COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON CONSUMER AND REGULATORY AFFAIRS,
ADDENDUM TO COMMITTEE REPORT

1350 Pennsylvania Avenue, NW, 20004

T O : All Councilmembers

FROM: Councilmember Jim Graham, Chairperson
Committee on Consumer and Regulatory Affairs

DATE: June 8, 2006

SUBJECT: Bill 16-109, the "Rent Control Reform Amendment Act of 2006"

On May 2, 2006, the Council unanimously approved on first reading an Amendment in the Nature of a Substitute to Bill 16-109, the "Tenants' Rights to Information Amendment Act of 2006." The Amendment renames Bill 16-109 the "Rent Control Reform Amendment Act of 2006"; incorporates comprehensive rent control reform legislation that moots related legislation, Bill 16-457, previously approved by the Committee; and incorporates the provisions of Bill 16-109 and Bill 16-48, the "Rent Ceiling Calculation Disclosure Amendment Act of 2006," as amended to conform to the comprehensive reform legislation's elimination of rent ceilings from the District's rent control law. On June 6,2006, the Council unanimously passed on final reading Bill 16-109 as amended by the Amendment in the Nature of a Substitute. Pursuant to Council Rule 444, the Committee adopts this addendum to the Committee Report on Bill 16-109, filed March 17, 2006, to explain the reasoning for Bill 16-109 as amended by the Amendment in the Nature of a Substitute and as passed by the full Council.

CONTENTS

I. INTRODUCTION

On October 11, 2005, **Councilmember Jim Graham,** the Chairperson of this Committee, introduced the "Rent Control Reform Amendment Act of 2005," which was designated Bill 16-457 and referred to the Committee. It was co-introduced by Chairman **Cropp,** Committee members **Brown** and **Fenty,** and Councilmembers **Barry, Evans, Gray, Mendelson, Orange,** and **Patterson,** and co-sponsored by Committee member **Catania** and Councilmember **Schwartz.** As introduced, the bill would amend sections 208(g), 208(h), and 213 of the Rental Housing Act of 1985 (D.C. Code §§ 42-3502.08(g), 42-3502.08(h), and 42-3502.13) which govern rent charged increases and vacancy rent ceiling adjustments on rent-controlled apartments in the District of Columbia.

Chairperson Graham's primary objectives in introducing this legislation were **(1)** to address the lack of effective and meaningful controls on rent levels and on rent increases in many of the District's rent-controlled apartments, and (2) to restore to the District's rent control law its chief statutory purpose "[t]o protect low- and moderate-income tenants from the erosion of their income from increased housing costs." D.C. Code § 42-3501.02(1).

On introducing the "Rent Control Reform Amendment Act of **2006**," **Chairperson Graham** identified 3 discrete areas of the rent control law that prompted the legislation: (1) the ability of the landlord to increase the rent twice annually; (2) the "vacancy high comparable" rent ceiling adjustment, which allows the landlord to increase the rent ceiling upon vacancy to the highest rent ceiling of any "substantially identical" unit in the building; and (3) the ability of the landlord to increase the rent on an occupied unit by the amount of any single rent ceiling adjustment, including a "vacancy high comparable" adjustment, which can and often does exceed **$500** or even **$1,000**.

Over the course of the next 7 months, **Chairperson Graham** consulted all stakeholders — including tenant advocates, landlord representatives, DCRA, and the Mayor's office — in an effort to achieve greater tenant protection in the context of as broad a consensus as possible consistent with the legislation's primary objectives. The process (described below) culminated in consensus legislation, which Chairperson Graham introduced as an Amendment in the Nature of a Substitute to Bill 16-109, the "Tenants' Rights to Information Amendment Act of 2006," on first reading at the May 2,2006 legislative session. On June 6,2006 on final reading the Council passed Bill 16-109 as amended on May 2, 2006. It amends the Rental Housing Act of 1985 to:

1. Limit the frequency of rent increases on occupied units to once per year.

2. Cap annual rent increases generally at ***2%*** plus the CPI, but not to exceed 10%.

3. Cap annual rent increases for elderly and disabled tenant at the CPI, but not to exceed 5%, and not to be means-tested.

4. Cap vacancy rent increases at 10% of the current rent charged, or at the current rent charged for a substantially identical unit in the building, but not to exceed 30% of the current rent charged for the vacant unit.

5. Abolish rent ceilings and rent ceiling adjustments, except for adjustments by petition previously approved by the Rent Administrator.

6. Require that housing providers make certain information available to tenants regarding rent control and the condition of the building, and file certain information with the Rent Administrator including notices of rent increases.

7. Require that the Mayor include in his Comprehensive Housing Strategy report consideration of the need for and ways to implement a low-income rental unit set-aside program within the Rent Stabilization program.

II. COMMITTEE ACTION

On Friday, February 17,2006, at 3:00 p.m., the Committee on Consumer and Regulatory Affairs held an additional meeting of the Committee to markup and vote on the Graham version of the Committee print of and accompanying report on Bill 16-457, in Room 123 of the historic Wilson Building, located at 1350 Pennsylvania Avenue, NW. With Chairperson Jim Graham (Ward 1) and Councilmembers Ambrose, Brown, Catania, and Fenty present, Chairperson Graham convened a quorum. Having just received 2 additional reform proposals, Chairperson Graham enumerated the major provisions of each and called for the meeting to be recessed so they could be fully considered. Prior to recessing, each of Committee members offered comments on the Committee print, on the 2 alternative proposals, and on the 2 concepts newly introduced in these proposals of abolishing rent ceilings and of establishing a set-aside of a certain percentage of rent-controlled units to be made available to low-income tenants.

On Thursday, March 16,2006, at 3:30 p.m., the Committee on Consumer and Regulatory Affairs reconvened the additional meeting in the same room to markup and vote on the Committee print of and accompanying report on Bill 16-457. Chairperson Graham had incorporated a provision directing the Mayor to propose rules, subject to full Council review, establishing a low-income set-aside of 5% of units in rent-controlled buildings with 20 or more rental units. (On the premise that rent ceilings should not be abolished until possible ramifications are at least considered, Chairperson Graham scheduled a hearing on this matter for April 6, 2006, later moved to and held on March 31, 2006.) With Chairperson Jim Graham (Ward 1) and Councilmembers Ambrose, Brown, Catania, and Fenty present, Chairperson Graham again convened a quorum. After the Committee approved without amendment 4 other bills relating to tenants' rights, Chairperson Graham moved the Draft Committee Print.

Councilmember Ambrose moved an Amendment in the Nature of a Substitute. As initially offered for the Committee's consideration, the Substitute's provisions that correlated to those in the Draft Committee Print included a limit on annual rent increases of 8% plus the CPI% capped at 10% (all percentages to be based on the current rent charged); a CPI% limit on annual rent increases for units occupied by lower-income elderly and disabled tenants, schoolteachers, and tenants now occupying units for which the rent charged is within 5% of the rent ceiling; a limit on vacancy increases up to the rent charged for a "substantially identical" unit in the building, not to exceed 50% of the current rent charged for the vacant unit, provided that the landlord could use the aggregated amount of previously unimplemented rent ceiling adjustments

to achieve a 50% vacancy increase. Additionally, rent ceilings would be frozen (except that previously unimplemented rent ceiling adjustments could be implemented towards the 50% vacancy increase), would no longer to be correlated to rent increases on occupied units, and would never increase. A set-aside would be established of 5% of units in rent-controlled buildings with 20 or more units to be made available to tenants whose income does not exceed 60% of the area median income.

Various amendments to the Amendment in the Nature of a Substitute were discussed and voted upon as follows:

1. Chairperson Graham moved a further Amendment in the Nature of a Substitute to allow the landlord to increase the rent ceiling of a vacant rental unit to the rent charged for a substantially identical unit in the building, not to exceed 40% of the current lawful amount of rent charged for the vacated unit, to limit the amount of any increase in the rent charged on an occupied unit to 8% of the current lawful amount of rent charged plus CPI, or, if the unit is occupied by an elderly or disabled person, to the lesser of 4% or the CPI taken as a percentage of rent charged, to limit to one per year the number of increases in rent charged, and to provide that any rollback of rent may reduce the amount of rent charged and not merely the rent ceiling. It failed by a vote of 2-3 (Graham and Brown voting yes).

2. Councilmember Fenty moved an amendment to include among the categories of tenants subject to the CPI% cap on annual rent increases those "resident tenants" who earn under 40% of the Area Median Income. It was accepted as friendly amendment.

3. Chairperson Graham moved an amendment to subject the agency rule-making for the income qualified unit set-aside program to active Council approval. It was approved by voice vote.

4. Chairperson Graham moved an amendment to strike the phrase "which become vacant" from the provision on units to be included in the income qualified unit set-aside, and insert the phrase "as they become available." It was approved by voice vote.

5. Chairperson Graham moved an amendment to strike the phrase "5% of units" and insert the phrase "up to 10% of units" from the provision on the percentage of total units in each housing accommodation subject to rent stabilization with 20 or more units to be set aside as income qualified units. It was approved by voice vote.

6. Chairperson Graham moved an amendment to strike the phrase "8% + CPI" and insert the phrase "7%" in the annual rent cap provision. It failed by a vote of 2-3 (Graham and Brown voting yes).

7. Chairperson Graham moved an amendment to strike the phrase "8% + CPI" and insert the phrase "8%" in the annual rent cap provision. It failed by a vote of 2-3 (Graham and Brown voting yes).

8. Councilmember Catania moved an amendment to strike the phrase "8% + CPI" and insert the phrase "6% + CPI" in the annual rent cap provision. It passed by a vote of 3-2 (Graham and Ambrose voting no).

9. Chairperson Graham moved an amendment to strike the phrase "50%" and insert the phrase "2% per year since prior vacancy but no less than 10%" in the provision on capping the vacancy increase in rent charged. It failed by a vote of 2-3 (Graham and Brown voting yes).

10. Councilmember Brown moved an amendment to strike the phrase "50%" and insert the phrase "30%" in the provision on capping the vacancy increase in rent charged. It failed by a vote of 2-3 (Graham and Brown voting yes).

11. Chairperson Graham moved an amendment to strike the phrase "within 5% of the rent ceiling" and insert the phrase "within 20% of the rent ceiling" in the provision capping the annual rent charged increase at CPI for current resident tenants (who have signed a lease) whose rent charged is within a certain percentage of the rent ceiling. It was approved by voice vote.

By 4 to 1 (Graham voting no), the Committee voted in favor of the Amendment in the Nature of a Substitute as amended. By 4 to 1 (Graham voting no), the Committee voted in favor of Committee print of Bill 16-457 as amended by the Amendment in the Nature of a Substitute and amendments thereto, with leave for staff and the General Counsel to make technical and conforming amendments.

At the March 31, 2006 Committee roundtable on the "possible ramifications of the elimination of rent ceilings," Bill 16-457, as amended by the Amendment in the Nature of a Substitute at the March 16,2006 Committee mark-up meeting, received much criticism by tenant representatives and advocates. Representatives of housing providers, with whom Chairperson Graham continued to consult, also expressed dissatisfaction with the bill. In a series of 3 meetings jointly chaired by Chairperson Graham and Deputy Mayor Stanley Jackson, the stakeholders were reconvened in a successful effort to reach consensus on comprehensive rent control reform legislation. The key elements of that consensus legislation are enumerated in Section I above.

