Area CPI-U-X1 increase for the years 1978 to 1982 by taking the ratio of the United States CPI-U to the United States CPI-U-X1 and applying that ratio to the Bay Area CPI-U. This gives an estimated Bay Area CPI-U-X1 with the same relationship to the Bay Area CPI-U as the U.S. CPI-U-X1 has to the U.S. CPI-U. This is a conservative method of estimating a Bay Area CPI-U-X1. Since home price inflation was much more rapid in the Bay Area than nationally during that

period, the difference between the two indices in the Bay Area was presumably somewhat larger and the reduction in Bay Area CPI should have been somewhat greater. This procedure is shown in Tables B-2 and B-3.

Table B-2: U.S. Consumer Price Index (CPI) and CPI-X1, 1978-1982

Years (June to June)	Increase in U.S. CPI-U-All Items	Increase in U.S. CPI-U-X1	Ratio CPI/CPI-X1
1978 - 1979	10.89%	9.32%	1.168
1979 - 1980	14.38%	10.96%	1.312
1980 - 1981	9.55%	9.51%	1.004
1981 - 1982	7.06%	6.46%	1.093

Table B-3: Bay Area Consumer Price Index Measures, 1978 - 1982

Year (June to June)	Increase in Bay Area CPI-U-All Items	Imputed Increase in Bay Area CPI-U-X1	Increase in Bay Area CPI-U-Less Shelter
1978 - 1979	6.64%	5.68%	10.24%
1979 - 1980	16.79%	12.79%	13.80%
1980 - 1981	10.41%	10.37%	7.68%
1981 - 1982	11.22%	10.27%	8.92%
1978 - 1982	52.93%	45.07%	46.54%

As shown in Table B-3, both alternative inflation indexes give almost the same results for the entire 1978 - 1982 period, although they distribute inflation differently by year within that period.

Appendix C: HUD Income Standards, Affordable Rents and Federal Poverty Line for 1988, 1990, 1993

Table C-1: 1988 Alameda County Ceilings for Income Categories set by the U.S. Department of Housing & Urban Development

Income Group	Income Range	Household Size				
		1 person	2 people	3 people	4 people	5 people
Very Low (VL)	\$0 to	\$15,200	\$17,350	\$19,550	\$21,700	\$23,450
Low (L)	VL to	\$22,450	\$25,700	\$28,900	\$32,100	\$34,100
Moderate (M)	L to	\$33,675	\$38,550	\$43,350	\$48,100	\$51,150
Above Moderate	Above M					
MEDIAN	equal to	\$28,050	\$32,100	\$36,100	\$40,100	\$42,600

Table C-2: Maximum Affordable Monthly Shelter Cost at Each 1988 HUD Income Ceiling by Family Size

Income Group	Affordable Cost Range	Household Size				
		1 person	2 people	3 people	4 people	5 people
Very Low (VL)	\$0 up to	\$410	\$468	\$526	\$585	\$631
Low (L)	VL up to	\$655	\$749	\$842	\$936	\$1,011
Moderate (M)	L up to	\$983	\$1,123	\$1,264	\$1,405	\$1,518
Above Moderate	More than M					

Table C-3: Alameda County 1990 Ceilings for Income Categories set by the U.S. Department of Housing & Urban Development

Income Group	Income Range	Household Size				
		1 person	2 people	3 people	4 people	5 people
Very Low (VL)	\$0 up to	\$15,750	\$18,000	\$20,250	\$22,500	\$24,300
Low (L)	\$VL up to	\$24,700	\$28,250	\$31,750	\$35,300	\$37,500
Moderate (M)	\$L up to	\$37,050	\$42,350	\$47,650	\$52,900	\$56,250
Above Moderate	Above \$M					
MEDIAN	equal to	\$30,850	\$35,300	\$39,700	\$44,100	\$46,850

Table C-4: Maximum Affordable Monthly Shelter Cost at Income Ceiling for Each Income Group and Family Size, 1990

Income Group	Affordable Cost Range	Household Size				
		1 person	2 people	3 people	4 people	5 people
Very Low (VL)	\$0 up to	\$394	\$450	\$506	\$563	\$608
Low (L)	VL up to	\$617	\$706	\$794	\$883	\$938
Moderate (M)	L up to	\$926	\$1,059	\$1,191	\$1,323	\$1,406
Above Moderate	more than M					

Table C-5: Alameda County 1993 Ceilings for Income Categories set by the U.S. Department of Housing & Urban Development

Income Group	Income Range	Household Size				
		1 person	2 people	3 people	4 people	5 people
Very Low (VL)	\$0 up to	\$18,350	\$20,950	\$23,600	\$26,200	\$28,300
Low (L)	\$VL up to	\$27,800	\$31,750	\$35,750	\$39,700	\$42,900
Moderate (M)	\$L up to	\$44,050	\$50,300	\$56,600	\$62,900	\$67,950
Above Moderate	Above \$M					
MEDIAN	equal to	\$36,700	\$41,900	\$47,150	\$52,400	\$56,600

Table C-6: Maximum Affordable Monthly Shelter Cost at Each 1993 HUD Income Ceiling by Family Size

Income Group	Affordable Cost Range	Household Size				
		1 person	2 people	3 people	4 people	5 people
Very Low (VL)	\$0 up to	\$459	\$524	\$590	\$655	\$708
Low (L)	VL up to	\$695	\$794	\$894	\$993	\$1,073
Moderate (M)	L up to	\$1,101	\$1,258	\$1,415	\$1,573	\$1,699
Above Moderate	More than M					

People in Household	1	2	3	4	5	6	7	8
Poverty Line	\$6,280	\$8,420	\$10,560	\$12,700	\$14,840	\$16,980	\$19,120	\$21,260
Affordable Rent ¹	\$157	\$211	\$264	\$318	\$371	\$425	\$478	\$532

People in Household	1	2	3	4	5	6	7	8
Poverty Line	\$6,970	\$9,430	\$11,890	\$14,350	\$16,810	\$19,270	\$21,730	\$24,190
Affordable Rent ²	\$174	\$236	\$297	\$359	\$420	\$482	\$543	\$605

¹ Including utilities.

² Including utilities.

