

Testimony of Gabriel Fineman April 11, 2017  
**Budget Oversight Hearings on Fiscal Year 2017**  
**The Committee on Housing & Neighborhood Revitalization**

## Rent Control Regulations Never Changed

Chairman Bonds and members of the Committee. Thank you for this opportunity to testify about additional oversight needed for the Rental Housing Commission. Although they do a good job of handling appeals (I have one before them now) the RAD has done an abysmal job of keeping regulations (DCMR) current with the changes in the law. This has resulted in confusion among both landlords and tenants and harm to the City as a whole.

About half of all of the 'rent controlled' apartments in DC are leased by large landlords that use "concession leases". They report to the City each year that the rent for their units is the maximum rent that they can legally charge (the old rent ceiling). The other half report a much lower number of the actual rent charged. Everyone is hurt, except for the large landlords.

In 2006 City Council passed a bill to eliminate rent ceilings (that were far too high) but the new law was not really implemented and the changes failed because the regulations continued to allow landlords to charge rent at up to the old ceiling rates plus any new increases. So the large landlords immediately increased the rent for their apartments to the old ceiling amount and then gave discounts or "concessions" to lower the actual rent paid in order to be able to rent the units. They advertise actual rent and only tell renters about the undiscounted rent when they are about sign the lease and have no other place to live.

### In 2006 Rent Ceilings Were Abolished

In 2006, the Council found a huge discrepancy between the maximum that a landlord could charge for an apartment (the "ceiling rent") and the actual rents paid ("actual rent"). This was especially true among large landlords who aggressively raised the ceiling rents, in some cases to more than double the actual rent. They then used the gap as a reserve to evade the purposes of rent control. Council changed § 42-3502.06 to read that Rent ceilings [are] abolished. However, the DCMR was never changed to reflect this change or to clarify the effect on landlord. So, nothing changed.

### Today, Rent Control Continues to be Evaded

This has resulted in continued confusion about what rules apply to landlords. About half of units report to the RAD on their Form 9's the ceiling rent and about half report the actual rent. This means that half calculate their CPI rent increases on a much higher number than the other half. This drives up market rent in DC and decreases the stock of affordable housing. Just as important, by having the large landlords able to shrink the concession in addition to taking the legal rent increase, the cost of housing can zoom up and force many people out of the City.

For example, the OAH issued final Order on March 16, 2017 saying "Although rent ceilings were abolished in 2006, they "live on" because the rent ceiling regulations have not been

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amended."<sup>1</sup> This Order then proceeded to say that the landlord could report to the RAD that the actual rent was the ceiling rent. This could not have happened if we would have clear regulations. In fact, the Order says that "It is beyond doubt that newly revised regulations or revised forms with definitions of terms, consistent with the amended Act, would be useful to both tenants and housing providers." [Page 11]

No Effective Screening of Rent Reports

The problem is compounded by the fact that the RAD does not screen the filings for reasonableness. That is, when a filing is made in the recorder of deed office, they at least look at the reported selling price of a house and kick it back if it is clearly too low. No such check is made of the filings at the RAD. No one ever has been prosecuted or fined for making a false filing.

Remedies

The regulations and procedures need to be changed to reflect this decade old change in the law. We need clarifications so that that actual rent cannot be raised beyond the cost of living plus 2%. There are several things that can be done:

1. Require the agencies to actually rewrite the regulations (never done) to reflect the fact that ceiling rents were supposed to be abolished and close down all maximum rent adjustments not allowed by law.
2. Clarify the regulations to close the loophole that allows landlords to charge the high "ceiling" rent at their discretion.
3. Prevent the landlord from reporting the ceiling rent as though it were the actual rent charged and calculating the general increase on that higher number. This would require the RAD to actually look at the filings it receives and try and prosecute landlords for making false filings.

-Gabe Fineman

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<sup>1</sup> Case No.: 2016 DHCD TP 30,842 Footnote 3, March 16, 2017, Gabriel Fineman v Smith Property Holdings Van Ness