On Thursday, June 8,2006, at 3:00 p.m., the Committee convened an additional meeting in room 123. With Chairperson Jim Graham (Ward 1) and Councilmembers Catania and Fenty present, Chairperson Graham convened a quorum. Pursuant to Council Rule 444, Chairperson Graham moved for adoption of this addendum to the Committee report on Bill 16-109 approved on March 16, 2006. The motion passed unanimously. Pursuant to Council Rule 357, Councilmember Catania moved to reconsider 3 bills approved by the Committee on March 16, 2006, which were subsequently mooted by the consensus legislation: Bill 16-457, the "Rent Control Reform Amendment Act of 2006,"Bill 16-48, the "Disclosure of Rent Ceiling Calculation Amendment Act of 2006," and Bill 16-51, the "Rent Control Statute of Limitations Amendment Act of 2006." The latter bill was mooted because it was agreed at the working group sessions that the consensus legislation should not and does not have any impact on the existing statute of limitations in the Rental Housing Act. The motion passed unanimously.

III. BILL 16-109 SECTION-BY-SECTION ANALYSIS

Section 1 states the short title of the bill.

Section 2(a) amends as appropriate each section that refers to "rent ceilings" to conform with the abolition of rent ceilings.

Section 2(b) amends section 205(g) to enumerate the notices the housing provider is required to file with the Rent Administrator.

Section 2(c) amends section 206(a) to abolish rent ceilings except for those rent ceiling adjustments pursuant to petitions and Voluntary Agreements that the Rent Administrator has already approved.

Sections 2(d) repeals section 207 "Adjustments in rent ceiling" which enumerates rent ceiling adjustment petitions available to housing providers.

Section 2(e)(1) amends section 208(g) to limit the frequency of rent increases to once per year, except in the case of the first vacancy that occurs within any 12-month period.

Section 2(e)(2) amends section 208(h) to limit the amount of rent increases on occupied units generally to 2% plus the CPI, but not to exceed 10%, the total to be taken as a percentage of rent charged; to limit the amount of rent increases for elderly and disabled tenants to the CPI, but not to exceed 5%, the total to be taken as a percentage of rent charged.

Section 2(f)(1) amends section 213 to limit the amount of rent increases on vacant units to 10% of the current rent charged, or at the rent charged for a substantially identical unit in the same building, but not to exceed 30% of the current rent charged for the vacant unit.

Section 2(f)(2) adds anew subsection 213(d) to require the housing provider to disclose to a new tenant the rent charged increases for the preceding 3 years and, if relevant, any substantially identical unit used as the basis for any such increase.

Section 2(g) adds a new section 222 to require the housing provider to provide any current tenant upon request with rent increase information; to provide a prospective tenant with certain information, including information regarding rent control, petitions pending with the Rent Administrator, and unabated housing code violations; and to maintain all such information in an area accessible to tenants.

Sections 2(h) adds a new section 223 to require the Mayor to provide the Council, as part of Comprehensive Housing Strategy reports, with an analysis of the merits of

and methods for further assisting low income and other qualified tenants to pay their rent.

Section 3 states the fiscal impact statement as that adopted in the committee report.

Section 4 states the effective date of the bill should it become law.

IV. PURPOSE AND BACKGROUND

NEED FOR REFORM : THE RESEARCH

Chairperson Graham determined that reform of the rent control law is necessary for the following reasons:

1. At the request of **Chairperson Graham,** the Office of the Inspector General prepared a report, "Review of Housing Provider Filings at the Rental Accommodations and Conversion Division of the Department of Consumer and Regulatory Affairs" (Attachment #1), publishing its results on Dec. 12, 2005. The committee convened a roundtable on the Inspector General's report on Dec. 21, 2005. The Inspector General selected seven "rent controlled" buildings, comprising 1,492 rental units in total and located in six wards of the city, and compared the rent and rent ceilings for units in these buildings in 1999 with the rent and rent ceilings in 2005. The buildings selected were: the Park Plaza in Ward One, the Barclay Apartments and Columbia Plaza in Ward Two, the Cleveland House in Ward Three, the Rittenhouse in Ward Four, the Parkview Apartments in Ward Five and the Marbury Plaza in Ward Seven. By selecting buildings in various District neighborhoods, there was an intention to demonstrate how the rules applicable to rent control of a vacant apartment operated under different real estate situations.

Chairperson Graham in consultation with stakeholders reached the following conclusions based on a range of evidence including data provided in the Inspector General's report:

A. *A landlord's ability to increase the rent ceiling in a vacant unit to equal the highest rent ceiling of a substantially identical unit in the same building, and to then apply the same increase to the rent charged, is the principal legal means by which landlords have transformed buildings with affordable rents into luxury apartments way beyond the means of people who, previously, could afford to live there.*

The data provided in the Inspector General's report show that units that had comparable rent ceilings in 1999 now have rent ceilings that differ dramatically. 1 The rent control implications of this fact are also dramatic. Byway of example, in 1999, two units in the Park Plaza had rent ceilings of $765 and $720, respectively. By 2005, the rent ceilings for these two units were $814 and $2,671, respectively. If these units are substantially identical, and if the $814 unit was vacated in 2005, the landlord could raise that the rent ceiling for that unit to

[1] The OIG has reported to the Committee a data error rate for each building of 0-1 percent, which is well below acceptable levels.

$2,671, or by $1,857. The rent charged for that unit could also go up by $1,857, because that is the amount of a single, previously unimplemented rent ceiling adjustment, hi fact, according to the data, the rent charged for the unit with the $2,671 rent ceiling actually rose from $605 to $1,003 per month from 1999 to 2005, a 54 percent increase, while the monthly rent for the unit with the $814 rent ceiling rose only 7 percent, from $641 to $685. Even in the Marbury Plaza, the most "affordable" property in the study, similar numbers can be seen. In 1999, two units had rent ceilings of $643 and $638, these ceilings rose to $736 and $4,973 by 2005, during which time the rent on one increased by 14 percent ($632 to $720) while the rent on the other increased 75 percent ($521 to $914). The examples provided above are hardly unusual; the same pattern repeats throughout every property in the study, as indicated by Table 4 from the Inspector General's report, reproduced below:

Table 4. Rent Charged by Affordability Criteria

	Affordable		**Moderate**		**Unaffordable**		**Total Units Per Building**	***Percent Unaffordable***	
	Under$500		***$500-$1000***		***Over $1000***				
Building	**1999**	**2005**	**1999**	**2005**	**1999**	**2005**		***1999***	**2005**
Park Plaza	**7**	**4**	227	166	**45**	109	280	16%	39%
Barclay Apartments	**4**	**3**	**40**	23	13	31	57	23%	**54%**
Columbia Plaza	**1**	**0**	163	**81**	102	185	268	38%	69%
Cleveland House	**0**	**0**	67	**8**	147	206	216	68%	95%
The Rittenhouse	**4**	**0**	193	**54**	**9**	152	204	**4%**	**75%**
Parkview Apartments	**0**	**0**	51	39	**0**	12	51	**0%**	**24%**
Marbury Plaza	35	**7**	280	272	**1**	37	316	**0%**	12%

B. This development toward luxury rentals in so-called "rent controlled" buildings has so far been particularly pronounced in those neighborhoods that have been the subject of escalating real estate values. The future trend in this regard, however, is predictable as more neighborhoods experience increased real estate values.

While every property in the study demonstrated a significant decline in affordable housing availability, many of the most dramatic losses came in areas with the District's highest real estate values. Reflecting these escalating real estate values, the buildings in these neighborhoods have lost the great number of affordable units. For example, the Cleveland House in Ward 3 had 95% of the units unaffordable by 2005. The Rittenhouse, in Ward 4, went from 4% unaffordable to 75% in just 6 years. But in the east side of the city, the same trend, though still somewhat restrained, was evident. Parkview (Ward 5), 24% unaffordable, up from 0%; and the Marbury (Ward 7), 12% unaffordable, up from 0%. While "vacancy high comparable" rent

ceiling increases account for 62 percent of all rent ceiling increases filed by the buildings in the study, the Park Plaza (Ward 1), located in a still diverse area often considered prime territory for new development, filed 413 "vacancy high comparable" rent ceiling increases during the course of the study as opposed to just 33 vacancy 12 percent rent ceiling increases. As shown in section A above, such "vacancy high comparable" rent ceiling increases can open the door for large increases in rent charged down the road.

C. In consequence of the "vacancy high comparable" rule, rent control has become, for an ever-increasing number of apartments, not very meaningful.

The decrease in affordable housing availability in the Cleveland House stands out as dramatic, hi 1999, about one-third (32 percent) of all units in the Cleveland House were rated affordable; today, affordable housing is all but extinct in the building, with only eight affordable units out of two hundred and sixteen. If the Council does not act, the future of the District's rent controlled housing can be seen in the Cleveland House. Across Rock Creek in Ward Four, The Rittenhouse went from 96 percent affordable housing to a mere 25 percent over just six years, and the other properties in the study are all poised to follow.

The number of large increases in rental ceilings has resulted in rental ceilings as high as $6,371 at Columbia Plaza, $8,225 at Marbury Plaza and $8,330 for no fewer than twenty-three different units in the Cleveland House. These ceilings are simply not plausible rental rates for the apartments; they serve as reservoirs to allow future rent increases in comparable apartments to virtually any level desired by the landlord.

D. In summary, the data provided by the Inspector General demonstrate the need for Council action to repeal the "vacancy high comparable" rule, and replace it with restraints on the current ability of landlords to increase the rent by as much as double or more of the prior rent.

The data provide many cases of rental rates on formerly affordable housing increasing by over 100 or even 200 percent over the period of the study, removing units from the affordable housing rolls throughout the city. By way of example, during the course of the study, the rent on a unit at the Cleveland House increased 134 percent ($705 to $1650), the rent on a unit at the Rittenhouse increased 196 percent ($429 to $1270), and the rent on a unit at Columbia Plaza increased 215 percent ($542 to $1660). All three units also saw huge increases in rent ceilings during the period of the study - 1,065 percent at Cleveland House unit, 571 percent at the Rittenhouse unit, and 686 percent at the Columbia Plaza unit - that could only have plausibly resulted from application of the "vacancy high comparable" rule, and which paved the way for the conversion of rent-controlled affordable housing to luxury housing.

While the 3 examples provided above are among the steeper increases documented by the report, they are by no means unique, and the report demonstrates that even "routine" rent increases under the current rent control rules endanger the District's supply of affordable housing. The table below, generated by the Committee based upon the detailed unit-by-unit breakdowns provided in the Inspector General's report, shows the median and 75th percentile increases in rent charged at the buildings during the study and demonstrates the extent to which rents on a substantial portion of the District's "rent-controlled" housing are increasing at a rate

that soon puts them out of the reach of tenants who could have afforded to live in these units only a few years previously.

BUILDING	**Median percentage increase**	**75th percentile percentage increase**
Park Plaza	20%	50%
Barclay Apartments	**19%**	43%
Columbia Plaza	**28%**	44%
Cleveland House	**56%**	72%
The Rittenhouse	**55%**	81%
Parkview Apartments	**27%**	31%
Marbury Plaza	**15%**	34%

As shown above, the report provides no shortage of examples of the current rent control law failing to control the city's rent levels, and, without Council action, the examples will become the rule.

2. The Department of Consumer and Regulatory Affairs (DCRA) has reported to **Chairperson Graham** that the Rental Housing Act's rent control provisions apply to about 65 % of the District's approximately 135,000 rental units. Thus, it is evident that the District's major and primary means of preserving units with affordable rents is the rent stabilization act and related laws.