Appendix D: Rent Control Bibliography

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Appendix E: Spreadsheet Models

Estimated Financial Performance of Rental Property Under Rent Control: Part 1
 median mortgage, median-rent, median expenses, middle-income owner

May 16, 1994

PURCHASE PRICE: 8.5 X Gross Rent SALE PRICE: 0.066 Capitalization Rate
 LOAN TO VALUE RATIO: 0.4 DEPRECIATION: 25 Years, Straight Line
 LOAN RATE: 9.5% FIXED TAX RATE: 28%
 LOAN TERM: 25 YEARS UNITS IN BUILDING: 10
 UTILITIES PAID BY: TENANT

Rate of Return Over Life of Investment 3.42% after taxes Rent Increase as % CPI 52.0%
 Rate of Return as Pre-Tax Equivalent 4.37% Percent of NOI Incr. by CPI 0.0%
 Average Rate of Inflation, 1978-91 5.51%

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$205	\$219	\$229	\$239	\$250	\$255	\$266	\$270	\$293	\$303	\$314	\$322	\$334	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-LS, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982	\$222,982
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$134,767	\$135,837	\$137,009	\$138,292	\$139,698	\$141,237	\$142,922	\$144,767	\$146,787	\$148,999	\$151,422	\$154,074	\$156,979	\$156,979
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$24,651	\$26,225	\$27,509	\$28,699	\$30,019	\$30,568	\$31,979	\$32,440	\$35,167	\$36,325	\$37,692	\$38,644	\$40,041	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	\$14,717	
EXPENSE RATIO	0.44	0.40	0.44	0.47	0.49	0.51	0.52	0.54	0.55	0.58	0.59	0.61	0.62	0.63	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	\$5,266	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	(\$92,760)
TAX DEFERRAL (PAYMENT)		\$523	\$523	\$523	\$523	\$523	\$523	\$523	\$523	\$523	\$523	\$523	\$523	\$523	
COST OF SALE															\$17,839
TAXABLE GAIN															\$74,922
TAX PAYMENT															(\$20,978)
AFTER TAX CASH FLOW	(\$133,789)	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$5,789	\$118,162
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

Estimated Financial Performance of Rental Property Under Rent Control: Part 1

May 16, 1994

median mortgage, median-rent, median expenses, middle-income owner

PURCHASE PRICE: 8.5 X Gross Rent SALE PRICE: 0.066 Capitalization Rate
 LOAN TO VALUE RATIO: 0.4 DEPRECIATION: 25 Years, Straight Line
 LOAN RATE: 9.5% FIXED TAX RATE: 28%
 LOAN TERM: 25 YEARS UNITS IN BUILDING: 10

UTILITIES PAID BY: TENANT

Rate of Return Over Life of Investment 5.73% after taxes Rent Increase as % CPI 64.4%
 Rate of Return as Pre-Tax Equivalent 7.34% Percent of NOI Incr. by CPI 28.0%
 Average Rate of Inflation, 1978-91 5.51%

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$209	\$227	\$240	\$254	\$266	\$272	\$285	\$289	\$313	\$325	\$338	\$348	\$361	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-LS, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$229,350	\$238,212	\$243,335	\$249,412	\$251,158	\$254,252	\$256,673	\$257,751	\$258,978	\$262,604	\$266,501	\$269,336	\$272,730	\$272,730
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$141,135	\$151,067	\$157,362	\$164,723	\$167,874	\$172,507	\$176,613	\$179,536	\$182,783	\$188,621	\$194,940	\$200,429	\$206,727	\$206,727
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$25,071	\$27,230	\$28,852	\$30,444	\$31,879	\$32,632	\$34,203	\$34,735	\$37,543	\$38,940	\$40,564	\$41,703	\$43,324	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$15,137	\$15,722	\$16,060	\$16,461	\$16,576	\$16,781	\$16,940	\$17,012	\$17,093	\$17,332	\$17,589	\$17,776	\$18,000	
EXPENSE RATIO	0.44	0.40	0.42	0.44	0.46	0.48	0.49	0.50	0.51	0.54	0.55	0.57	0.57	0.58	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$5,666	\$6,271	\$6,609	\$7,010	\$7,126	\$7,330	\$7,490	\$7,561	\$7,642	\$7,881	\$8,138	\$8,325	\$8,549	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	(\$92,760)
TAX DEFERRAL (PAYMENT)		\$406	\$242	\$147	\$35	\$3	(\$54)	(\$99)	(\$119)	(\$142)	(\$209)	(\$281)	(\$333)	(\$396)	
COST OF SALE															\$21,818
TAXABLE GAIN															\$120,690
TAX PAYMENT															(\$33,793)
AFTER TAX CASH FLOW	(\$133,789)	\$6,092	\$6,513	\$6,757	\$7,045	\$7,128	\$7,275	\$7,390	\$7,442	\$7,500	\$7,672	\$7,857	\$7,992	\$8,153	\$151,115
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

Estimated Financial Performance of Rental Property Under Rent Control: Part 1

May 16, 1994

median mortgage, median-rent, median expenses, middle-income owner

PURCHASE PRICE: 8.5 X Gross Rent SALE PRICE: 0.066 Capitalization Rate
 LOAN TO VALUE RATIO: 0.4 DEPRECIATION: 25 Years, Straight Line
 LOAN RATE: 9.5% FIXED TAX RATE: 28%
 LOAN TERM: 25 YEARS UNITS IN BUILDING: 10

UTILITIES PAID BY: TENANT

Rate of Return Over Life of Investment 6.69% after taxes Rent Increase as % CPI 70.4%
 Rate of Return as Pre-Tax Equivalent 8.57% Percent of NOI Incr. by CPI 40.0%
 Average Rate of Inflation, 1978-91 5.51%