3. hi addition, from other reports, we know that the District is losing affordable housing, and especially affordable rental housing, at an alarming rate. In September 2005, the D.C. Fiscal Policy Institute issued findings that between 2003 and 2004, the District lost 2,400 units of affordable rental units, while gaining 4,600 units of high-cost rental units. Furthermore, between 2000 and 2004, the share of the city's renters paying more than 30 percent of their income for housing rose from 39 to 46 percent, and the share paying more than 50 percent rose from 18 to 23 percent. An estimated 4 in 10 of the District's low-income renters now have severe cost burdens.

4. As the District's affordable housing crisis looms ever larger, what is at stake is the District's future character. Will the District continue to be a place where economic and cultural diversity thrives, and where low and moderate-income residents can afford to live? Because rent control affects far more apartments than does, for example, inclusionary zoning or inclusionary development, it is the most essential among the District's affordable housing tools. But that can only be true if rent control is made to truly control rental housing costs.

RENT CONTROL REFORM WORKING GROUP

In order to discuss stakeholder issues in Bill B16-457, **Councilmember Graham** convened a working group comprised of tenant advocates, housing provider advocates, DCRA personnel, and representatives of the Mayor.

The working group met 7 times prior to February 17, 2006, when the Committee first met to mark-up Bill 16-457 (but recessed to consider 2 alternative proposals presented that day), on December 6 and 14, 2005, and on January 11, 18 and 25 and February 1, 2006. The group

reconvened on February 9, 2006 at the request of the Mayor to consider the Mayor's reform proposals. After the Committee mark-up meeting on March 16, 2006, the group reconvened in a series of 3 meetings jointly chaired by Chairperson Graham and Deputy Mayor Stanley Jackson.

Representing tenants were David Conn, Esq. and Betty Sellers of the Tenant Action Network (TAN); Kevin Fitzgerald of the New Capitol Park Plaza Tenant Association; Julie Becker, Esq. of the Legal Aid Society; Jonathan Strong, Esq. of the Brandywine Tenant Association; Farah Fosse of the Latino Economic Development Corporation; Professor Ed Allen of the University of the District of Columbia Law School; Elizabeth Figueroa, Esq. of Blumenthal & Shanley; and Kim Farhenholtz of the Park Plaza Tenant Association. Kenneth Rothschild of the D.C. Coalition for Rent Control, Janet Brown of the Affordable Housing Alliance, Peter Schwartz of the Kennedy-Warren Tenants Association, Antonia Fasanelli of the Washington Legal Clinic for the Homeless, Natalie LeBeau of Housing Counseling Services, Karen Perry of the Van Ness South Tenants Association, and Jim McGrath of D.C. Tenants Advocacy Coalition joined the stakeholder meetings in April 2006.

Representing housing providers were John Ritz of the W.C. Smith Company; Nicola Whiteman, Esq. and Shaun Pharr, Esq. of the Apartment and Office Building Association; Michael Sims of the D.C. Small Apartment Owners Association; Charles Hathway of the Bernstein Management Company; and Vincent Mark Policy, Esq. of the law firm of Greenstein, Delorme & Luchs. Peggy Jeffers of AOB A joined the stakeholder meetings in April 2006. Representing the Mayor were Acting Rent Administrator Keith Anderson, Esq.; DCRA Legislative Liaison Paul Waters, Esq.; DCRA representatives Gloria Johnson and D. Greer; and Lisa Hodges and Alicia Lewis of the Office of the Deputy Mayor for Planning and Economic Development.

The group focused its attention on the vacancy rent ceiling adjustment mechanism and on ideas on how to replace it. Considerable attention was paid to turnovers of units that have been occupied for long periods of time, and thus might likely have rents that were still affordable for moderate and low-income tenants. Various suggestions were explored that attempted to keep the system as uncomplicated as possible, and at the same time tie rent increases upon vacancies to the realities of increased costs faced by housing providers. The ideas included correlating vacancy increases to the number of years a unit had been occupied, and the exploration of tax credits for the remaining affordable units. Upon reconvening the stakeholder meetings in April 2006, following the March 31, 2006 Committee roundtable on "possible ramifications of the elimination of rent ceilings," the group focused on what direct caps on rent charged increases could satisfy the competing demands of affordability for tenants and profitability for housing providers as well as easing the administrative burdens created by the rent ceiling mechanism.

REASONING FOR THE CONSENSUS LEGISLATION

The consensus legislation that emerged from the April 2006 stakeholder meetings placed a cap on annual rent increases of 2% plus the CPI, not to exceed 10% no matter how high the CPI is in any given year. An additional protection exists for the elderly or disabled tenant without regard to income. For that tenant, the housing provider may only assess an annual rental increase equal to the lesser of the relevant CPI percentage or 5%.

This version improves the lot of most tenants in rent-controlled units. First, it amends section 208(g) of the Act, 42 D.C. Code § 3502.08(g), to provide that the housing provider may take only one rent increase per year instead of two. Second, it replaces rent ceilings with a tight cap on rent charged increases, one that is significantly lower than any such rent charged cap previously considered. Third, at age 62 any tenant will be subject to annual rent increases no greater than the CPI, never to exceed 5%.

An example should suffice. If the rent charged comes to $1,000 per month and the rent ceiling comes to $4,000 per month, under the current law, a CPI of even 4% would raise the rent ceiling to $4,160 per month and the rent charged, which can be increased by that same dollar amount, to $1,160 per month. With the 2% + CPI rent charged cap in the reform legislation, the maximum rent charged could not exceed $1,060 per month, a monthly savings of $100. For an elderly or disabled tenant, the maximum rent charged could not exceed $1,040 per month (current rent charged plus CPI% of current rent charged), a monthly savings of $120.

The reform also assists incoming tenants greatly through its treatment of vacancy increases. First, it repeals the much criticized "highest comparable" provision of the law. Instead, the housing provider may raise the rent charged for the vacant apartment by 10% of the current lawful amount of rent charged or to the rent charged for a substantially identical unit in the building, but not to exceed 30% of the current rent charged for the vacant unit. Under this formula, there is an effective break on rent charged increases for any vacant unit in any building, whereas the current law allows that unit to leap from affordability to unaffordability because the rent ceiling for a "comp unit" in the building has escalated far beyond the market rate.

Currently, as the OIG report demonstrates, many apartment units have rent ceilings exceeding $3,000 per month even for one-bedroom apartments. For units already at the 'highest comparable' rent ceiling figures, even a 12% rent ceiling increase under the existing law's alternative vacancy adjustment allowance, is substantial, hi the example above, a $3,000 rent ceiling would increase to $3,360 for the incoming tenant and a rent increase potentially could be $360 based on that ceiling adjustment. So a $750 rent charged amount could increase to $1,110. But under the reform, an increase of 30% would be based on the rent charged, not the rent ceiling, hi that case, a $750 would increase only by $225 to $975, for annual savings of $1,620. This provides more certainty and affordability than uncapped rent ceiling increases.

The reform legislation assures the housing provider that he/she will continue to make a reasonable rate of return. For most tenants, the housing provider may recover up to 2% plus the CPI of the rent charged to that tenant, and for only a subset of elderly and disabled tenants the housing provider is limited to the CPI%.[2] Based on numbers provided to the Committee's

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[2] The Supreme Court has rejected both Constitutional and anticompetitive challenges to the imposition of a rent stabilization or rent control scheme since the RHA of 1985. Pennell v. City of San Jose, 485 U.S. 1 (1988); Fishery. City of Berkeley. 475 U.S. 260 (1986); see Silverman v. Barry. 845 F.2d 1072 (D.C. Cir.), cert. denied. 488 U.S. 956 (19881; Homstein v. Barry. 560 A.2d 530 (D.C. 1989) (enbane)

working group by representatives of housing providers, it also allows the housing provider to recover the costs of renovating a vacated unit within a reasonable timeframe.

Mr. Ritz, a housing provider with William C. Smith Company and a part of the group discussing this version with **Chairperson Graham,** stated that from his experience housing providers would invest the amount necessary to renovate a vacated unit to the extent it could be recovered within 3 years. Mr. Ritz also posited that the most such a renovation would likely cost is $8,200. When asked why this figure is higher than others quoted, Mr. Ritz acknowledged that this estimate of renovation cost at the high end presumes that the housing provider would replace the refrigerator and floors in the unit. Thus the estimate for the high estimate actually includes capital expenditures as well as the normal maintenance and repair costs for wear and tear, hi any event, this high estimate assumes a prior tenancy of relatively long duration, or that the vacancy occurrence is the best opportunity the housing provider has had in a long time to do major renovations.

To recover the $8,200 cost of renovating a vacated unit in three years, the increase in rent charged would have to come to $228 per month. If the rent charged for the newly vacated unit came to $760 per month, a 30% rent increase to the unit would come to $228 per month for a new rent charged of $988 per month to the incoming tenant, and Mr. Ritz would recover $8,200 in 3 years.

Other estimates of the renovation cost at the higher end came to $5,000. An increase in rent charged of $140 per month would enable the housing provider to recover $5,000 in 3 years, hi such a case, a 30% rent increase on a rent charged of $470 per month would cover the renovation cost in three years. The new rent charged would come to $610 per month.

Mr. Simms, a housing provider whose constituents include those owning 20 or fewer rental units citywide, estimated that it costs between $2,000 and $3,000 to renovate a unit for the next occupant. It would take a monthly rent increase of $70 to enable Mr. Simms to recover the cost of a $2,500 renovation of the unit for the new tenant in 3 years. If the previous tenant paid $700 a month in rent, the 10% vacancy increase would enable Mr. Simms to recover a $2,500 cost in 3 years.

ALTERNATIVES CONSIDERED

Over the course of working group sessions, various alternative concepts were considered and rejected. These concepts include "means-testing" — that is, a general means-test for apartments that fall under a certain rent level threshold — and a "tax credit" for housing providers who maintain affordable rent levels.

Specifically, with regard to means-testing, the Committee examined whether it makes sense to cap rent ceilings and rents charged for units that might not exceed a rent charged, for example, of $800 or $1,000 per month. Capping such units would mean that tenants who could afford higher priced moderate-income rents or even wealthier people would have an equal opportunity to rent a unit with a well-below market rate as the lower income tenant, hi the case of a much lower than market rent, a preference system to assist lower income tenants receive the lowest rent units appeared warranted.

On the other hand, it also appeared necessary to offer a tax credit for a housing provider who would have had to accept a freeze on rents to keep it affordable. Questions arose because housing providers raised objections to having to keep a unit vacant while waiting for a qualifying low-income tenant, many housing providers prefer tenants with higher incomes to guarantee rent payments, and what level of "tax credits" could the city guarantee.

A host of questions arose as to whether certain areas of the city would lose diversity and the advantages of having mixed income housing, whether "inclusionary zoning" or other programs would accomplish goals of finding lower income housing, and whether other subsidy programs better meet the needs of low income tenants to have affordable housing. Moreover, no figures showed what type of fiscal impact the District would face with a "means test" included in the Rental Housing Act and a "tax credit" system to fill encourage housing providers to allow means-tested individuals to fill vacancies in lower-priced apartment units. Ultimately, the dual concepts of means-testing and tax-credit were deemed too impracticable administratively and otherwise to pursue. Instead, the working group agreed that the same goals are better served by slowing down increases in rents for rent stabilized units by limiting rent increases to current tenants and moderating rent increases for vacant units. Instead of preserving or freezing low rents for rental housing units, a more practicable solution is to do better what rent stabilization is intended to do — moderate rent increases and protect tenants from sudden and rapid marketplace increases.

On January 13, 2006, Deputy Mayor Stanley Jackson on behalf of the Mayor submitted to **Chairperson Graham** a number of specific proposals to reform rent control, including the elimination of rent ceilings, hi consultation with the working group, the Chairperson determined that the elimination of rent ceilings may make rent control more understandable and easier to administer, but some tenants could be made worse off unless the direct cap on rent charged increases were significantly reduced from those considered up until then. Specifically, the tenants most affected would be those who have occupied their units the longest, who pay in rent an amount equal to the rent ceiling, and who are now subject only to rent increases equal to the CPI. The Chairperson was also not willing to abolish rent ceilings without a careful review.

However, **Chairperson Graham** in consultation with the working group found **2** parts of that Mayoral proposal to be very positive, and incorporated them into the version of Bill **16-457** he offered both at the mark-up meeting scheduled for February **17, 2006** and at the March **16, 2006** mark-up meeting:

1. Place a lower cap on rent charged increases for elderly and disabled tenants who meet an annual income eligibility requirement.

2. Allow for rent refunds and rollbacks, for instance when housing code violations are found, based on the rent charged rather than just the rent ceiling.

On the day prior to the mark-up meeting scheduled for February 17, 2006,[3] the

[3] **Chairperson Graham** recessed the February 17, 2006 mark-up to allow the Committee to consider these 2 proposals and their ramifications.

Chairperson Graham received **2** additional reform proposals, one from the Mayor's office and one from the office of Councilmember Catania, hi addition to the concept of eliminating or freezing rent ceilings, these proposals introduced 2 new ideas to the discussion of rent control reform. One would establish a "Low Income Housing" set aside of 5% of units in each rent-controlled building with at least 20 units for lower income tenants who would pay no more than 30% of income toward rent. The other would tie "the applicability of the rent stabilization program to the amount of family income for low and moderate income families."

Prior to recessing the February 17, 2006 meeting to allow the Committee to further consider these alternative proposals, **Chairperson Graham** expressed his belief that the concept of targeting lower-income residents for a set-aside of more affordable units has merit. To establish one by legislative fiat, however, would raise a host of concerns, including with regard to fiscal impact, logistical matters, burdens on stakeholders including the agency, predictable anomalies, and others. Rather, **Chairperson Graham** said it more appropriate that the Mayor should first consider the devil in the details and propose regulations for Council review and approval.

Chairperson Graham also expressed his belief that the concept of rent ceiling abolition has not been given nearly enough consideration with regard to the ramifications on other aspects of the Rental Housing Act, and in particular with regard to the impact that would have on the restraints the rent ceiling now provides under some circumstances both for the current tenant and for the subsequent tenant. Accordingly, Chairperson **Graham** held a public roundtable on March 31, 2006, on the "possible ramifications of the elimination of rent ceilings in the District of Columbia." This public roundtable is discussed below. The evidence presented at that roundtable indicates that rent ceilings have failed to protect most tenants from onerously large rent increases. The rent ceilings, however, have benefited certain tenants — generally those who have occupied their units for a very long period of time and therefore have rent charged amounts at or near the rent ceiling. Only a very tight across-the-board cap directly on rent charged increases would justify elimination of the rent ceilings. No proposal prior to the consensus legislation introduced at the May 2, 2006 Council session reform included a cap of less than ***6%*** plus the CPI.

BRIEF HISTORY OF RENT CONTROL

The hallmark of the District of Columbia's rent stabilization program has balanced the need to preserve reasonable quality moderate income housing so as to prevent the erosion of income of low and moderate income tenants while allowing the housing provider to make a reasonable rate of return on investment. 42 D.C. Code § 3502.01 (1), (5). The rent stabilization program accomplishes this goal by having in place a ceiling which the rent charged cannot exceed, and generally limiting rent ceiling increases to the Washington, D.C. Standard Metropolitan Statistical Area to the Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W"). 42 D.C. Code § 3502.06 (b). Such an increase cannot exceed 10 percent per year. Id.

In order to assure that owners make a reasonable rate of return, the housing provider can

petition the Rent Administrator to grant hardship petitions, 42 D.C. Code § 3502.12. Moreover, in order to increase the rent ceilings and charge higher rents, housing providers may petition the Rent Administrator to grant capital improvement petitions, 42 D.C. Code § 3502.10, Voluntary Agreements, 42 D.C. Code § 3502.15, increases in services and facilities petitions, 42 D.C. Code § 3502.11, and substantial rehabilitations, 42 D.C. Code § 3502.14.

The tenants, on the other hand, may seek to reduce rent ceilings due to rent overcharges, housing code violations, or reductions in services and facilities by filing with the Rent Administrator, a tenant petition to obtain relief. 42 D.C. Code § 3502.16. The Rental Housing Act of 1985 ("RHA"), D.C. Law 6-10, codified at 42 D.C. Code § 3500-e/ seq,, made major changes to the original Act of 1975. First, the RHA included a provision for the first time mandating "vacancy decontrol." This meant that when the current occupant vacated the rent-stabilized unit, the new tenant would encounter unregulated rental increases. Second, the RHA included a provision that exempted buildings with vacancies of 80% or higher from the rent stabilization program. See Section 205, 42 D.C. Code § 3502.5. The citizens of the District of Columbia overturned the vacancy decontrol provisions in a citizen initiative in 1986.

The Council had an alternative provision for vacancy decontrol. Namely, it amended section 213(b), 42 D.C. Code 3502.13 (b) to provide that when a tenant vacated an apartment unit, and the new tenant rerented it, the rent ceiling of the unit could now increase to the most expensive or greatest rent ceiling of a "substantially identical" unit in the same housing accommodation. This clause has become known as the "highest comparable" unit rent ceiling clause. Previously, the Act provided only for a vacancy increase that would increase the rent ceiling by a straight 12%. Section 213 (a), 42 D.C. Code § 3502.13 (a).

The "highest comparable" or "substantially identical" clause of the vacancy increase provision has led to large increases in rent ceilings for tenants in a 20 year period. For instance, if a current tenant vacates a unit with a current rent ceiling of $800, the straight 12% vacancy increase leads to a rent ceiling of $896 for the incoming tenant. However, if a "substantially identical" unit in the building has a rent ceiling of $4,000 per month, the incoming tenant may see her rent ceiling increased to the same $4,000 per month. This has major ramifications. So long as the housing provider had room in the rent ceiling, and had properly perfected the rent increases that he/she had not implemented against the tenant, the housing provider had the ability to raise the rent charged from $800 to the full $4000. The D.C. Court of Appeals had affirmed this interpretation of the law in Winchester Van Burden Tenants Ass'n v. D.C. Rental Housing Comm'n, 550 A.2d 551 (D.C. 1988).[5] Namely, the Winchester Van Buren holding affirmed Borger Management's ability to "stack" both a capital improvement and a CPI rent increase at one time to the tenants to raise the rent charged to the same level as the rent ceiling after waiting

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[4] Of course, market forces might not allow the housing provider to take the full increase without driving the tenant out of the unit. Nothing in the law prohibited it, however.

[S] The court affirmed that the housing provider could take more than one perfected and unimplemented rent charged adjustment at one time to bring the rent charged in line with the rent ceiling so long as it had waited six months before implementing a rent charged increase against the tenant. See Section 208(g) of the Act, 42 D.C. Code § 3502.08(g).

six months from the previous rent increase.

Alarmed at the holding in the Winchester Van Buren litigation, and the fact that rent ceilings quickly outpaced the rent charged after the enactment of the "highest comparable" or "substantially identical" vacancy increase, tenant activists sought to limit the "stacking" of rent charged increases when implemented against tenants. In recognition of this concern, the Council enacted the "Unitary Rent Ceiling Adjustment Act" in 1993, Section 208 (h), codified as 42 D.C. Code § 3502.08 (h). 42 D.C. Code § 3502.08 (h) (1) slowed the rate of rent increases by changing the law to allow the housing provider to implement only one previously unimplemented rent adjustment at one time. The Unitary Rent Ceiling Adjustment Act did not change the provision allowing a housing provider to take most types of rent increases 180 days apart or require the housing provider to forfeit unimplemented rent increases if not taken.[6]

The effects of the "substantially identical" language did not become apparent immediately. For instance, if a unit vacated every year for six years, the housing provider could add 12% to the rent ceiling every year. Without factoring in the annual CPI-W, which the housing provider also adds to the rent ceiling every year, the rent ceiling for that unit would double. Hence, if a substantially identical unit in the building vacated after six years, the housing provider could raise the rent ceiling to the level of that unit which had vacated every year for the past six years. This would mean that the incoming tenant would find that the rent ceiling for her unit had doubled under the "highest comparable" rather than simply gone up 12% under the alternative scenario.[7]

Therefore, if the incoming tenant's unit formerly had a rent ceiling and rent charged of $800, the vacancy increase would take the rent ceiling to $1600. The Unitary Rent Ceiling Adjustment Act enables the housing provider to implement all or part of the $800 unimplemented rent increase. Should market conditions currently limit the increase to $1400, the housing provider would still have a perfected, but unimplemented rent adjustment of $200 that it could levy by waiting six months.

The higher rent ceiling also affects the percentage rent charged increase even with an annual CPI adjustment. For instance, taking the previous example, if the rent ceiling comes to $1,600 per month and the rent charged comes to $800 per month, a 3% annual CPI will have the following effect. Namely, the rent ceiling will increase by the 3% CPI adjustment from $1,600 to $1,648. A 3% increase in the rent charged would raise the rent charged from $800 per month to $824 per month. However, because the amount of rent adjustment in the rent ceiling came to

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[6] 14 D.C.M.R. § 4204.11. A housing provider may take and perfect an upward rent ceiling adjustment pursuant to §§ 4204.9 and 4204.10 without simultaneously implementing a rent increase to the new rent ceiling, and the election not to implement a rent increase to the new ceiling shall not constitute a waiver or forfeiture of the housing provider's right to implement the full rent increase at a later time.

[7] The recently released Inspector General report sample of rent ceiling increases city-wide indicates that the housing provider opts to take the "highest comparable" increase 87% of the time, compared to taking the alternative 12% rent ceiling increase.

$48 per month, the housing provider may legally assess the tenant an increase of 6% or to $848. Therefore, the CPI increase on the rent charged can far exceed the annual CPI because of the differentials between the rent charged and rent ceiling.

The Inspector General's report shows that after many years, it is likely that a rent ceiling can exceed the rent by fourfold. Therefore, if the rent ceiling comes to $4,000 and includes an unimplemented vacancy increase of $1,500, an unimplemented vacancy increase of $1,000, and several smaller unimplemented increases adding up to $500, the tenant faces a risk that at any one time, she may face a rent increase of up to $1,500. Even if the housing provider opts to take a 3% CPI adjustment, the rent ceiling increases to $4,120 and the rent charged rather than only increasing from $1,000 per month to $1,030 per month will instead likely increase to $1,120, an effective increase of 12%.

As people vacate their units over time, rent ceilings generally exceed the rents charged. A report released in early 2000 by Nathan Associates concluded that 83% of the approximately 100,000 rental units under the rent stabilization program had rent ceilings that exceeded the rent charged although the study did not indicate the magnitude of difference. Therefore, the large majority of tenants under the rent stabilization program face a situation where rent increases are uncertain and worrisome.