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$210	\$231	\$245	\$260	\$273	\$280	\$294	\$298	\$322	\$335	\$349	\$360	\$374	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-L.S, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$232,079	\$244,890	\$252,413	\$261,419	\$264,034	\$268,681	\$272,335	\$273,969	\$275,832	\$281,348	\$287,313	\$291,680	\$296,930	\$296,930
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$143,864	\$157,745	\$166,440	\$176,730	\$180,749	\$186,935	\$192,274	\$195,753	\$199,637	\$207,366	\$215,753	\$222,772	\$230,927	\$230,927
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$25,251	\$27,671	\$29,452	\$31,236	\$32,729	\$33,584	\$35,236	\$35,805	\$38,656	\$40,178	\$41,938	\$43,178	\$44,921	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$15,317	\$16,163	\$16,659	\$17,254	\$17,426	\$17,733	\$17,974	\$18,082	\$18,205	\$18,569	\$18,963	\$19,251	\$19,597	
EXPENSE RATIO	0.44	0.39	0.42	0.43	0.45	0.47	0.47	0.49	0.49	0.53	0.54	0.55	0.55	0.56	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$5,866	\$6,712	\$7,208	\$7,803	\$7,975	\$8,282	\$8,523	\$8,631	\$8,754	\$9,118	\$9,512	\$9,800	\$10,147	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	(\$92,760)
TAX DEFERRAL (PAYMENT)		\$355	\$119	(\$20)	(\$187)	(\$235)	(\$321)	(\$389)	(\$419)	(\$453)	(\$555)	(\$665)	(\$746)	(\$843)	
COST OF SALE															\$23,754
TAXABLE GAIN															\$142,954
TAX PAYMENT															(\$40,027)
AFTER TAX CASH FLOW	(\$133,789)	\$6,222	\$6,831	\$7,188	\$7,616	\$7,740	\$7,961	\$8,135	\$8,212	\$8,301	\$8,563	\$8,846	\$9,054	\$9,303	\$167,146
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

Estimated Financial Performance of Rental Property Under Rent Control: Part 1

May 16, 1994

median mortgage, median-rent, median expenses, middle-income owner

PURCHASE PRICE:	8.5 X Gross Rent	SALE PRICE:	0.066 Capitalization Rate
LOAN TO VALUE RATIO:	0.4	DEPRECIATION:	25 Years, Straight Line
LOAN RATE:	9.5% FIXED	TAX RATE:	28%
LOAN TERM:	25 YEARS	UNITS IN BUILDING:	10
UTILITIES PAID BY:	TENANT		

Rate of Return Over Life of Investment	7.48% after taxes	Rent Increase as % CPI	75.8%
Rate of Return as Pre-Tax Equivalent	9.57%	Percent of NOI Incr. by CPI	50.0%
Average Rate of Inflation, 1978-91	5.51%		

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$212	\$234	\$250	\$266	\$279	\$287	\$301	\$306	\$330	\$344	\$360	\$371	\$386	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-LS, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$234,354	\$250,524	\$260,144	\$271,747	\$275,144	\$281,197	\$285,977	\$288,122	\$290,571	\$297,835	\$305,728	\$311,537	\$318,546	\$318,546
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$146,139	\$163,379	\$174,172	\$187,057	\$191,860	\$199,452	\$205,917	\$209,907	\$214,376	\$223,853	\$234,168	\$242,629	\$252,544	\$252,544
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$25,401	\$28,043	\$29,962	\$31,918	\$33,462	\$34,410	\$36,137	\$36,739	\$39,628	\$41,266	\$43,153	\$44,488	\$46,348	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$15,467	\$16,535	\$17,170	\$17,935	\$18,159	\$18,559	\$18,874	\$19,016	\$19,178	\$19,657	\$20,178	\$20,561	\$21,024	
EXPENSE RATIO	0.44	0.39	0.41	0.43	0.44	0.46	0.46	0.48	0.48	0.52	0.52	0.53	0.54	0.55	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$6,017	\$7,084	\$7,719	\$8,484	\$8,709	\$9,108	\$9,424	\$9,565	\$9,727	\$10,206	\$10,727	\$11,111	\$11,573	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	(\$92,760)
TAX DEFERRAL (PAYMENT)		\$313	\$14	(\$163)	(\$378)	(\$441)	(\$552)	(\$641)	(\$680)	(\$726)	(\$860)	(\$1,006)	(\$1,113)	(\$1,243)	
COST OF SALE															\$25,484
TAXABLE GAIN															\$162,841
TAX PAYMENT															(\$45,596)
AFTER TAX CASH FLOW	(\$133,789)	\$6,330	\$7,098	\$7,555	\$8,107	\$8,268	\$8,556	\$8,783	\$8,885	\$9,001	\$9,346	\$9,722	\$9,998	\$10,331	\$181,464
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

Estimated Financial Performance of Rental Property Under Rent Control: Part 1
 median mortgage, median-rent, median expenses, middle-income owner

May 16, 1994

PURCHASE PRICE: 8.5 X Gross Rent SALE PRICE: 0.066 Capitalization Rate
 LOAN TO VALUE RATIO: 0.4 DEPRECIATION: 25 Years, Straight Line
 LOAN RATE: 9.5% FIXED TAX RATE: 28%
 LOAN TERM: 25 YEARS UNITS IN BUILDING: 10

UTILITIES PAID BY: TENANT

Rate of Return Over Life of Investment 8.80% after taxes Rent Increase as % CPI 85.8%
 Rate of Return as Pre-Tax Equivalent 11.26% Percent of NOI Incr. by CPI 67.0%
 Average Rate of Inflation, 1978-91 5.51%

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$214	\$239	\$257	\$276	\$290	\$299	\$315	\$320	\$345	\$360	\$378	\$391	\$408	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-LS, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$238,220	\$260,246	\$273,637	\$289,991	\$294,849	\$303,541	\$310,455	\$313,575	\$317,147	\$327,771	\$339,411	\$348,052	\$358,546	\$358,546
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$150,005	\$173,101	\$187,665	\$205,302	\$211,564	\$221,795	\$230,395	\$235,360	\$240,952	\$253,789	\$267,850	\$279,144	\$292,543	\$292,543
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$25,656	\$28,684	\$30,852	\$33,122	\$34,763	\$35,885	\$37,752	\$38,419	\$41,382	\$43,242	\$45,377	\$46,898	\$48,988	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$15,723	\$17,176	\$18,060	\$19,139	\$19,460	\$20,034	\$20,490	\$20,696	\$20,932	\$21,633	\$22,401	\$22,971	\$23,664	
EXPENSE RATIO	0.44	0.39	0.40	0.41	0.42	0.44	0.44	0.46	0.46	0.49	0.50	0.51	0.51	0.52	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$6,272	\$7,725	\$8,609	\$9,689	\$10,009	\$10,583	\$11,039	\$11,245	\$11,481	\$12,182	\$12,950	\$13,521	\$14,213	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	(\$92,760)
TAX DEFERRAL (PAYMENT)		\$242	(\$165)	(\$413)	(\$715)	(\$805)	(\$965)	(\$1,093)	(\$1,151)	(\$1,217)	(\$1,413)	(\$1,628)	(\$1,788)	(\$1,982)	
COST OF SALE															\$28,684
TAXABLE GAIN															\$199,641
TAX PAYMENT															(\$55,899)
AFTER TAX CASH FLOW	(\$133,789)	\$6,514	\$7,560	\$8,197	\$8,974	\$9,205	\$9,618	\$9,946	\$10,094	\$10,264	\$10,769	\$11,322	\$11,733	\$12,231	\$207,960
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