FINAL ACTION ON REFORM

On May 2, 2006, after months of consultations and deliberations, Chairperson Graham moved reform legislation that had received ample comment from and had been fully considered by stakeholders. It was premised on the belief that the rent-stabilization program remains a viable method for keeping about 100,000 rental units built prior to 1975 affordable for low and moderate-income tenants in our city; on the fact that about 60% of the District's population resides in rental housing[8]; and on the sobering reality that the District is losing affordable housing rapidly as rising housing prices and rents put housing out of reach of low and moderate-income households. It was based on research produced by the DC Fiscal Policy Institute, which recently estimated that rising rents alone caused a loss of 7,500 units with rent levels under $500 a month between 2000 and 2004.[9] Regardless of the failure of the Comprehensive Housing Strategy Task Force ("CHSTF") to include the city's RHA or rent stabilization program as an integral strategic method to preserve and promote affordable rental housing, it was consistent with CHSTF's conclusion that keeping the existing housing stock of high quality and of reasonable price provides the most cost-effective method to promote affordable housing.[10]

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[8] Homes for an Inclusive City: A Comprehensive Housing Strategy for Washington, D. C; STATEMENT OF PRINCIPLES AND RECOMMENDATIONS Comprehensive Housing Strategy Task Force, Washington, DC (January 31, 2006) at 12.

[9] Id at 8.

[10] Id. at 10. The CHSTF notes, "[M]ore than 50 percent of existing housing units in the District of Columbia are rental units. Renters are more likely than homeowners to experience severe housing-cost burden, meaning that they spend over 50% of the household

Finally, it kept to the legislative objectives of the bill as introduced and of the Rental Housing Act itself; it would make the greatest changes in favor of tenants and affordable housing since 1985, when amendments to the Rental Housing Act weakened it greatly; and it would enhance the Rental Housing Act's fundamental goal of helping to preserve the income of low and moderate-income tenants while guaranteeing the housing provider a reasonable rate of return.

V. LEGISLATIVE HISTORY

DATE	ACTION
October 11,2005	Chairperson Jim Graham introduces B16-45 7, the "Rental Control Reform Amendment Act of 2005" to repeal and replace the vacancy high comparable and 12% rent ceiling adjustment provisions, and to cap rent increases at 10% of the amount of current rent charged annually. B lb-457 is subsequently referred to the Committee.
October 21, 2005	Notice of the Council's intent to act on Bill 16-457 is published in the District of Columbia Register.
October 21, 2005	Notice of a hearing on Bill 16-457 is published in the District of Columbia Register.
October 26,2005	Public hearing on Bill 16-457.
December 6, 2005 **December 14, 2005** **January 11,2006** **January 18,2006** **January 25, 2006** **February 1, 2006** **February 9, 2006**	Chairperson Graham convenes meetings of a rent control reform working group that includes all stakeholders.
February 17, 2006	The Committee on Consumer and Regulatory Affairs meets to mark-up and vote on the report and committee print of Bill 16-457. Chairperson Graham recesses the meeting to consider new reform proposals offered by the Mayor and by Committee Member Catania just prior to the meeting.
March 16, 2006	The Committee on Consumer and Regulatory Affairs meets to mark-up and vote on the report and committee print of Bill 16-457. Councilmember Ambrose moves an Amendment in the Nature of a Substitute, which the Committee passes on a vote of 4 to 1 (Graham voting "no").

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income on housing. Therefore the city must have a strategy specifically targeted at maintaining that housing stock and keeping a portion of it affordable to low income renters. Preserving existing affordable housing is usually much less costly than producing new affordable housing,.."

March 17, 2006	Notice of a public roundtable on "Possible Ramifications of the Elimination of Rent Ceilings" is published in the District of Columbia Register.
March 31, 2006	Public roundtable on "Possible Ramifications of the Elimination of Rent Ceilings."
April 21, 2006 **April 24, 2006** **April 26, 2006**	Chairperson Graham with Deputy Mayor Stanley Jackson reconvenes stakeholder meetings concluding in an agreement on consensus legislation.
May 2, 2006	Chairperson Graham introduces the consensus legislation as an Amendment in the Nature of a Substitute for Bill 16-109, the "Tenants Rights to Information Amendment Act of 2006" at first reading. The Council unanimously approves the Amendment.
June 6, 2006	At final reading, the Council unanimously passes Bill 16-109, the "Rent Control Reform Amendment Act of 2006."

VI. PUBLIC HEARING AND PUBLIC ROUNDTABLE SUMMARY

On Wednesday, October 26, 2006, the Committee held a public hearing on Bill 16-457 as introduced by **Chairperson Jim Graham** and on four other bills that would protect and enhance tenants' rights: Bill 16-48, the "Disclosure of Rent Ceiling Calculation Amendment Act of 2005," Bill 16-51, the "Statute of Limitations Amendment Act of 2005," Bill 16-109, the "Tenants Right to Information Amendment Act of 2005," and Bill 16-458, the "Right of Tenants to Organize Amendment Act of 2005." **Chairperson Graham** opened the hearing by acknowledging the bill's nine co-introducers and two cosponsors. **Chairperson Graham** said the five bills together represent more comprehensive reform than the Council has considered in decades. **Chairperson Graham** noted that funding for the newly established Office of the Tenant Advocate began on October 1, 2005 at the start of fiscal year 2006. He noted the link between the soon-to-be-named Chief Tenant Advocate and each of the five bills being considered. An important role of the Chief Tenant Advocate will be to help tenants cut through the complexities of the rent control law and understand tenants rights.

Councilmembers **David Catania** and **Adrian Fenty** made statements. Councilmember Catania said the current allowable two rent increases per year poses hardships on tenants and he is eager to support the limitation to one annual increase. Given that buildings under rent control were built before 1975, key questions concern the infrastructure of affordable housing in the District and the revenue stream of housing providers to make necessary improvements. Many buildings are badly in need of repairs and maintenance, and some are literally falling down around tenants. Property values, operating costs, and the need of housing providers to borrow for capital improvements are dramatically on the rise. Reform shouldn't risk creating onerous mechanisms that make it difficult to finance improvements. The bills are timely and thoughtful. The hearing should reflect a spirit of seeking solutions, not winners and losers. He expressed the hope that **Chairperson Graham** would provide the required balance and bring all sides to the table. He also expressed support for an income eligibility requirement for moving into apartments under rent control.

Councilmember Fenty expressed support for a number of the reforms. He noted that the District has the highest percentage of rental property in nation - 60 percent - and also one of the biggest affordable housing crises. He commended **Chairperson Graham** for moving reforms that the Council should have been moved rather than merely extending the rent control status quo every five years. Rent control should be meaningful. **Chairperson Graham** is right to close loopholes in the Rental Housing Act similar to those that he closed in the Tenant Opportunity to Purchase Act. They include the twice-annual rent increase allowance and the so-called "vacancy high comp" rent ceiling adjustment, which turns affordable units into unaffordable units.

Witnesses included affordable housing experts Angie Rodgers, Policy Analyst for the D.C. Fiscal Policy Institute, and Cheryl Cort, Executive Director of the Washington Regional Network for Livable Communities and a panel of government witnesses including Stanley Jackson, Deputy Mayor for Planning and Economic Development, Theresa Lewis, Chief of Staff, Department of Consumer and Regulatory Affairs, and Raenelle Zapata, Esq., Rent Administrator. Alternate panels of tenant advocates and housing provider representatives were then called upon to testify, including: Betty Sellers and David Conn of the Tenant Action Network and Jonathan Strong of the Brandywine Tenants Association; W. Shaun Pharr, Esq., Senior Vice President of Government Affairs, and Nicola Y. Whiteman, Esq., Vice President of Government Affairs, of the Apartment and Office Building Association (AOBA), Michael T. Sims, President, DC Small Apartment Owners Association, K. David Meit, Executive Vice President Affairs, Daro Realty, Inc., and Vincent M. Policy, Esq., attorney for Daro Realty, Inc.; Dr. Barbara Kraft, Board of Directors, Quebec House Tenants Association and Jim McGrath, Chairman, and Dr. Chris Crowder of the D.C. Tenants' Advocacy Coalition (TENAC); Thomas Borger of the Borger Management Corporation, Denise Johnson, Community Manager of the Normandy Apartments; and Joyce Roberts, Community Manager of the Park Manor Apartments; Kevin Fitzgerald, economist and treasurer of the New Capital Park Plaza Tenants Association, and Marilyn Rubin and Dorothy Miller, President of the Columbia Plaza Tenants Association of the Columbia Plaza Tenants Associations; and Benoit Brookens, Esq. of the Dorchester Rent Rollback Organization and Luzette King of the Dorchester Apartments.

Other witnesses included Michael Sussman, Natalie LeBeau of Housing Counseling Services, Joe Martin, Vice Chair ANC 4C09 M. Michael Hull of the Cafritz Company, Donna Lewis, Deborah Lindeman, ANC 3C02 Commissioner, Kenneth Rothchild of the DC Coalition for Rent Control, Donna Stinson, Fred Silver of the Bojan Management Corporation, Malcolm E. Peabody of the Peabody Corporation, Mary R. Hueg, Regional Manager, Sawyer Realty Holdings, LLC, Lin Dalton, Campbell Johnson of the Urban Housing Alliance, Alex Martin, President of the Cleveland House Tenant Association, Ed Krauze of the Realtors Association, Lauren Bladen-White, Lorena Cabaniss of the Rittenhouse Tenants Association, Femi Akinbi of the Mt. Vernon Tenants Association, John B. Murgolo, Vice President of the Aldon Management Corporation, Chad Hill, Senior Vice President of Homing Brothers, Karen Williamson, President of the Barclay Tenants Association Jeffery Gelman, Chair to CDBIA Housing District of Columbia Building Industry Association, Olivia Klaben of the 4000 Mass. Ave. Tenants Association, William Stokes of Community Education, Stephanie Clipper, John Utley of Windsor Associates, Amy LeFaivre Dolan, Senior Residential Manager of QDC Property Management, Inc., John Hoskinson of MPM Management, Rebecca Lindhurst and Jennifer Berger of Bread for the City, and Elizabeth Figueroa, Legal Counsel to 420 16th Street, S.E.,

Tenants Association.

Angie Rodgers of the D.C. Fiscal Policy institute reported that, since 2000, the District has lost 7,500 units of low-cost housing (costing less than $500 per month) while gaining 13,000 units of high-cost housing (costing more than $1000 per month). She pointed out that Wider Opportunities for Women's self-sufficiency standards, which measure the income required to live in a jurisdiction without receiving public assistance, show that the District is less expensive than the close-in suburbs, and so that without public action low- and moderate-income housing could vanish not only from the District, but from the region.

Deputy Mayor **Stanley Jackson** testified that the bill would on the whole strengthen protection of tenants, but suggested several amendments and clarifications and called upon the city to ensure that rent controlled apartments are matched with those residents most in need. He expressed concern that the impact of amending the vacancy high comparable method of calculating a rent ceiling increase has not yet beep adequately studied, and suggested that studies be made to ensure that limiting these increases would not encourage landlords to undertake condominium conversions instead.

Betty Sellers and **David Conn** appeared on behalf of the Tenant Action Network, which supports the proposed legislation, believing it will keep housing affordable for District residents. TAN believes that the proposed once per year increase of up to 10 percent will keep rent increases under control better than the current system, under which an increase of 5 percent of an inflated rent ceiling can be far greater than 10 percent, and is consistent with the normal limit on consumer price index increases in the existing rent control regulations of 10 percent per year.

Jonathan Strong of the Brandywine Tenants Association characterized the bill as less stringent than similar provisions in New York City's rent stabilization program, but an improvement over the status quo. He recommended that rent ceiling vacancy increases be calculated by reference to one percent of last rent charged, rather than one percent of the rent ceiling, and suggested that annual rent increases be limited to 7 percent or 1.5 times the consumer price index, whichever is lower, rather than the 10 percent in the bill.

K. David Meit testified on behalf of the Apartment and Office Building Association, with **W. Shaun Pharr, Nicola Y. Whiteman** and **Vincent M. Policy** present to assist with questions if needed. Mr. Meit argued that the legislation is too onerous to be practical and will encourage rental property owners to convert rental properties to condominiums rather than comply with the regulations. AOBA believes that the maximum increase in rent allowed by the turnover of vacant property should be 75 percent rather than the proposed 30 percent, and that the higher number will encourage more housing investment. AOBA also believes that the bill should also repeal the Unitary Rent Ceiling Adjustment Act, as they argue that the limits on combining rent ceiling adjustments would become unnecessary if this bill becomes law.

Dr. Barbara S. Kraft of the Quebec House Tenants Organization called for the Council to protect the city's rent control regime in order to allow the District to protect senior citizens, students and residents on fixed income. These residents contribute to the city with volunteer efforts and help maintain the District's history and culture, but are at risk of being priced out of

the District without rent control.

Denise Johnson of Borger Management presented the rental profile of the Normandie Apartments, where all 99 one- and two-bedroom units rent for between $500 and $1000, all utilities included.

Joyce Roberts of Borger Management presented the rental profiles of the Park Manor, Parkview and Crestview Apartments, where 43 percent of the tenants have lived in their units for more than ten years and 26 percent for more than 15 years. In these apartments, at least some units of every size, up to three-bedroom apartments, are available at less than $1000 per month, although only Park Manor has all of its one-bedroom units available in that price range.

Kevin Fitzgerald of the New Capitol Park Plaza Tenants Association testified that the degree to which rent ceilings have expanded faster than rents charged has given landlords motivation to ensure high rates of tenant turnover, and that replacing the 12 percent and vacancy highest comparable rules with the proposed 1 percent per year rent ceiling increase would still allow landlords to recover maintenance and repair costs. However, Mr. Fitzgerald argued that the current rent ceiling system is unnecessary complicated, and suggested either resetting all rent ceilings or doing away with the concept altogether and calculating rent increases based upon the previous rent charged.

Dorothy Miller of ANC Single Member District 2A05 discussed the fate of the Columbia Plaza apartment complex following George Washington University's purchase of an interest in the complex, and asked the Council to take action on behalf of the complex's long-term tenants.

Michael Sussman testified that, as a small landlord, he believes that the additional income a landlord can generate by using the current methods for calculating rent and rent ceiling increases upon vacancy is barely adequate to cover physical plant maintenance and upgrades and operating costs, especially given recent increases in heating costs. While a larger building can afford to carry some units at a loss and spread the extra cost over the remaining units, a smaller building cannot be competitive if too few units have to subsidize the rest, as the more expensive units will not attract tenants, ultimately encouraging condominium conversions and reducing the District's housing stock. Finally, he called upon the Council to impose a primary residency requirement for rent-controlled properties, arguing that the benefits of rent control should accrue to District residents.

Natalie LeBeau of the Tenant Anti-Displacement Program of Housing Counseling Services endorsed the bill as a progressive measures to protect and expand the rights of tenants in the District and maintain the District's cultural diversity.

Deborah Lindeman of ANC 3C presented a resolution from the ANC commissioners, who had voted 8-0 to endorse the bill, subject to suggestions that the concept of rent ceilings should be done away with and replaced with limits on rents charged and that the maximum annual increases should be tied to the Washington DC cost of living index.

Frederick Silvers of Bojan Management and Realty reported that utility costs have increased faster than the consumer price index; WAS A increased rates by 10 percent over the past two years, with a 6 percent increase pending, PEPCO raised rates 18 percent earlier in the year and Washington Gas by a total of 30 percent over the past year. When combined with additional maintenance costs on heating and cooling systems caused by heavy use during increasingly hot summers and cold winters, it is appropriate to raise rental rates faster than inflation. If landlords cannot raise rents on vacant apartments to market rate, they will have to pass the costs on to existing tenants by means of a hardship exception, which will fall most heavily on long-time residents, especially senior citizens.

Lin Dalton of the Somerset Tenants' Association testified that the STA is concerned that high rental costs are driving long-term Washington residents out of the city and encouraging rapid turnover of residential properties at the expense of community identity.

Campbell C. Johnson III of the Urban Housing Alliance felt that the rent control reform bill does not go far enough toward protecting tenants from excessive rent increases. He recommended that rent ceiling increases upon vacancy be limited to one percent of rent charged per year for up to ten years, rather than one percent of rent ceiling per year, and that rent increases should be capped at $50. He also recommended that DCRA actively monitor capital improvement increases to ensure these charges are rolled back when the underlying capital improvement is paid off.

Chad Hill of Homung Brothers testified that the proposed legislation would either encourage housing developers to increase rents more heavily on existing tenants to fund capital improvements and compensate for increased heating costs, or else drive housing developers into Virginia or Maryland. Rather than expand rent control, Mr. Hill suggested that DCRA revamp and expand its voucher programs, to be paid for by taxes on profits after investment in property, and give tax credits to property developers creating new affordable housing in currently vacant properties.

Karen Williamson of the Barclay Tenants Association testified that rental increases in her building, a moderate-income property when she moved there in 1975, have made it impossible for new moderate-income tenants to live in the property without either living together or receiving family assistance. By making it too challenging for moderate-income residents to live in the District, the District is driving away potential long-term residents and future homeowners while undermining the city's inclusiveness.

Jeffrey Gelman of Greenstein, DeLorme & Luchs and the District of Columbia Building Industry Association argued that the city's rent control law is inefficient, as it does not include a means test for participation, and that the proposed legislation does nothing to address this.

Stephanie Clipper reported that, based upon her experiences, some landlords have been encouraging high turnover by allowing necessary health, safety and maintenance work to go undone, and using the high turnover to dramatically increase rents without reinvesting the extra proceeds into the building.

Amy LeFaivre-Dolan of QDC Property Management's The WestPark Apartments charged that the bill would destroy the economic rationale to keeping a rent controlled building in good order. She reported that operating expenses at WestPark have increased 20 percent faster than rental income over the past ten years, while real estate taxes have increased 10 percent over the past four years, and that any additional restrictions on rent increases will make it impossible to run a well-maintained rental property economically. She also reported that the current high comparable vacancy provisions make it possible to make large-scale capital improvements without seeking a capital improvement rent increase, ensuring that long-time residents see more of the benefits from rent control.

Jennifer Burger of the Legal Aid Society of the District of Columbia argued that the bill would eliminate the current temptation for landlords to leave a unit vacant for a year in order to take the vacancy high comparable rent adjustment, increasing the proportion of units occupied at any given time and thus expanding access to affordable housing.

Eric Von Salzen submitted a written statement on behalf of DARO Realty in which he credited the vacancy high comparable rule for rent increases as having been a key in the successes of the District's rent control regime, by encouraging landlords to properly maintain below-market units and buildings in the hope of charging market-rate rents later. Mr. Von Salzen expressed his belief that rent control should be chiefly for the benefit of existing tenants rather than incoming tenants, as the latter will only select housing they can currently afford while the former can be displaced from communities in which they have established roots by subsequent rent increases.

To protect existing tenants from condominium conversions or neglect of property by landlords, Mr. Von Salzen argued that the vacancy high comparable regime should be maintained, the 10 percent rate increase cap should not apply to new tenants and language in the bill needs to be amended to make it clear that higher rate increases can be permitted by the Rent Administrator or by voluntary agreement with tenants. Mr. Von Salzen also indicated that he believes the 10 percent annual rate increase cap would allow for the abolition of the Unitary Rent Ceiling Adjustment provision, which he feels is well-intended but too burdensome, and that an annual rate increase cap would remove the need to limit rent increases to once per year.

Rosemarie Flynn of the Gray Panthers appeared before the Committee to endorse the bill, which she characterized as a way of addressing rent ceilings that have risen out of control. She suggested that the legislation should require that a tenant be made aware of the grounds for a rent increase - whether the annual consumer price index adjustment or a previously unimplemented increase - and how much of an increase within the rent ceiling can still be applied to the rent charged. She also suggested extending the proposed $50 per month limit on monthly rent increases from capital improvements for senior citizens and the disabled to cover all rent increases for these types of tenants.

The full testimonies of these public witnesses are appended to this report and incorporated into the record.

Public Roundtable on the Possible Ramifications of the Elimination of Rent Ceilings in the District of Columbia

On Friday, March 31,2006, in the Council Chamber of the historic Wilson Building, the Committee on Consumer and Regulatory Affairs received five and a half hours of testimony on the possible ramifications of eliminating rent ceilings from the District's rent control system.

DCRA Director Patrick Canavan and Michael Hodge of the Office of the Deputy Mayor for Planning and Economic Development testified that rent ceilings have been difficult to administer and understand and have failed to protect tenants. Eliminating rent ceilings and calculating caps on rent increases based upon rent charged would make for a better system. The government witnesses supported capping rent increases at CPI for tenants who currently have rents within 20 percent of the rent ceiling and remain in the same unit and also supported a set-aside program for lower-income tenants. While they endorsed substitute Bill 16-457 as a good beginning for reforming rent control, they acknowledged that the bill still needs work and looked forward to continued dialogue with Chairperson Graham.

Public witnesses included a number of tenant advocacy organizations, including the Tenant Action Network (TAN), the D.C. Tenant Advocacy Coalition (TENAC), and representatives of tenants associations from throughout the city. They generally testified that rent ceilings, though flawed, could be made to work for tenants rather than against them. They called for ending the abusive vacancy high comparable rent ceiling adjustment, and enhancing the enforcement powers of tenants and the Rent Administrator. They testified that the Substitute Bill 16-457 does neither and in fact weakens both the substantive and the procedural aspects of the rent control law. They pointed out that although the Substitute purports to eliminate rent ceilings, instead it keeps them when they benefit landlords, namely to maximize vacancy rent increases, and eliminates them when they benefit tenants.

Through the course of the tenant testimony, it became clear that the rent ceiling as it currently operates benefits some tenants but not others. Any rent charged increase on a unit for which the rent charged is at or near the rent ceiling is generally no greater than the CPI. This is because no other rent ceiling adjustment is available for the landlord to implement to increase the rent charged. But on a unit for which the rent ceiling significantly exceeds the rent charged, the landlord may impose a rent charged increase of virtually any amount. This is because the landlord has as many rent increase options as he has rent ceiling adjustments. Some tenants complained of landlord threats to increase the rent by as much as $800 unless the tenant selected the renewal lease option preferred by the landlord. Even this "favorable" option would mean a rent increase of $200 or more. The current law permits this where the landlord has preserved and previously not implemented rent ceiling adjustments, usually "vacancy high comps," in these amounts. It is also more likely that a tenant subject to these types of increases will also be subject to two rent increases in the same year, which the current law allows.

Despite having indicated their intention to appear and testify, the Apartment and Office Building Association (AOBA), representing housing providers, did not do so and thus were unavailable to answer questions. In a written statement, AOBA stated that rent ceilings have rarefy operated so as to limit rent increases. While anticipating revenue losses due to the elimination of the vacancy high comparable rent ceiling mechanism, most of AOBA's

membership believes that the Substitute will provide for enough savings due to the reduction in paperwork to compensate for that loss. They believe that tenants also benefit by way of the elimination of the carry-over of unused annual and vacancy rent charged increases that the current system allows.

VII. COMMITTEE REASONING

The reasoning for Bill 16-109 as passed by the full Council is discussed above.

VIII. FISCAL IMPACT

The fiscal impact statement, as required by section 602 (c) (3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)), is included as Attachment 8 to this report.

IX. IMPACT ON EXISTING LAW

The "Rent Control Reform Amendment Act amends various sections of Title II of the Rental Housing Act of 1985 (D.C. Code §§ 42-3502.01 *etseq.),* and adds 2 new sections, as described in the section-by-section analysis.