Estimated Financial Performance of Rental Property Under Rent Control: Part 1

May 16, 1994

median mortgage, median-rent, median expenses, middle-income owner

PURCHASE PRICE:	8.5 X Gross Rent	SALE PRICE:	0.066 Capitalization Rate
LOAN TO VALUE RATIO:	0.4	DEPRECIATION:	25 Years, Straight Line
LOAN RATE:	9.5% FIXED	TAX RATE:	28%
LOAN TERM:	25 YEARS	UNITS IN BUILDING:	10

UTILITIES PAID BY:	TENANT		
Rate of Return Over Life of Investment	9.41% after taxes	Rent Increase as % CPI	90.9%
Rate of Return as Pre-Tax Equivalent	12.04%	Percent of NOI Incr. by CPI	75.0%
Average Rate of Inflation, 1978-91	5.51%		

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$215	\$242	\$261	\$281	\$295	\$305	\$321	\$327	\$352	\$369	\$387	\$401	\$419	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-LS, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$240,040	\$264,884	\$280,141	\$298,883	\$304,487	\$314,535	\$322,556	\$326,184	\$330,343	\$342,731	\$356,355	\$366,511	\$378,880	\$378,880
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$151,825	\$177,739	\$194,169	\$214,193	\$221,203	\$232,790	\$242,495	\$247,969	\$254,148	\$268,749	\$284,795	\$297,603	\$312,878	\$312,878
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$25,776	\$28,991	\$31,282	\$33,709	\$35,399	\$36,610	\$38,551	\$39,251	\$42,253	\$44,229	\$46,495	\$48,117	\$50,330	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$15,843	\$17,482	\$18,489	\$19,726	\$20,096	\$20,759	\$21,289	\$21,528	\$21,803	\$22,620	\$23,519	\$24,190	\$25,006	
EXPENSE RATIO	0.44	0.39	0.40	0.41	0.41	0.43	0.43	0.45	0.45	0.48	0.49	0.49	0.50	0.50	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$6,392	\$8,032	\$9,039	\$10,275	\$10,645	\$11,309	\$11,838	\$12,077	\$12,352	\$13,169	\$14,069	\$14,739	\$15,555	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	
TAX DEFERRAL (PAYMENT)		\$208	(\$251)	(\$533)	(\$879)	(\$983)	(\$1,168)	(\$1,317)	(\$1,384)	(\$1,461)	(\$1,690)	(\$1,941)	(\$2,129)	(\$2,358)	(\$92,760)
COST OF SALE															
TAXABLE GAIN															\$30,310
TAX PAYMENT															\$218,349
AFTER TAX CASH FLOW	(\$133,789)	\$6,600	\$7,781	\$8,506	\$9,396	\$9,663	\$10,140	\$10,521	\$10,694	\$10,891	\$11,480	\$12,127	\$12,610	\$13,198	(\$61,138)
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	\$221,429
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

Estimated Financial Performance of Rental Property Under Rent Control: Part 1
 median mortgage, median-rent, median expenses, middle-income owner

May 16, 1994

PURCHASE PRICE: 8.5 X Gross Rent SALE PRICE: 0.066 Capitalization Rate
 LOAN TO VALUE RATIO: 0.4 DEPRECIATION: 25 Years, Straight Line
 LOAN RATE: 9.5% FIXED TAX RATE: 28%
 LOAN TERM: 25 YEARS UNITS IN BUILDING: 10

UTILITIES PAID BY: TENANT

Rate of Return Over Life of Investment 11.28% after taxes Rent Increase as % CPI 108.4%
 Rate of Return as Pre-Tax Equivalent 14.44% Percent of NOI Incr. by CPI 100.0%
 Average Rate of Inflation, 1978-91 5.51%

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$218	\$250	\$272	\$297	\$312	\$325	\$343	\$350	\$376	\$396	\$419	\$436	\$458	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-LS, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$245,726	\$279,636	\$301,112	\$327,971	\$336,171	\$350,962	\$362,895	\$368,338	\$374,600	\$393,330	\$414,177	\$429,915	\$449,261	\$449,261
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$157,511	\$192,491	\$215,139	\$243,282	\$252,887	\$269,217	\$282,835	\$290,123	\$298,405	\$319,348	\$342,616	\$361,008	\$383,259	\$383,259
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$26,152	\$29,964	\$32,666	\$35,629	\$37,490	\$39,015	\$41,213	\$42,033	\$45,174	\$47,568	\$50,311	\$52,301	\$54,975	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$16,218	\$18,456	\$19,873	\$21,646	\$22,187	\$23,164	\$23,951	\$24,310	\$24,724	\$25,960	\$27,336	\$28,374	\$29,651	
EXPENSE RATIO	0.44	0.38	0.38	0.39	0.39	0.41	0.41	0.42	0.42	0.45	0.45	0.46	0.46	0.46	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$6,767	\$9,005	\$10,423	\$12,195	\$12,736	\$13,713	\$14,500	\$14,860	\$15,273	\$16,509	\$17,885	\$18,924	\$20,200	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	(\$92,760)
TAX DEFERRAL (PAYMENT)		\$103	(\$524)	(\$920)	(\$1,417)	(\$1,568)	(\$1,842)	(\$2,062)	(\$2,163)	(\$2,278)	(\$2,625)	(\$3,010)	(\$3,301)	(\$3,658)	
COST OF SALE															\$35,941
TAXABLE GAIN															\$283,099
TAX PAYMENT															(\$79,268)
AFTER TAX CASH FLOW	(\$133,789)	\$6,870	\$8,482	\$9,502	\$10,779	\$11,168	\$11,871	\$12,438	\$12,697	\$12,994	\$13,884	\$14,875	\$15,623	\$16,542	\$268,050
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

Estimated Financial Performance of Rental Property Under Rent Control: Part 1

May 16, 1994

median mortgage, median-rent, median expenses, middle-income owner
 PURCHASE PRICE: 8.5 X Gross Rent SALE PRICE: 0.066 Capitalization Rate
 LOAN TO VALUE RATIO: 0.4 DEPRECIATION: 25 Years, Straight Line
 LOAN RATE: 9.5% FIXED TAX RATE: 28%
 LOAN TERM: 25 YEARS UNITS IN BUILDING: 10