X. ATTACHMENTS

1. Office of the Inspector General, "Review of Housing Provider Filings at the Rental Accommodations and Conversion Division of the Department of Consumer and Regulatory Affairs," December 12, 2005.
2. DC Fiscal Policy Institute, "New Census Data Show DCs Affordable Housing Crisis is Worsening," September 13, 2005.
3. Fannie Mae Foundation and the Urban Institute, Introduction and Chapter 4, "Narrowing Rental Options," *Housing in the Nation's Capital 2005,* November 2005.
4. Bill 16-457 as introduced with referral.
5. Notice of a public hearing on Bill 16-457.
6. Public Hearing Testimony.
7. Amendment in the Nature of a Substitute to Bill 16-109.
8. Fiscal Impact Statement for Bill 16-109.
9. Rent Control FAQs

AMENDMENT IN THE NATURE OF A SUBSTITUTE
MAY 2,2006

CoiKicjjjfMember'Jim-Graham

Councilmember Sharon Ambrose

Couniyilmember Kwamd Brown

"Councilmember David Catania

Councilmember Adrian Fenty

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Rental Housing Act of 1985 to provide for the elimination of rent ceilings and rent ceiling adjustments except for those approved pursuant to prior petitions, to allow the housing provider to increase the rent charged for a vacant rental unit by 10% of the current lawful amount of rent charged or to the highest lawful amount of rent charged for any substantially identical unit within that housing accommodation, provided that the increase shall not exceed 30% of the current rent charged for the vacant unit, to simplify and reduce filing burdens on the Rent Administrator and housing providers, to authorize and to limit the amount of any increase in the rent charged for an occupied unit, other than a petition-based increase, to 2% plus the adjustment of general applicability up to a maximum total of 10%, the total to be taken as percentage of the current lawful amount of rent charged, to authorize and to limit the amount of any increase in the rent charged for a unit occupied by an elderly or disabled person to the lesser of 5% or the adjustment of general applicability, to limit to one per year the number of increases in rent charged, to provide for disclosure of information, and to require the Mayor to report on the need for and the means of establishing an income qualified set-aside program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rent Control Reform Amendment Act of 2006".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.),* is amended as follows:

(a) Sections 202, 206 (a), 206(b), 206(c), 206(f)(3), 208, 209, 210, 211, 212, 214, 215, 216 and 901 are amended by striking the phrase "rent ceiling" wherever it appears and inserting the phrase "rent charged" (D.C. Official Code §§ 42-3502.02, 42-3502.06 (a), 42-3502.06 (b), 42-3502.06(c), 42-3502.06(f)(3), 42-3502.08, 42-3502.09, 42-3502.10, 42-3502.11,42-3502.12,42-3502.014, 42-3502.015, 42-3502.16, and 42-3509.01).

(b) Section 205(g) (D.C. Official Code § 42-3502.05(g)) is amended to read as follows:

"(g)(1) A housing provider shall file the following notices with the Rent Administrator:

"(A) A copy of the rent increase notice given to the tenant for a rent increase under section 208(h)(2), within 30 days after the effective date of the increase; provided; that if rent increases are given to multiple tenants with the same effective date, the housing provider shall file a sample rent increase notice with a list attached stating the unit number, tenant name, previous rent charged, new rent charged, and effective date, respectively, for each rent increase;

"(B) A copy of the notice given to the tenant for an increase under section 213(d) stating the calculation of the initial rent charged in the lease.(based on increases during the preceding ? years), v* within 30 days of the commencement of the lease term;

"(C) A notice of a change in ownership or management of the housing accommodation, or change in the services and facilities included in the rent charged, within 30 days after the change.

"(2) Subject to appropriation, the Mayor shall establish an electronic database for the filing, storage, and retrieval of rent stabilization program documents.".

(c) Section 206(a) (D.C. Official Code § 42-3502.06) is amended by adding the following three sentences at the beginning of the text: ..

"Rent ceilings are hereby abolished, except that the housing provider may implement, in accordance with section 208(g), rent ceiling adjustments pursuant to petitions and Voluntary Agreements approved by the Rent Administrator prior to the effective date ofRent Control Reform Amendment Act of 2006. Petitions and Voluntary Agreements pending as of the effective date of the Rent Control Reform Amendment Act of 2006 shall be decided pursuant to the provisions of this title in effect prior to that effective date and may be implemented in accordance with section 208(g). In a hardship petition pursuant to section 212, any unimplemented rent charged increase pursuant to a petition or Voluntary Agreement approved by the Rent Administrator shall be included in the maximum possible rental income."

(d) Section 207 (D.C. Official Code § 42-3502.07) is repealed.

(e) Section 208 (D.C. Official Code § 42-3502.08) is amended as follows:

(1) Subsection (g) is amended to read as follows:

"(g) The amount of rent charged for any unit subject to this title shall not be increased until a full 12 months have elapsed since any prior such increase; provided, that:

"(1) The amount of any rent charged increase shall not exceed the amount of any single adjustment pursuant to any one section of this title;

"(2) If the unit becomes vacant within 12 months of an increase in the amount of rent charged, other than a vacancy adjustment pursuant to section 213, the housing provider may increase the amount often charged pursuant to section 213; and

"(3) If the amount ofrent charged is increased pursuant to paragraph (2) of this subsection, the amount ofrent charged shall not be increased until a full 12 months have elapsed after that increase in the amount ofrent charged, even if another vacancy occurs.".

(2) Subsection (h) is amended to read as follows:

"(h)(1) Unless the increase in the amount of rent charged is pursuant to an increase permitted by section 210, 211, 212, 214, or 215, an increase in the amount ofrent charged while the unit is vacant shall not exceed the dollar amount permitted under section 213(a).

"(2) Unless the increase in the amount ofrent charged is pursuant to an increase permitted by section 210, 211,212, 214, or 215,an increase in the amount ofrent charged while the unit is occupied shall not exceed, taken as a percentage of the current lawful amount of rent charged for the unit, 2% plus the adjustment of general applicability; provided, that the total increase shall not exceed 10%; provided further, that the amount of any such increase in the rent charged for a unit occupied by an elderly or disabled tenant without regard to income but otherwise as defined in section 206(f) shall not exceed the lesser of 5% or the adjustment of general applicability.".

(f) Section 213 (D.C. Official Code § 42-3502.13) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "the rent ceiling may, at the election of the housing provider, be adjusted to either: (1) The rent ceiling which would otherwise be applicable to a rental unit under this title plus 12% of the ceiling once per 12-rrionth period; or (2) The rent ceiling of a substantially identical rental unit in the same housing accommodation" and inserting the phrase "the amount ofrent charged may, at the election of the housing provider, be increased either (1) by 10% of the current lawful amount ofrent charged for the vacant unit or (2) to the amount ofrent charged for a substantially identical rental unit in the same housing accommodation; provided, that the increase shall not exceed 30% of the current lawful amount ofrent charged for the vacant unit" in its place.

(2) A new subsection (d) is added to read as follows:

"(d) Within 15 days after ofthe commencement ofthe new tenancy, the

homing provider shall disclose to the tenant on a form published by the Rent Administrator (or in another suitable format until a form is published):

"(1) The applicable rent for the rental unit at the commencement of the tenancy;

"(2) The rent charged adjustments for the rental unit during the preceding 3 years, including the basis for each increase and, if applicable, the identification of any substantially identical rental unit on which a vacancy increase is based, and the current increase in the rent charged; and

"(3) The identification of any substantially identical cental unit on which the vacancy increase is based.".

(g) A new section 222 (D.C. Official Code § 42-3502.22) is added to read as follows:

"(a) At the written request of a tenant not more than one time each calendar year, a housing provider shall, within 10 business days on a form provided by the Rent Administrator (or in another suitable format until a form is published), provide the rent charged adjustments for the tenant's rental unit during the preceding 3 years on which the current rent charged is based, including the basis for each increase and, if applicable, the identification of any substantially identical rental unit on which a vacancy increase was based.

"(b)(1) At the time a prospective tenant files an application to lease any rental unit, the housing provider shall provide on a disclosure form published by the Rent Administrator (or in another suitable format until a form is published) together with any documents corresponding to each item of information:

"(A) The applicable rent for the rental unit;

"(B) Any tenant petition or petition filed by the housing provider which is pending that could affect the rental unit, including petitions for further rent

increases during the following 12 months;

"(C) Any surcharges on rent for the rental unit, including capital improvement surcharges and the expiration date of those surcharges;

"(D) The frequency with which rent increases for the rental unit may be implemented;

"(E) The rent-controlled or exempt status of the housing accommodation, its business license, and a copy of the registration or claim of exemption together with the most recent notice filed pursuant to Section 205(g)(1)(C);

"(F) All copies of housing code violation reports issued by the Department of Consumer and Regulatory Affairs for the housing accommodation or rental unit within the last 12 months, or previously issued but not yet abated;

"(G) A pamphlet published by the Rent Administrator that explains in detail using lay terminology the laws and regulations governing the implementation of rent increases and petitions permitted to be filed by housing providers and by tenants;

"(H) The amount of any nonrefundable application fee, or initial security deposit, the interest rate on the security deposit, and the means by which the security deposit is returned to the tenant when the tenant vacates the unit;

"(1) Whether the housing accommodation is registered as, or in the process of converting to, a condominium or cooperative or a use that is not a housing accommodation;

"(J) The disclosure of ownership information in the registration form required by Section 205 (f)(D.C. Official Code § 42-3502.05)(f) and Section 205(g)(1)(C) (D.C. Official Code § 42-3502.05(g)(l)(Q).

"(b)(2) The housing provider shall:

(A) Maintain in a public area of the housing accommodation (such as a reception desk or management office) a compilation of disclosure forms and documents

tor each rental unit in the housing accommodation containing the information required by paragraphs (b)(1)(A) through (b)(l)(J) of this section; .

(B) Update the compilation within 30 days of any change in such information;

(C) Give written notice to each tenant of the housing accommodation, on a form published by the Rent Administrator (or in another suitable format until a form is published), that the disclosure forms and documents for the tenant's unit are available for inspection, which shall include the location of the disclosure forms in the housing accommodation and a table of contents enumerating the categories of information contained in the compilation required by paragraphs (b)(1)(A) through (b)(l)(J) of this section;

(D) Make available for the tenant's inspection the disclosure forms and the documents for the tenant's unit; and

(E) Within 10 business days after written request by any tenant once per year, provide to the tenant without charge a copy of the disclosure form and such documents for the tenant's rental unit.

"(c) The rent to any unit shall not be increased so long as the housing provider: (1) willfully violates the provisions of this section; or (2) fails to comply within 10 business days of written notice of any failure to comply with the provisions of this section.".

(h) Anew section 223 (D.C. Official Code § 42-3502.23) is added to read as follows:

"The Mayor shall include in the reports to the Council pursuant to section 5 of the Comprehensive Housing Strategy Act of 2003, effective March 10, 2004 (D.C. Law 15-73;D.C. Official Code § 6-1051 *etseq.)* analyses of the need, means, and methods of further assisting income qualified elderly tenants, disabled tenants, teachers of the District

of Columbia Public Schools or a D.C. Public Charter School, and low-income tenants to pay their rent. The report shall consider:

"(1) The income criteria and any other criteria that shall be used to determine which tenants qualify for the program;

"(2) The rent that qualified households shall pay;

"(3) The number and the allocation of units to be included in any set-aside;

"(4) The extent to which the program should incorporate any District affordable housing program and any federal affordable housing program available in the District;

"(5) What reporting requirements should be imposed on housing providers subject to this title and on qualified tenants to ensure that the program is effective.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) ofthe District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) ofthe District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

AMENDMENT IN THE NATURE OF A SUBSTITUTE
MAY 2,2006 *

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the Rental Housing Act of 1985 to provide for the elimination of rent ceilings and rent ceiling adjustments except for those approved pursuant to prior petitions, to allow the housing provider to increase the rent charged for a vacant rental unit by 10% of the current lawful amount of rent charged or to the highest lawful amount of rent charged for any substantially identical unit within that housing accommodation, provided that the increase shall not exceed 30% of the current rent charged for the vacant unit, to simplify and reduce filing burdens on the Rent Administrator and housing providers, to authorize and to limit the amount of any increase in the rent charged for an occupied unit, other than a petition-based increase, to 2% plus the adjustment of general applicability up to a maximum total of 10%. the total to be taken as percentage of the current lawful **amount** of rent charged, to authorize **and to** limit the amount of any increase in the rent charged for a unit occupied by an elderly or disabied person to the lesser of 5% or the adjustment of general applicability, to limit to one per year the number of increases in rent charged, to provide for disclosure of information, and to require the Mayor to report on the need for and the means of establishing an income qualified set-aside program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as thrA?c:ia»t«.' Rtdits to Information Act of 2000" the "Rent Control Reform Amendment Act of 2006".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *etseq.),* is amended to add a new section 8a to read as follows:

———"Sec. 8a. Required disclosures to prospective and existing tenants.

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———**(e) Tlic rent ceiling or tent to any unit shall not be increased until the housing 20

provider complies witn tne provisions Df tins sectionrT 21

(a) Sections 202, 206 *(a* 206rb), 206fc\ 206mf3V 208, 209,210, 211, 212, 214, 22

215, 216 and 901 are amended bv striking the phrase "rent ceiling" wherever it appears and 23

inserting the phrase "rent charged" *(D.C.* Official Code SS 42-3502.02, 42-3502.06 faV 42- 24

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3502.11, 42-3502.12, 42-3502.014, 42-3502.015, 42-3502.16, and 42-3509.01V 26

(b) Section 205(g) (D.C. Official Code § 42-3502.05(g)) is amended to read as follows:

"(g) A housing provider shall file the following notices with the Rent Administrator:

"(A) A copy of the rent increase notice given to the tenant for a rent increase under section 208(b)(2), within 30 days after the effective date of the increase; provided, that if rent increases are given to multiple tenants with the same effective date, the housing provider shall file a sample rent increase notice with a list attached stating the unit number, tenant name, previous rent charged, new rent charged, and effective date, respectively, for each rent increase;

"(B) A copy of the notice given to the tenant for an increase under section 213(d) stating the calculation of the initial rent charged in the lease (based on increases during the preceding 3 years), within 30 days of the commencement of the lease term;

"(C) A notice of a change in ownership or management of the housing accommodation, or change in the services and facilities included in the rent charged, within 30 days after the change.

"(2) Subject to appropriation, the Mayor shall establish an electronic database for the filing, storage, and retrieval of rent stabilization program documents.".

(c) Section 206(a) (D.C. Official Code § 42-3502.06(a)) is amended by adding the following three sentences at the beginning of the text:

"Rent ceilings are hereby abolished, except that the housing provider may implement, in accordance with section 208(b), rent ceiling adjustments pursuant to petitions and Voluntary Agreements approved by the Rent Administrator prior to the effective date of Rent Control Reform Amendment Act of 2006. Petitions and Voluntary Agreements pending as of the effective date of the Rent Control Reform Amendment Act of 2006 shall

be decided pursuant to the provisions of this title in effect prior to that effective date and may be implemented in accordance with section 208fgV In a hardship petition pursuant to section 212, any unimplemented rent charged increase pursuant to a petition or Voluntary Agreement approved by the Rent Administrator shall be included in the maximum possible rental income."

(d) Section 207 (D.C. Official Code S 42-3502.07') is repealed.

tel Section 208 (D.C. Official Code S 42-3502.081 is amended as follows:

(D Subsection (g) is amended to read as follows:

"(g'] The amount of rent charged for any unit subject to this title shall not be increased until a full 12 months have elapsed since any prior such increase: provided, that:

"(1) The amount of any rent charged increase shall not exceed the amount of any single adjustment pursuant to any one section of this title;

"(2) If the unit becomes vacant within 12 months of an increase in the amount of rent charged, other than a vacancy adjustment pursuant to section 213. the housing provider may increase the amount of rent charged pursuant to section 213: and

"(33 If the amount of rent charged is increased pursuant to paragraph (2) of this subsection, the amount of rent charged shall not be increased until a full 12 months have elapsed after that increase in the amount of rent charged, even if another vacancy occurs.".

(2) Subsection (h) is amended to read as follow:;

"(hyi) Unless the increase in the amount of rent charged is pursuant to an increase permitted by section 210. 211.212. 214. or 215. an increase in the amount of rent chargpd whilp thp unit is vacant shall not exceed the dollar amnopt permitted under section ?1Va>.

"(2) Unless the increase in the amount of rent charged is pursuant to an increase permitted by section 210. 211.212. 214. or 215. an increase in the amount of rent

charged while the unit is occupied shall not exceed, taken as a percentage of the current lawful amount of rent charged for the unit. 2% plus the adjustment of general applicability: provided, that the total increase shall not exceed 10%; provided further, that the amount of any such increase in the rent charged for a unit occupied by an elderly or disabled tenant without regard to income but otherwise as defined in section 206(f) shall not exceed the lesser of 5% or the adjustment of general applicability.".

(f) Section 213 D.C. Official Code § 42-3502.13) is amended as follows:

(1) Subsection (a*) is amended by striking the phrase "the rent ceiling may, at the election of the housing provider, be adjusted to either: (1) The rent ceiling which would otherwise be applicable to a rental unit under this title plus 12% of the ceiling once per 12-month period; or (2) The rent ceiling of a substantially identical rental unit in the same housing accommodation" and inserting the phrase "the amount of rent charged may, at the election of the housing provider, be increased either (1) by 10% of the current lawful amount of rent charged for the vacant unit or (D to the amount of rent charged for a substantially identical rental unit in the same housing accommodation; provided, that the increase shall not exceed 30% of the current lawful amount of rent charged for the vacant unit" in its place.

(2) A new subsection idi is added to read as follows:

"(di Within 15 days after of the commencement of the new tenancy, the housing provider shall disclose to the tenant on a form published by the Rent Administrator (or in another suitable format until a form is published):

"(1) The applicable rent for the rental unit at the commencement of the tenancy;

"(2) The rent charged adjustments for the rental unit during the preceding 3 years, including the basis for each increase and, if applicable, the identification of any substantially identical rental unit on which a vacancy increase is based, and the

inspection, which shall include the location of the disclosure forms in the housing accommodation and a table of contents enumerating the categories of information contained in the compilation required by paragraphs tWIVA) through (VKiyP of this section:

(D) Make available for the tenant's inspection the disclosure forms and the documents for the tenant's unit; and

(E) Within 10 business days after written request by any tenant once per year, provide to the tenant without charge a copy of the disclosure form and such documents for the tenant's rental unit.

"fcl The rent to any unit shall not be increased so long as the housing provider: fit willfully violates the provisions of this section; or (2*t fails to comply within 10 business days of written notice of any failure to comply with the provisions of this section.".

(h A new section 223 fD.C. Official Code S 42-3502.23) is added to read as follows:

"The Mayor shall include in the reports to the Council pursuant to section 5 of the Comprehensive Housing Strategy Act of 2003. effective March 10. 2004 *CD.C.* Law 15-73:D.C. Official Code $ 6-1051 et seq.) analyses of the need, means, and methods of further assisting income qualified elderly tenants, disabled tenants, teachers of the District of Columbia Public Schools or a D.C. Public Charter School, and low-income tenants to pav their rent. The report shall consider:

"tit The income cntcrut .irui any other criteria that shall be used to determine which tenants qualify for the program;

"{2t The rent that qualified households shall pay;

"{3t The number and the allocation of units to.be included in any set-aside;

"(4) The extent to which the program should incorporate any District affordable housing program and any federal affordable housing program available in the District:

subject to this title and on qualified tenants to ensure that the program is effective.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24,1973 (87 Stat. 813; D.C. Official Code § l-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,1973 (87 Stat. 813; D.C. Official Code§ 1-206.02(c)(1)), and publication in the District of Columbia Register..

SubgectNliat Title: Amendment in the Nature of a Substitute to Bill No. 16-109: the "Tenants Rights to Information Act of 2006"

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1; It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	( )	(X)
a) It will affect lpcal expenditures.	( )	(X)
b) It will affectfederal expenditures.	( )	(X)
c) It will affect private/other expenditures.	( )	(X)
d) It will affect intra-District expenditures.	( )	(X)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	( )	(X)
a) It will impact local revenue.	( )	(X)
b) It will impact federal revenue.	( )	(X)
c) It will impact private/other revenue.	( )	(X)
d) It will impact intra-District revenue.		
3. The bill will have NO or little fiscal impact on spending or revenue. (If "Yes," explain below).	(X)	( )

Explanation for NO fiscal impact:

The Amendment amends the Rental Flousing Act of 1985 to abolish rent ceilings, to further limit the amount of rent increases housing providers may impose on covered rental units, to provide for disclosure of information to tenants, and for other purposes. It imposes no additional administrative burdens on the Rent Administrator at the Department of Consumer and Regulatory Affairs, who is responsible for administering the rent stabilization program, and jn fact simplifies and reduces filing burdens. No further expenditure of District money is required.

Part II. Other Impact of **the Bill**

If you check "Yes" for each question, please explain on separate sheet.

	YES	NO
1. It will affect an agency and/or agencies in the District.	( )	(X)
2. Will there.be performance measures/output for this bill?	( )	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is enacted or not enacted?	( )	(X)
4. Will the Budget and Financial Plan be affected by this bill?	( )	(X)
5. The bill will have NO performance or outcome impact.	(X)	( )

Sources of information:	Councilmember: Jim Graham
	Staff Person & Tel: Joel Cohn, 202-724-7803.
	Reviewed by Budget Director.
	Budget Office Tei: 202-724-8139

FISCAL IMPACT STATEMENT

PR Number:	Type: Emergency ( ) Temporary ( ) Permanent (X)	Date Reported: May 2, 2006

Subject/Short Title: Amendment in the Nature of a Substitute to Bill No. 16-109: the "Tenants Rights to Information Act of 2006"

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	( )	**(X)**
a) It will affect local expenditures.	( )	**(X)**
b) It will affect federal expenditures.	( )	**(X)**
c) It will affect private/other expenditures.	( )	(X)
d) It will affect intra-District expenditures.	( )	(X)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	**( )**	(X)
a) It will impact local revenue.	**( )**	(X)
b) It will impact federal revenue.	( )	(X)
c) It will impact private/other revenue.	( )	(X)
d) It will impact intra-District revenue.		
3. The bill will have NO or little fiscal impact on spending or revenue. (If "Yes," explain below).	(X)	**( )**

Explanation for NO fiscal impact:

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Part II. Other Impact of the Bill

If you check "Yes" for each question piease explain on separate sheet.

	YES	NO
1. It will affect an agency and/or agencies in the District.	( )	(X)
2. Will there be performance measures/output for this bill?	( )	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is enacted or not enacted?	( )	(X)
4. Will the Budget and Financial Plan be affected by this bill?	( )	(X)
5. The bill will have NO performance or outcome impact.	(X)	( )

Sources of information:	Councilmember: Jim Graham
	Staff Person & Tel: Joel Cohn, 202-724-780«
	Reviewed by Budget Director:
	Budget Office Tel: 202-724-8139 £\L\GC