UTILITIES PAID BY: TENANT
 Rate of Return Over Life of Investment 11.51% after taxes Rent Increase as % CPI 110.7%
 Rate of Return as Pre-Tax Equivalent 14.73% Percent of NOI Incr. by CPI 103.0%
 Average Rate of Inflation, 1978-91 5.51%

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$218	\$251	\$274	\$299	\$315	\$328	\$346	\$353	\$380	\$400	\$423	\$440	\$463	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-LS, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$246,408	\$281,433	\$303,695	\$331,598	\$340,136	\$355,551	\$368,003	\$373,688	\$380,231	\$399,813	\$421,639	\$438,142	\$458,450	\$458,450
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$158,193	\$194,288	\$217,722	\$246,908	\$256,852	\$273,806	\$287,942	\$295,473	\$304,037	\$325,831	\$350,079	\$369,235	\$392,447	\$392,447
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$26,197	\$30,083	\$32,836	\$35,868	\$37,752	\$39,317	\$41,550	\$42,386	\$45,546	\$47,996	\$50,804	\$52,844	\$55,582	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$16,263	\$18,575	\$20,044	\$21,885	\$22,449	\$23,466	\$24,288	\$24,663	\$25,095	\$26,388	\$27,828	\$28,917	\$30,258	
EXPENSE RATIO	0.44	0.38	0.38	0.39	0.39	0.41	0.40	0.42	0.42	0.45	0.45	0.45	0.45	0.46	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$6,812	\$9,124	\$10,593	\$12,435	\$12,998	\$14,016	\$14,837	\$15,213	\$15,644	\$16,937	\$18,377	\$19,467	\$20,807	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	(\$92,760)
TAX DEFERRAL (PAYMENT)		\$91	(\$557)	(\$968)	(\$1,484)	(\$1,642)	(\$1,926)	(\$2,157)	(\$2,262)	(\$2,383)	(\$2,744)	(\$3,148)	(\$3,453)	(\$3,828)	
COST OF SALE															\$36,676
TAXABLE GAIN															\$291,553
TAX PAYMENT															(\$81,635)
AFTER TAX CASH FLOW	(\$133,789)	\$6,903	\$8,567	\$9,625	\$10,951	\$11,357	\$12,089	\$12,681	\$12,951	\$13,262	\$14,192	\$15,230	\$16,014	\$16,979	\$274,136
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

Estimated Financial Performance of Rental Property Under Rent Control: Part 1

May 16, 1994

median mortgage, median-rent, median expenses, middle-income owner

PURCHASE PRICE:	8.5 X Gross Rent	SALE PRICE:	0.066 Capitalization Rate
LOAN TO VALUE RATIO:	0.4	DEPRECIATION:	25 Years, Straight Line
LOAN RATE:	9.5% FIXED	TAX RATE:	28%
LOAN TERM:	25 YEARS	UNITS IN BUILDING:	10

UTILITIES PAID BY:	TENANT		
Rate of Return Over Life of Investment	14.71%	after taxes	Rent Increase as % CPI 149.5%
Rate of Return as Pre-Tax Equivalent	18.83%		Percent of NOI Incr. by CPI 147.0%
Average Rate of Inflation, 1978-91	5.51%		

YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991
MONTHLY RENT	\$219	\$224	\$266	\$295	\$330	\$349	\$368	\$391	\$401	\$430	\$458	\$491	\$516	\$549	
COST INCREASE (% Rent)		-6.2%	15.8%	11.2%	9.3%	9.4%	3.6%	8.9%	2.7%	15.4%	5.7%	6.3%	4.1%	5.8%	
CPI-LS, June-June Increase	7.4%	10.2%	13.8%	7.7%	8.9%	2.5%	4.4%	3.4%	1.5%	1.7%	5.0%	5.3%	3.8%	4.5%	
PURCHASE/SALE PRICE	\$222,982	\$256,416	\$308,432	\$343,253	\$388,262	\$402,530	\$428,566	\$449,986	\$459,908	\$471,401	\$506,049	\$545,475	\$575,945	\$614,044	\$614,044
DEBT	(\$89,193)	(\$88,215)	(\$87,145)	(\$85,973)	(\$84,689)	(\$83,284)	(\$81,745)	(\$80,060)	(\$78,215)	(\$76,195)	(\$73,983)	(\$71,560)	(\$68,908)	(\$66,003)	(\$66,003)
EQUITY	\$133,789	\$168,200	\$221,287	\$257,280	\$303,572	\$319,246	\$346,821	\$369,925	\$381,693	\$395,206	\$432,066	\$473,915	\$507,038	\$548,041	\$548,041
CAPITALIZATION RATE	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%	6.6%
RENT	\$26,280	\$26,857	\$31,865	\$35,447	\$39,608	\$41,870	\$44,136	\$46,961	\$48,077	\$51,563	\$55,008	\$58,977	\$61,939	\$65,851	
EXPENSES	\$11,563	\$9,934	\$11,508	\$12,792	\$13,983	\$15,303	\$15,851	\$17,262	\$17,723	\$20,451	\$21,609	\$22,975	\$23,927	\$25,324	
NET OPERATING INCOME	\$14,717	\$16,923	\$20,357	\$22,655	\$25,625	\$26,567	\$28,285	\$29,699	\$30,354	\$31,112	\$33,399	\$36,001	\$38,012	\$40,527	
EXPENSE RATIO	0.44	0.37	0.36	0.36	0.35	0.37	0.36	0.37	0.37	0.40	0.39	0.39	0.39	0.38	
DEBT SERVICE		(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)	(\$9,451)
REMAINING MORTGAGE		\$88,215	\$87,145	\$85,973	\$84,689	\$83,284	\$81,745	\$80,060	\$78,215	\$76,195	\$73,983	\$71,560	\$68,908	\$66,003	
INTEREST		(\$8,473)	(\$8,380)	(\$8,279)	(\$8,167)	(\$8,045)	(\$7,912)	(\$7,766)	(\$7,606)	(\$7,430)	(\$7,239)	(\$7,028)	(\$6,798)	(\$6,546)	
PRINCIPLE		\$977	\$1,070	\$1,172	\$1,283	\$1,405	\$1,539	\$1,685	\$1,845	\$2,020	\$2,212	\$2,422	\$2,653	\$2,905	
BEFORE TAX CASH FLOW		\$7,473	\$10,906	\$13,204	\$16,174	\$17,116	\$18,835	\$20,248	\$20,903	\$21,662	\$23,948	\$26,551	\$28,562	\$31,076	
DEPRECIATION		\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	\$7,135	(\$92,760)
TAX DEFERRAL (PAYMENT)		(\$94)	(\$1,056)	(\$1,699)	(\$2,531)	(\$2,795)	(\$3,276)	(\$3,672)	(\$3,855)	(\$4,067)	(\$4,708)	(\$5,436)	(\$5,999)	(\$6,703)	
COST OF SALE															\$49,124
TAXABLE GAIN															\$434,699
TAX PAYMENT															(\$121,716)
AFTER TAX CASH FLOW	(\$133,789)	\$7,378	\$9,850	\$11,505	\$13,644	\$14,322	\$15,559	\$16,577	\$17,048	\$17,594	\$19,241	\$21,114	\$22,562	\$24,373	\$377,202
Monthly Operating Expense Increase			\$13.12	\$10.70	\$9.92	\$11.00	\$4.57	\$11.76	\$3.84	\$22.73	\$9.65	\$11.39	\$7.93	\$11.64	
YEAR	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	SALE: 1991

HYPOTHETICAL FINANCIAL PERFORMANCE OF RENTAL PROPERTY UNDER RENT CONTROL

DATA: Cap Rate on Purchase	0.07	CPI INCREASE	8%
Loan to Value Ratio:	0.6	NOI INCREASE	50 PERCENT OF CPI
LOAN RATE:	10.0% FIXED	CAP RATE ON SALE:	0.07
LOAN TERM	30 YEARS	DEPRECIATION:	25 YEARS, STRAIGHT LINE
EXPENSE RATIO (1995)	0.45	TAX RATE:	0.35
RENT: (1995)	\$600.00	UNITS IN BUILDING:	10
Rate of Return-Owner 1	13.55%	Rate of Return-Owner 2	13.55%

		1	2	3	4	5	6	7
	PURCHASE							
YEAR	1995	1996	1997	1998	1999	2000	2001	2002
INTEREST RATE	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
PURCHASE/SALE PRICE	\$565,714	\$565,714	\$588,343	\$611,877	\$636,352	\$661,806	\$688,278	\$715,809
DEBT	(\$339,429)	(\$339,429)	(\$337,365)	(\$335,095)	(\$332,598)	(\$329,852)	(\$326,831)	(\$323,508)
EQUITY	\$226,286	\$226,286	\$250,978	\$276,781	\$303,753	\$331,954	\$361,447	\$392,301
DEBT SERVICE COVERAGE	1.10							
RENT	\$72,000	\$72,000	\$76,176	\$80,623	\$85,359	\$90,406	\$95,786	\$101,521
OPERATING EXPENSE	\$32,400	\$32,400	\$34,992	\$37,791	\$40,815	\$44,080	\$47,606	\$51,415
NET OPERATING INCOME	\$39,600	\$39,600	\$41,184	\$42,831	\$44,545	\$46,326	\$48,179	\$50,107
EXPENSE RATIO	0.45	0.45	0.46	0.47	0.48	0.49	0.50	0.51
DEBT SERVICE		(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)
REMAINING MORTGAGE	\$339,429	\$339,429	\$337,365	\$335,095	\$332,598	\$329,852	\$326,831	\$323,508
INTEREST		(\$36,006)	(\$33,943)	(\$33,737)	(\$33,510)	(\$33,260)	(\$32,985)	(\$32,683)
PRINCIPLE		\$0	\$2,063	\$2,270	\$2,497	\$2,746	\$3,021	\$3,323
BEFORE TAX CASH FLOW		\$3,594	\$5,178	\$6,825	\$8,538	\$10,320	\$12,173	\$14,100
DEPRECIATION		\$16,457	\$16,457	\$16,457	\$16,457	\$16,457	\$16,457	\$16,457
TAX DEFERRAL (PAYMENT)		\$4,502	\$3,948	\$3,371	\$2,772	\$2,148	\$1,499	\$825
COST OF SALE								
TAXABLE GAIN								
TAX PAYMENT								
AFTER TAX CASH FLOW	(\$226,286)	\$8,096	\$9,125	\$10,196	\$11,310	\$12,468	\$13,673	\$14,925
EQUITY GAIN		\$0	\$24,692	\$25,804	\$26,972	\$28,201	\$29,493	\$30,854
% Increase in Before Tax Cash Flow			44.08%	31.82%	25.10%	20.87%	17.96%	15.83%
Rate of Return Over Life of Investment (After Taxes)			10.03%					
Rate of Return as Pre-Tax Equivalent			13.55%					

	8	9	10	11	12	13	14	15
YEAR	2003	2004	2005	2006	2007	2008	2009	2010
INTEREST RATE	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
PURCHASE/SALE PRICE	\$744,441	\$774,219	\$805,188	\$837,395	\$870,891	\$905,727	\$941,956	\$979,634
DEBT	(\$319,852)	(\$315,831)	(\$311,408)	(\$306,542)	(\$301,190)	(\$295,303)	(\$288,827)	(\$281,703)
EQUITY	\$424,589	\$458,388	\$493,780	\$530,853	\$569,701	\$610,424	\$653,129	\$697,931
DEBT SERVICE COVERAGE								
RENT	\$107,639	\$114,165	\$121,131	\$128,567	\$136,507	\$144,990	\$154,053	\$163,739
OPERATING EXPENSE	\$55,528	\$59,970	\$64,768	\$69,949	\$75,545	\$81,589	\$88,116	\$95,165
NET OPERATING INCOME	\$52,111	\$54,195	\$56,363	\$58,618	\$60,962	\$63,401	\$65,937	\$68,574
EXPENSE RATIO	0.52	0.53	0.53	0.54	0.55	0.56	0.57	0.58
DEBT SERVICE	(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)	(\$36,006)
REMAINING MORTGAGE	\$319,852	\$315,831	\$311,408	\$306,542	\$301,190	\$295,303	\$288,827	\$281,703
INTEREST	(\$32,351)	(\$31,985)	(\$31,583)	(\$31,141)	(\$30,654)	(\$30,119)	(\$29,530)	(\$28,883)
PRINCIPLE	\$3,656	\$4,021	\$4,423	\$4,866	\$5,352	\$5,887	\$6,476	\$7,124
BEFORE TAX CASH FLOW	\$16,105	\$18,189	\$20,357	\$22,611	\$24,956	\$27,395	\$29,931	\$32,568
DEPRECIATION	\$16,457	\$16,457	\$16,457	\$16,457	\$16,457	\$16,457	\$16,457	\$16,457
TAX DEFERRAL (PAYMENT)	\$123	(\$606)	(\$1,365)	(\$2,154)	(\$2,975)	(\$3,828)	(\$4,716)	(\$5,639)
COST OF SALE								
TAXABLE GAIN								
TAX PAYMENT								
AFTER TAX CASH FLOW	\$16,228	\$17,583	\$18,992	\$20,457	\$21,981	\$23,566	\$25,215	\$26,929
EQUITY GAIN	\$32,288	\$33,799	\$35,392	\$37,073	\$38,848	\$40,723	\$42,705	\$44,802
% Increase in Before Tax Cash Fl	14.21%	12.94%	11.92%	11.08%	10.37%	9.77%	9.26%	8.81%
Rate of Return Over Life of Invest (After Taxes)								
Rate of Return as Pre-Tax Equival								

	24	25	SALE	PURCHASE	26	27	28
YEAR	2019	2020	2020	2020	2021	2022	2023
INTEREST RATE	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
PURCHASE/SALE PRICE	\$1,394,325	\$1,450,098	\$1,450,098	\$1,508,102	\$1,508,102	\$1,568,426	\$1,631,163
DEBT	(\$175,294)	(\$156,817)	(\$156,817)	(\$904,861)	(\$904,861)	(\$899,360)	(\$893,309)
EQUITY	\$1,219,031	\$1,293,281	\$1,293,281	\$603,241	\$603,241	\$669,066	\$737,854
DEBT SERVICE COVERAGE				1.10			
RENT	\$287,838	\$306,961		\$306,961	\$327,458	\$349,432	\$372,995
OPERATING EXPENSE	\$190,235	\$205,454		\$221,891	\$221,891	\$239,642	\$258,813
NET OPERATING INCOME	\$97,603	\$101,507		\$105,567	\$105,567	\$109,790	\$114,181
EXPENSE RATIO	0.66	0.67			0.68	0.69	0.69
DEBT SERVICE	(\$36,006)	(\$36,006)			(\$95,987)	(\$95,987)	(\$95,987)
REMAINING MORTGAGE	\$175,294	\$156,817		\$904,861	\$904,861	\$899,360	\$893,309
INTEREST	(\$19,209)	(\$17,529)			(\$844,031)	(\$90,486)	(\$89,936)
PRINCIPLE	\$16,797	\$18,477			(\$748,044)	\$5,501	\$6,051
BEFORE TAX CASH FLOW	\$61,596	\$65,501			\$9,580	\$13,803	\$18,194
DEPRECIATION	\$16,457	\$16,457	(\$411,429)		\$43,872	\$43,872	\$43,872
TAX DEFERRAL (PAYMENT)	(\$15,799)	(\$17,165)	\$118,157		\$12,002	\$10,524	\$8,987
COST OF SALE			\$116,008				
TAXABLE GAIN			\$1,179,804				
TAX PAYMENT			(\$412,931)				
AFTER TAX CASH FLOW	\$45,798	\$48,335	\$764,342	(\$603,241)	\$21,582	\$24,327	\$27,182
EQUITY GAIN	\$70,425	\$74,250				\$65,825	\$68,788
% Increase in Before Tax Cash Fl	6.49%	6.34%				44.08%	31.82%
Rate of Return Over Life of Invest (After Taxes)	INTERNAL RATE OF RETURN OVER LIFE OF INVEST (AFTER TAXES)				10.03%		
Rate of Return as Pre-Tax Equival	RATE OF RETURN AS PRE-TAX EQUIVALENT				13.55%		

	29	30	31	32	33	34	35
YEAR	2024	2025	2026	2027	2028	2029	2030
INTEREST RATE	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
PURCHASE/SALE PRICE	\$1,696,409	\$1,764,266	\$1,834,836	\$1,908,230	\$1,984,559	\$2,063,941	\$2,146,499
DEBT	(\$886,653)	(\$879,331)	(\$871,278)	(\$862,418)	(\$852,673)	(\$841,954)	(\$830,162)
EQUITY	\$809,756	\$884,934	\$963,559	\$1,045,811	\$1,131,886	\$1,221,988	\$1,316,337
DEBT SERVICE COVERAGE							
RENT	\$398,267	\$425,378	\$454,469	\$485,689	\$519,201	\$555,180	\$593,815
OPERATING EXPENSE	\$279,518	\$301,880	\$326,030	\$352,112	\$380,281	\$410,704	\$443,560
NET OPERATING INCOME	\$118,749	\$123,499	\$128,439	\$133,576	\$138,919	\$144,476	\$150,255
EXPENSE RATIO	0.70	0.71	0.72	0.72	0.73	0.74	0.75
DEBT SERVICE	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)
REMAINING MORTGAGE	\$886,653	\$879,331	\$871,278	\$862,418	\$852,673	\$841,954	\$830,162
INTEREST	(\$89,331)	(\$88,665)	(\$87,933)	(\$87,128)	(\$86,242)	(\$85,267)	(\$84,195)
PRINCIPLE	\$6,656	\$7,322	\$8,054	\$8,859	\$9,745	\$10,720	\$11,792
BEFORE TAX CASH FLOW	\$22,762	\$27,512	\$32,452	\$37,589	\$42,932	\$48,489	\$54,268
DEPRECIATION	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872
TAX DEFERRAL (PAYMENT)	\$7,389	\$5,726	\$3,997	\$2,199	\$329	(\$1,616)	(\$3,639)
COST OF SALE							
TAXABLE GAIN							
TAX PAYMENT							
AFTER TAX CASH FLOW	\$30,150	\$33,238	\$36,449	\$39,788	\$43,261	\$46,873	\$50,629
EQUITY GAIN	\$71,903	\$75,178	\$78,624	\$82,253	\$86,074	\$90,102	\$94,349
% Increase in Before Tax Cash Fl	25.10%	20.87%	17.96%	15.83%	14.21%	12.94%	11.92%
Rate of Return Over Life of Invest (After Taxes)							
Rate of Return as Pre-Tax Equival							

	36	37	38	39	40	41	42
YEAR	2031	2032	2033	2034	2035	2036	2037
INTEREST RATE	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
PURCHASE/SALE PRICE	\$2,232,359	\$2,321,653	\$2,414,519	\$2,511,100	\$2,611,544	\$2,716,006	\$2,824,646
DEBT	(\$817,191)	(\$802,923)	(\$787,229)	(\$769,965)	(\$750,974)	(\$730,085)	(\$707,106)
EQUITY	\$1,415,168	\$1,518,730	\$1,627,291	\$1,741,136	\$1,860,570	\$1,985,921	\$2,117,540
DEBT SERVICE COVERAGE							
RENT	\$635,310	\$679,884	\$727,775	\$779,236	\$834,544	\$893,995	\$957,910
OPERATING EXPENSE	\$479,045	\$517,369	\$558,758	\$603,459	\$651,736	\$703,874	\$760,184
NET OPERATING INCOME	\$156,265	\$162,516	\$169,016	\$175,777	\$182,808	\$190,120	\$197,725
EXPENSE RATIO	0.75	0.76	0.77	0.77	0.78	0.79	0.79
DEBT SERVICE	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)
REMAINING MORTGAGE	\$817,191	\$802,923	\$787,229	\$769,965	\$750,974	\$730,085	\$707,106
INTEREST	(\$83,016)	(\$81,719)	(\$80,292)	(\$78,723)	(\$76,996)	(\$75,097)	(\$73,008)
PRINCIPLE	\$12,971	\$14,268	\$15,695	\$17,264	\$18,991	\$20,890	\$22,979
BEFORE TAX CASH FLOW	\$60,278	\$66,529	\$73,029	\$79,790	\$86,821	\$94,133	\$101,738
DEPRECIATION	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872
TAX DEFERRAL (PAYMENT)	(\$5,742)	(\$7,930)	(\$10,205)	(\$12,571)	(\$15,032)	(\$17,591)	(\$20,253)
COST OF SALE							
TAXABLE GAIN							
TAX PAYMENT							
AFTER TAX CASH FLOW	\$54,536	\$58,599	\$62,824	\$67,219	\$71,789	\$76,542	\$81,485
EQUITY GAIN	\$98,831	\$103,562	\$108,561	\$113,845	\$119,435	\$125,351	\$131,619
% Increase in Before Tax Cash Fl	11.08%	10.37%	9.77%	9.26%	8.81%	8.42%	8.08%
Rate of Return Over Life of Invest (After Taxes)							
Rate of Return as Pre-Tax Equival							

	43	44	45	46	47	48	49
YEAR	2038	2039	2040	2041	2042	2043	2044
INTEREST RATE	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
PURCHASE/SALE PRICE	\$2,937,632	\$3,055,137	\$3,177,343	\$3,304,437	\$3,436,614	\$3,574,079	\$3,717,042
DEBT	(\$681,830)	(\$654,026)	(\$623,441)	(\$589,798)	(\$552,791)	(\$512,083)	(\$467,305)
EQUITY	\$2,255,802	\$2,401,112	\$2,553,902	\$2,714,638	\$2,883,823	\$3,061,995	\$3,249,737
DEBT SERVICE COVERAGE							
RENT	\$1,026,633	\$1,100,539	\$1,180,027	\$1,265,533	\$1,357,523	\$1,456,503	\$1,563,015
OPERATING EXPENSE	\$820,999	\$886,679	\$957,613	\$1,034,223	\$1,116,960	\$1,206,317	\$1,302,823
NET OPERATING INCOME	\$205,634	\$213,860	\$222,414	\$231,311	\$240,563	\$250,185	\$260,193
EXPENSE RATIO	0.80	0.81	0.81	0.82	0.82	0.83	0.83
DEBT SERVICE	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)	(\$95,987)
REMAINING MORTGAGE	\$681,830	\$654,026	\$623,441	\$589,798	\$552,791	\$512,083	\$467,305
INTEREST	(\$70,711)	(\$68,183)	(\$65,403)	(\$62,344)	(\$58,980)	(\$55,279)	(\$51,208)
PRINCIPLE	\$25,276	\$27,804	\$30,584	\$33,643	\$37,007	\$40,708	\$44,779
BEFORE TAX CASH FLOW	\$109,647	\$117,873	\$126,427	\$135,324	\$144,576	\$154,199	\$164,206
DEPRECIATION	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872	\$43,872
TAX DEFERRAL (PAYMENT)	(\$23,021)	(\$25,900)	(\$28,894)	(\$32,008)	(\$35,246)	(\$38,614)	(\$42,117)
COST OF SALE							
TAXABLE GAIN							
TAX PAYMENT							
AFTER TAX CASH FLOW	\$86,626	\$91,972	\$97,533	\$103,316	\$109,330	\$115,584	\$122,089
EQUITY GAIN	\$138,262	\$145,309	\$152,790	\$160,737	\$169,185	\$178,172	\$187,742
% Increase in Before Tax Cash Fl	7.77%	7.50%	7.26%	7.04%	6.84%	6.66%	6.49%
Rate of Return Over Life of Invest (After Taxes)							
Rate of Return as Pre-Tax Equival							

YEAR	50	
	2045	2045
INTEREST RATE	10.0%	10.0%
PURCHASE/SALE PRICE	\$3,865,723	\$3,865,723
DEBT	(\$418,048)	(\$418,048)
EQUITY	\$3,447,675	\$3,447,675
DEBT SERVICE COVERAGE		
RENT	\$1,677,649	
OPERATING EXPENSE	\$1,407,048	
NET OPERATING INCOME	\$270,601	
EXPENSE RATIO	0.84	
DEBT SERVICE	(\$95,987)	
REMAINING MORTGAGE	\$418,048	
INTEREST	(\$46,730)	
PRINCIPLE	\$49,256	
BEFORE TAX CASH FLOW	\$174,614	
DEPRECIATION	\$43,872	(\$1,096,801)
TAX DEFERRAL (PAYMENT)	(\$45,760)	\$314,987
COST OF SALE		\$309,258
TAXABLE GAIN		\$3,145,165
TAX PAYMENT		(\$1,100,808)
AFTER TAX CASH FLOW	\$128,854	\$2,037,609
EQUITY GAIN	\$197,938	
% Increase in Before Tax Cash Fl	6.34%	
Rate of Return Over Life of Invest (After Taxes)		
Rate of Return as Pre-Tax Equival		